

## NATIONAL ASSEMBLY

### OFFICIAL REPORT

Tuesday, 4th July, 2000

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

### PAPER LAID

The following Paper was laid on the Table:-

The Report of the Departmental Committee on Administration of Justice and Legal Affairs on the Constitution of Kenya Review (Amendment) Bill, 2000.

*(By Mr. Magara, on behalf of the Chairman  
of the Departmental Committee on  
Administration of Justice and  
Legal Affairs)*

### ORAL ANSWERS TO QUESTIONS

*Question No.283*

SHOOTING OF MR. KAMANDE KARIUKI

**Mr. Speaker:** Mr. Kamande is not in. Next Question!

*Question No.216*

OPENING OF DUTY-FREE  
FACILITIES AT KILINDINI

**Mr. Maore** asked the Minister for Finance:-

- (a) if he could inform the House how many visitors came to Mombasa Port, Kilindini in passenger ships in the last three years.
- (b) if he is satisfied that the traffic of passenger ships at the Port of Mombasa justify the granting of licences to open duty free facilities at the Port; and,
- (c) what measures the Government is taking to ensure that such facilities do not constitute a conduit for duty evasion in the importation of goods and a possible conduit for drugs, guns and other contraband.

**The Assistant Minister for Finance and Planning** (Mr. Marrirmoi): Mr. Speaker, Sir, I beg to reply.

(a) For the last three years, Mombasa Port, Kilindini has received a total of 34,101 visitors aboard the cruise ships.

(b) For the last three years, we have seen a decline in tourism industry in this country which includes Mombasa Port. However, the duty-free shop licence was granted with a hope that the situation would improve until the industry came out of the doldrums. The shop would, therefore, enhance tourism at the Mombasa Port. It should be noted that although the company which was granted the duty free licence has continued to renew its licence, the company has not done any business pertaining to duty free shop. The renewal of the licence has been based on anticipation that things would improve as far as tourism is concerned.

In the circumstances whereby this business has not been operational, consideration is being given to

review the case with a view not to license the business in the future.

(c) The operations of the Customs bonded warehouse by any person or any company in Kenya is carried out in accordance with the Customs and Excise Act, and any other relevant Acts of the Laws of Kenya. The importation of narcotic drugs, illicit firearms and other contraband goods, whether intended for duty free shops or not is prohibited under the Customs and Excise Act.

**Mr. Speaker:** How long is it?

**The Assistant Minister for Finance and Planning** (Mr. Marrirmoi): Mr. Speaker, Sir, it is quite long.

**Mr. Speaker:** Order! It is Question Time! I do not have a whole day.

**The Assistant Minister for Finance and Planning** (Mr. Marrirmoi): Mr. Speaker, Sir, I will try as much as I can to shorten it.

Mr. Speaker, Sir, regarding the issue of the duty free shop being used as a conduit for tax evasion, I wish to point out that the officers of the company and Excise Department closely monitor the operations of the duty free shops. All goods destined for the duty free shop are subject to rigorous verification to confirm the provisions of the law are complied with. Proper stock control is kept for all goods.

Mr. Speaker, Sir, further, I wish to confirm that only---

**Mr. Speaker:** Order, Mr. Marrirmoi, sit down now! This is supposed to be an answer-question-session, but you are now making a speech.

**Mr. Maore:** Mr. Speaker, Sir, I wish to concur with your view that the attempt to be verbose is meant to withhold the information we needed.

**Mr. Speaker:** Go to your job now, I have done mine, Mr. Maore!

**Mr. Maore:** Mr. Speaker, Sir, he has used so many words without answering my Question. The facility of a duty-free shop in any country is a very strategic undertaking. What assurance can this Assistant Minister give to the House that the characters involved in the companies to operate the duty-free shop in the Port of Mombasa are people of integrity and have a track record of not engaging in illicit trade? Could he also mention the directors of the companies?

**Mr. Speaker:** You could not get it from the companies' directors?

**Mr. Maore:** Mr. Speaker, Sir, there was no tendering or any procedures followed by the Ministry when they were authorising the licence. That is why I am asking for the names of the directors.

**Mr. Speaker:** Order! I think I am getting problems with the two of you. The Assistant Minister stands up there and takes all our time giving a speech, and you take the next part to speak and then ask a question that is not admissible. You know anything that can be found under official records, you cannot ask him to give it to you.

**Mr. Maore:** Mr. Speaker, Sir, I wanted to know the names of the characters involved in the companies that Kenyans have no confidence in. That is why I am asking him to state the criteria they used to license the companies.

**Mr. Speaker:** Correct. What is the criteria?

**Mr. Marrirmoi:** Mr. Speaker, Sir, it was just by way of application. The directors are there in the Companies Act.

**Mr. Anyona:** Mr. Speaker, Sir, I would like to know from the Assistant Minister: Sometime ago, there was Government policy to make Mombasa a duty free port. Would he confirm that, that is still the case and that this is part of that process?

**Mr. Marrirmoi:** Mr. Speaker, Sir, that is a different question from the original one.

**Mr. Anyona:** On a point of order, Mr. Speaker, Sir. Who is going to determine whether a supplementary question is relevant or not? Is it the Chair or the Assistant Minister?

**Mr. Speaker:** It is the Chair. The question is relevant.

**Mr. Marrirmoi:** Mr. Speaker, Sir, I wish to inform hon. Members that it is still under consideration and discussion.

**Mr. Maore:** Mr. Speaker, Sir, the duty-free shops at Jomo Kenyatta International Airport and the Moi International Airport in Mombasa are all under Kamlesh Pattni. Is it safe and secure for this country if we have Kamlesh Pattni running the duty-free shop in Mombasa?

**The Assistant Minister for Environment and Natural Resources** (Mr. Kimkung'): On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Member on the Floor to state that the company running the duty-free shops is owned by Kamlesh Pattni when it is not true? I am one of the directors of those companies and Kamlesh Pattni is not one of them.

**Mr. Speaker:** Mr. Maore, is that Kamlesh Pattni? Mr. Marrirmoi, could you respond?

**Mr. Marrirmoi:** Mr. Speaker, Sir, Kamlesh Pattni is not involved in any way as far as these directors are concerned.

**Mr. Speaker:** Time up for this Question.

**Mr. Mwakiringo:** Why?

**Mr. Speaker:** Mr. Mwakiringo, by the way, any time you again ask the Chair "why", I will call another Question.

**Mr. Mwakiringo:** Sorry, Mr. Speaker, Sir.

**Mr. Speaker:** Next Question.

**An hon. Member:** Where is the hon. Member?

*Question No.231*

UPGRADING OF BUNA/BUTE  
TELEPHONE EXCHANGE

**Mr. Speaker:** Dr. Ali not in? Next Question, Mr. Angwenyi!

*(Loud consultations)*

Order! Order! Hon. Members cannot even hear their names being called because there is very loud consultation. Could we consult in low tones?

*Question No.226*

CHERRY/MBUNI DELIVERIES  
TO NYAIGWA/MARANI SOCIETIES

**Mr. Angwenyi** asked the Minister for Agriculture:

(a) how much coffee (cherry and mbuni) was delivered to Nyaigwa and Marani Farmers Co-operative societies respectively in 1990/91, 1991/92, 1992/93, 1993/94, 1994/95, 1995/96, 1996/97, 1997/98 and 1998/99;

(b) how much was realized from the sale of coffee in each of the years referred to in part "a" above for each of the two societies; and,

(c) how much was paid per kilogramme to the farmers in each of the years referred to in part "a" above.

**The Minister for Agriculture** (Mr. Obure): Mr. Speaker, Sir, I have just established that, that Question is not good enough for this House. I have had consultations with hon. Angwenyi and subject to your consent we have decided to handle it next week.

**Mr. Speaker:** Very well, but one clarification: You said this Question is not fit to be in this House?

**The Minister for Agriculture** (Mr. Obure): Mr. Speaker, Sir, I am sorry. I meant the answer I have is not good enough.

**Mr. Speaker:** Very well, I agree with you.

*(Question deferred)*

*Question No.305*

PAYMENT OF COMPENSATION  
TO MR. MWANGI WACHIRA

**Mr. Mwakiringo** asked the Minister for Labour:-

(a) whether he could explain why Dawood Osman of Davis Mining Company Limited in Mkuki Ranch has not paid Mr. John Mwangi Wachira compensation under the Workman's Compensation Act after a pit mine fell on him and also declined to meet Mr. Wachira's hospitalization expenses at Moi Hospital, Voi, where he was admitted for three months; and,

(b) what action he is taking to ensure that the said Mr. Wachira is paid all his dues.

**The Minister for Labour** (Mr. Ngutu): Mr. Speaker, Sir, I beg to reply.

(a) Mr. John Mwangi Wachira did not inform the labour office when he was injured on 23rd May, 1998, while on duty.

(b) The Ministry sent an investigator to arbitrate. As a result, the employer has agreed to compensate the gentleman with Kshs81,858.90, which included Kshs41,970, permanent incapacity of 25 per cent and Kshs34,042 which was equivalent to two years of duty which was half of his salary. He also paid him terminal dues amounting Kshs5,846.50, which covers one month in lieu of notice, two years leave and medical bills preferred. The employer will pay this amount in cash before 30th June, 2000.

**Mr. Mwakiringo:** Mr. Speaker, Sir, the answer given by the Minister is misleading. Mr. John Mwangi Wachira admitted that the labour officer in Voi was transferred as he was handling that case. It was after I had filed this Question that the Ministry sent an official to come and discuss this issue with me and the employer. This figure was arrived at in my office. Even then, the forms were sent to the insurance company for payment, but they were misplaced somewhere by somebody who knew what he was doing. They thought they were going to suppress the rights of Mr. Wachira instead of compensating him.

As of yesterday, when I left my office at Voi, Mr. Wachira, had not been paid any money. When is he going to receive this cheque and where is it going to be paid?

**Mr. Ngutu:** Mr. Speaker, Sir, the employer gave an undertaking that he was going to pay this money on 30th June, 2000. When I got this information yesterday, I directed that this it be confirmed, but by the time I left the office, the information had not been received from Mombasa.

**Mr. Anyona:** On point of order, Mr. Speaker, Sir. I do not know whether you heard what the Minister said. He said Mr. Wachira did not report this case. I thought the law requires the employer to report such a case. Is the Minister in order to mislead the House?

**Mr. Sambu:** He is a former policeman and that is why he cannot answer the Question!

**Mr. Ngutu:** Mr. Speaker, Sir, I did not mislead the House. I am relying on the information available. When this man was injured---

**The Assistant Minister for Home Affairs, Heritage and Sports** (Mr. Sumbeiywo): On a point of order, Mr. Speaker, Sir. Did you hear hon. Sambu say that the Minister is a former policeman and that is why he cannot answer that Question?

**Mr. Speaker:** First of all, I do not think it is defamatory for anyone to have been a policeman. Secondly, any policeman who is here now, is a former policeman and an hon. Member. By the way, Mr. Sambu, what were you before?

**Mr. Sambu:** I worked with the Kenya Seed Company!

*(Laughter)*

**Mr. Wambua:** On a point of order, Mr. Speaker, Sir. As far as I am concerned---

**Mr. Anyona:** On a point of order, Mr. Speaker, Sir. I think it is important for Parliament to establish what the law provides. The Minister is saying that the employee did not report when the law requires the employer to report. Is he in order to tell us that the employer broke the law?

**Mr. Ngutu:** Mr. Speaker, Sir, I agree that the law says so, but the information which we got about the injuries of this man was received on 23rd of last month. That is the time we knew about it.

**Mr. Speaker:** So, you want sometime to get more information?

**Mr. Ngutu:** Mr. Speaker, Sir, I do not need any time now because we have discussed the matter. A decision has already been made to pay Mr. Wachira his dues.

**Mr. Wamae:** Mr. Speaker, Sir, there are two issues here which the Minister should have clarified. Firstly, it was the employer who should have reported that the employee had been injured, but not the employee himself. The other issue is: When will this money be paid?

**Mr. Ngutu:** Mr. Speaker, Sir, this money was supposed to be paid by 30th June, 2000. I was waiting for confirmation this afternoon on whether that money had been received. But so far, nothing had been received when I left the office this afternoon. When I go back to the office, I will confirm whether the payment has been done.

**Mr. Speaker:** I think I will defer the Question because that confirmation is yet to be received. Secondly, the fact that the company, having broken the law, has now agreed to pay does not absolve them from legal effects. If the Minister talks like that, it means he is encouraging all the other employers in Kenya to break the law.

**Mr. Ngutu:** Mr. Speaker, Sir, I will institute the necessary action.

*(Question deferred)*

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

**Mr. Speaker:** Order, Mr. Angwenyi! If you do that, I will send you out of this House. It is time hon. Members became honourable. It is also about time, I earned my day! Next Question, Dr. Ochuodho!

*Question No.069*

REHABILITATION OF ROADS  
IN HOMA-BAY MUNICIPALITY

**Dr. Ochuodho** asked the Minister for Local Government:-

- (a) how much money has been set aside for the on-going rehabilitation of roads in Homa-Bay Municipality;
- (b) why it took so long to commence the work; and,
- (c) when the rehabilitation will be completed.

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

(a) A sum of Kshs53,704,145 was set aside for the on-going rehabilitation of roads within Homa-Bay Municipality.

(b) I am not aware of any delay in the commencement of work.

(c) The work was completed on 6th June, this year.

**Dr. Ochuodho:** Mr. Speaker, Sir, I was in Homa-Bay the day before yesterday. I am surprised to hear from the Assistant Minister that the work was completed on 30th June. The roads were to be done under the Kenya Urban Transport Project. Could the Assistant Minister tell us the total amount of money that was available for the entire country under that programme?

**Mr. Kiangoi:** The Question was on how much money has been set aside for Homa Bay roads. I have indicated that Kshs53,704,145 was set aside for this work. I do not have the figures as of now for the entire country.

**Prof. Anyang'-Nyong'o:** Mr. Speaker, Sir, the issue of roads is an extremely important bit. The issue raised by hon. Dr. Ochuodho with regard to Homa Bay Town is very important because the answer given by the Minister is grossly inadequate. Arising from that answer, it is very unfortunate that some of the contractors working on these roads are boasting in public that they can mess around and get away with it. Could the Assistant Minister explain to this House why a man called Sunil Behal of Crescent Construction, who has satellite companies all over the Republic is currently boasting that he cannot do this work and that he can sack Ministers from the Government who are trying to correct his job? Could the Assistant Minister explain to this House why those Asians are ruining the Kenyan roads; getting money from us and boasting that they can sack Ministers from the Kenyan Government?

**Mr. Kiangoi:** Mr. Speaker, Sir, I cannot answer that Question unless it relates to roads under my Ministry.

**Mr. Ndicho:** Mr. Speaker, Sir, there is a problem under this Kenya Urban Transport [Mr. Ndicho] Programme. All the towns in this country were to be constructed under this programme. In Thika, the same *Muhindi* started this work in 1999---

*(Loud consultations)*

**Mr. Speaker:** Order, that corner over there! Would you like me to give you leave of absence? I can exempt you from the sittings of the House for the next eight days!

**Mr. Ndicho:** Does the Ministry have any plans to supervise these constructors visiting these towns to see what they are doing? These problems are prevalent in all the major towns where they started their contracts. To make the matters worse, these contractors charge Kshs20,000 everyday for delays occasioned by people on the streets and the councils. What is the Ministry doing to ensure that this job is done in time to avoid the unnecessary delays and the payment of Kshs20,000 penalty fee which they are charging on this World Bank Programme?

**Mr. Kiangoi:** Mr. Speaker, Sir, as the hon. Member rightly pointed out, the project is funded by the

World Bank and the Kenya Government. The road I am referring to is now complete. There are enough funds under the project to supervise the on-going works in various towns in Kenya.

**Dr. Ochuodho:** Mr. Speaker, Sir, this is one of the avenues which the Government uses to swindle Kenyans of public funds. The Assistant Minister knows the total amount of money which was set aside for this project. I put to him that Kshs4 billion is being lost through this programme. Having told the Assistant Minister that I was in Homa Bay and that the road is not complete, could he confirm or deny that the road is only 2 inches thick instead of the 4 inches that were required as per the specifications?

**Mr. Kiangoi:** Mr. Speaker, Sir, the works are complete. However, I would like to say that there is 12 months defect liability period and during this time, any defects that will arise on the roads will certainly be rectified by the contractor and that is a contractual requirement.

**Dr. Ochuodho:** On a point of order, Mr. Speaker, Sir. I did not talk of defects. As an engineer, I am telling the Assistant Minister that the roadwork that was supposed to be 4 inches is 2 inches. Is that not a violation of the contract?

**Mr. Kiangoi:** Mr. Speaker, Sir, the road has been done according to specifications.

**Mr. Wamae:** On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to evade answering a very direct question. This contractor has put 2 inches instead of 4 inches. That is not in accordance with the specification!

**Mr. Speaker:** Order! Order! Hon. Ordinarily, the Chair does not get involved in asking questions. However, Mr. Assistant Minister, you must understand that there has been some anxiety in Kenya, generally, about roads being done contrary to specifications. I think that is a legitimate question, which you need to answer now.

**Mr. Kiangoi:** Mr. Speaker, Sir, what I am saying is that the report that we have indicates that the project in Homa Bay has been done according to specifications. That is why I brought in the 12 month-defect-liability period. If there are any defects---

**Hon. Members:** No!

**Mr. Speaker:** Order! Order! Hon. Members, if you would like to hear yourselves talking from your seats, I will call the next Question. Mr. Assistant Minister, you have been asked a very simple question: Was the specification on thickness for that road indicating two or four inches?

**Mr. Kiangoi:** Mr. Speaker, Sir, let me repeat again that the road was done---

**Hon. Members:** No! That is not the question.

**Mr. Kiangoi:** Mr. Speaker, Sir, could I have a chance to reply to what you have asked me?

**Mr. Speaker:** Order!

**Mr. Kiangoi:** Mr. Speaker, Sir, the road was done according to specifications. If the specified thickness of that road was supposed to be four inches, that was what was done.

**Mr. Speaker:** Very well; let us proceed, to Mr. Ndicho's Question.

*Question No. 291*

PAYMENT OF RATES BY DEL MONTE (K) LIMITED.

**Mr. Ndicho** asked the Minister for Lands and Settlement:-

- (a) whether he is aware that Del Monte (K) Limited pays a paltry Kshs1.50 per acre, per year, as land rates to the Kenya Government;
- (b) whether he is further aware that Socfinaf and Kakuzi Limited, who own over 70,000 acres, do not pay any rates, rents or premiums to the Government; and,
- (c) when the leases of those companies are lapsing.

**The Minister for Lands and Settlement** (Mr. J. Nyagah): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that Del Monte (K) Limited pays a paltry Kshs1.50 per acre, per year, as land rates to the Kenya Government.

(b) I am further not aware that Socfinaf and Kakuzi Limited, who own over 70,000 acres of land, do not pay any taxes, rates, rents or premiums to the Government.

(c) The leases for agricultural properties were granted for a term of 999 years for the purpose of developmental control.

**Mr. Ndicho:** Mr. Speaker, Sir, now that the hon. Member is the Minister for Lands and Settlement, and is denying that Del Monte (K) Limited pays Kshs1.50 per acre, per year, for the over 100,000 acres it owns, could

he tell us how much that company pays? I would like him to realise that we are not going to rely on the figures that he has given this House, because those figures were given to him by that same company. Could he produce copies of the payment receipts issued to Del Monte (K) Limited for the last two years, and table them here?

**Mr. Speaker:** Mr. Ndicho, the Question does not ask whether Del Monte (K) Limited has paid.

**Mr. Ndicho:** Mr. Speaker, Sir, I asked the Minister whether the company pays Kshs1.50 per acre, and in his reply he said---

**Mr. Speaker:** Order, Mr. Ndicho! Mr. Minister, you will follow Mr. Speaker's direction, and not Mr. Ndicho's. Say whether Del Monte (K) Limited pays Kshs1.50 per acre, per year, as rate, and state how much if the company pays more.

**Mr. J. Nyagah:** Mr. Speaker, Sir, Del Monte (K) Limited pays more than Kshs1.50 per acre, per year, as land rates.

**Hon. Members:** How much!

**Mr. J. Nyagah:** Mr. Speaker, Sir, the problem I have is that there are very many chunks of land that form the company's 70,000 acres. So, I have many schedules. Depending on their Land Registration (L.R) Numbers, some---

**Mr. Sambu:** We would like to know the amount of rate per acre that is, paid for each of them yearly

**Mr. J. Nyagah:** Mr. Speaker, Sir, it is difficult to give that information, because some of the land parcels were leased out to the company at the turn of this century.

**Mr. Speaker:** Order! Order! Mr. Minister, if the land parcels that have been leased out to the company are so many that you cannot give that information right now despite the fact that you have been with this Question for long enough, I will make your work easier. I will give you time to go and do all the necessary calculations and come back to this House with all the information at your finger tips. So, would you rather I defer this Question to Thursday?

**Mr. J. Nyagah:** Mr. Speaker, Sir, I can answer all the questions now.

**Mr. Speaker:** So, could you then tell us how much Del Monte (K) Limited pays to the Government per acre of land, per year, in rates?

**Mr. J. Nyagah:** Mr. Speaker, Sir, I have a schedule for various land parcels, showing the amount of money paid per acre, per year, for each LR number. I would not like to read out everything contained in this schedule, because I would not like to bore hon. Members. I will, however, give a few examples. Del Monte (K) Limited pays Kshs 4,063 per acre, per year, for land parcel LR. No.13289, and Kshs126 per acre, per year for land parcel LR. No.8335. These leases were granted in 1951. On another land parcel that was leased to the company in 1955, the Government receives Kshs320 per acre, per year.

Mr. Speaker, Sir, the list is quite long; and that is why I said that if I read out all the details contained herein, I might bore hon. Members.

**Mr. Speaker:** Table that schedule, Mr. Minister.

*(Mr. J. Nyagah tabled the schedule)*

**Mr. Anyona:** Mr. Speaker, Sir, could the Minister tell this House whether he is satisfied that the rates he has read out are realistic? If he is not, could he tell us what he intends to do to revise them?

**Mr. J. Nyagah:** Mr. Speaker, Sir, those rates are realistic, given that most of those leases were granted as early as at the turn of this century. During that time, Kshs10, which is the rate at which some land parcels were leased out to Del Monte (K) Limited, was a lot of money. That is the rate the Government is still charging that company to-date since that was what the company committed itself to during the time of the lease.

**Mr. Sambu:** Mr. Speaker, Sir, you have heard that the land leases being held by Del Monte (K) Limited will lapse after 999 years. The said land, and other pieces of lands in the Nandi Hills, were robbed from its rightful owners by this country's colonial Government; some people were killed while others were thrown out of those lands. Then, the British---

**Mr. Speaker:** Mr. Sambu, are you, now, making a statement?

**Mr. Sambu:** Mr. Speaker, Sir, that is the preamble to my question. My question is this: Has the robbery of the land from its rightful owners by the colonial Government been formalised over the years? If not, when will that land revert to its original owners?

**Mr. J. Nyagah:** Mr. Speaker, Sir, the land will revert to its original owners at the end of the 999-year lease.

*(Laughter)*

**Mr. Speaker:** Who has not asked a question this afternoon? Mr. Munyao, could you proceed?

**Mr. Sambu:** We are going to invade those pieces of land then, if that is the case!

**Mr. Speaker:** Order! Mr. Sambu, I gave you time. Whatever you have said now you did not say it then.

**Mr. Munyao:** Mr. Speaker, Sir, I have realised that the average rate for the total number of acres for the land parcels that the Minister has referred to here is Kshs1.50 per acre; since I have done simple mathematics. It appears that the Minister does not have mathematicians in his office. Since the Minister can use a mathematician, could he tell this House the Government policy on land, and whether he is satisfied that an international company should pay only Kshs1.50 per acre of land, per year? This is a fact!

**Mr. J. Nyagah:** Mr. Speaker, Sir, I would like to repeat that what the hon. Member has given us is not a fact. I hold a Master's degree in Economics; I did a lot of Mathematics. I know how to do these calculations.

*(Loud consultations)*

**Mr. Speaker:** Order! Order! Let us proceed, to Mr. Chege Mbitiru's Question by Private Notice.

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. We have not exhausted this Question.

**Mr. Speaker:** Order, Mr. Ndicho!

**Mr. Ndicho:** Mr. Speaker, Sir, the Question is on a very large tract of land.

**Mr. Speaker:** Order! Even if it is on land in outer Mongolia, it must give way to other Questions.

*Question No.283*

SHOOTING OF MR. KAMANDE KIRIUKI

**Mr. Kamande:** On a point of order, Mr. Speaker, Sir. I have not asked my Question.

**Mr. Speaker:** Yes, because you were not here when I called it out.

**Mr. Kamande:** Mr. Speaker, Sir, for the second time, I apologise for not being here. Could you now allow me to ask it?

**Mr. Speaker:** Mr. Kamande, your Question has been deferred.

*(Question deferred)*

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

**Mr. Speaker:** Order! Mr. Ndicho, you can see that we still have five Questions by Private Notice, and that it is now 3.10 p.m. We have only 20 minutes to dispose of five Questions; on average, each Question has to be answered within four minutes. So, even if you insist, I will not allow more time for your Question.

*Question No.231*

PGRADING OF BUNA/BUTE TELEPHONE EXCHANGE

**Dr. Ali:** On a point of order, Mr. Speaker, Sir. I have not asked my Question.

**Mr. Speaker:** Dr. Ali, you were late. So, your Question has been deferred.

*(Question deferred)*

## QUESTIONS BY PRIVATE NOTICE

INSECURITY IN LAIKIPIA

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

(a) Is the Minister aware that insecurity in Laikipia West Constituency has reached alarming proportions with increased incidents of killings, rape, cattle thefts and hijacking of vehicles along Nyahururu-Kinamba and



Nyahururu-Rumuruti roads, by armed gangsters?

(b) What urgent measures is the Minister taking to contain the situation and ensure security for the residents of the area?

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

(a) I am aware that most parts of Laikipia West Constituency have had very many criminal activities in the recent past.

(B) The following measures have been put in place to combat insecurity:-

(i) General Service Unity (GSU) personnel have been deployed in Muhotetu and Al Moran areas.

(ii) Anti-Stock Theft Unity (ASTU) personnel have been deployed in Ng'arua, Kiamariga and Ol Moran areas.

(iii) Police patrol bases have been established at Marmanet, Sosian, Pesi, Ndururumu, Kwanjiku, Muhotetu, Maua, Sipili, Sheria, Muteta, Mwenja, Karandi and Mbogoini. A police post has been established at Survey.

**Mr. Mbitiru:** Mr. Speaker, Sir, from the answer given by the Minister, all information that has been given, in respect of the personnel who were deployed after the 1998 clashes. Early last year we still had the same problem.

**Mr. Speaker:** Order. Put your supplementary question.

**Mr. Mbitiru:** Mr. Speaker, Sir, I am giving the background of insecurity---

**Mr. Speaker:** Order! Mr. Mbitiru, you are taking unnecessary time. I have warned the House that we have only 20 minutes to deal with the Questions by Private Notice. You will help yourself and the House, if you could put your supplementary question directly. Please, put a direct question.

**Mr. Mbitiru:** Mr. Speaker, Sir, there is no way you can ask a question without giving the background of it.

**Mr. Speaker:** Alright! Alright!

**Mr. Mbitiru:** Mr. Speaker, Sir, what we know is that in Ol Moran and other areas that the Minister has talked about, insecurity is still being perpetuated, despite the presence of the security personnel. What is the actual action that the Minister intends to take in that area, because every day, there are killings despite the presence of policemen in the areas?

**Maj. Madoka:** Mr. Speaker, Sir, you will agree with me that I have deployed adequate security personnel in those areas that I have talked about. But I do agree that we have had quite a few incidents despite the presence of those security personnel in those areas and we have asked them to intensify their patrols.

**Mr. Wamae:** Mr. Speaker, Sir, will the hon. Minister agree that some of the people involved in those activities are security personnel themselves?

**Maj. Madoka:** Mr. Speaker, Sir, I cannot deny or confirm.

**Mr. Speaker:** Mr. Mbitiru, would you like one more chance?

**Mr. Mbitiru:** Mr. Speaker, Sir, is the Minister aware that the OCS who was involved in those activities was promoted to the rank of chief inspector and transferred to Nakuru, despite presiding over the killings in Laikipia West Constituency?

**Maj. Madoka:** Mr. Speaker, Sir, I am not aware that an OCS was involved in the killings.

**Mr. Speaker:** Next Question, Mr. Kimetto.

#### STONING OF HON. KONES'S VEHICLES

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

(a) When will the Minister arrest and arraign in court persons including a Mr. Kirui, a Kericho KANU youth leader, who waylaid and stoned the vehicles of hon. Kipkalya Kones and another Member of Parliament along Kericho-Nakuru road at Molo Junction and Brooke Market on the 10th of May, 2000?

(b) Could the Minister assure the House that freedom of movement and security of Members of Parliament will be guaranteed at all times in the country?

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

(a) I am aware that on 10th May, 2000, hon. Kipkalya Kones was accosted by a rowdy mob which attempted to stop him and his entourage from driving into Kericho Town. The police were alerted, but when they got there, the rowdy mob had dispersed.

(b) The Government will do everything possible to ensure that the security, freedom and movements all

hon. Members of Parliament and all other Kenyans are not interfered with.

**Mr. Kimetto:** Mr. Speaker, Sir, is the Minister aware that we had not even reached Kericho Town before we were accosted? We were in Mau Summit when we were attacked by rowdy KANU youths, who claimed that they were "KANU damu" and that they wanted blood of hon. Kones. Mr. Speaker, Sir, could the Minister deny or tell us the truth that, those youths were there under instructions from the higher authority?

**Maj. Madoka:** Mr. Speaker, Sir, I am not aware that they were there under the orders of some superior authority.

**Mr. Muchiri:** On a point of order, Mr. Speaker, Sir. The Minister did not answer the Question. The Question is: When will the Minister arrest and arraign suspects in court?

**Maj. Madoka:** Mr. Speaker, Sir, we have not arrested anybody yet because we do not know exactly who was in that group.

**Mr. Sambu:** Mr. Speaker, Sir, the Minister is not telling us the truth because a Mr. Kirui was identified as one of those suspects, who attacked hon. Kones.

Mr. Speaker, Sir, could the Minister seek the assistance of hon. Members who were attacked, so that they could arrest and arraign them in court?

**Maj. Madoka:** Mr. Speaker, Sir, we tried to confirm whether Mr. Kirui was present and we failed to establish the truth.

**Mr. Kimetto:** Mr. Speaker, Sir, I was there. I saw those people who attacked us. In fact, the police officers who were there also knew those youths. Why have they not been arrested and arraigned in court, so that we can identify them? Is this the best way of running this country?

**Maj. Madoka:** Mr. Speaker, Sir, it appears that hon. Kimetto has got some useful information and maybe, he could record a statement with the police and we will certainly pursue those individuals.

**Dr. Ochuodho:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead the House that, if they went and reported, those people will be apprehended? In the case of hon. Orengo and I, since the matter was reported to the CID boss, why has he not arrested those people who attacked us? It is even sad that our vehicles were knocked by one hon. Member of this House and we reported to the CID boss, but nothing happened. Why is the Minister misleading that when hon. Kimetto records a statement with police, they will take action when they have not taken any action on our case?

**Maj. Madoka:** Mr. Speaker, Sir, I am referring to this particular case. I am saying that if hon. Kimetto has sufficient evidence, let him go and make a statement. If he does that, I assure this House that action will be taken against those individuals.

#### REMOVAL OF GARREH FAMILIES FROM HOMES

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

(a) Under what circumstances were over 500 families of Garreh Communities in Bute removed from their homes by the Government?

(b) What is the fate of over 1,000 school going children from the affected families?

(c) What arrangement has the Government put in place to provide security, food and social amenities?

**Mr. Speaker:** Is Mr. Noor not here? His Question is dropped.

*(Question dropped)*

#### RE-OPENING OF KENYA MEAT COMMISSION

**Mr. Kaindi:** Mr. Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Could the Minister give a definite date when the Kenya Meat Commission (KMC) plant in Athi River will re-open?

(b) Could the Minister assure the House that the KMC cold storage in Mombasa will not be sold by the Receiver?

**The Minister for Agriculture (Mr. Obure):** Mr. Speaker, Sir, I beg to reply.

(a) The Ministry of Agriculture and Rural Development is in a position to re-open the KMC Factory within four to six weeks to facilitate emergency slaughter of livestock. The re-opening is, however, conditional on receipt of an estimated Kshs730 million for purchase of livestock and factory operations. As a first step leading to

start up of operations, the Ministry of Finance has allocated my Ministry Kshs100 million to settle amounts owed to unsecured creditors by the KMC. The provision of funds for settlement of the debts owed to unsecured creditors by the KMC is a pre-condition for triggering funds from potential donors for this operation.

Conscious of the severe drought currently facing the country and which continues to decimate livestock herds, the Ministry of Agriculture and Rural Development in liaison with the Ministry of Finance is holding consultations with potential donors for urgent financing to facilitate start up of emergency slaughter and canning of an estimated 40,000 animals at the KMC. Subsequent to release of funds requested, the Ministry will be able to re-open the KMC factory within four to six weeks and start emergency slaughter and canning of animals at risk. The four to six weeks required will enable servicing of the plant, importation of cans and ammonia gas from the nearest source, which is South Africa, as well as electronic control panels from France.

(b) I wish to assure this House that the KMC cold storage in Mombasa will not be sold by the Receiver Manager.

**Mr. Kaindi:** Mr. Speaker, Sir, I think the answer given by the Minister is one of the best answers I have so far received and I think it is the best for pastoral communities. But when we looked at the Budget, we did not see any provision anywhere for the KMC. Where will the Kshs100 million come from? Is it an emergency measure and where does it come from? How can this House be assured that the Kshs100 million is not like the Kshs500 million that the Minister kept on talking about?

**Mr. Obure:** Mr. Speaker, Sir, here, we are dealing with an emergency situation and these funds have been availed by the Ministry of Finance to deal with the case.

**Mr. Sambu:** Mr. Speaker, Sir, could the Minister confirm that the KMC will actually be opened in the second week of August, and it will not be conditional as he says, because if we put conditionalities then he will come back to this House and tell us that those conditions could not be met? Could he confirm that because thousands of animals are dying all over the country per week? Could he confirm that the KMC will be re-opened in the second week of August, that is after six weeks?

**Mr. Obure:** Mr. Speaker, Sir, the Government appreciates the problems encountered by breeders and pastoralists around the country. We know that due to the pro-longed drought, they have suffered immensely by losing their purchasing power and livelihood. It is for that reason that there is a very strong commitment by the Government to re-open the KMC. You can see that one of the conditions put out before the plant could be re-opened is that the Government raises Kshs100 million towards meeting some of the unsecured creditors like electricity and other bills.

I would like to say that this has been done and, therefore, I am confident that come the second week of August the KMC plant at Athi River will be operational. **Dr. Murungaru:** Thank you, Mr. Speaker, Sir. I will repeat hon. Kaindi's words that, that is a very good answer from the Minister, but nonetheless the opening of the KMC, according to the answer we have just been given, is contingent on the Ministry being able to obtain money from lenders, because I will not use the word "donors". In the event that this money is not forthcoming from the lenders, what alternative arrangements does the Minister have in place to ensure that the KMC will be opened in six weeks, because we must re-open it in order to save livestock farmers in this country?

**Mr. Obure:** Mr. Speaker, Sir, the measures I have outlined are meant to deal with this emergency. The Government has approved a long term plan for the KMC, which entails privatisation of the plant. I hope that very soon, we will have a Sessional Paper which will work out the modalities for long term re-opening coming to this House and this House will be asked to give approval to the scheme of privatisation which will involve pastoralists and other stakeholders. Here, I am talking about this emergency; the intervention which is necessary now to assist pastoralists and other people. I am confident that the discussions which have taken place, so far, between us and our friendly countries and donors will bear fruits. If they do not bear fruits, then we will have to wait for this long term plan.

**Col. Kiluta:** Thank you very much, Mr. Speaker, Sir. I think the answer given by the Minister is very encouraging, but my worry is that the KMC holding ground has been given to some individuals. What step has the Minister taken to either repossess the land or look for an alternative land which will be used as a holding ground?

**Mr. Obure:** Mr. Speaker, Sir, the critical holding ground is necessary for this operation. I would like to inform this House that the holding grounds which will be necessary for the re-opening of the KMC are still intact. However, I am aware that some grounds have been interfered with, but I am talking about those holding grounds which are critical to this operation. I am confident and I see no reason whatsoever why we cannot implement this scheme.

**Mr. Kaindi:** Mr. Speaker, Sir, now that the Minister has given that encouraging answer, could he consider taking back the employees of the former the KMC, because they are languishing in poverty in Athi

River?

**Mr. Obure:** Mr. Speaker, Sir, I am aware of the concern which hon. Kaindi has raised and I do not want to rise here and give any guarantee in this respect, but some of the KMC staff, who were laid off and are languishing in poverty as hon. Kaindi says, them will be recalled. They will be necessary in this package, but we are also aware that it is because of the large numbers of staff operating at the KMC at the time that we had problems at the plant. Therefore, if we re-open, and I think we will, we will be operating with fewer members of staff but, who will be more qualified. I think that will be necessary for the success of this operation.

Mr. Speaker, Sir, I would like to inform this House that I have been assured by my friend that the 2,500 acres holding ground around the Athi River Cement Factory is still intact.

#### REPAIR OF KOROGOCHO PRIMARY SCHOOL

**(Mr. Muchiri)** to ask the Minister for Local Government:-

(a) Is the Minister aware that Nairobi City Council in its monthly meeting of July, 1997 allocated Kshs1,399,880 for repair of Korogocho Primary School in Nairobi?

(b) Is he further aware the aforesaid amount has not been released and the school has not been repaired?

(c) What action is the Minister taking to ensure that the money is released forthwith?

**Mr. Speaker:** Well, I am afraid, Mr. Muchiri time is up.

**Mr. Muchiri:** Mr. Speaker, Sir, give me two minutes.

**Mr. Speaker:** Mr. Muchiri, I think I will save you the hurry and defer the Question if it is possible to Thursday because I think the Order Paper for tomorrow must have come out. So, I defer the Question to Thursday. Mr. Muchiri, I have to do you justice.

**Mr. Muchiri:** Thank you, Mr. Speaker, Sir.

*(Question deferred)*

#### COMMITTEE OF WAYS AND MEANS

*(Order for Committee read)*

IN THE COMMITTEE

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

#### MOTION

##### APPROVAL OF TAXATION MEASURES

THAT, the proposals relating to:-

- (a) Customs Tariff;
- (b) Excise Duties;
- (c) Value Added Tax;
- (d) Income Tax; and,
- (e) Miscellaneous Fees and Taxes,

Contained in the Financial Statement for the year of Account 2000/2001 be approved.

*(The Assistant Minister for Finance  
(Mr. Arap-Kirui) on 29.06.2000)*

*(Resumption of Debate interrupted on 29.06.2000)*

*(2nd Allotted Day)*

**The Minister for Medical Services** (Dr. Anangwe): Thank you, Mr. Temporary Deputy Chairman, for giving me the opportunity to support this Motion on the approval of the proposals relating to Customs Tariff, Excise Duties, Value Added Tax, Income Tax and Miscellaneous Fees and Taxes, which are contained in the Financial Statement for the year of account 2000/2001. I support this particular Motion because the intention is to raise revenue amounting to Kshs182.3 billion for the purposes of expenditure within the public sector. I support this Motion because the rationale as contained in the statement is sound. We need resources to be expended on the development of infrastructure, poverty reduction programmes and to bring down the domestic debt burden. Few people would have difficulties with this rationale. The principles that underpin these proposals are also very good because, against a background of intention to raise taxes and exert duties, of course, concern has been provided to ensure that the private sector gets the incentives it requires in order to invest and remain competitive. The other principle relates to cost shifting of the burden from the poor to those who are capable of bearing this particular burden. I would have no difficulties with that because in the process, that burden would not have to be borne by the poor. The other principle is that there is intention to expand the tax base and, of course, on closing in on the tax evaders. With these measures in place, I am sure that the principle of equity will be enhanced and, therefore, my people in Butere will stand to benefit from these particular measures.

I also support the proposed measures with respect to customs, and I am particularly interested on the duties proposed on sugar. As Hon. Members will recall, the hon. Minister for Finance said that the duty rate on refined sugar will be at 70 per cent, and 100 per cent on other sugars. There are very many sound reasons why this should be so. Many of you know that the farmers who reside in Western Kenya, Nyanza, parts of Rift Valley and Trans Mara depend on sugar-cane growing. Therefore, any measures put in place in order to ensure that these particular farmers have a livelihood need support. This support will come by against a background that we are not the only producers of sugar in this world; there are also other sugar producers elsewhere. Sometimes an argument has been used relating to the price of sugar in the world market. Some people argued that, why is it that our own farmers cannot produce at that particular price? I think this is a mistaken view. It is true that the price of sugar in the world market is about US\$110 per tonne, but no one in the world - may I assert here - produces sugar at that price.

In Brazil, sugar is produced at US\$160 per tonne, which is well above the world market price of sugar. In Australia, it costs about US\$220 per tonne to produce sugar. In Kenya, it is a lot more; about US\$420. There are many reasons for this. One should never use these particular comparisons to question why the price of sugar in Kenya is this high. Let me pick the example of Mumias Sugar Company in order to illustrate this particular predicament of sugar production in this country. It costs about US\$420 to produce a tonne of sugar in Mumias Sugar Company, whereas in Australia it costs about US\$220. The major element is not the factory overheads or costs; it is the cost of cane from the farmers. It costs about US\$250 per tonne of cane factory. Elsewhere it is less; it is about US\$140 per tonne of sugar-cane.

The main reason why there are fundamental differences and which, of course, find expression in the cost of sugar in this country is that with respect to Kenya; particularly, in the Mumias sugar-cane growing zone, the plots are very small. They are 1.5 hectares on average. Elsewhere, like in Australia, they have large-scale farms with 120-500 hectares. It will be a lot easier for those who are growing cane on large scale to achieve economies of scale and, therefore, cut down on the cost of production. This is not feasible with respect to Mumias.

Cane growing and crop husbandry in Mumias are labour-intensive. The cutting of cane is manual. This is not the case elsewhere, where cane growing and cutting are mechanized. It is not possible to produce one crop per year within our climatic conditions. It takes about two years to do so. Elsewhere, it can take one year to produce the cane. In terms of productivity, it is lower within Mumias while it is higher elsewhere. In order to illustrate this particular point, because of climatic conditions---

**The Temporary Deputy Chairman** (Mr. Poghio): Order! You are supposed to be dealing with the matters here before the House.

**The Minister for Medical Services** (Dr. Anangwe): Mr. Temporary Deputy Chairman, Sir, I am trying to clarify a point in respect of customs and excise and certain measures which the Minister did announce in removing duties for refined sugar by 70 per cent and other sugars by 100 per cent. I am trying to underscore that particular point in order to defend my interest as a sugar-cane farmer.

**The Temporary Deputy Chairman** (Mr. Poghio): Just keep the Motion in mind.

**The Minister for Medical Services** (Dr. Anangwe): Yes, Mr. Temporary Deputy Chairman, Sir.

When it comes to climatic conditions, the sucrose content with respect to sugar in Mumias is lower. It takes about nine tonnes of cane to produce one tonne of sugar. Elsewhere it takes about seven tonnes of cane to produce one

tonne of sugar. Therefore, it is more expensive. It requires the sugar-cane farmers in Mumias to subscribe to this---

*(Loud consultations)*

**The Temporary Deputy Chairman** (Mr. Poghisio): Order, hon. Members! Will you, please, consult in low tone? We want to hear the hon. Member on the Floor.

**The Minister for Medical Services** (Dr. Anangwe): Therefore, all I am trying to say is that Kenyans should not expect farmers in Kenya, or in Mumias, in particular, to produce sugar-cane at comparable costs as elsewhere, in order to produce it cheaply. It is not feasible. The structural constraints in the production of sugar-cane in this country oblige us, cane farmers, to just produce as we are doing.

Mr. Temporary Deputy Chairman, Sir, when it comes to the issue of higher cost, you will notice that in the Mumias Sugar Company, the labour element is higher. The Mumias Sugar Company employs about 700 persons to run its operations, and if you took another sugar factory of similar magnitude in Australia, probably, it would employ 160 persons, and that is a cost element.

I beg to support the Motion.

**Mr. Mwiraria:** Thank you, Mr. Temporary Deputy Chairman, Sir. I rise to speak on this Motion, and I want to say that the measures proposed by the Minister for Finance will not raise the revenues that he proposes to raise. In my view, the measures are very unrealistic; the main reason being that the Minister expects to raise Kshs19 billion more than he raised during the last financial year.

The Minister is aware that the Kenya Power and Lighting Company (KPLC) is rationing electricity, and the factories are working at a third of their capacity and, therefore, we can only expect production which is much lower than normal. Consequently, we expect lower profits. At the same time, most of the workers in our factories will be working either for 10 days a month, or two-thirds of them will be laid off, which means that the taxable income, both at the personal and factory levels, will be much lower.

The second reason, as to why I find the taxation measures rather inadequate is because the Minister proposes in his Budget to lower domestic debt by Kshs9 billion during this financial year. Assuming that the revenues will be lower than they were in the last financial year, 1999/2000, surely, at the best, the Minister can only expect increased domestic borrowing with consequential increases in domestic interest rates, which are killing the economy.

When I spoke on the Budget Speech, I stated that I was fairly happy with the measures which were being taken to save the energy sector. However, let me express one very serious concern that I have. At the rate we are using the water in our dams, there will be no water in those dams within two months, unless we get rain. I am not aware that the Government has taken any action to make sure that within two months, it will be in a position to replace the loss in energy which will result from the emptying of the dams.

"Mr. Temporary Deputy Speaker," Sir, much as I would want to support the taxation measures, I would also want the Minister to make sure that whatever little money he gets helps to save the economy. We are taxpayers, and we pay taxes in order to get services.

**The Temporary Deputy Chairman** (Mr. Poghisio): Order! Address the Chair as " Mr. Temporary Deputy Chairman, Sir," and not "Mr. Temporary Deputy Speaker, Sir!"

**Mr. Mwiraria:** Mr. Temporary Deputy Chairman, Sir, I beg your pardon, and I must put that into my head, and I hope I will not repeat the mistake again.

The problem in the energy sector is, perhaps, the most pressing problem that this nation faces today. Unless the Government can find a solution to the energy crisis within two months, this economy will grind to a halt. I am not convinced that enough is being done, and I would say that, as Kenyans, we should, in fact, refuse to pay taxes unless we get services.

Let me now become a little parochial. I have raised in this House the question of security many times. I would have wanted our people to pay all the taxes that the Minister is asking for, provided that we get adequate security. In this financial year, the Minister is giving all the money to the National Security Intelligence Service (NSIS); the old Special Branch Department. In my view, what does the NSIS do these days when we have so much freedom of speech? These officers used to go to the bars to eavesdrop what the Ministers and the hon. Members said, but these days they do not need to do that. We speak openly these days. So, instead of giving them Kshs900 million, why not strengthen the regular Kenya Police Force so that we can get adequate security?

As we sit here, the people of North Imenti are faced with a famine that they have never faced before because cattle and camels are being grazed on their farms. Yesterday, over 2,000 camels were walking across

North Imenti and, in fact, in the morning, they were in the municipality, destroying everything in their paths. What is bothering us is that they are eating the nappier grass which the farmers have grown for their zero-grazing; the pigeon peas; the only crop which survives drought, and the sorghum. Much as we would want to help our Somali colleagues in order to save their animals, we do not want to help them at our own peril, or expense. Again, why am I saying that? It is because I feel that Kenyans should be taxed so that they can be provided with services which help the mwananchi. There is no point in taxing us, and financing the NSIS, which, literally, has no work these days, because we are open and we talk freely. Giving them over Kshs900 million in increments---

**The Minister for Medical Services (Dr. Anangwe):** On a point of order, Mr. Temporary Deputy Chairman, Sir. Is the hon. Member in order to mislead this House that when you have freedom of expression and democracy, you do not need an intelligence service, yet in America, we have the CIA and the FBI?

**Mr. Mwiraria:** Mr. Temporary Deputy Chairman, Sir, how can the Government set aside Kshs900 million to go to the Special Branch when we have a Police Force which cannot provide security to us because it has no transport? This money would have been better used to strengthen the Police Force so that it can provide security to Kenyans. I am not saying that we should disband the Special Intelligence Service, but I am saying that it should not get so much additional money when there is very little money around. Kenyans should not be taxed so heavily to finance a body which spends its money in secrecy and has got a one line account. You do not know how the money is being spent. I would rather see the Police Force buying vehicles so that police officers are able to move when we call them in.

I still oppose very strongly the presumptive tax. This is the tax which the ordinary farmer, who produces five litres of milk a day, has got to pay when he sells his milk to the co-operative society. That farmer is not as well paid as a regular worker who earns Kshs8,000 or Kshs9,000 per month, and who has now been exempted from taxation.

With those few remarks, I beg to oppose.

**Mr. Sungu:** Thank you, Mr. Temporary Deputy Chairman, Sir, for recognising me to contribute to this Motion on how we will raise taxes and, probably, how we will use it.

Mr. Temporary Deputy Chairman, Sir, taxes are imperative in any nation, and although I oppose taxes as usual, I understand the fact that we have to impose taxes. But the Minister for Finance, who is asking us to pass taxes such as Value Added Tax (VAT), Customs and Excise Duties and so on, to be levied, is sitting on documentation that is necessary to help this country.

The Minister, in his Budget Speech, talked about ways and means of helping this country. One of them was raising finances through donors. One of the projects that the Minister himself is sitting on right now is the Kisumu Municipality water supply and sewerage system improvement. There is a study which was completed in 1998, and I would like the Minister to take note of this. The up-date for application for the financing of this project was completed and forwarded to the Minister in August, 1998, yet, there is a Mr. Kanithi, who is in charge of the Japanese International Co-operation Agency's (JICA) desk in Kenya, who has sat on this documentation which was supposed to have been given to the Government. We would like to know now and here, and I would expect the Minister to reply to this today, whether, before any donor funding is given to Kenya, some Ministry officials will sit on the documentation until they are given 45 per cent of the value of the project. This is corruption. In Kisumu, people are dying of typhoid, cholera and other waterborne diseases, yet, JICA has agreed to finance the Kisumu Municipality water supply and sewerage system improvement project, which includes Kajulu, Kolwa, Manyatta and Nyalenda. Ministry officials are sitting on this documentation, yet, you want to tax these same people. What are these taxes for? I want the Minister to ask Mr. Kanithi why he has sat on the documentation of the Kisumu Municipality water supply and sewerage system improvement project since 1998.

**The Temporary Deputy Chairman (Mr. Poghisio):** Order, Mr. Sungu; address the Chair.

**Mr. Sungu:** Mr. Temporary Deputy Chairman, Sir, I am very sorry, but you can understand why I am emotional about this. My people are dying, yet, the Government is asking them to pay taxes.

**The Temporary Deputy Chairman (Mr. Poghisio):** Just address the Chair.

**Mr. Sungu:** Mr. Temporary Deputy Chairman, Sir, I agree with you entirely, but I want the Minister, in his reply to the debate today, to tell us why Mr. Kanithi of the JICA desk in the Treasury is sitting on the documentation for the Kisumu Municipality water supply and sewerage project improvement, when he is asking the people of Kisumu to pay taxes.

**The Temporary Deputy Chairman (Mr. Poghisio):** Order, Mr. Sungu! You do not simply want to address the Chair. Could you now address the Chair?

**Mr. Sungu:** Mr. Temporary Deputy Chairman, Sir, I will address you adequately, but I am hoping that the Minister has heard this because it is very important to the people of Kisumu. There was a time when it was

necessary that Ministers and Ministry officials would ask for something small before they okay development expenditure, and for foreign aid to come to us. Here is a case where some donors want to give us some money and a Ministry official is sitting on the relevant documentation. That is an issue that we must address as leaders, and as representatives of the people.

There are several issues that we must also address in regard to taxation. These include tax evasion and avoidance. I would like the Minister to address these issues very seriously. As a person, a representative of Kisumu Town and a Member of the National Development Party of Kenya (NDP), I would like to say---

**Mr. Obwocha:** On a point of order, Mr. Temporary Deputy Chairman, Sir. Is the hon. Sungu in order to mislead this House that avoidance of tax is illegal? You and I know that avoidance of tax is a way of working out tax due so as to reduce it legally? The one which is illegal is tax evasion.

**The Temporary Deputy Chairman** (Mr. Poshisio): That is a point of information.

**Mr. Sungu:** Mr. Temporary Deputy Chairman, Sir, maybe, that could have been a point of information, but I think the hon. Member had not understood what I was saying with regard to the same.

The Government should create a conducive environment for investors in this country. If possible, this Government should create a tax haven for investors. We are suffering from unemployment and all the vagaries that arise from under-development. This is a vicious circle. It is necessary for us to go out of our way and create a situation whereby we could create a tax haven for investors so that they can create employment in Kenya. This will enable our people to pay VAT and other taxes. My hon. colleague who stood on a point of order was in order, but he had not understood my point.

Mr. Temporary Deputy Chairman, Sir, with regard to fuel levy, it is necessary for us to get rid of corruption. You and I, and everybody else in Kenya, pay fuel levy every day. Whenever you call in at a petrol station, you pay fuel levy, but this money is never used appropriately. The other day we were told by the same Minister in this House that the Fuel Levy Fund has not been used for repairing our roads. What is this levy for? Is it for lining individuals' pockets or for repairing roads in Kenya?

Mr. Temporary Deputy Chairman, Sir, the other thing that I want to address is the question of excise duties. Kenya Breweries Limited and other firms have been given a leeway because excise duties have been lowered. I would like to appeal here and now, on behalf of the people of Kisumu, that Kenya Breweries Limited reinstate their factories in Kisumu and also in Mombasa. This is because these factories were closed because Kenya Breweries Limited was not able to pay or absorb the excise duties which were charged on beer that they were producing, both for domestic consumption and export. Because the Minister has agreed to reduce excise duties on beer, Kenya Breweries Limited has no excuse whatsoever to stop production from Kenya to export to other countries. Therefore, because these factories were providing employment to Kenyans who, in turn, would provide taxes to the Kenya Government and, hence, to us, these factories must now be reinstated.

Mr. Minister, I am asking you to request the Kenya Breweries Limited, because you have reduced excise duty on beer products, to reinstate their factory branches in Mombasa and Kisumu, so that the people who are suffering from unemployment can continue to enjoy gainful employment. I expect you to reply to this matter when you talk.

Mr. Temporary Deputy Chairman, Sir, it is common knowledge that any time you raise taxes on VAT, you are getting the wrong person. The Minister should target the rich people; the people with money. Instead of raising taxes on the right people; those who have money and who have assisted this country, and who have gained a lot of good things from this country, he has targeted the common man by increasing VAT. Any time you raise taxes on VAT, it means the prices of ordinary goods will go up.

With those few remarks, I would like to support.

**Mr. Obwocha:** Thank you, Mr. Temporary Deputy Chairman, Sir. I would like to start by quoting our Standing Order No. 132, which states:-

"Except on the recommendation of the President signified by a Minister, the House shall not proceed upon any Bill that, in the opinion of the person presiding, makes provision for the imposition of taxation or the alteration of taxation otherwise by reduction".

I have a big problem with this provision and I think this House should address the issues in the Standing Orders that bar and inhibit Members of Parliament from addressing issues about taxation. This is so that we can reduce or increase taxes, depending on how we view the country.

Mr. Temporary Deputy Chairman, Sir, I also have in mind the provision through which, by tradition, you can reduce expenditure by one pound, an issue that this House should address itself to. Let me come to the specific tax proposals. Let me start with customs. I think the issue where the Minister for Finance is given powers to make exemptions in the *Kenya Gazette* on certain products or imports should be abolished straightaway. This loophole creates room for corruption because nobody checks the Minister, or the people who make provision for these goods



that are being imported into the country. Therefore, we hope that the current Minister for Finance will exercise this authority with care and prudence. This is because we have seen previous misuse of this facility.

Mr. Temporary Deputy Chairman, Sir, when we were talking about power shortage and the duties on generators and so on, I never knew that this thing could hit some of us so hard. Of course, you and I sometimes do not have these lights in our houses, but last week I lost a relative, and on the burial day I had booked for funeral programmes to be printed with a printing press. You would be shocked to hear that when I wanted to get the funeral moving, the printing press owner told me that this programme could not be printed because they did not have electricity. It is at that juncture when I realised and felt that there is a problem in this country in so far as this power situation is concerned, and it is an issue this country needs to address very quickly. If, indeed, what the Deputy Leader of the Opposition said is true, that we have only two months to clear the water in the dams, then you can be sure we are in for a lot of trouble.

Mr. Temporary Deputy Chairman, Sir, secondly, as far as excise duties are concerned, the Minister has said that to continue the rationalisation of the duty rates within the East African region, the duty rates on malt beer will be reduced from 90 per cent to 85 per cent. Now, we want to complain very bitterly about duties on beer. The Government has imposed excessive duties on beer, particularly the locally produced ones. The raw materials originate from this country, and yet, the price of beer is very expensive. Now, the beer investments that have come into this country from South Africa are trying to get the Kenyans who are employed in the local industry out of their jobs. They have even gone as far as closing some of the plants, like the Kisumu plant. Now, we are killing the goose that lays the golden egg. We must reduce these duties on beer so that we encourage the growing of the raw materials in this country, which are malt, the wheat products that come from Narok and so on. We must encourage the farmers to grow them. Unemployment is also on the increase due to this directive by the Minister for Finance. In fact, the beers that are being produced by the South African Breweries are very expensive, and those are the ones on which you should levy higher taxes and not the Kenya Breweries Limited.

Mr. Temporary Deputy Chairman, Sir, on VAT, I have a problem with refunds. I do not think the Kenya Revenue Authority (KRA) has addressed the issue of refunds properly. Refunds are made on VAT taxes that have already been paid to KRA. If you go and look at the way they handle the whole process, it is not transparent. Those forms you fill to get back your tax; that is, the VAT that is due to you; who audits those requests for refunds?

Mr. Temporary Deputy Chairman, Sir, I hope the Minister is listening! He should try and re-examine the administration of the Value Added Tax (VAT) refunds. I do not see any use for someone to pay the VAT and then, when he wants a refund, it takes one or two years to get it back. I think it is unfair to those who pay the taxes. We want the same for the pre-shipment inspection. If any firm will be given the pre-shipment inspection, it should be through a transparent tender, so that the right firm can be given the job. It should not be at an inflated cost.

Finally, I would like to talk about the Income Tax. We have rates for taxing savings. The Minister calls them the retirement benefits. He intends to bring a Retirement Benefits (Amendment) Bill. We all know that the savings one makes in his employment come from taxed income. In the course of your work for any organisation, your salary is taxed, but part of it is saved. So, really, that saving comes from a taxed salary. But the Minister has gone ahead to tax that saving after you have retired! What is the logic of taxing savings? Is this not double taxation? If we are going to encourage the people of this country, who are the employees who work very hard to earn that little saving, the taxes on savings should be removed completely. We are asking the Minister for Finance to gazette the rules that govern the retirement benefits. We want to see the Retirement Benefits Authority working properly in managing those funds. You will be shocked to learn that the retirements benefits put together is a package worth billions. It is a lot of money. The other two sectors that you can talk about in billions are in the savings and credit societies. The next one is in the retirement benefits. So, we are asking the Minister to remove that tax.

With those few remarks, I beg to support.

**The Assistant Minister for Energy** (Mr. Manga): Thank you, Mr. Temporary Deputy Chairman, Sir, for giving me this opportunity, to contribute to this very important Motion. I must say that the Minister really tried to juggle around with figures, to raise revenue for this year's Government expenditure. But I must comment on a few things, especially on the Customs Duty.

This country is short of food because funding is a very difficult exercise. We have duties levied on fertilisers and tractor spare parts. If you go to buy a tractor spare part, it is very expensive! Therefore, it is very difficult to maintain tractors. For people to be able to farm in large scale, they must use tractors. I think the Minister should have thought of removing duty on tractor spare parts completely. Duty on fertiliser has caused serious problems to farmers. There are some areas where you cannot farm without using fertilisers. In such

areas, people plant seeds which do not yield anything! Therefore, the whole exercise becomes useless. The Minister should have thought of getting rid of duty on fertilisers.

Mr. Temporary Deputy Chairman, Sir, I am happy that the Minister has tried to reduce the Excise Duty. Contrary to what the Doctor said, there are luxury goods like beer. Instead of taxing spare parts, beer should be taxed. We can do without beer. One can argue that, if you raise the duty too high, the industry will die, but if you want to have a luxurious industry, let the people who want to have it cough the money!

**Mr. Sungu:** On a point of order, Mr. Temporary Deputy Chairman, Sir. Is the Assistant Minister in order to suggest that beer is a luxury when we know that there are many people, including those on the Front Bench, who rely on beer as a necessity?

**The Temporary Deputy Chairman** (Mr. Poghio): Order! That is not a point of order!

**The Assistant Minister for Energy** (Mr. Manga): Mr. Temporary Deputy Chairman, Sir, even if you sit on the Front Bench, beer is still a luxury. Even the Front Bench requires some luxuries. I believe beer is not a necessity. It is the opposite of that.

Let me move on to Income Tax. I want to thank the Minister because he has considered the lower income people. He has opened the bracket and stopped taxing some earnings. But I still think that this country has a very big tax rate. The 32 per cent on company earnings is still very high. The Minister should have found a way of reducing that rate. Some of the companies have to produce, exist, create employment and make some profit. They will find it very difficult to survive with the high taxes on profits. I think we should find a way of getting that revenue, rather than going to the companies. The economy of this country will only grow if our industries also grow. Our economy is bad and you cannot expect many people to buy the products. The number of customers has reduced drastically. Therefore, you should not reduce that small profit, otherwise, the companies will close down.

Mr. Temporary Deputy Chairman, Sir, on VAT, we are glad that the Minister did not levy VAT on foodstuffs like flour and so on. But he should have found a way of keeping the VAT level at 15 per cent and tax beer to raise that increase of 3 per cent. The VAT is being levied on all goods, and this has pushed up the prices of essential commodities. Traders use that increase on VAT as an excuse to hike the prices of commodities, and wananchi are much affected.

Mr. Temporary Deputy Chairman, Sir, just like hon. Obwocha said on this taxation on savings, you are told that 15 per cent of your profits as withholding tax is gone. This will make people keep money under the mattresses; money will not circulate and, therefore, there will be no money in the country. Can that 15 per cent on savings be waived? As far as I am concerned, the savings are taxed twice, although the profits are very low. That taxation should be waived by, maybe, finding another way of generating that revenue.

**Mr. Sungu:** On a point of order, Mr. Temporary Deputy Chairman, Sir. Is the Assistant Minister in order, being a Member of the Cabinet, to disagree with his colleague, bearing in mind the collective responsibility? That is not fair.

**An hon. Member:** He is not a Member of the Cabinet!

**The Assistant Minister for Energy** (Mr. Manga): Mr. Temporary Deputy Chairman, Sir, I am now speaking in my capacity as the Member for Kuria, and that was my opinion. Even in the Cabinet are allowed to express our own views.

Mr. Temporary Deputy Chairman, Sir, the so-called withholding taxes should not be levied. Next time, the Minister should find a way of raising that money, rather than taxing small savings in the bank. Although all those taxes are there, that was a very good Budget. If the Minister can raise that revenue, we should be able to see ourselves through the year without any problems. But we should consider reducing some of those taxes because our people are really suffering.

With those few remarks, I beg to support.

**Mr. N. Nyagah:** Thank you very much, Mr. Temporary Deputy Chairman, Sir, for giving me this opportunity. Whereas I agree in principle that it is right for any government to raise its taxes so that it is able to deliver services to the common man, it is also the cardinal duty of that government, in which hon. Mudavadi, as the Deputy Leader of Government Business, is part of, to ensure that the services are delivered.

Having said so, Mr. Temporary Deputy Chairman, Sir, I only want to identify one area, so that I can hammer my 10 minutes to plead with my very good and understanding friend, the hon. Minister for Finance; a man I have great regard for, and a man I respect. Having said so, we all know in this country that I represent a very high population. In fact, if the people of Kamkunji Constituency were to be given a right to vote for hon. Norman Nyagah, a population of three million people who deal in mitumba would vote for me with no question. I will live in Parliament forever. Therefore, I have a duty to plead with the Minister and the Government on this

sector.

This is a sector which employs three million people, but on 15th June at midnight, the duties went up.

**The Temporary Deputy Chairman** (Mr. Poghisio): Mr. Nyagah, what taxes are you tackling?

**Mr. N. Nyagah:** I am talking about VAT and all of them. I will be coming to specifics, Mr. Temporary Deputy Chairman, Sir.

In June, 1999, and I would like the Minister to listen to this, the mandatory rate was 25 per cent, plus 15 per cent on VAT. By December, 1999, it rose to 35 per cent, plus 16 per cent, plus VAT. Six months later, this June, it rose from 35 per cent to 18 per cent on VAT. I want to give a classic example.

If you were to bring one container of *mitumba*, and on average, it weighs between 24,000 and 27,000 kilogrammes with 500 bales, it would cost, on duty, Kshs220,569.03. On VAT, it would cost Kshs176,450.61, making a total of Kshs397,013.64. What is the net effect today? The duty rises to Kshs434,051.87 on VAT. I want to give examples based on VAT, and I would want the Minister to listen and calculate, because I have gone into a lot of pain to calculate what I am giving, and there are specifics. The VAT element based on 18 per cent on the figures that I have given works to Kshs301,489.75. This means, essentially, that the figure of Kshs735,541.65 is what is going to be paid as opposed to an earlier figure, six months ago, of Kshs397,000. That is a reality. When it comes to determining the element of duty to be charged, because the Government has indicated that also based on weight---

*(Mr. Sungu raised his hand)*

*(Mr. Arap-Kirui consulted loudly)*

**The Temporary Deputy Chairman** (Mr. Poghisio): Order! Order! Mr. Sungu, what are you doing?

**Mr. Sungu:** Mr. Temporary Deputy Chairman, Sir, I want to remind the Minister for Finance that this man should answer back to Mr. Sungu.

**The Temporary Deputy Chairman** (Mr. Poghisio): Order! Order!

**Mr. N. Nyagah:** Mr. Temporary Deputy Chairman, Sir, can you kindly request hon. Arap-Kirui to stop disrupting me when I am telling him what I know? Let him challenge me when he comes to make his contribution.

**The Assistant Minister for Finance and Planning** (Mr. Arap-Kirui): On a point of order, Mr. Temporary Deputy Chairman, Sir. Is the Member on the Floor in order to mislead this House? There is no way I could disrupt him when I am sitting quietly on the Bench.

**Mr. N. Nyagah:** Mr. Temporary Deputy Chairman, Sir, sometimes I double in to see the people who would see the Kingdom of Heaven and those who would never see it when they do not say the truth to this House. However, having said so, if we were to go to the Port today, the duty charged on second-hand clothes will not be based on the 35 per cent and 18 per cent; they will take the higher figure, which would be based on Kshs30 per kilo. So, if we were to calculate 27,000 kilos as the basis to determine the duties due to the Government, then that importer would pay Kshs811,000 plus Kshs369,000 in the form of VAT; which means, essentially, we are telling him to pay Kshs1,181,000. There is no way that person can survive.

We appreciate that the Government needs to improve the manufacturing sector, but it must also show it in action. Where are the cotton ginneries. They have been sold to individuals and co-operatives. Therefore, the question of the textile industry coming up overnight in the next one to two years is a dream. It would not happen.

Mr. Temporary Deputy Chairman, Sir, let us also be humane. Those people paid high prices on those shoes and clothes. On the midnight of 15th June, 2000, they will fall prey to the increase in these new proposed tax rates. We are wiping out an entire community. We are, today, talking of retrenchment within the Civil Service. With the drought, power rationing, famine, and the poor infrastructure in this country, where will those people go to? They are genuine business people. Or, are we saying that we are creating room for the most favoured people to bring in clothes without paying tax, as they have done in the past?

I would like the Minister for Finance to, without any favour or discrimination, look into the welfare of Kenyans. Let us get rid of the Togolese and Nigerians, who bring in clothes and shoes that are destined for other countries; those items end up being sold in this country. How do those items get into this country's market? Some of those foreigners who deal in these items have been students in this country for the last 15 or 20 years, registered at universities such as Daystar. However, those people have never been to those universities; they have remained "students" for the purpose of trading their wares in this country. Such are the people who have come up with the big godowns; they are the ones who are "killing" the common man of this country. Besides that, they constitute a

big part of the drug dealers of this country. We have seen Nigerians being frog-marched to police stations in my constituency. Why do we want such people in this country?

Mr. Temporary Deputy Chairman, Sir, between June, 1999 and June, 2000, the sector has brought this country an income of Kshs2 billion. This means that, due to the handicaps that we have put in place, this country's revenue collection will decline by Kshs2 billion this financial year. We do not want our brilliant Minister to be going to bed with the Bretton Woods institutions in his head all the time. We respect him, and can give him all the revenue that he needs. We would like him to look after that money when we give it to him, the same way he has been looking after it.

The other issue I would like to bring to the attention of the Minister for Finance is the role being played by M/S Swipco. Swipco has taken up the role of changing the duty that is paid by operators in this particular sector, based on suspicion. Why is Swipco being allowed to fight those who have been charged with the responsibility of working out the duty payable on certain commodities? Many hon. Members of this House have, in the past, questioned the legality of Swipco. I hope that when my friend here, who comes from Coast Province, is given a chance to contribute to this Motion, he will take a swipe at Swipco.

Mr. Temporary Deputy Chairman, Sir, on all the figures I have given, we fail to understand why the Kenya Ports Authority (KPA) adds Kshs2 to the mean rate. This means that as we talk of a mean rate of 18 per cent, the KPA talks of a mean rate of 19 per cent. This is a matter that should be looked into. Besides this, KPA's cargo transport charges to the inland ports are very high. The transport charges from the sea Port of Mombasa to Webuye average Kshs100,000 per half-tone of cargo, compared to the port charges of Kshs100. As it is today, if one were to clear his cargo at the Port of Mombasa at the rate of Kshs30 per kilogram of cargo, he would pay Ksh1,000 to the Government and then go home with his pockets turned inside-out. Such a person would not derive any benefit from his business.

With those few words, I support the Motion as I request the Minister to look into the welfare of this group of people.

**Mr. Kajwang:** Thank you, Mr. Temporary Deputy Chairman, Sir, for giving me this opportunity.

I was talking to a businessman this afternoon. He told me that his home is in Westlands, and that when he usually goes to Industrial Area, he thinks twice whether to turn left and go to the Jomo Kenyatta International Airport (JKIA) or go to his home. He said that he sometimes thinks of going to the JKIA and flee and find another country in which to invest because it is very difficult to do business in Kenya. I would like the Minister for Finance to listen very carefully to what I have to say because, investors are seriously tempted to run away from this country; several of them will, certainly, run away from this country, and our people will remain unemployed for one reason. While raw materials attract a duty of 15 per cent in this country, it is zero-rated in Egypt. Both Kenya and Egypt are members of the Common Market for Eastern and Southern Africa (COMESA). If an industrialist in Cairo imports raw materials duty-free, while his counterpart in Kenya imports the same at 15 per cent duty, it means that the industrialist from Cairo can make money in Kenya and not viceversa. This way, we will be destroying this country's industry as that in Cairo grows, hence creating employment there. That is one aspect I would like the Minister to note. He should, of course, add to this, all those other bad aspects, such as the cost of electricity, bad infrastructure and others.

Secondly, some time back, the Minister for Finance said: "From midnight tonight, no second-hand tyres will be imported into this country". I learnt yesterday that second-hand tyres are actually a raw material in this country. Second-hand tyres are not just imported to be used directly, but to be also retreaded. So, we are talking of 26 retread companies which, from midnight some time back, closed down their industry. Those companies had employed 2,600 Kenyans directly, and other people from the Kamba community, who used to collect tyres for those companies. So, we are closing down 26 factories that employed 2,600 people directly, and their collectors, because we want to protect Firestone Company, which employs only 900 people. Furthermore, Firestone Company does not belong to Kenya.

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

**The Temporary Deputy Chairman** (Mr. Poghiso): What is it, Mr. Kanyauchi?

**Mr. Kanyauchi:** Is it in order for hon. Kajwang to refer to very hard-working Kenyans, who have actually been in a formal industry, by their tribe and not as Kenyans?

**Mr. Kajwang:** Well, those people are not offended because they have specialised in that business. Even in Homa Bay and Mbita, where I come from, the people who trade in Firestone products are Kambas.

Mr. Temporary Deputy Chairman, Sir, there is a big problem at the Port of Mombasa. When you import cargo into this country, you, of course, start dealing with the pre-inspection agency, followed by Customs officials. Behind the Customs officials, you talk to regular police officers; behind the regular police officers, you talk to

Criminal Investigations Department (CID) officers; behind the CID officers, you talk to officers from the National Security Intelligence Service (NSIS); behind the NSIS officers, you talk to officers from the Kenya Bureau of Standards (KBS), behind whom you, finally, talk to Swipco. To all these officers, you pay a bribe all through. If you do not pay a bribe to any of them, you will not get your goods out of the Port. So, why do we have so many people to be paid bribes at our Port? The KBS purports to know that a Mercedes Benz motor vehicle brought into this country by the D.T. Dobie conforms to the required standards. Who is in KBS know whether most of our goods conform with the standards?

**Hon. Member:** Mr. Okundi is there!

**The Minister for Vocational Training** (Mr. Rutto): On a point of order, Mr. Temporary Deputy Chairman, Sir. Is the hon. Member in order to ask the Government to legitimise corruption in this country?

**Mr. Kajwang:** Mr. Temporary Deputy Chairman, Sir, I do not want us to legitimise corruption in this country. What I am trying to emphasise is the truth of what is happening. Secondly, if we do not pay our Customs and Excise Department officers well, we will create room for corruption. What is important for us to do is to pay them well, so that they collect all taxes and avoid corruption.

Mr. Temporary Deputy Chairman, Sir, if you go to Dubai today to buy typewriters, we know they are no longer in use because people are using computers and printers; so, you are likely to buy it at US\$50. If you bring it to Kenya, our Customs and Excise Department and SWIPCO officers will not believe that you bought it at such a price, even if you insist that they are being replaced with computers and printers. However, we still need them in Kenya because not everybody here can use a computer and a printer. They will tell you that typewriter is supposed to cost USA\$500. They say that should be the value of the typewriter in Dubai. They do not care for how much you bought it. It is sad that our businessmen cannot import typewriters for use in this country. They cannot even employ secretaries because they do not have typewriters for them to use.

Mr. Temporary Deputy Chairman, Sir, another serious matter which affects the cost of transportation of goods in this country is the price of fuel. For example, Kenya Railways buys diesel to haul goods from Mombasa to Nairobi. They pay duty, VAT and road levy, although they do not use roads to transport goods. Kenya Airways uses jet fuel to transport us from Mombasa to Nairobi, but they do not pay duty, VAT and road levy. What is the logic? The consequence is that Kenya Railways pays US\$1,400 to transport goods from Mombasa to Nairobi, the same cost they paid for those goods from Hong Kong to Mombasa. We are ruining our businessmen by asking them to pay heavy taxes. Where do they get it from?

Mr. Temporary Deputy Chairman, Sir, unless we look into these things properly, we are going to kill our economy.

Mr. Temporary Deputy Chairman, Sir, the Minister made a serious mistake of slamming a ban on importation of vehicles which are eight years old. I do not know which hon. Member would buy a vehicle which is not more than eight years old.

**Hon. Member:** Hon. Biwott!

**Mr. Kajwang:** Maybe, hon. Biwott. But an ordinary hon. Member drives a four-wheel drive vehicle which is more than ten years old. It is not only hon. Members who are suffering, but businessmen in this business. Why should we support manufacturers who are only employing 400 people? Those who import vehicles employ thousands of our people in this country. But worse still, there were vehicles in the high seas at the time when the Minister was proposing these measures.

**The Assistant Minister for Finance and Planning** (Mr. Arap-Kirui): On a point of order, Mr. Temporary Deputy Chairman, Sir. The hon. Member on the Floor is misleading the House because the measures proposed by the Minister covered only lorries with a capacity of over five tonnes and buses, not cars.

**Mr. Kajwang:** Mr. Temporary Deputy Chairman, Sir, it is even worse because we need lorries and buses for transportation of goods and passengers respectively. They are the ones which transport goods from one place to another. Buses transport our passengers from Nairobi to Kisumu. There were 2,000 of them in the high seas---

**The Temporary Deputy Chairman** (Mr. Poghiso): Order! Mr. Kajwang, that notwithstanding, the Assistant Minister is right; you have been misleading the House, upto that point.

**Mr. Kajwang:** Mr. Temporary Deputy Chairman, Sir, I accept the correction. But it is even worse because there were over 2,000 of them in the high seas. Assuming that there were only 2,000 vehicles in the high seas and the businessmen were to pay Kshs200 per piece, then the Government would have earned Kshs4 million.

Kenyans have invested in those vehicles, but they will not be allowed to be offloaded on our soil. What is going to happen to them? You must give them a moratorium. The Minister should have given them 60 days to bring all their vehicles before effecting the ban. That way, our businessmen will not lose. When they bought them, they

knew it was lawful to do so. It was irresponsible to slam the ban on the midnight after the Budget day. So, I am asking the Minister to look into that matter very carefully.

Mr. Temporary Deputy Chairman, Sir, the Income Tax Act, Section 54(a) requires companies to keep their books of accounts for ten years for inspection. You cannot keep your books for ten years because you have to destroy them sooner or later.

With those few remarks, Mr. Temporary Deputy Chairman, Sir, I support.

**Mr. Mwakiringo:** Mr. Temporary Deputy Chairman, Sir, I would also want to reiterate my thanks to the Treasury technocrats who prepared the Budget. I would also like to thank the current Minister for Finance who is charged with the responsibility of seeing to it that whatever we pass here is fully implemented to the letter.

Mr. Temporary Deputy Chairman, Sir, Kenyans and particularly hon. Members, have no objection to paying taxes imposed on them so long as it will be used for the intended purpose. It is no point for the Government to levy VAT on goods when they are sharing it with the tax collectors. Last week, I was surprised when I was in a hardware shop in Mombasa. A VAT official came to that shop and asked the price of a motor vehicle screw. He was given one and he requested the shopkeeper to give it to him to go and see whether it could fit in his car. He was given that screw; however, five minutes later, he came back and said the owner had not levied VAT on that screw. He demanded for a bribe. He did not know that I am an hon. Member. I told him that I saw all what had transpired and, therefore, he was not going to be bribed. I told him to go wherever he wished. So, I feel that we should pay our Customs and Excise Department officers good salaries, so that they collect all taxes and avoid temptation of being bribed. That is the only way we can fight corruption in this country. Those officers should stop harassing traders who involve themselves in genuine business.

Mr. Temporary Deputy Chairman, Sir, in future, the Treasury should not accept to be manipulated by businessmen who have no interest in this country. This is because for them to slam ban on importation of lorries and buses which are five years old and above, they were deliberately manipulated and induced by a businessman who has interest in CMC, so that they could force the local businessmen to buy from them. We cannot accept to be manipulated. Let the Treasury technocrats do their job independently. This is because lorries are useful in the transportation of foodstuffs and goods from Mombasa to upcountry. All of a sudden---

**The Assistant Minister for Finance and Planning** (Mr. Arap-Kirui): On a point of order, Mr. Temporary Deputy Chairman, Sir. Is it in order for the hon. Member to make such wild allegations without actually substantiating?

**The Temporary Deputy Chairman** (Mr. Poghiso): Mr. Mwakiringo, could you substantiate your allegation?

**Mr. Mwakiringo:** Mr. Temporary Deputy Chairman, Sir, I am talking the truth. It is only that some of these things are like bribe and we cannot substantiate them.

**The Assistant Minister for Finance and Planning** (Mr. Arap-Kirui): Mr. Temporary Deputy Chairman, Sir, since the hon. Member cannot substantiate what he is talking about, could he withdraw and apologise to the House?

**The Temporary Deputy Chairman** (Mr. Poghiso): What is the bone of contention?

**The Assistant Minister for Finance and Planning** (Mr. Arap-Kirui): Mr. Temporary Deputy Chairman, Sir, the bone of contention is that, the hon. Member has made an allegation that the Ministry was manipulated in imposing a ban on vehicles over eight years old in order to favour someone with an interest in the CMC.

**Mr. Mwakiringo:** Mr. Temporary Deputy Chairman, Sir, that is my opinion. What is wrong with expressing an opinion? In future, such a thing should not be repeated.

I am still more concerned about the economy of this country. We blindly accepted the liberalisation of the market. My concern here is that as much as we accepted liberalisation, I still feel that we should have some strings attached to it; we should have the quota system on how much should be imported and how much should be reserved for our local products, so that we can protect our industries.

On the energy sector, somebody somewhere knew that the water level was going down in Kiambere and other hydro-electric plants which generate power, but he was being forced by some powerful people to use power 24 hours, so that generators could be imported duty-free. Instead of the Kenya Power and Lighting Company (KPLC) charging those people who imported 100 KVA generators duty-free, it should pay those companies which imported generators an equivalent amount of money of what they charged them, so that they can know that it was wrong to have done that. We are giving a rebate on each imported generator which produces 100 KVA, and the KPLC charges people for the power they consume--- In this case, because we imported generators to generate power for them, it is high time they gave us a rebate. That is all we are fighting for, because the KPLC did not plan for this disaster. I would like to inform this House that the KPLC knew what was to come and that is why

they all of a sudden gave a rebate, because somebody somewhere was benefiting.

**The Minister for Vocational Training** (Mr. I. Ruto): On a point of order, Mr. Temporary Deputy Chairman, Sir. Is it in order for the hon. Member to mislead the House that the KPLC was aware that there would be drought and, therefore, there would be shortage of power?

**The Temporary Deputy Chairman** (Mr. Poghio): Surely, how can that be a point of order?

**Mr. Mwakiringo**: Mr. Temporary Deputy Chairman, Sir, I think this is the problem with the KANU Government appointing young Ministers who are under the age of 30 years! They have not matured! He still has milk in his head! He is just from the university and he cannot compare himself with people like us who have worked for all those years in international organisations. We are polished and we know what we are saying here.

*(Applause)*

**The Temporary Deputy Chairman** (Mr. Poghio): Order! Mr. Mwakiringo, you have used offensive language in regard to another hon. Member of Parliament. You should withdraw that and apologise to the hon. Member.

**Mr. Mwakiringo**: Mr. Temporary Deputy Chairman, Sir, I can only withdraw that "he has got milk in his head", but I think he is a young Minister. That is all. He needs to be mature and polished like a Cabinet Minister here. He needs time to grow, but anyway, I apologise.

**The Minister for Medical Service** (Dr. Anangwe): A Minister is a Minister and there is no young Minister.

**Mr. Mwakiringo**: Mr. Temporary Deputy Chairman, Sir, you are also from the university.

**The Minister for Vocational Training** (Mr. I. Ruto): On a point of order, Mr. Temporary Deputy Chairman, Sir. The hon. Member has not apologised.

**The Temporary Deputy Chairman** (Mr. Poghio): He did!

**The Minister for Vocational Training** (Mr. I. Ruto): Mr. Temporary Deputy Chairman, Sir, he is still referring to me in a derogatory manner.

**Mr. Mwakiringo**: Mr. Temporary Deputy Chairman, Sir, I withdrew and apologised for saying that he has milk in his head.

**Hon. Members**: Endelea!

**Mr. Mwakiringo**: Mr. Temporary Deputy Chairman, Sir, may God assist some of them! On tax and tariffs, Section 10(7) states:

"The Commissioner of Customs is given more powers to do whatever he can without considering those that he is offending, especially the importers."

It further says that Kshs5 million should be deposited with the Commissioner of Customs, but it does not specify the period. After that he says later on that the refund after assessment of duty will be given after 30 days and, yet, you know very well that it is hard for money to get out of the Government or the Kenya Revenue Authority (KRA) once it has been deposited. We would like that section to be amended, so that it gives specific time the KRA will hold that amount of money including interest thereof.

Mr. Temporary Deputy Chairman, Sir, as much as we are giving rebate on generators which are being imported to generate electricity in the country, the same should apply to machineries which will be imported for drilling boreholes and water pumps which can be used to pump water from rivers for irrigation purposes in order to alleviate poverty.

Finally, I would like to point out that the Firestone Company has always been protected. Duty is 5 per cent charged on casings of vehicles tyres while other companies which are doing retreading importing the same casings, as used tyres, are charged duty at 15 per cent. I think that should be scrapped. There must be a level playing ground for all the players in that industry.

Mr. Temporary Deputy Chairman, Sir, my time was wasted by these Ministers and I am very bitter about it. Tutakutana nje!

**Mr. Mwenje**: Thank you, Mr. Temporary Deputy Chairman, Sir. I would also like to say a few words about this Motion. I would like to start by saying that when you pay any money in form of tax **[Mr. Mwenje]** or even in a shop, you expect some returns. Unfortunately, Kenyans are now used to paying money to the Kenya Government without any return. Kenyans pay taxes but do not get returns. This is described as robbery without violence or obtaining money by false pretence. The Government should face the law, because it is serious when you pay some money to the Government and you do not get any service. I would like to say that Kenyans have been used to getting this kind of thing. I do appreciate that the Minister for Finance has a duty to collect tax,

which we have always passed in this House, but Kenyans do not get services from the taxes they pay.

Just before the Minister for Finance leaves this House, I would like to inform him that we still do not believe that the VAT should be increased and that bouncing cheques constitute a crime. I hope that by now he has looked into this and he has rectified it. This is because we will not allow it to pass. I would like to say that we will block those particular sections, where the Minister said that bouncing cheques will constitute a crime. This is part of tax because when you are fined, that is also tax. This is what we call miscellaneous tax. I am a banker and I know precisely what this means. I would like to say that, that is wrong and I hope that the Minister for Finance will ensure that this does not happen at all.

**The Assistant Minister for Health** (Mr. Koskei): On a point of order, Mr. Temporary Deputy Chairman, Sir. I am a little bit tickled by the insistence of Mr Mwenje on the issue of bouncing cheques. Really, what interest does he have on bouncing cheques?

**Mr. Mwenje:** Mr. Temporary Deputy Chairman, Sir, Mr. Koskei has been in this House too long to know what is a point of order and what is a point of argument. He is simply arguing and I will not take that kindly; I have no time for it.

**The Temporary Deputy Chairman** (Mr. Poghio): Order! I think he has a right to (inaudible)

**Mr. Mwenje:** But that is not a point of order! I have not flouted any of our Standing Orders.

**The Temporary Deputy Chairman** (Mr. Poghio): Order, Mr. Mwenje! If there is any interest to be declared, an hon. Member can ask that you do so?

**Mr. Mwenje:** I have no interest. We all operate on cheques and we have them. If he does not have a cheque book---

**The Temporary Deputy Chairman** (Mr. Poghio): Proceed.

**Mr. Mwenje:** Can we save my time because these people do not know the point of orders they are supposed to raise. He is just bringing a point of argument.

**The Minister for Vocational Training** (Mr. I.K. Ruto): On a point of order. Is it in order for the hon. "councillor" Mwenje to mislead the House and yet he has been---

**The Temporary Deputy Chairman** (Mr. Poghio): Order, Mr. Minister!

**Mr. Mwenje:** Mr. Temporary Deputy Chairman, Sir, now you can see---

**The Temporary Deputy Chairman** (Mr. Poghio): Order! Mr. Minister you have to withdraw that remark and apologise to Mr. Mwenje. He is an hon. Member! **The Minister for Vocational Training** (Mr. I.K. Ruto): Mr. Temporary Deputy Chairman, Sir, I meant "ex-councillor" because he has been issuing bouncing cheques. He is well known for that.

**The Temporary Deputy Chairman** (Mr. Poghio): Order! Mr. Ruto, I think you are getting personal. This is an hon. Member of Parliament.

**Mr. Mwenje:** Mr. Temporary Deputy Chairman, Sir. You can see why the former speaker said that this one is not yet mature. I am surprised that he has been made a Minister!

Mr. Temporary Deputy Chairman, Sir, I beg to proceed.

**The Temporary Deputy Chairman** (Mr. Poghio): Mr. Mwenje, I had asked the Minister to withdraw and apologise.

**Hon. Member:** He has apologised!

**Mr. Mwenje:** He did not apologise! Can he then apologise?

**The Temporary Deputy Chairman** (Mr. Poghio): I had asked him to do that. If only you could be on order.

**The Minister Vocational Training** (Mr. I.K. Ruto): Mr. Temporary Deputy Chairman, Sir, I did not refer to him as a councillor at the moment. I said he is an ex-councillor.

**The Temporary Deputy Chairman** (Mr. Poghio): Order! Mr. Ruto, I do not think you would like to be involved in an argument.

**The Minister for Vocational Training** (Mr. I.K. Ruto): I apologise for calling him a current councillor yet he is an ex-councillor.

**The Temporary Deputy Chairman** (Mr. Poghio): Withdraw and apologise!

**The Minister for Vocational Training** (Mr. I.K. Ruto): I have withdrawn and apologised.

**Mr. Mwenje:** You are wasting a lot of my time.

**The Temporary Deputy Chairman** (Mr. Poghio): Proceed, Mr. Mwenje.

**Mr. Mwenje:** Mr. Temporary Deputy Chairman, Sir, I will treat him with the contempt that he deserves. I was saying that when we come to retrenchment, this tax is meant to pay civil servants. The Minister telling us that retrenchment will take place and yet today we see that house allowance is **[Mr. Mwenje]**



being increased. This is contradictory. I would rather that money be spread out to many civil servants to enjoy it because this is the wrong time to do that. I hope you will add my time because this man really wasted all of it. I would appeal to the Minister that instead of retrenching people now and increasing house allowance to let that money be spread over to the many civil servants---

**The Temporary Deputy Chairman** (Mr. Poghiso): Mr. Mwenje, will you please dwell on taxes?

**Mr. Mwenje:** That is tax! They are paid from tax. I am saying that this tax should be spread over to the many people that are actually paying tax. We are supposed to be paying for services using this tax yet we do not get these services. The tax we pay goes to the Police Force, but every other day we read in the newspapers that the police are killing innocent people in this country. The other day they shot at *Mungiki* people at Kayole in my constituency. They also shot a Mr. Ngugi in Kikuyu just because somebody had rung them with some information. It is high time the Police Force apologised for shooting unidentified people and claiming they are thieves. They are making a very serious mistake of killing innocent Kenyans. We should not pay this police force salaries any more from now henceforth until they stop killing innocent people in this country.

Even when they are given court orders, they do not respect them. They continue harassing and evicting people and doing all sorts of things. It is high time the Commissioner of Police explained to Kenyans why this situation is happening. Why are we losing lives? Why should police officers just be trigger happy? Why should they shoot anybody they see around just because somebody has called them with information and yet we are paying them from this tax which the Minister is asking us to approve? Why should we pay money to buy guns to kill ourselves?

This is a serious situation. The Kenya Government must stand up now and tell us why our people are being killed by police officers haphazardly. It is time we told Kenyans to also come up and start killing the police. Once this happens again in Nairobi, I will also ask Kenyans to rise up and tell the police to stop this business, otherwise this will not be accepted.

**The Minister for Vocational Training** (Mr. I. Ruto): On a point of order, Mr. Temporary Deputy Chairman, Sir.

**Mr. Mwenje:** I will not accept a point of order from a funny man who does not appear to understand what we are doing here.

**The Temporary Deputy Chairman** (Mr. Poghiso): Mr. Mwenje, will you now be in order?

**The Minister for Vocational Training** (Mr. I. Ruto): Mr. Temporary Deputy Chairman, Sir, is it in order for the hon. Member to say he will ask people to start killing the police officers? We know that the same hon. Member has been selling other peoples land and we are worried that he might---

**Mr. Mwenje:** Mr. Temporary Deputy Chairman, Sir, you know very well that I did not say that. I said that we will ask the Police Force to explain to our people why they are killing them. It is necessary for them to ask the police why they are killing innocent people.

**The Temporary Deputy Chairman** (Mr. Poghiso): Order, Mr. Mwenje! You know that this is the place where we make laws and we do not encourage lawlessness.

**Mr. Mwenje:** Mr. Temporary Deputy Chairman, Sir, I am also saying that the issue of double taxation, where people pay tax both to the Government and to the Nairobi City Council is serious---

**The Temporary Deputy Chairman** (Mr. Poghiso): Order, Mr. Mwenje! We are still on the point that you were calling upon---

**Mr. Mwenje:** Mr. Temporary Deputy Chairman, Sir, I said: "we can". I did not say: "we will". These people must understand the English language. That is why these fellows failed in English while I had a distinction.

**The Temporary Deputy Chairman** (Mr. Poghiso): Order, Mr. Mwenje! You will actually withdraw reference to lawlessness.

**Mr. Mwenje:** Mr. Temporary Deputy Chairman, Sir, I never said that. You can go and look at the HANSARD. I said that the police must explain why they are killing innocent people. Unfortunately, I want to agree that this guy who was promoted to a Minister the other day has not matured as yet even now.

**The Temporary Deputy Chairman** (Mr. Poghiso): Order, Mr. Mwenje! You are using offensive and insulting language against an hon. Member of Parliament.

**Mr. Mwenje:** He is also using offensive language on me by calling me a councillor, knowing very well that when I was a councillor he was not even born.

**The Temporary Deputy Chairman** (Mr. Poghiso): Order, Mr. Mwenje! You will not proceed with your contribution.

**Mr. Mwenje:** Yes, let him also stop trying to provoke me.

**The Temporary Deputy Chairman** (Mr. Poghiso): Order! You will now not proceed with your contribution.

**Mr. Mwenje:** Mr. Temporary Deputy Chairman, Sir, my time is not yet up.

**The Temporary Deputy Chairman** (Mr. Poghiso): Your time is up.

**Mr. Mwenje:** I do not know what Standing Order you are using to tell me that I cannot continue. You have no power to say that I cannot continue. Which Standing Order are you invoking?

**The Temporary Deputy Chairman** (Mr. Poghiso): Order, Mr. Mwenje! You will now withdraw from the Chamber.

**Mr. Mwenje:** Which Standing Order are you using?

**The Temporary Deputy Chairman** (Mr. Poghiso): Mr. Mwenje, you will be removed from the Chamber, if you do not withdraw.

**Mr. Mwenje:** You have no power to do that. Can you quote the Standing Order you are using?

**The Temporary Deputy Chairman** (Mr. Poghiso): Order! Mr. Mwenje, you might be thrown out of this Chamber.

**Mr. Mwenje:** Mr. Temporary Deputy Chairman, I will withdraw, but you are wrong.

**Hon. Members:** Councillor! Councillor!

**The Temporary Deputy Chairman** (Mr. Poghiso): Order! Mr. Mwenje, you are a stranger now. Will he be removed from the Chamber now?

*(Mr. Mwenje withdrew from the Chamber)*

**An hon. Member:** Go to Nairobi City Hall!

**Mr. Wamae:** Thank you, Mr. Temporary Deputy Chairman, Sir, for giving me the opportunity to contribute to this Motion on the approval of taxation measures. It is an important issue because to finance Government services you need to raise money and it is raised in the methods stated here. I must protest very strongly against the double taxation system which is being applied to certain sections of people in this country. I am particularly talking about the 2 per cent Presumptive Tax on sales which is charged on coffee and tea growers. When taxpayers finally produce their accounts they pay the normal tax, yet they have to pay in advance 2 per cent Presumptive Tax. This has to be abolished. It is not equitable or fair. It is discriminatory.

Presumptive Tax is not charged on maize, wheat, sugar or milk. Why are we charging it on coffee and tea? Why are we discriminating against these farmers who produce coffee and tea? It is not fair that a section of the Kenyan farmer should be penalised simply because it is very easy to charge Presumptive Tax on coffee and tea. The Minister has found that the easiest way to collect money is to discriminate against these farmers. The farmer should, like any other income earner, pay his tax after he has shown his income minus expenditure. If there is any surplus income, then he can pay tax like anybody else. For him to pay 2 per cent Presumptive Tax is discriminatory, unfair and uncalled for. The Minister should in fact, remove it from the Budget this year because it is one item which we feel very strongly against and we will object to it even at a later stage when it comes to passing the Bill, stage by stage.

Mr. Temporary Deputy Chairman, Sir, the Minister assumes that he will be able to collect the targeted amount of money, or even more than was collected last year. As everybody knows, the Kenyan economy is going through very difficult times; we have no power, there is drought and a lot of workers are being sacked from employment, both from the Public Service and in the private sector. As a result, there is no way the Minister can achieve the sort of revenue he is expecting, particularly from the Income Tax, or either from the Corporate Tax, or the Pay-As-You-Earn, because of the difficulties which the whole country is going through. Therefore, I think there is over-estimation of what will be received from the Income Tax.

Mr. Temporary Deputy Chairman, Sir, we have said that we want to help the poor by eradicating poverty. Whereas the Minister for Finance must collect revenue, adding 3 per cent across the board on the VAT will not help the poor; it will punish the poor, because the poor will also buy everything from the market, and if everything will go up by 3 per cent, naturally, we will not eradicate poverty. The VAT is not a selective tax; it is a tax which is paid by everybody, whether you drink soda, or for whatever you buy in the market, and you still have to pay 3 per cent of the VAT. I think it will not help in the poverty eradication plan, and therefore, if our aim is growth and poverty eradication, that is one area which will not help.

Mr. Temporary Deputy Chairman, Sir, taking into account the problems which the tourism industry has been going through since 1997, and the number of the hotels which are being put under receivership and closing down because of poor business, we are now increasing another 3 per cent of the VAT on hotel turnovers. That

again will hit the tourism industry, and it will have an effect on the cost of running hotels. I think the Minister should look into that. I will not propose the way in which he can make good of that, or the revenue he will lose if he was to do away with all those three taxes, but I think if the question is growth and poverty eradication, the three points that I have mentioned have shown that, that will not help him to achieve the targeted revenue from those areas, and he has to look for income by taxing from other sources.

We would have expected, in view of the problem we are having in the energy sector, to see that not only should we have a reduction in duty on generators, but we should also be having proposals of how we could assist the Kenya Generating Company (KenGen) to start drenching in the Seven Forks Dam. Part of the problem of power today, and why we will not achieve the targeted revenue is because the dams have seriously been silted. If we want to achieve the targeted revenue, we should also have a proposal on how we will do the drenching so that we can be able to produce maximum power from our Seven Forks Hydro-electricity Project. Without that proposal, there will not be power at a cheaper rate, and if that happens, then, of course, there will not be enough income which will be generated by our companies and individuals to be able to pay for the taxes which are expected by the Minister in the proposals which he has made.

Mr. Temporary Deputy Chairman, Sir, when we come to the expenditure side, we would like the Minister to put into consideration the financing of drenching for our Tana Hydro-electricity Project which has been silted, and I think that is the major reason. Even if we get water from rain in this country, we shall not get full production of power until we realise that we have to do the drenching and remove the soil and silt which have accumulated in our dams in the Seven Forks.

One other area where we need to consider is the Customs Tariffs which is a major source of income, but smuggling of goods on transit continue, and we have not heard measures which the Minister will take to make sure that the question of diverting transit goods into the local market is stopped for good. This is because that is one major area where the country is hit in two ways: First, the goods which are legally imported into this country and paid duty for cannot compete with those smuggled while on transit, and secondly, local industries are being killed, from which the Government expects to get the VAT. So, the question of transit goods being diverted into the local market is a very serious matter. Mr. Temporary Deputy Chairman, Sir, we now understand that they are even using Mogadishu Port to bring goods to Kenya through Somalia and the North-Eastern Province without payment of duty, and it is an area where we need to check very seriously. We also know that they have been bringing goods through the Eldoret International Airport and smuggling them into the country without fully paying the duty. That is why they are evading the Jomo Kenyatta International Airport, because I think that there is more control there. We need to make sure that we institute sufficient controls at Eldoret International Airport to make sure that it does not become a loophole for smuggling of goods and non-payment of duties for goods coming into this country. We must close all the loopholes if the Minister is to get the maximum yield from the measures that he has proposed, and therefore, be able to get the finances to run the services which have been stipulated in the Budget.

The Excise Duty is not a very major item of tax for us, except in the areas of breweries and tobacco-growing, and I think those are the areas where the Minister could, in fact, get more money. However, we must also realise that the Excise Duty has a tendency to make our people stop drinking beer and going for illicit brews, like *chang'aa*, *karakara*, sorghum and others, which are creating havoc and destroying the lives of our people. So, we should have some cheap beers in the market so that we prevent Kenyans from going for those illicit drinks which are causing so much havoc on the lives of our people, particularly the young people, because they are dying in great numbers. Otherwise, the Minister should tell us how he will tax those illicit drinks.

With those few words, I support the Motion. **Ms Karua:** Thank you, Mr. Temporary Deputy Chairman, Sir, and I rise to contribute to this Motion. I have been keenly listening to my colleagues contributing, and I would like first to say that I support the view expressed by the hon. Member on the eight-year rule imposed on the importation of second-hand cars. The Minister should consider introducing a 60-day moratorium to forestall loss of money by Kenyans who had already placed orders for vehicles that are more than 8 years old. That is necessary because taxation measures are kept secret until the Budget Day, and so Kenyans who have already placed orders had no way of knowing that the vehicles or the goods that they had ordered for would become illegal come the Budget Day. If a moratorium is not considered, the loss will be to Kenya because all those are the savings of our people. This is something that should be seriously considered.

Mr. Temporary Deputy Chairman, Sir, the other issue that I would like the Minister to consider is the issue of enhanced duty on second-hand clothes business. Second-hand clothes business can be said to be the fastest growing industry in this country. Majority of Kenyans are relying on second-hand clothes for their daily wear. They are also relying on the business to support themselves. The target group is not only those who are importing and selling them at Gikomba Market, but country-wide, we all know that there is a big second-hand clothes

business. The duty payable on second-hand clothes was raised in December, 1999. Within six months, it has again been raised in June, 2000, and it had been raised during the last Budget. That is a very heavy burden imposed on a sector that is not only supporting, but also clothing millions of Kenyans.

The Minister should consider lessening this burden by either reducing the duty payable per kilogram of second-hand clothes from Kshs30 to Kshs10, or letting the duty that was enhanced in December, 1999, to remain, otherwise, we will be creating a lot of hardship and suffering for Kenyans. We would like the Ministry to seriously take into account its re-location of loss of anticipated revenue to the Exchequer. This is something that would be worthwhile doing.

The other issue that should be considered is with regard to other areas where the Minister can introduce enhanced duty to recover what he will have lost in second-hand clothes and the moratorium on vehicles. We notice that on sporting items, for example, motorcycles for racing, duty has been waived. This is a sport for the rich and only very few people participate in motor cross. In the same spirit that the Ministry considered it appropriate to waive duty on motorcycles intended for sporting activities, for example, racing, it should be considered worthwhile to reduce the duty payable by second-hand clothes dealers.

Mr. Temporary deputy Chairman, Sir, I would also like to mention about the role of M/s Swipco. It is pointless for the Minister to ask Kenyans to pay enhanced taxes by way of VAT and others, only to lose this revenue to one company. The taxation measures proposed, even if good, the taxes realised may not go towards providing services to Kenyans. Instead of having M/s Swipco, which is doing the work that could be done by the KRA, and paying it a whopping Kshs200 million per month, the Minister should consider employing sufficient staff in KRA so that they can take over the duties currently being carried out by M/s Swipco. It would make more sense to employ more members of staff and pay a salary of Kshs20 million per month rather than pay Kshs200 million to an individual. Swipco may be a company, but it is individuals who are behind it. We know that those behind this company are the high and mighty. After seeing that loopholes for looting the hard-earned money of Kenyans have been sealed, M/s Swipco has been brought in as one way of syphoning revenue from the Government.

**The Temporary Deputy Chairman** (Mr. Poghisio): Order! Could you use Parliamentary language? The word "looting" is not Parliamentary.

**Ms. Karua:** Mr. Temporary Deputy Chairman, Sir, may I say that there has been misuse of tax-payers' money. Paying M/s Swipco Kshs200 million per month is another way of misusing public funds. If this is not the amount paid to Swipco, the Minister should come up and state clearly in this House how much it is being paid. He should also tell us why we cannot employ enough personnel at KRA so that they perform those duties that Swipco is performing. After all, they are the ones who have been performing those duties and other companies. Let us have more Kenyans at work instead of retrenching 33,000 workers. Maybe, 2,000 or 3,000 new employees at KRA would enable it to carry out the duties that are currently being carried out by private individuals.

We also need to know from the Minister why this company was given the tender without following the proper procedures. If we are serious in raising revenue, then we must seal all the loopholes which are facilitating loss of revenue. I, therefore, support the taxation measures subject to the reservations that I have expressed. I hope that the Minister will seriously look into these issues so that we can all feel that the Budget has something positive for all Kenyans, and not only for a particular category of people.

With those few words, I beg to support.

**Mr. Ngure:** Thank you, Mr. Temporary Deputy Chairman, Sir, for giving me an opportunity to comment on the proposed taxation measures. A lot has been said and it might be difficult now to have fresh points to talk about in terms of maybe, the Customs and Excise Duties.

We have noticed that Customs and Excise Duties in this country are not being properly collected. You will be surprised that a lot of time is being wasted at the passenger terminal at the airports, particularly, when Dubai flights arrive. I do not think that it is really worth having that personnel that we normally deploy at that passenger terminal. This is because there is a given amount of goods that a passenger will carry with him. Efforts should be employed at the goods terminal. You will notice that at the goods terminal there are so many people hovering around and wanting to help. You will see them move from one end to the other soliciting for bribes. A system should be put in place such that when goods are verified, the importer knows what he has to pay, he pays that and then he does not go from one officer to the other. You will find that when you have already cleared your goods, you will have to move from one desk to the other, to the extent of even off-loading your goods from the vehicle for somebody else to verify, yet he was watching you when you were loading your goods onto the vehicle. These officers will wait until you will have loaded your goods on the vehicle and then stop you to off-load them. This is a waste of time and it is just a gimmick for collecting bribes.

We are talking about Customs and Excise Duties. The Minister has pointed out that the amount collected

through this tax has reduced due to Kenyans' inability to smoke more cigarettes and take more beer, but with the beer prices, we cannot afford to collect enough tax money from beer.

Just recently, Kisumu Breweries Limited was closed down and relocated somewhere we do not know. Mombasa Breweries Limited was closed. If there is a country that needs to industrialise in the year 2020 and is already closing some of these industries, I do not think that country will ever industrialise. I think it is just time we found a way of purifying *chang'aa* and made it more hygienic so that we could collect Excise Duty from the drink. This is because that is what Kenyans are drinking. They cannot afford the beer and cigarettes. So, what do we do? We should purify the drink that Kenyans have. We should get the *busaa* clubs open and let us collect taxes from there. *Busaa* is a drink and food as well. We should find ways and means of expanding our industries, however small.

Mr. Temporary Deputy Chairman, Sir, we spend a lot of time praising the Jua Kali industry. Jua Kali is just a means of wasting Kenyans time. Most of the Jua Kali artisans work on waste tins and *debes* and nobody is there to verify what the contents of these drums were to the extent that within a short time, these fellows inhale those gases and die. Why do we praise Jua Kali artisans? What can they manufacture to be exported? If we want to think about the Jua Kali artisans, we should help them afford machinery so that they can manufacture things that can go across the border. The mere fact that they are off the streets to go and die in yards, somewhere that they are in the Jua Kali sector is of no use to this country at all. How many of us, Members of Parliament and Ministers included, when we go overseas carry those tin suitcases with us as manufactured Kenya suitcases? How many of us do so? Who do we expect to buy those things? Why do we encourage an industry that we do not service in terms of buying? How many of us use those *karais* and *sufurias* in our homes? Why do we talk about the Jua Kali industry? We must improve the jua kali industry so that it can manufacture goods that can be sold across the border and, at that point, we will be talking about industrialisation by the year 2020, otherwise we are really cheating our people.

Mr. Temporary Deputy Chairman, Sir, on the 3 per cent VAT, why do we have to tax people who have no income? Why do we have to tax a newly-born child? Why do we have to tax a nomad? When he goes to the shop to buy a soda he pays VAT. Why tax him he has no income? All we have to do is to improve the collection of VAT. How many dukawallahs here pay VAT? It is a well known fact that you will be asked: "If you want a receipt, I will add VAT". If you are paying cash you do not pay VAT". We should find a way of charging VAT at the point of manufacture and forget VAT collection in the shops. This is because if we collect VAT from the shops, they will be cheating. If I am approached, whether I can pay VAT when I am paying cash and I am given a receipt or just pay and walk away, I will pay cash and walk away with what I have bought. This is because my interest is not to pay VAT; my interest is to purchase what I went to purchase. So, a system of charging VAT should be found that is equivalent to fuel levy fee collection so that the shopkeepers cannot cheat on VAT. Whether you increase it to 3 or 10 per cent, there will be no cheating. The miscellaneous taxes may be based on fines and all the rest of it, but the more you increase the fine, the less you will collect. If you increase the fine for having no road licence or over-speeding because you want to collect more money, no more will be collected. This is because I will be tempted to bribe the policeman with Kshs1,000, if I know I will be fined Kshs10,000.

Mr. Temporary Deputy Chairman, Sir, we should look into these things. We should look into how to broaden the base of tax collection. How many Kenyans pay taxes? We should find ways and means of making Kenyans pay taxes. We have people now printing road licences and all other documents regardless of whatever penalty will be put on it. So, road licences should be made an indirect collection so that we can save on the salaries. In any case, that place is a mad house. If it is retrenching, those are the people who should be retrenched. This is because in any case, they do not collect the right type of taxes.

Mr. Temporary Deputy Chairman Sir, as concerns Income Tax, you are increasing the level of the things which are Income Tax exempt. That is of no use. Instead, create more jobs and have more people paying tax. Do not just increase the level of people who are exempt. That is not helping this country at all.

We will be willing to pay taxes as long as we get the services for the taxes we pay. However, at the moment, what do we get? Nothing! In fact, why do we pay taxes? I buy my medicine; I pay for my water and now I have to fetch water. What is the tax business for?

With those few remarks, I beg to support.

**The Temporary Deputy Chairman** (Mr. Poghiso): It is now time for the Minister to respond.

**The Assistant Minister for Finance and Planning** (Mr. Arap-Kirui): Mr. Temporary Deputy Chairman, Sir, thank you. I will take a few minutes to respond, but first I should thank the hon. Members for their contributions which have been mostly constructive. Most of the comments have been mainly on the rate of VAT. I believe this is understandable so because VAT is, in fact, the only tax that changed or was increased in this year's Budget proposals.

Mr. Temporary Deputy Chairman, Sir, maybe, I should advise the Members on the need to pay tax. It

would be a very happy situation indeed, I suppose, if we did not pay any tax at all. Unfortunately, in the reality of life and

Government, taxes have to be paid so that the Government can offer services to the people.

Mr. Temporary Deputy Chairman, Sir, I think what we should have heard, in fact, is a lot of commendation from the Members that VAT was the only tax that was raised. The overall rate at which VAT was raised was 3 per cent, compared to the rate of 15 per cent that existed before. Another 3 per cent rise is not really a big increase, considering that every other tax was reduced. Customs Duties on most items and raw materials were more than halved and Excise Duties even on things like beer were reduced. So, I think we should have been hearing a lot of commendation for just raising this tax.

As we have emphasised in the past, the VAT will not directly impact negatively on investments. It is a consumption tax. We have also tried to be very selective by avoiding basic food products. Foods that are not processed like sugar and maize-meal have not been touched at all. To that extent, we have been very sensitive to the needs of the poor in our society.

Mr. Temporary Deputy Chairman, Sir, another matter that was touched on was the issue of *mitumbas*. We sympathise and basically understand the low-level incomes of our people. We all appreciate that the *mitumbas* have been the biggest agents of the destruction of our economy. Through *mitumba*, we have closed many textile industries like Rivatex, Titex and several others. Those industries found it very difficult to operate in a situation where we allowed second-hand clothing and other garments to come in virtually tax-free. But when you consider the rates that we have used, the issue of Kshs30 per kilo was meant to avoid a situation where we know tax has been evaded through under-valuation of imported goods. When we think of a kilo at Kshs30 of tax, I think it represents about three or four dresses or two trousers. When you consider the tax of only Kshs15, or if it is four dresses, a tax of Kshs5 or Kshs6 being levied, it is really not very much. So, to the extent that we have discouraged *mitumbas*, we have, at the same time, not made them very expensive. I think that has been extremely sensitive.

Mr. Temporary Deputy Chairman, Sir, we have been accused of being unduly optimistic in our projections. I think the targeted growth rate of 2.6 per cent is not really optimistic. While it is more than double of what we experienced last year, I think by any stretch of imagination, we cannot call that optimistic. A growth rate of 2.6 per cent is not optimistic at all. If we were optimistic, we could be talking of 4 or 5 per cent. The amount of tax that we have projected as collectable will be collected. In particular, we shall insist on compliance.

We know that there have been leakages in the past. We intend to guard against them.

Mr. Temporary Deputy Chairman, Sir, when an hon. Member said that smugglers have ran away from Nairobi and Mombasa and are now using the Somali border, it is evidence of the strength of our collection mechanism. We are getting more compliant! If there are some loopholes, this House and the country should rest assured that we shall close them. We know that we are dealing with a dynamic situation. We are dealing with clever devious individuals. But with time, we will ensure that all taxes that are due are collected. It will only be at that stage that the tax burden will be eased for everyone.

With those few remarks, I would like to commend to the Members these very basic proposals on increased taxation. Thank you very much.

*(Question put and agreed to)*

**The Assistant Minister for Finance and Planning** (Mr. Arap-Kirui): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Resolution and its approval thereof without amendment.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*(Mr. Deputy Speaker in the Chair)*

## REPORT

APPROVAL OF TAXATION MEASURES

**Mr. Poghiso:** Mr. Deputy Speaker, Sir, I am directed to report that the Committee of Ways and Means has considered that the proposals relating to Customs Tariffs, Excise Duties, VAT, Income Tax, Miscellaneous Fees and Taxes contained in the Financial Statement for the Year of Account 2000/2001 be approved, and the same has been approved without amendment.

**The Assistant Minister for Finance and Planning** (Mr. Arap-Kirui): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Resolution.

**The Minister for Information, Transport and Communications** (Mr. Mudavadi) seconded.

*(Question proposed)*

*(Question put and agreed to)*

#### ADJOURNMENT

**Mr. Deputy Speaker:** Hon. Members, it is now time to interrupt our business. The House, therefore, stands adjourned until tomorrow, Wednesday, 5th July, 2000, at 9.00 a.m.

The House rose at 5.50 p.m.