

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 21st October, 1998

The House met at 2.30 p.m.

[*Mr. Speaker in the Chair*]

PRAYERS

## NOTICE OF MOTION

SELECT COMMITTEE TO INDEMNIFY  
POLITICAL DETAINEES

**Mr. Kihoro:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, noting with great concern the persecution of political dissenters by the Government between 1966 and 1991 when Kenya was either a *de facto* or a *de jure* one-party State; aware that some Kenyans were arrested, harassed and detained without trial; this House in the spirit of unity and reconciliation resolves:

- (a) That the Government should unconditionally apologise to all those whose political and human rights were violated during the period and a national honour list be prepared accordingly;
- (b) That compensation be paid out to those arbitrarily arrested, harassed or detained without trial.
- (c) That in the event the person died or has since died, the compensation be paid posthumously to his or her next of kin, estate or *bona vacatia* to the State.
- (d) That a Parliamentary Select Committee to determine the identity of the victims and the quantum of the compensation to be paid be set up and that the following be Members of the said Committee:

Hon. G.M. Anyona, MP; Hon. P.A. Awiti, MP; Hon. M.A. Galgalo, MP; Hon. Dr. R.M. Kituyi, MP; Hon. A.N. Kathangu, MP; Hon. W. Kihoro, MP; Hon. F.N. Maina, MP; Hon. Murungi, MP; Hon. J.K. Munyao, MP, Hon. Mrs C.K.M. Ngilu M.P., Hon. Prof. Anyang'-Nyong'o, MP, Hon. Raila, MP; Hon. J.M. Parpai, MP; Hon. J.K. Sambu, MP; and Hon. A.I. Shaaban, MP.

(*Applause*)

**Mr. Speaker:** Actually, Mr. Kihoro, they are called "honourables", but not "hon" as you said.

**Mr. Kihoro:** Most obliged, Mr. Speaker, Sir.

**Mr. Speaker:** Very well.

## ORAL ANSWERS TO QUESTIONS

*Question No.528*

TURNOVER FROM NYAYO TEA ZONES

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

- (a) how many acres of forest land within Nandi District have been planted with tea by the Nyayo Tea Zones Development Corporation and who owns this land;
- (b) who are the managing agents for managing the fields, processing and marketing of the tea; and
- (c) what was the turnover in Kenya Shillings from those plantations in the years 1995, 1996 and 1997.

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

(a) The total area which has tea planted on it is 920 acres and the land is owned by the Government.

(b) The managing agents are George Williamson Kenya Ltd.

(c) The turnover was as follows. In 1995, it was Kshs.27,050,667; in 1996, it was Kshs.32,187,953.75, and in 1997 it was Kshs.53,240,380.90.

**Mr. Sambu:** Mr. Speaker, Sir, the Minister says the land is owned by the Government. As far as I know, and according to the Constitution of this country, part of that land is a Trust Land. It is held in trust by the Nandi County Council on behalf of the people of Nandi District. Could the Minister correct that before we proceed?

**Maj. Madoka:** Mr. Speaker, Sir, I will not correct it until I get that information verified.

**Mr. Ndicho:** Mr. Speaker, Sir, the Nyayo Tea Zones grow tea which is processed by factories owned by individual tea farmers. Could the Minister tell us why the Nyayo Tea Zones refuse to pay a single cent for the tea that is processed on their behalf by these other factories, and yet they get all those billions of shillings that he has told us this afternoon?

**Maj. Madoka:** Mr. Speaker, Sir, again I am not sure that we have refused to pay the people. If we have, I will have to cross-check that information.

**Mr. Sambu:** Mr. Speaker, Sir, I want to refer the Minister to our Constitution Chapter 9 subsection 2. It states that Mosop Area Council and Tinderet Area Councils are the legal owners of such land and they are trustees for the people.

Could the Minister give this House the legal notice or any other gazette notice which has removed those areas under the tea from being Trust Land and belonging to the Nandi County Council.

**Maj. Madoka:** Mr. Speaker, Sir, I do appreciate the Member's concern but as I said, I have to check on those facts.

**Mr. Sambu:** On a point of order, Mr. Speaker, Sir. It is obvious in the Constitution that the forests in Nandi, whether in Tinderet or Mosop, are Trust Land under the Nandi County Council. Why does he have to check it elsewhere? The Constitution is here with me or also on the Table!

Mr. Speaker, Sir, since we own the land, will he use the money accruing from the tea estates to pay the Nandi County Council?

**Maj. (Rtd) Madoka:** Mr. Speaker, Sir, as I said, if that is correct, I will certainly check and maybe report back to him as appropriate.

**Mr. Speaker:** Very well, Dr. Omamo?

**Mr. Sambu:** On a point of order, Mr. Speaker, Sir. Could we know when?

**Mr. Speaker:** He will liaise with the Chair.

**Mr. Gatabaki:** On a point of order, Mr. Speaker, Sir. My point of order is that this is an important sector in our economy and the Minister has given us the answer that the processing and marketing is done by George Williamson Ltd when we have the KTDA owned by the Government. Could the Minister clarify why the Kenya Government is giving this key sector to a private organisation when the Government has the KTDA?

**Mr. Speaker:** Mr. Gatabaki, is that a point of order?

**Mr. Gatabaki:** No, I am clarifying because this is---

**Mr. Speaker:** Dr. Omamo!

*Question No.507*

NON-PAYMENT FOR CANE PROCEEDS

**Dr. Omamo** asked the Minister for Agriculture:

(a) whether he is aware that large and medium scale sugar-cane farmers in Miwani Sugar Mills Factory zone stopped supplying cane to the factory with effect from 1st June, 1998, due to non-payment for their cane proceeds by the factory since September, 1997 and,

(b) if the answer to "a" is in the affirmative, whether he could inform the House how much money is involved and what action the Government is taking to save the farmers from suffering financial loss.

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

(a) I am not aware. It is not true that large and medium scale cane farmers in Miwani Sugar Mills Factory zone stopped cane supply from 1st June, 1998 due to non-payment since 1997.

(b) Miwani Sugar Mills has been making regular payments for cane delivered to the factory. Individual

farmers and co-operative societies have already been paid for their April and May 1998 deliveries respectively.

**Dr. Omamo:** Mr. Speaker, Sir, I am rather disappointed by the reply because it means the Assistant Minister has not taken the trouble to go to the ground and find out what is happening.

Secondly, it is true that Miwani Sugar Mills is the only factory that produces refined sugar which is sold out the moment it is produced. They have nothing in their store. If that is the case, the Assistant Minister is giving us a contradictory answer because he is also admitting that they have only paid up to May. What about June, July, August, and September? They have already milled and the sugar has already been sold!

Mr. Speaker, Sir, is this not a daylight robbery by Miwani Sugar company?

*(Applause)*

**Mr. Speaker:** Very well, Dr. Omamo.

**Mr. Karauri:** Mr. Speaker, Sir, I am sure the hon. Member would be glad to hear that the factory owes farmers only Kshs.19,379,000. They had a slight problem in selling although their sugar is good.

**Mr. Raila:** Mr. Speaker, Sir, I think it is high time the Assistant Minister took this House more seriously. Dr. Omamo is very right because I am also a cane farmer and I deliver my cane to Miwani Sugar Factory. But I have stopped and I am now delivering it to Chemelil because of non-payment by Miwani Sugar Factory. There are very many small scale and medium scale farmers who have not been paid. Is the Assistant Minister in order to mislead the House that Miwani Sugar Factory is paying the farmers when in fact it is not paying them?

**Mr. Karauri:** The Factory is paying and I have given the figure that has not been paid to-date. The hon. Member had indicated that people had stopped delivering cane to the Factory and hon. Raila too has said that he has stopped delivering cane to the Factory. But deliveries have been as follows, from May to August: In May, the quantities delivered were 17,781 tonnes; in June, 17,700 tonnes; in July, 21,208 tonnes; in August 22,246 tonnes. If hon. Raila has not delivered, that does not mean that the farmers are not delivering.

**Mr. Raila:** Mr. Speaker, Sir, the question is not about non-delivery. It is non-payment for cane delivered to the factory by farmers. Kshs19 million is a lot of money although it may be a small amount by the hon. Assistant Minister's standards. It is a lot of money for small scale farmers in the industry. So, could he please, answer the Question as to why Miwani Sugar Factory has failed to pay farmers?

**Mr. Karauri:** Mr. Speaker, Sir, I can assure the hon. Member and the House that farmers will be paid now because sugar is being sold. There is no problem in selling sugar now.

**Dr. Ochuodho:** Mr. Speaker, Sir, from the answers we are getting from the Assistant Minister, he seems to be the only Kenyan who is unaware of the failure of sugar factories to sell their produce. It has been said time and again that on average, as we are talking today, the sugar factories owe farmers on average of Kshs2 billion. We also understand that the Kenya Sugar Authority must be retaining something in the region of the same amount through the Sugar Development Fund. Could the Assistant Minister tell us why the Government is finding it difficult to utilise that Fund to pay the factories so that farmers can be paid?

**Mr. Karauri:** Mr. Speaker, Sir, farmers are paid from the sales of sugar produced and sold and not from other sources.

**Dr. Omamo:** Mr. Speaker, Sir, please help us here. The Assistant Minister has admitted that a hefty figure of Kshs19 million has not been paid to the farmers. We are in a country where many people are suffering because of interest rates charged by the banks. Could the Assistant Minister assure this House that the Kshs19 million is going to be paid to the farmers at the base rate of bank interest to compensate them? Would the Assistant Minister assure the House that he is going to make sure that the company pays the farmers the Kshs19 million plus interest to compensate them?

**Mr. Karauri:** Mr. Speaker, Sir, farmers will not be paid their money with interest because this money is not put in a bank. It is because sugar was not sold. I have assured the House that since the situation has improved, we will pay the farmers.

**Dr. Omamo:** On a point of order, Mr. Speaker, Sir. I have explained to the Assistant Minister and he knows that it is not the question of lack of a market for the sugar. Miwani sugar is refined and it is sold. The company has nothing in the stores. So, he is misleading the House when he says that it is due to lack of a market. The sugar is sold.

**Mr. Karauri:** Mr. Speaker, Sir, I am sure you know that, that was not a point of order and the hon. Member should be satisfied that farmers should be paid but not with any interest.

*Question No.448*

## ALLOCATION OF LAND TO PRIVATE DEVELOPER

**Mr. Nderitu** asked the Minister for Education and Human Resource Development:-

(a) whether he is aware that land set aside for Mwea Divisional Education office has been allocated to a private developer; and,

(b) if the answer to "a" above is in the affirmative, he could liaise with the Ministry of Lands and Settlement with a view to revoking the allocation to pave way for the construction of offices and other amenities.

**The Minister for Education and Human Resource Development** (Mr. Musyoka): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware.

(b) Part "b" does not, therefore, arise.

**Mr. Nderitu:** The land has been sold and the title deed number is Mwea/Tebere/B/1294. It is already signed and it has been given to one Geoffrey Mwaniki Muchira. This land---

**Mr. Speaker:** Mr. Nderitu, can you ask your question?

**Mr. Nderitu:** The Minister says he is not aware. Now that I have made him aware, I would like to know what steps he will take in such circumstances.

**Mr. Musyoka:** If the hon. Member could make available a copy of the letter of allotment to the Ministry or indeed, Minutes indicating that the County Council allocated the particular land in question to my Ministry, I would only be too glad to follow it up.

**Mr. Nderitu:** That is a very simple job to be done by a Ministry of his magnitude. He has all the services, but this land was not issued by the County Council. I have checked. It was issued by the Registrar of Lands in Nairobi.

**Mr. Speaker:** Mr. Nderitu, I understand the Minister to be saying that his Ministry never owned any land there. That is what I understand him to say; that they owned no land and, therefore, it cannot be taken away from them when they do not have it.

**Mr. Nderitu:** Mr. Speaker, Sir, this land was meant for the Ministry of Education and Human Resource Development and the Ministry of Home Affairs, National Heritage, Culture and Social Services. It is shown in the plan map of Mwea East, Section B. It is just adjacent to the DO's office and the police station.

**Mr. Musyoka:** Mr. Speaker, Sir, my officer in the category of an AEO is currently occupying offices some two kilometres away from Mwanguru Township at a place called Ngurubani. But before he moved to Ngurubani, there was a temporary shelter within this plot which the hon. Member has referred to, measuring about six acres. But I would only be too glad to follow up the matter and get it for the Ministry provided that there is evidence that this was allocated or set aside for the Ministry. At the moment, there is no such evidence.

**Mrs. Mugo:** Mr. Speaker, Sir, this happens too often. In many places, my constituency included, there are a lot of plots which were earmarked for schools like Ruthimitu, Satellite and they have all been grabbed for development. Every time you ask us to provide papers. Is the Minister keen on safeguarding these pieces of land for the schools or anything to do with education? If the community in that area had decided that, that land was for the development of schools, surely, the Minister should be very keen and make sure that it is safeguarded. It is in the interest of Kenyans.

**Mr. Musyoka:** Mr. Speaker, Sir, the answer to the long question is that the Ministry is very concerned in protecting its property. Indeed, I am on record as advising our officers to ensure that school property is secured and title deeds are issued when it is practicable. That is the policy of the Ministry. We would like to protect all the playing fields and school compounds. That is very clear. But we can only protect the property that belongs to us. In this case, this land does not belong to us. I am just looking for evidence to show that this land belongs to the Ministry.

**Mr. Nderitu:** Mr. Speaker, Sir, I would like to inform the Minister that this land belongs to the Ministry of Education and Human Resource Development. I will bring a Kenya Gazette indicating that, and a map, which is right now in the Ministry of Agriculture office in Kirinyaga District. I will deliver that to you and I hope that you will not allow that land to be grabbed.

**Mr. Wamae:** On a point of order, Mr. Speaker, Sir. The Question is the property of the House. Why is the hon. Member telling the hon. Minister that he will deliver a document to him? I think he should come and lay it on the Table of the House.

**Mr. Speaker:** I think they are friendly. Next Question, Mr. Ita!

*Question No.518*

DISTRIBUTION OF FORMER EMBU  
COUNTY COUNCIL ASSETS

**Mr. Ita** asked the Minister for Local Authorities:-

(a) if he could inform the House the progress made to-date by the Committee in the sharing of assets of the former Embu County Council which was split up in 1995 and which continue to generate revenue for Embu and Mbeere county councils;

(b) what modalities are employed in sharing the revenue collected from the joint assets; and, (c) when the said Committee will complete its task to facilitate efficient planning and use of each council's assets.

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

(a) The County Council of Mbeere presented the memorandum for distribution of assets and liabilities to the County Council of Embu---

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. The hon. Members do not know whether the person answering this Question Backbencher or an Assistant Minister. Could he tell us who he is? I do not know him.

**Mr. Speaker:** Mr. Ndicho, you are unnecessarily taking away the time of the House. Mr. Speaker knows who is and who is not an hon. Member. It is your business to know your colleagues. It is not mine to have a roll-call. Proceed, Mr. Mwakalu.

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

(a) The County Council of Mbeere presented the memorandum for distribution of assets and liabilities to the County Council of Embu on 22nd August, 1996. The County Council of Embu discussed the memorandum on 18th February, 1997 and again on 15th April, 1997. Further discussions were held on 14th October, 1998 and the County Council of Embu agreed in principle to the contents of the memorandum. Both councils are planning to meet together in November, 1998 to finalise the discussions.

(b) The County Council of Mbeere was gazetted on 12th April, 1996 under Gazette Notice No.62 and started operating as a council on 1st May, 1996. On 29th August, 1996, it resolved to adopt the fees and charges from the County Council of Embu. The Ministry sanctioned the collection of the fees and charges which the council was collecting since that inception. Thus the revenue collectable within the jurisdiction of the County Council of Mbeere automatically reverted to the County Council immediately it was gazetted. However, revenue collectable from joint assets will only be shared after the approval, by the Ministry, of the memorandum.

(c) As soon as the agreed memorandum is presented to the Ministry, due consideration will be given for approval.

**Mr. Ita:** Mr. Speaker, Sir, the answer given by the Assistant Minister is satisfactory, but there is one area which I would like him to confirm; as to whether the revenue collected from the joint assets is in a separate account. If there is no account like that, then there will be nothing to share when the memorandum is accepted by the Minister. So, could we know whether the revenue collected is placed in a joint account or it is in one of the county council's accounts?

**Mr. Mwakalu:** Mr. Speaker, Sir, I am not aware of any disagreement over that money.

**An hon. Member:** Do not plead ignorance!

**Mr. Mwakalu:** Mr. Speaker, Sir, I am not pleading ignorance. I am not aware they have problems over how those assets are being shared at the moment. That should not arise because there is no complainant.

**Mr. Gatabaki:** On a point of order, Mr. Speaker, Sir. Is it in order for Ministers and Assistant Ministers to come to this House, and answer "I am not aware", to Questions asked this House?

**Mr. Speaker:** How would they answer in your view?

**Mr. Gatabaki:** Mr. Speaker, Sir, they should go down to the ground, consult and come here with comprehensive answers to Questions.

**Mr. Ita:** Mr. Speaker, Sir, my supplementary question was very specific. He says that once the memorandum is approved by the Minister, the revenue from the joint account will then be approved for sharing. My question was whether the money collected in joint assets is placed in a separate account or it is in one of the county council's accounts?

**Mr. Mwakalu:** Mr. Speaker, Sir, once they agree on the sharing of those assets, the crucial issue that

will arise is over indebtedness which will then be looked into.

**Mr. Ita:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to avoid my question? I have asked a specific question about revenue collected from the joint assets, which will be approved for sharing by the Minister.

**Mr. Speaker:** You are right, Mr. Ita. Mr. Mwakalu, you are saying that once the memorandum is approved, you will share the assets. What he is asking is: Where is the money being collected now, that is to be shared later? Is it in a specific account? Is it in Embu County Council?

**Mr. Mwakalu:** Mr. Speaker, Sir, there are only fees and charges being collected now that accrued to the county councils. These are being shared among the councils.

**Mr. Speaker:** Very well. Next question.

*Question No.304*

IMPLEMENTATION OF ELECTRIFICATION PROGRAMME

**Mr. Ndicho** asked the Minister for Energy:-

(a) if he is aware that in November, 1997, the Kenya Power and Lighting Company started an electrification programme for the entire Gatuanyaga Location;

(b) if he is further aware that the electricity posts were brought to the location and holes dug for the project implementation; and,

(c) if the answers to "a" and "b" above are in the affirmative, what made the work stop and when it will start again.

**The Assistant Minister for Energy** (Col. Kiluta): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware.

(b) I am not aware either.

*(Laughter)*

(c) There has not been a project in the pipeline to supply electricity to the entire Gatuanyaga Location of Thika District. Thus, the question of its construction work stopping and or starting again does not arise. However, in November, 1997 the Kenya Power and Lighting Company (KPLC) started to implement a project to supply electricity to PEFA Church in the location. Indeed, the construction work, which was temporarily suspended because of lack of certain materials, resumed on 20th August, 1998.

**Mr. Ndicho:** Mr. Speaker, Sir, it is very sad for the Assistant Minister to answer this Question this way. In November, 1997, which was the height of election campaigns, a lot of poles were brought and spread all over Gatuanyaga Location. That was because this is the location where the KANU candidate came from. They dug holes for those poles while waiting for the result of the elections.

*(Laughter)*

When the KANU candidate was defeated---

**Mr. Speaker:** Mr. Ndicho, put a question to the Assistant Minister. This is Question time and not Motion time.

**Mr. Ndicho:** Mr. Speaker, Sir, I was trying to tell the Assistant Minister that it is true that---

**Mr. Speaker:** Could you put a question to the Assistant Minister, Mr. Ndicho?

**Mr. Ndicho:** Mr. Speaker, Sir, I am trying to tell the Assistant Minister that what he has said in the sentence is true. Work started or resumed on 20th August, 1998. My problem is that the people of Gatuanyaga have suffered for all those months. What is happening now is that the KANU fellow is collecting money---

**Mr. Speaker:** Order! Order, Mr. Ndicho! I am likely to go to the next Question.

**Mr. Ndicho:** Mr. Speaker, Sir, could the Assistant Minister tell this KANU man, and the KPLC people, to stop collecting Kshs15,000 from each household from the over 10,000 people who applied for electricity? These people will get a total of Kshs150 million out of this project, which is under the Rural Electrification Programme. Could he make sure that Mr. Paul Hato and company stop collecting Kshs15,000 from each household? He was immensely defeated and he should not make my people suffer.

**Col. Kiluta:** Mr. Speaker, Sir, as much as I sympathise with my friend here, the Ministry is not aware of

any money being collected. However, the Ministry is aware that the supply of electricity was requested by the PEFA church and in the process the Ministry agreed to supply power to Gatuanyaga Secondary School, some five people and four homesteads who had applied for it. If there is anybody else who is collecting money from the people and he has not applied for power supply, then that is illegal. I think it is Mr. Ndicho's duty, as the area Member of Parliament, to stop it.

**Mr. Nyanja:** Mr. Speaker, Sir, you know very well that the Government is using this Ministry to campaign during the election period. You know what happened in Kipipiri and now the same thing happened in Gatuanyaga Location. Is the Assistant Minister aware that there are senior people within the Ministry and even the KPLC, who supply electricity but do not give out meters in Limuru? Later on, when they are found out they come and disconnect power and people do not know what to do. Apart from what the Ministry is using to politicise projects, is he aware that there are such corruption and scandals going on all over the country, especially in Limuru?

**Col. Kiluta:** Mr. Speaker, Sir, that is a very serious allegation. If the hon. Member is encouraging it, I think disciplinary action should be taken against him because that is illegal and the Ministry is not aware of it.

**Mr. Nyanja:** On a point of order, Mr. Speaker, Sir. I am now reporting the matter to the Assistant Minister. I have now mentioned to him that there are criminals within his Ministry but now he is saying that I am promoting it. Mr. Speaker, Sir, I am sorry that I got carried away by emotions.

*(Laughter)*

It is very serious to use Government resources to steal Kshs30,000 from every household. I can bring you over 100 such cases in Limuru.

**Mr. Speaker:** Mr. Nyanja; you have really short-circuited your friend hon. Ndicho. He was talking about Gatuanyaga Location and you have now diverted the Question to refer to a totally different place in Limuru.

**Mr. Nyanja:** Mr. Speaker, Sir, if you can allow me, Gatuanyaga Location in Thika and Ndeiya Location in Limuru are sister locations. They are actually bound by blood.

**Mr. Speaker:** Very well. Could the Assistant Minister respond to the matter?

**Mr. Nyanja:** Mr. Speaker, Sir, could he respond because this is a very serious matter?

**Mr. Speaker:** Order! Order!

**Col. Kiluta:** Mr. Speaker, Sir, I am equally serious. If the hon. Member is right, he should have been in police cells by now because he has failed to report an offence. He is equally guilty for not reporting to the police an offence that has been taking place at his door steps.

*(Applause)*

**Mr. Ndicho:** Mr. Speaker, Sir, let us now come back to Gatuanyaga Location. This is a very serious matter that is happening in this location. This is the reason why KANU is losing votes from the area residents. It is because of giving misleading answers, when the people there very well know what is happening. Now that this project is continuing, I would like the Assistant Minister to order the District Commissioner, Thika, to stop the collection of Kshs15,000 per household, because this is exploiting my people and I am not going to allow it. Could he give the assurance that Kshs15,000 will not be collected from each household?

**Col. Kiluta:** Mr. Speaker, Sir, I said that I am not aware of any illegal collection and if there is---

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

**Mr. Speaker:** Order! Order, now! If it has reached that stage, it appears that hon. Ndicho you are also not interested in your question!

*Question No.583*

#### COMPLETION OF KATHAANA BRIDGE

**Mr. Kaindi** asked the Minister for Public Works and Housing:-

- (a) whether he was aware that Kathaana bridge on Machakos-Kangundo Road was left uncompleted during the gravelling of the road and;
- (b) if the answer to "a" above is in the affirmative, what immediate measures the Ministry is taking to complete the construction of the bridge.

**The Minister for Public Works and Housing** (Mr. Kones): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Kathaana bridge on Machakos-Kangundo Road is not complete.

(b) The Ministry has set aside Kshs0.5 million to facilitate completion of Kathaana bridge. The work will resume in November, 1998 and will be done inhouse.

**Mr. Kaindi:** Mr. Speaker, Sir, I hope that the answer given by the Minister, with all due respect, is not a public relations exercise. This is because the estimates for this financial year Kshs20 million was set aside for Syokimau/Katani Road. But in actual fact, only Kshs3 million has been allocated. Can the Minister confirm to this House whether indeed, Kshs0.5 million will be set aside for that particular bridge within the period he has stated?

**Mr. Kones:** Mr. Speaker, Sir, the money is already set aside and will spent on that particular bridge.

**Mr. Muya:** Mr. Speaker, Sir, this is a classic example of the Government starting projects and not completing them. This bridge was done half way and then work stopped. Vehicles cannot move across it, and we have just been told by the hon. Questioner that the amount of money allocated to the project is not adequate. This has also happened in my constituency where a road from Gatundu to Gacharage was started, but when I defeated the KANU candidate worked on the road stopped. Could the Minister assure this House that all the projects which the Government has started will be completed?

**Mr. Kones:** Mr. Speaker, Sir it is the Government's policy to finish all the on-going projects. Probably, they cannot be finished immediately, but the intention is to finish them eventually.

**Mr. Speaker:** Next Question! Mr. Mahamud!

*Question No.438*

CLASSIFICATION OF ROADS IN WAJIR EAST

**Mr. Keynan,** on behalf of **Mr. Mahamud,** asked the Minister for Public Works and Housing:-

(a) whether he could provide the House with the list of all classified and unclassified roads in Wajir East Constituency and their respective distances and;

(b) what plans he has to classify the unclassified roads and also to maintain the existing ones.

**The Minister for Public Works and Housing** (Mr. Kones): Mr. Speaker, Sir, I beg to reply.

The classified roads in Wajir comprise of the following: Road B9, Wajir Town - Kotulo - 148 kilometres; D500, Tarbaj-Bur-Maiyo, 103 kilometres; E570, Wajir-Wajir Bor, 56 kilometres; E852, Aus Maduli - Khorof Arar, 32 kilometres; E1971 - Tarbaj - Batal, 86 kilometres; making a total of 425 kilometres of classified road network. The unclassified roads do not fall within the responsibility of the Ministry and as such have got no records. The Ministry will soon conduct a nationwide road re-classification exercise including classification of unclassified roads at which time Wajir District will also be considered for the same.

**Mr. Keynan:** Mr. Speaker, Sir, while I generally agree with the answer given by the Minister, there is one bit of the Question which has not been answered. In addition to listing the classified roads, how does the Ministry intend to maintain these classified roads? So, I would like the Minister to tell us how these classified roads have been maintained and how they are going to be maintained.

**Mr. Kones:** Mr. Speaker, Sir, under this programme, we have set aside a total sum of Kshs5 million for grading these roads to put them in a passable condition.

**Mr. Keynan:** Mr. Speaker, Sir, in the financial year 1996/97 the Ministry of Public Works and Housing had budgeted, I do not know whether it came under the Office of the President or the Ministry of Public Works and Housing, but over Kshs150 million was set aside for gravelling of the road B9, Wajir Town and Kotulo by a firm known as GM Contractors. I would like to know from the Minister whether these people have really done anything, or if they have not done what happened? Were they paid any money as an upfront? If they failed to undertake the project, what has the Government done to recover the money that they were paid?

**Mr. Kones:** Mr. Speaker, Sir, that project was undertaken by the Office of the President under the Drought Recovery Programme. So, in fact, I do not have details concerning that project.

*Question No.538*

MAINTENANCE OF NANYUKI - KIGANJO ROAD

**Mr. Kiunjuri** asked the Minister for Public Works and Housing:-

(a) if he is aware that Nanyuki-Kiganjo Road is currently impassable; and,



(b) if the answer to "a" is in the affirmative, what urgent steps he is taking to ensure that the road is adequately maintained.

**The Minister for Public Works and Housing (Mr. Kones):** Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Nanyuki-Kiganjo Road was in bad condition. However, the Government is already undertaking the necessary construction works.

(b) The road is being repaired and resealed at the cost of Kshs488,754,000 to keep it motorable. As of now, 26 kilometres of the work has been completed and work is ongoing on the remaining 20 kilometres.

**Mr. Kiunjuri:** Mr. Speaker, I appreciate the answer given by the hon. Minister. But, already the work being done there is not satisfactory. But before I comment on that, could the Minister tell us what are the specifications of the contract? Could he table the list of those people who tendered, the amount they tendered and at the same time could he---

**Mr. Speaker:** Mr. Kiunjuri, one question at a time!

**Mr. Kiunjuri:** Could you answer the first one; what were the specifications of the contract?

**Mr. Kones:** Repeat your question.

**Mr. Kiunjuri:** Mr. Speaker, Sir, it is very unfortunate that the Minister is not paying attention to the question that I have asked twice now. May I ask it for the third time? What were the specifications of the contract?

**Mr. Kones:** Mr. Speaker, Sir, I think going into the details of the specifications is a long and tedious exercise. I would like to ask the Member to come over and I will show him the details because it is a big document and I cannot bring it here and start reading it.

**Mr. Kiunjuri:** Mr. Speaker, Sir, is it in order for the Minister to come to the House half armed when he knew very well that he is answering the Question? Two---

**Mr. Speaker:** Order, Kiunjuri! You had asked him whether he is aware that the road is impassable. He said yes. That was what he was prepared for. But you can ask him if you are not satisfied, about the work being done but to expect him to bring the bills of quantity is something else.

**Mr. Kiunjuri:** Mr. Speaker, Sir, that is true. Could he table the list of those people who tendered and the amounts they quoted?

**Mr. Kones:** Mr. Speaker, Sir, I think that is a very irrelevant question. What, in fact, he should be asking is: Who is the contractor on the road and I can answer that. But to bring a list of all those who tendered for the job, I do not think it is necessary.

**Mr. Kihoro:** Mr. Speaker, Sir, I have been on this road and I know it has not been done properly especially in the area from Naru Moru up to Nanyuki and especially about 20 kilometres before you get to Nanyuki. I know you also have an interest in this road because you use it when you are going home. I would also want to know whether Mr. Speaker can be put in some better comfort when he is going home so that when they actually put some tarmac they put it a bit thick. It is so thin that it is incredible. It is going to break down and Mr. Speaker will end up not coming to the House very shortly.

**Mr. Kones:** I think the Members should have known already that I am very keen on good standards. I will definitely make sure that it receives the best standards. However, the 20 kilometres from Nanyuki towards Kiganjo has not been addressed. What they have just done now is to make the roads passable, but they have not actually done the re-sealing of that section. So, I agree with you that, that has not been done.

**Mr. Wamae:** Mr. Speaker, Sir, could the hon. Minister assure us that this time round this road will be done properly because it was only done three years ago and then the whole thing became useless? Could he ensure that the contractor does proper work so that this road can last for ten years?

**Mr. Kones:** Sure enough, I am aware of that. In fact, I used the road myself before we took action on it. I thought the first standards of the road were actually quite poor. We are going to make sure this time that a good job is done to make it last for a long time.

**Mr. Kiunjuri:** Mr. Speaker, Sir, the Minister knows very clearly that this road was only done in 1989, hardly nine years now the road is impassable. I am very much aware of what is going on, on that road. Already this contractor has only carpeted 13 kilometres. I passed through there this morning. The rest is still full of potholes. It is very unfortunate that the Minister is evading answering the question and saying irrelevant things when I want to know what actually happened. This is taxpayers money. We are talking of Kshs.500 million belonging to taxpayers. So, we should know exactly who won the tender, how much and who else had tendered. At the same time, what was the date---

**Mr. Speaker:** Ask the question!

**Mr. Kiunjuri:** Mr. Speaker, Sir, my question is: When was the notice given and the amount of money quoted?

**Mr. Speaker:** Order! Mr. Kiunjuri! Are those questions, strictly speaking, relevant to your Question?

**Mr. Kiunjuri:** Mr. Speaker, Sir, you know you are giving me the last chance and I have two questions to ask. That is why I am raising both of them at the same time. Could the Minister answer them?

**Mr. Kones:** I think if I got the question correct, probably the Member would like to know when the work started. The work started in June, 1998. We expect to complete it within 18 months. It is difficult to start judging now the condition or rather the standards that the contractor would achieve on the section of the road that he has not started working on. There are so many stages. Like I said in certain sections of the road, we need to do spot checking to enable vehicles to pass through easily. We have actually done everything on the other sections including resealing and that is what he is probably talking about; the 26 kilometres. So, I think the Member should bear with us. I think the job will be properly carried out. I will not allow anything substandard to be handed over to the Minister.

### QUESTION BY PRIVATE NOTICE

#### DEATH OF MR. NGARA MOMANYI

**Mr. Obwocha:** 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 Mr. Ronald Ngara Momanyi was arrested and confined in Nyamira Police Cells from 21st to 26th July, 1998, where he subsequently died?

(b) If the answer to "a" above is in the affirmative, who were the police officers who confined Mr. Momanyi in the cells?

(c) What action has been taken against the said police officers for unlawful confinement?

**The Minister of State, Office of the President (Maj. Madoka):** Mr. Speaker, Sir, I beg to request that this Question be deferred because I have not yet got sufficient information to enable me to give a satisfactory answer to the Questioner.

**Mr. Speaker:** Will you oblige, Mr. Obwocha?

**Mr. Obwocha:** Mr. Speaker, Sir, as you notice, this is a Question by Private Notice. Could he answer this Question tomorrow because this is really a very urgent matter? One of my constituents is dead!

**Mr. Speaker:** I will defer the Question to next week.

*(Question deferred)*

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. On Wednesday, last week, I raised a very pertinent issue here, concerning the Minister for Local Authorities and he was not in. Now that he is in today, I seek your indulgence as to whether he could respond to the disturbing manner in which motorists in Nairobi are suffering. Their vehicles are being towed by so many breakdowns in the city, when they find out that they have no parking tickets. **[Mr. Ndicho]**

When motorists park and the Nairobi City Council---

**Mr. Speaker:** Mr. Ndicho, if you raised the issue and you now want to address the issue, it is not a point of order any more.

**Mr. Ndicho:** But, Mr. Speaker, Sir, he needs to know the background---

**Mr. Speaker:** Mr. Minister, are you aware of what was raised by hon. Ndicho? I was not here.

**The Minister for Local Authorities (Prof. Ongeri):** I am not aware, Mr. Speaker, Sir.

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

**Mr. Speaker:** What is wrong! Will you sit down?

**Mr. Maore:** No, Mr. Speaker, Sir---

**Mr. Speaker:** Order! We do not do it the way you are doing. Mr. Ndicho, it will help the House and the Chair and, maybe, the Minister, if you can avail to the Chair a copy of the HANSARD indicating what you raised, and we pass it over to the Minister. Then, he can respond.

**Mr. Ndicho:** But, Mr. Speaker, Sir---

**Mr. Speaker:** Please, give me the copy of the HANSARD.

**Mr. M.A. Galgalo:** On a point of order, Mr. Speaker, Sir. Before we went on recess last time, I asked the Minister of State, Office of the President to make a Ministerial Statement with regard to the massacre that had taken place in Bangale. From then on, I have been unable to obtain anything from him. So, could you direct

that he makes this statement?

**Mr. Speaker:** Why do hon. Members who want to make reminders to various Ministries not see Mr. Speaker who will facilitate that the Ministers be made aware and, therefore, you do not have to push the Chair and the House? All those who would like to remind any Minister of a promise, or a response that they have not made, should see me in advance so that I can facilitate and help them.

Next Order.

## BILLS

### *Second Reading*

#### THE FINANCE BILL

**The Minister for Finance** (Mr. Nyachae): Mr. Speaker, Sir, I beg to move that The Finance Bill, 1998, be read a Second Time.

The Finance Bill contains proposals announced in my 1998/99 Budget Speech relating to liabilities and collection of taxes, miscellaneous fees and matters incidental to fiscal policy. During my Budget Speech, I outlined vital measures that are necessary to revamping our economy. Though these measures are a continuation of the previous reforms, in that they build on them, they specify key issues that need to be addressed in order to revitalise the economy.

**Mr. Speaker:** Can I interrupt you, Mr. Nyachae? May I interrupt the Minister and--- I am sorry. I ought to have brought to the attention of the House of the existence of a supplementary Order Paper made available to Members, containing the many amendments that the Minister intends to move during the Second Reading. So, shall we take into account now that we will operate with a supplementary Order Paper?

**Mr. Oloo-Aringo:** On a point of order, Mr. Speaker, Sir. The Order Paper reflects only what the Committee of the House on Finance had advised the Minister, and the Minister had agreed to. However, there have been alterations and changes on the recommendations of the House Committee. Now, I do not know, but since the new thing we are trying to practise, this Committee system we have brought is a new development in our parliamentary procedures--- We would like to know whether the recommendations of the Committee, which has been absolved by the Minister, are reflected faithfully in the recommendations here. I want to raise this issue because the Minister will respond to our views; that there are some aspects which have deliberately been omitted. We need your guidance on an issue such as this one. When a Committee has made recommendations, and a Minister has accepted those recommendations, and a report has been brought to the House, should it not faithfully reflect the views of the Committee?

**Mr. Speaker:** Well, I honestly do not know what "reflecting faithfully" means. But I share your sentiments on the generality of the recommendations made by a Committee to the Minister, and to the House. As you know, even the House is not obligated to accept everything that is recommended to it. But I will address the particular issue on the generality of the matter.

The House is not obligated to accept, as it is, a report of any particular Committee. It can accept in total, amend or reject. That is the position of all the Committee work. They make a recommendation to the House and it is the House either to agree fully or not to agree at all, or to amend. That is the position. But as for the particular issue that you have raised, this is a Finance Bill, and there are specific provisions in our Standing Orders about monetary issues. That the Minister will move a monetary Motion or Resolution here, and must inform the House that the President has consented to that Resolution. So, even the Minister himself cannot bring a Bill with financial implications to the House, which the President has not consented to. I do not think the Minister can consent on behalf of the President without his express authority. I think hon. Members will find it useful to read Standing Order Nos.132 to 135. Maybe, I should read all of them. Standing Order No.132 reads as follows:-

Except on the recommendation of the President signified by the Minister, the House shall not:-

- (a) Proceed on any Bill, (including amendment to a Bill), that in the opinion of the person presiding, makes a provision for any of the following purposes:-
  - (i) For the imposition of taxation or the alteration of taxation otherwise than by reduction.
  - (ii) For the imposition of any charge upon the Consolidated Fund or any other Fund of the Government of Kenya, or the alteration of any such charge otherwise by reduction.
  - (iii) For the payment issue or withdrawal from the Consolidated Fund or any other Fund of the

Government of Kenya, of any money not tied thereon, or any increase in the amount of such a payment or withdrawal; or,

(iv) For the composition or remission of any debt due to the Government of Kenya; or,

(b) Proceed upon any Motion (including amendment to Motions), the effect of which, in the opinion of Mr. Speaker, would be to make provision for any of these purposes.

Standing Order No.134 states:-

The Committee of Ways and Means and the Committee of Supply shall be Committees of the whole House.

*(Two hon. Members stood up in their places)*

Order! Why are you up when I am up! My understanding of Standing Order No. 132 is that when the Finance Committee makes recommendations to the Minister, the Minister naturally then consults with the President, and takes into account what the Members of that Committee have given. Actually, what he will be bound by is what he will present as consented to by the President. That is how I understand this Standing Order.

**Mr. Oloo-Aringo:** On a point of order, Mr. Speaker, Sir. I personally congratulate you on your ruling and today I also congratulated you on your handling of our debate on Thursday. You emerged as a great Speaker! However, I want to say that we are experimenting on Committee system and there have been recommendations made to the Minister and there is distortion in the amendments which are presented to the House. The Government has emerged from this so-called "Vote of no Confidence", but we want them to take heed and not to distort what Committees have recommended. I am suggesting that in this one, we can see clearly that when I read what the Committee recommended - and I am literate - and what is here, there is the dichotomy. I want you to help us. At what point does the Minister just rub off what the Committees have recommended?

**Mr. Speaker:** I think---

**Mr. Oloo-Aringo:** Mr. Speaker, Sir, with all due respect, I do not want to cut you short---

**Mr. Speaker:** You should not, actually.

**Mr. Oloo-Aringo:** No, I should not---

**Mr. Speaker:** Order! Order, now, Mr. Oloo-Aringo! I think Mr. Oloo-Aringo, with all due respect, you should not cut short Mr. Speaker at all at any time. Actually, when Mr. Speaker, speaks, it is like he is standing. You should sit down immediately. I was just going to give some assistance. As you said, we are trying to find out this issue. The Minister has not yet talked. I suggest that the best time to ask the Minister about this issue, is once he has moved his Bill and it is seconded, and therefore, the Bill is before the House.

When we come to the Committee Stage, when he is trying to put the amendments which he is proposing, the Minister can be asked to give an explanation for the variation between what the Committee recommended him to do and what now he is asking the House. At that time, he can be asked to explain all those things; when we are at the Committee Stage. I think that is the right stage.

**Mr. Oloo-Aringo:** On a point of order, ---

**Mr. Speaker:** What is it, Mr. Oloo-Aringo? That should be the last point now.

**Mr. Oloo-Aringo:** On a point of order, Mr. Speaker, Sir. Why does this Government like to shoot itself on the foot? It has a habit of shooting itself on the foot. This is why we have given the Government goodwill and our Committee has recommended certain things. Then, it goes and undermines the very things that we have recommended. They want us to bear with long explanations which are totally irrelevant, with all due respect. I am suggesting that the Committee system must be made to work. That is all I am saying, or they be abolished.

**Mr. Speaker:** Order! Order! Order, Mr. Oloo-Aringo. You are asking me impossible things. You are asking me why the Government wants to shoot itself on the foot? I do not head that Government and I am not even a member. So, the right person to ask this is Mr. Nyachae, at the Committee Stage. Ask him why the Government is shooting itself on the foot? Mr. Speaker cannot answer that!

*(Applause)*

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

Order! Order! Proceed Mr. Nyachae! We must now proceed. Can we have some business now going on?

**Mr. Michuki:** On a point of order, Mr. Speaker, Sir. I am a member of the Committee about which hon.

Oloo-Aringo was raising the issue. Our Chairman of the Committee is sitting over there, Mr. Mkalla. As I understand it, surely, we must be guided by Standing Order No.110 and not from Standing Order No.32 to whatever you mentioned. Because---

**Mr. Speaker:** Are you suggesting that you are overruling me?

**Mr. Michuki:** No, I am not overruling you. I cannot and I have no powers to do that. You are too big to be overruled by a simple person like me.

I am talking about Standing Order No.110 (ii) which states that, the House shall consider the Bill as reported from the Select Committee upon a Motion. "The Report of the Select Committee be approved". The Chairman of our Committee brought the reports of the Finance Committee to this House. The report has been adopted because nobody raised any issues within the stipulated days.

Therefore, it must follow that if these Committees are going to work at all, the Finance Minister must take the recommendations in total. This is because in formulating that report, we consulted very closely with the Minister for Finance. If there was to be any change that affected the Committee's report, surely, it should have been referred there and not on the Floor of the House. That is all I am saying.

**Mr. Speaker:** Yes, I think you are absolutely wrong. If you are going to read even the section you have referred to, if you read sub-section (ii) of what you have referred to, it does direct, under sub-section (ii): "That the House shall consider the Bill as reported from the Select Committee upon a Motion, that the Report of the Select Committee be approved". We do not have such a Motion here. What we do have here is the Second Reading of the Finance Bill.

Until we commit it to the Committee at a later stage, that section does not apply. So, we must now make the presentations. Then, the Bill will be committed by the House to the Committee of the Whole House. All the various amendments presented by him and the ones suggested by the House Committee will be considered. Any Member at that stage can move any amendments.

For now, it is the Second Reading of the Bill. So, let us have the Second Reading. When we go to the Committee of the Whole House, then, those various things as suggested by hon. Oloo-Aringo, at that time, every Member can question this Minister about his amendments, the ones he is referring now, the ones the Finance Committee suggested; how you can marry it, why he rejected some and accepted others? Then, he can answer those questions.

For now, it is the Second Reading of the Bill. Can we read the Bill the Second Time?

**The Minister for Finance** (Mr. Nyachae): Thank you, Mr. Speaker, Sir. I would like to mention that the hon. Oloo-Aringo had made consultations with me earlier on and a number of hon. Members have been making consultations with me. The Chairman of that Committee has made consultations with me and we have said that we will sort out that matter at the Committee Stage. Could I now proceed?

**Mr. Speaker:** Proceed!

**The Minister for Finance** (Mr. Nyachae): Mr. Speaker, Sir, the overall objective is to review the domestic debt burden from its current level of 24 per cent of Gross Domestic Product (GDP) to below 15 per cent within the next couple of years thereby leaving more resources to the private sector for productive investment. The way forward is to review the public sector expenditure to generate investments and obtain surpluses that would enable us to reduce the debts. To achieve the required surplus, the public investments project have been scaled down significantly by 40 per cent. This will improve the project completion rate. Other measures will have to be taken to supplement this cut down. Among these measures will be cost saving on motor vehicles, housing and telephones, just to mention a few. At the same time, additional funds will be directed to improve and rehabilitate our infrastructure. Road rehabilitation and maintenance will be assisted through the *El-Nino* Emergency Programme together with the Road Maintenance Levy Fund which will be increased to Kshs6.5 billion. Projects are also in place to improve rural access roads and rural electrification. The combined effects of these measures is to reduce the interest rates and ensure that economic growth is enhanced.

Mr. Speaker, Sir, with the measure outlined in my Budget, being fully implemented, the downward trend in economic growth observed in 1997, which was 2.3 per cent, will be arrested. However, poor economic performance is expected to continue in 1998, but as the economy stabilises and interest rates come down, investments will pick up as the investor confidence increases. In time, increased investment will create jobs and the multiplier effect will be expected to eventually increase the per capita income. But to achieve high and sustainable economic growth, will require a concerted programme of action. This is what has been initiated in the current financial year.

Mr. Speaker, Sir, though the proposed measures are focused on increasing public sector productivity, this cannot be achieved without implementing clear and firm programmes of fiscal adjustments that will reduce

expenditure, the size of the Public Service and restrict the public sector to core functions only. This way, the share of resources going to the public sector will be reduced and those to private sector increased. To ensure our objectives are achieved, it will require sacrifices and support of all who care for our nation. For now, we have no soft options.

Mr. Speaker, Sir, I now turn to the actual measures in the Bill. The proposals made under the Customs and Excise Act seek to improve operation environment and to reduce compliance cost; seal revenue leakages and enhance competitiveness of locally produced goods. The current difficult domestic economic conditions, coupled with the currency devaluation in South East Asia and South Africa has exposed Kenyan businesses to severe import competition. For these reasons, changes to import duty tariffs are mooted mainly to protect local producers from unfair competition. Towards this end, an addition of five per cent suspended duty has been imposed on selected products like gas cylinders, cement, grinding wheels and cowries (?). Duty on residual fuel has been lowered by one shilling per litre to assist the major industrial users during this difficult time. This reduction will also moderate the price of electricity which will be of widespread benefit to local producers and consumers.

Agriculture is the mainstay of our economy. To assist this sector, additional suspended duties on processed agricultural produce and their substitutes have been imposed. In addition, special exemption has been provided for expanded range of green houses plastic covering and chemical fertilizers. To curb the problem of diversion of transit goods into domestic markets, tight controls that include enhanced penalties, bonding of transporters, strict bond enforcement together with confirmation by receiving countries, have been put in place.

On importation of second hand vehicles, we have many old vehicles on our roads. Sometimes these vehicles are so old that they are unable to reach Nairobi on clearance from Mombasa. Consequently, it has become necessary to require second hand motor vehicles imported into Kenya to meet the necessary quality and emission standards. Contrary to some interest parties are saying, this measure is designed to protect Kenyans and the environment from the negative impact of some these vehicles. Kenyans are entitled to vehicles that give value for money. As some hon. Members may already know, many of these vehicles are imported from countries that use unleaded fuel. Their engines are, therefore, fitted with converters which clog the engine when they use leaded fuel. Majority of them are also designed for low altitudes. When they combine the age, the use of leaded fuel and high altitude, they produce toxic gases which need to be controlled through regular inspection, otherwise damage to both the driver and the environment can be very high. These facts are not revealed to majority of buyers of these vehicles.

As a matter of fact, we have no quarrel with importation of second-hand vehicles, we only object to dangers they cause. The proposed measures will not affect vehicles which are less than five years old.

Mr. Speaker, Sir, to curb revenue leakages through evasion of import duty, exemptions for privileged persons, particularly on passenger cars, will be restricted and controls put in place. Kenya Revenue Authority will ensure that these vehicles are not availed to non-privileged persons without payment of duty. To encourage local servicing of aircraft, particularly those operating for charter at Wilson Airport, duties on the spare parts will be waived on recommendation of the Director of Civil Aviation. This is expected to support our tourism industry during its current difficulties.

Mr. Speaker, Sir, duty on petrol and automotive diesel has been lowered by Kshs1.50 per litre and the amount added to Road Maintenance Levy to increase funds for rehabilitation of our road networks.

Under the Value Added Tax (VAT), measures have been proposed to lower the tax burden on individuals and companies by lowering the standard VAT rates from 17 per cent to 16 per cent. The VAT base has been expanded by making a few more services, namely, electronic, mail and telephone services---

Mr. Speaker, Sir, under the Income Tax Act, several measures have been proposed to reduce the tax burden on individual taxpayers. These include increasing the personal relief by 10 percent, while the Income Tax bracket has been widened by five per cent to prevent bracket creep. Pension contribution limits will be increased by 30,000 in order to encourage people to provide for their own age. As hon. Members will recall, the *El Nino* weather conditions caused serious damage to both crops and livestock. To assist farmers, the Presumptive Income Tax will be suspended from January 1999.

Mr. Speaker, Sir, as hon. Members have noted from the Finance Bill, one of the proposed changes under the Income Tax is the introduction of the Fringe Benefits Tax. The purpose of this amendment is to tax low interest loan benefits provided to an employee by his employer. This amendment is necessary in order to close a major avenue for tax evaders, particularly by the senior management of private companies. The amendments will therefore, improve quality, equity and fairness of Income Tax system. As has been common practice, companies have been taking up loans and overdrafts at interest rates in excess of 30 per cent. In case of banks, they take deposits at 15 per cent to 20 per cent. The money is then availed to employees at either very low interest rates or free of interest. Since companies and banks deduct all interest paid on such loans or deposits from their tax

income, as a result, the Government makes losses on tax revenue on that particular income. If that benefit is not taxed on the employee, the revenue loss is even higher. Any revenue loss, increases deficits to the Exchequer, which, when financed from increased domestic borrowing only drives the interest rate even higher. When employees are given subsidised loans, this enhances their emoluments of income. If such income is not fully taxed, it encourages employers to transfer a large share of their employees emoluments into low tax benefits. This problem appears to have become widespread. For companies trading with money, low interest loans encourage such companies to charge other borrowers higher interest rates in order to cover the subsidies they are giving to themselves and their employees.

Mr. Speaker, Sir, hon. Members have noted that interest rates on 90 day Treasury Bills have come down from about 26 per cent in June this year to below 21 per cent at present. This is because of the effectiveness of the measures we have taken. Any measure, however minor, that encourages interest rates to remain high, works against early recovery of the economy. We all need to work together to ensure interest rates fall faster. This may necessitate some of the current beneficiaries to pay a little more.

Mr. Speaker, Sir, to improve the fairness of tax administration, procedures for objections and appeals have been introduced on the Pay-As-You-Earn (PAYE) and the VAT systems.

Mr. Speaker, Sir, under the miscellaneous measures, the Kenya Revenue Authority Act, will be amended to give the Authority a greater operational autonomy so that it can perform its revenue collection function more efficiently, effectively and free from interference.

Under the Banking Act, amendments have been proposed to increase corporate governance, improved credit administration and to reduce the level of non-performing loans. This is necessary in order to strengthen our banking sector.

Under the Local Government Act, hon. Members will appreciate that performance of local authorities has become a major hinderance to attracting new investments. Last year, measures were taken to ensure issuance of one business permit automatically. Unfortunately, this has not been fully implemented. To ensure this is done, proposals have been made in the Local Government Act, to mandate local authorities to issue only one business permit automatically to one business enterprise. This measure will improve the investment environment in all local authorities.

Mr. Speaker, Sir, the Export Processing Zone Act, is also being amended to prevent leakage of goods and materials such as, spare parts and tyres into the domestic market without payment of duty.

Mr. Speaker, Sir, finally, I would like to thank hon. Members for their frank contributions on the measures before the House. We have noted their comments during the debate on the Financial Statement. These comments have been considered fully where appropriate amendments to the Bill have been proposed to this House.

Mr. Speaker, Sir, in conclusion, I once again appeal to all hon. Members and other Kenyans in general to think of our nation first. Let us give priority in all we do to our beloved country. As leaders in our own right and as representatives of the people, we have a responsibility to turn this economy around. We may lose as individuals, but in the long run, we shall be the winners in a changed and prosperous Kenya.

Mr. Speaker, Sir, I beg to move.

**The Minister For Agriculture** (Mr. Mudavadi): Mr. Speaker, Sir, I stand here to second the Second Reading of the Finance Bill. I would just like to focus on about two or three areas. The first is that, I notice from the various attachments - although quite a number of it will come at the Committee Stage - the Ministry of Finance, and also through the deliberation of the Departmental Committee dealing with financial matters, have addressed some anomalies which pertain to the various agricultural products. Key on this is the question of sugar, which according to the attachments we have here and indeed, even in the Minister's remarks, he has taken some remedial measures to ensure that the loopholes that have been exploited by people, who either divert sugar or who try to import sugar into this country without paying the necessary duties are checked. Most significant here is the proposal that is being put across, to clearly define what industrial sugar is. Because, previously, there has been some loophole in the definition of industrial sugar, yet we know that the users of industrial sugar are very few in this country. According to the records we have, industrial sugar is not maybe used beyond 100,000 metric tonnes in a year. So, clearly, if this has been a loophole where people have been bringing normal mill sugar and defining it as industrial sugar, then clearly we must gazette who the users of industrial sugar are in this country. In that way, we will know that it is either Coca Cola Company, Del Monte other industrial users who need the refined sugar. It will be clear to the public and the people who are the importers of industrial sugar, and we do not have strange characters bringing in consignments of sugar under the guise that it is going to be used for refined or industrial products and yet, it is being smuggled into the domestic market. So, I think, that is a very important provision that has now been catered for within this amendments and also within these remarks that the Minister has brought into focus.

The other area that I would also like to highlight, which is an anomaly in the Finance Bill is that the duty on wheat flour has been lower than the duty on raw wheat. Therefore, what has been happening is that we have been trying to protect our local farmers and also to make sure that the investors who have adequate milling capacity in this country can use that capacity to produce more wheat flour and also to export and employ more people. Some of these fellows have simply been taking a shortcut and importing refined or processed wheat products or wheat flour and, therefore, again undermining our very industrial base. So, I think again that the recommendations that have been brought by the Minister to make sure that that anomaly is eliminated, is also of crucial importance in ensuring that we are able to protect our local wheat farmers and at the same time, ensure that the loophole on the question of wheat flour coming in at a lower duty rate is also eliminated.

Mr. Speaker, Sir, apart from that, I think it is very clear for Members of this House that, the Finance Bill is very crucial in the sense that it is clearly defining the parameters under which our Revenue Collection Department can operate and be able to get sufficient resources to enable the Government and the Kenyan people to undertake their various activities. It is very clear also that, within the context of the Finance Bill, there have been complaints that over the years, Kenya is one of the most highly taxed countries where taxation levels amount to about 29 per cent of GDP. Whereas this may be so, I think it is important that we rationalise and we continue to rationalise our tax measures through enactment of proper provisions within the Finance Bill and not to assume that, we can undertake this overnight. It has to be a gradual, systematic and structured approach to the question of refining our tax proposals.

Mr. Speaker, Sir, on this score, I simply want to urge the Members of Parliament to bear in mind that, there was this controversial issue about the taxation of fringe benefits. Whereas it may seem a popular position to take and say that let that be changed so that we can revert to the previous position, I think it is important that we understand that we have to collect revenue across the board and we also have to equalise the taxation measures. What we want to be able to do is to first of all ensure that, we have a broad based tax level; then, when you lower the taxes, you lower them for everybody. We should not have a situation where some segments or some sectors of our society are benefitting from certain tax advantages and not everybody across the board. So, for those who may have the view, and I am sure that quite a number still have the view, that the issue that was controversial some time back where the bankers went on strike and they really wanted their benefits to be taxed at low cost--- I think it is a matter that we should reflect on and put behind us from the viewpoint that, let us rationalise taxation across the board. When taxes come down, let bankers, Members of Parliament and every Kenyan citizen benefit from a broad based tax reduction. But, we should not at this time, try and cultivate or put in place a situation where we are giving undue advantage to some special or privileged groups within our society.

Mr. Speaker, Sir, I would also like to say that there were indeed, some important concerns that were raised and the Minister for Finance, hopefully, allayed the fears that there are indeed, some issues that were discussed by the various Members in the Finance Departmental Committee and of particular significance here is really the question of what kind of c.c or capacity that a Member of Parliament should be entitled to, when dealing with a vehicle under the Parliamentary privileges.

Mr. Speaker, Sir, I think you read out the Standing Orders and you said that the Minister would then have to consult and I am sure that he will consult appropriately and since we have some time, he should be able to consult further upon hearing what are the other opinions that Members of Parliament have and maybe bring an appendix to the amendments that he has proposed and already attached to the preliminary Order Paper here. I think that is the position that I would like to take and to urge members that this time, let us not go for each others necks on this particular Finance Bill. Let us help each other in ensuring that we streamline our tax measures and all the issues that relate to tax collection and this must be viewed as a continuous process. I would like to repeat this. It must be viewed as a continuous process. It is not an issue that we can resolve overnight and we must also take into account how much can be given away, in terms of reductions and clearly the Minister has said that he has very little room for manoeuvre as the Minister for Finance because of the depressed economic situation that we are going through. Therefore, we should not allow Members of this House any areas where revenue is going to be lost substantially.

Mr. Speaker, Sir, with these few remarks, I beg to second.

*(Question proposed)*

**Mr. Mwiraria:** Thank you, Mr. Speaker, Sir. I rise to support this Bill. However, in supporting it, I want to make certain suggestions which I hope the Minister will take seriously. In his introduction to the Bill, he has told us that he wants to lower the domestic debts to 15 per cent of the GDP and it is true that since he read the Budget Speech, there has been a slight improvement in this direction. It would have been very interesting to hear



from the Minister whether the proposal of moving away from 91 day Treasury Bills to the longer term one year to two-year loans has gone through. That is whether he has had a substantial saving in this area, because previous experiments have failed miserably. So, Mr. Minister, in replying, would you please tell us whether you think that the proposal is likely to bear fruit.

*[Mr. Speaker left the Chair]*

*[Mr. Deputy Speaker took the Chair]*

Mr. Deputy Speaker, Sir, while it is very good for the Government to invest funds in areas where we expect good returns, for instance on roads which have been destroyed by the *El Nino* rains, I think the Government should address itself to the question of making sure that funds are properly utilised. I drove down to Mombasa a few weeks ago and I was horrified by the state of the road, even where the road had been recently repaired; where the Chinese team was working. You find that the newly made road has broken up, they have come and dug holes and filled them but not sufficiently enough to remove the damage. So, when you drive on the road, you are going through potholes which have been made deliberately and one wonders whether there is any supervision at all on the roads, by the Ministry of Public Works and Housing.

Mr. Deputy Speaker, Sir, another point that I want to make is that, it is absolutely vital that we make good use of the little money that we have. The Minister has clearly admitted that, the country is in a financial bind. How can we expect to get out of this bind if a road in Nairobi is made today and in two months, it breaks down?

Mr. Deputy Speaker, Sir, how can we get out of this problem if roads in Nairobi are repaired only to break up again after a few months? Is it because we give contracts that are not properly worked out? Is it because we do not supervise the work? Is it because the officers who supervise them compromise the position of the Kenyan people? Mr. Minister, I think this is absolutely vital. In addition, we still have too many tarmac roads which were destroyed at the beginning of the year. It is difficult to motor on those roads even today because nothing has been done to them. I hope the Government will look into those roads.

Mr. Deputy Speaker, Speaker, Sir, let me turn to tax measures. I would like to comment on the Fringe Benefit Tax.

*(Loud Consultations)*

**Mr. Muite:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for hon. Kones, hon. Orengo and hon. Biwott to continue debate on the Motion of No-Confidence when we want to listen to hon. Mwiraria?

*(Laughter)*

**Mr. Deputy Speaker:** Order! Order! I do not know what Motion they are debating but, certainly, it is out of order for them to consult in such loud voices that we cannot hear the hon. Member who is on the Floor. So, hon. Mwiraria, continue.

**Mr. Mwiraria:** Mr. Deputy Speaker, Sir, thank you for protecting me. I was just beginning to comment on the Fringe Benefits Tax. First and foremost, I want to draw the attention of the Minister to the fact that while he is taxing Fringe Benefits of some kind, he is not taxing others. We have, for example, in the amended Bill, an addition of people who should get duty-free privileges. The people being given these privileges are the civil servants who enjoy Government cars. We were told the number of cars they use would be reduced but they are still keeping all of them. Unlike hon. Members, these civil servants do not necessarily need cars for their work. If the Permanent Secretaries, Service Commanders, the Commissioner of Police, *et cetera*, were to be given cars for duty without taxation, we would not raise questions. If they are to be given this privilege over and above the official cars, we must ask whether the Minister is not applying double standards. Does he not consider a duty-free car a fringe benefit? Certainly, I would consider it a fringe benefit, which, after what has happened, should attract tax.

Mr. Deputy Speaker, Sir, my other point is that I do not know to what extent the Minister has evaluated the impact of the Fringe Benefits Tax on the people who have been earning fringe benefits. If you have been getting a house loan at three per cent interest, and now you are required to pay 26 per cent, certainly, that can make a very big difference on your take-away income. It is not surprising, therefore, that the bankers did not take kindly to this tax. I agree that all Kenyans should be taxed fairly but, as I have just said, if we tax everybody's fringe benefits then, maybe, we should do so for everybody except for hon. Members - I am not favouring

ourselves here. I think hon. Members need cars, and that we get a miserable pay. Otherwise, I would have recommended that we tax hon. Members as well. But that I will not do because we need cars for our existence.

If you do not get to your constituency, you are not performing your duty, and your constituents will not vote for you again. In any case, we cannot make some useful contributions in this House if we do not know what is happening in the field. We, hon. Members, are entitled to only one duty-free car each while some people who are entitled to official cars, drivers and petrol from the Government, are now being given a duty-free car for their pleasure. I hope that whatever vehicles they have been using for their pleasure will be taken away, and that they will pay fringe benefits tax.

Mr. Deputy Speaker, Sir, I still feel that one of the best things that have happened to this country's economy is the liberalisation of the importation of cars, including second-hand cars. Many people are today able to drive in Nairobi, because they have access to second-hand cars. Mr. Minister, while I agree that we need to ensure that all the cars coming into the country meet our country's environmental requirements, I think we also ought to implement the existing laws regarding air pollution by motor vehicles, so that, once again, we do not appear to be penalising people who are importing second-hand cars. These cars may not be as bad as the huge lorries, the *matatus* and other vehicles, which emit clearly visible carbon monoxide.

Mr. Deputy Speaker, Sir, I really appreciate what the Minister did with regard to Presumptive Tax. I appreciate the very few measures he has taken to boost the agricultural sector, but I would like to pose a few questions. The first one is that, even though we are defining a separate category of refined sugar for industrial use; in the very recent past, a lot of sugar has been brought into this country under the guise of "refined sugar" for industrial use. This was ordinary white sugar, which was diverted into the Kenyan market. The question then arises: To what extent is the Government able to enforce these taxes once they are put in place? To what extent will the Government avoid revenue loss through swindling by importers? I think that even of greater importance to the agricultural sector is the fact that our farmers feel unprotected and defenceless. For some strange reasons, importation of certain agricultural commodities seem to coincide with the harvest period in Kenya. For example, early this year, maize was imported with a view to staving off possible famine following the *El Nino* rains. However, the importation of that maize coincided with the harvest of maize from places which normally do not yield much. For example, Ukambani, the drier parts of Meru and many other parts of this county produced a lot of maize. As a result, Mr. Minister, the farmers started selling their maize for Kshs450 per bag which was well below the economic price of the product. I think late last year, imports of wheat also coincided with the harvest of wheat internally and the Minister, who is a farmer, should be able to save the situation. I am really pleading with the Government, if imports are going to come in, then let the local produce be harvested and sold before cheaper products come in. I am aware that, Mr. Minister, that in this Bill, you are imposing Suspended Duty, but for the grace of God, this is not going to assist because of the way our laws are being flouted. Of course, this does not mean that your people who have been doing a good job in the recent months would, perhaps, not continue that way, but we have really to be vigilant to make sure that we protect our farmers.

The other point is that although you have made provision to assist people who want to build green houses for horticultural produce, I think the greatest number of Kenyans who need Government assistance are those who are producing our staple food, like maize, beans, wheat and sugar. It would have been wonderful to see, in this Bill, measures put in place to assist those farmers specifically. One of them, of course, was the removal of the Presumptive Tax which will come in force by January next year. But I think the time has come for the Government to address itself to the question of: what do we do to our farmers? They are the mainstay of the economy. They are the people who feed this nation and they are the people who need protection so that we get away from this habit of depending on outside farmers and instead produce enough food for ourselves.

Mr. Deputy Speaker, Sir, the Minister talked about the single business licence by the local authorities. This is certainly a good move, but it is not going to be enough. I have stated before that we have a very, very complex system of taxation. I said here that I know somebody in Dagoretti who prints T-Shirts for sale. He has to collect two licences from the City Council, two licences from the Ministry Tourism and Wildlife and one licence from the Ministry of Trade so that all together, for a little business, you need five licences. I am ready and willing to get all the licenses and hand over the list to the Minister. If we really want to assist business in this country, we should reduce all those licences to one, after all, the money is going to the same Government. It does not make sense for the Ministry of Tourism and Wildlife to charge money on the sale of a T-shirt to a tourist.

Let me now turn to what I consider, perhaps, the principal problem which the Minister has not addressed in the Bill. This is loss of revenue to the Government. The Government Ministries and Departments are not collecting the revenue they should be collecting. In the good old days, if there was land somewhere, for instance, in Nairobi, which needed to be subdivided for residential housing and allocated to the people; that land was alienated, subdivided, advertised in the normal gazette and people would apply. They would pay application fees

and all the other charges, every bit of revenue accruing to the Government. I am saying this with proper evidence. Today, the Ministry of Lands and Settlement has established what they call the District Lands Allocation Committees. This Committee comprises of the DC, who is the chairman, the Physical Planning Officer, the clerk of either the county council or the municipality and the Lands and Settlement Officer. These people, instead of taking all the plots to the Ministry of Lands and Settlement so that they are advertised for the people to apply and they pay for everything; they become their property. Each one of them gets plots and they start selling them to individuals. I think it is regrettable that this is happening. In fact, they are charging much, much more than the Ministry of Lands and Settlement would have charged and the people are paying. So, why deny the Government the revenue?

The second one, and I will give only two examples, concerns the Ministry of Natural Resources. On the Mt. Kenya Forest, at least, that part which is in Meru, they are cutting all the indigenous trees making timber and poles for fencing from very old cedar trees. All that is happening is that people go to the man in charge of forests and they are allowed to go into the forest and cut down trees, no revenue accrues to the Government. To add insult to injury, in Meru, it is the lorry of the Ministry of Natural Resources which transports the timber and the poles out of the forest which are later sold to individuals without receipts. Can we really afford this at a time when we are in financial constraints? The answer is simple; we certainly cannot afford it. Of course, having made those points, I can only add that this may not be happening everywhere, but in Meru for some strange reasons, everything seems to have got out of hand. I cannot say that we are collecting any revenue from several Government Ministries.

Regarding your own Ministry, the Ministry of Finance, in the various revenue collecting departments like the KRA; we are aware that there is still corruption. People are sharing revenue with the taxpayers and people are waiving certain quantities of taxes. It is good to see that we want to increase the independence of the KRA so that these things can become a matter of the past. I really hope that with the independence, there will be better salaries because a well paid civil servant will not be tempted to resort to corruption.

Mr. Deputy Speaker, Sir, let me now just say a word about competition from imports coming to Kenya. Unfortunately, these days, although we are getting imports from all over the world, we are getting some very cheap products which have been thrown away as second items in their countries of origin. But, when they come to Kenya, Kenyans who seem to love imported goods more than they love their own products, which are in some cases of better quality, will buy them. I think although we have asked some companies to inspect our goods, most of the goods which are carried by passengers or said to be unaccompanied luggage still find their way. A lot cheap imported goods are second-hand from the countries of their origins. But the ordinary Kenyans pay the full cost. I think if we have to save our industries, we have to address this aspect of importation.

Mr. Deputy Speaker, Sir, liberalisation has been good because there are quite a few people who are benefitting from it. But should we allow them to benefit from it by buying takataka and bringing it into the country? Or should we ensure that it is only quality goods which come in and which Kenyans are allowed to buy in order to protect our own industries? In addition, I should mention the fact that in the world where world trade has become globalised, there is no way a textile mill in Kenya can compete with a similar mill in China or India where they are manufacturing large quantities and where the benefits from the economies are tremendous. We really ought to be thinking of what to do. Do we need this completely liberal system where we are going to close most of our factories as we have done with the textile mills? Or should we give them a measure of protection? If we are going to industrialise as a small country, we have to introduce a measure of protection for the local industries. I would urge the Minister to address this issue squarely.

Mr. Deputy Speaker, Sir, I believe the Minister has given us the Bill which a lot of thoughts and consideration have gone into; a Bill which in no doubt will be the stepping stone for better Bills which will turn the economy of this country round.

Apart from the few points I have made, I would like to support the Bill. Thank you, Mr. Deputy Speaker.

*(Applause)*

**Mr. Mkalla:** Mr. Deputy Speaker, Sir, on behalf of the Members of the Departmental Committee on Finance, Planning and Trade, and pursuant to the provisions of Standing Order No. 101 (3), I would like to take this opportunity to present to the House the report and recommendations of the Committee on the Finance Bill.

The Finance Bill was referred to the Committee on the 1st July, 1998, upon the Motion read by the Minister for Finance. The Committee commenced its work on the Bill on the 6th July, 1998 and held four sittings. I am very happy to report that the Ministry of Finance provided all the people we needed during our meetings. The Minister, in person, attended our meetings, the Permanent Secretary, the Financial Secretary, the Director of

Budgets and other technical personnel from the Ministry Finance, did also attend our meetings. The Committee considered the Finance Bill and proposed some amendments most of which were accepted by the Minister for Finance. However, there were some which will probably require further discussions as we agreed particularly on clause 9 under our minute No.25 on duty exemptions on cars which are brought in.

Mr. Deputy Speaker, Sir, the Bill was suggesting to have cars of up to 2000 cc and the four wheel-drive up to 3,000 cc being exempted. But the Finance Committee suggested an improvement on that so that we could have up to about 3,200 cc for the smaller cars and about 4,500cc for the four-wheel drive. The argument put by the Members of the Finance Committee is that all Members of Parliament in this House seem to be using roads which are either badly tarmacked or inaccessible. So, for the five-year period they are in the reserves, they need vehicles which can easily move within those areas so that they can be able to see what is happening within their constituencies. So, the argument raised by the Members of the Finance Committee is that they would like to see the MPs having durable vehicles which can facilitate their movements within those constituencies and be able to come back to this Parliament to present the problems of the people they represent.

Mr. Deputy Speaker, Sir, the other amendment we looked at was the question of the interest which is being paid by people who are normally late in paying their taxes. However, after discussing at length with the Minister, we did agree that there is need for those people who do not pay their taxes on time to pay interest because if we do not let them do so, we will be encouraging some people not to pay their taxes on time, and hence they will deliberately delay to pay. In this case, we will be denying the Government the revenue which is badly needed by this country.

Mr. Deputy Speaker, Sir, there was another issue about the Kenya Revenue Authority being allowed to borrow or lend money. We did seek some clarifications from the Minister and we argued that it was necessary for the Kenya Revenue Authority to be allowed to borrow or lend money as a separate entity on its own and maybe enable the corporation to meet its own financial obligations. We did advise the Minister to make sure that the people who are appointed to the Board of the Kenya Revenue Authority should be people of very high integrity as it is a sensitive institution so that the loss of revenue is stopped.

Mr. Deputy Speaker, Sir, we found it necessary to support most of the things which had been suggested by the Minister considering the current economic problems we have in this country. We did agree with the Minister that there is need for him to be able to collect all the monies due to the Government to facilitate the improvement of the infrastructure in this country. In order to improve the infrastructure, we need that money. There are certain areas which could be very good today if farming was done, but because of lack of water, they are not able to continue with their farming activities. If this money was collected properly through the Ministry of Finance, we think the semi-arid areas of this country would be assisted in getting water in the form of dam water so that the people can do irrigation in those areas and Kenya can become self-sufficient in food production.

Mr. Deputy Speaker, Sir, we also did consider the diversion of transit goods in this country today. We did agree with the Minister that there is need to curb completely these situations where goods are diverted and duty is not paid to the Government. So, we did support the proposals by the Minister and we believe that if those are implemented, then the country will have quite enough money to sustain its own obligations.

Mr. Deputy Speaker, Sir, the question of taxation on fringe benefits was also considered. We also believe that all Kenyans need to be treated fairly and the Committee agreed that there is no need of treating a few Kenyans differently. If fringe benefits are to be taxed, let that be done for everybody. We do not believe that a small class should benefit unfairly while others continue to suffer because they are lacking certain facilities.

Mr. Deputy Speaker, Sir, there is need for the implementers and those who are charged with the responsibility of implementing projects in this country to make sure that the monies are used for the intended purposes so that the citizens of this country get the benefit of that money.

Mr. Deputy Speaker, Sir, we also looked at the tax waivers which are given to some imports in this country. We believe that if taxes on sugar, wheat and maize are reduced, they will be able to earn the country a lot of money which can be put into assisting this country in building the nation. We also think that the importation of second-hand cars, as cheap as they may look --- You will find that some of these cars which are imported have got four wheels but one of those wheels is smaller than the other three. So, the chances of an accident being caused by that car are very high and the risks of our people being involved in accidents are becoming more because of allowing second-hand cars into the country. So, we should look for ways and means of making sure that we become more strict on the importation of these cars which can cause problems to our nation.

Having discussed all those issues, I would like to say that we were very happy with the Minister because he agreed with most of our proposals except the one for the vehicles, specifically for the Members of Parliament where we differed a little bit. I am sure during the Committee Stage, this issue of the 3,200 cc and 4,4500 cc will be addressed. So, the Minister was generally in agreement with our amendments and he promised the Committee

that he will be able to move the amendments during the Committee Stage and this is reflected in our Minute 37/98.

With those remarks, I beg to support.

**Mr. Muite:** Mr. Deputy Speaker, Sir, when the Minister for Finance was moving this Bill, he mentioned a very important factor; confidence. The objectives of the Finance Bill is to assist in reviving the economy. The economy in many countries depends on that term, "confidence". The nationals must have confidence in their country and the multinationals must also have confidence. So, I assume that one of the objectives that the Minister for Finance is trying to achieve is to restore confidence in this country. Unless the economy grows, this Finance Bill will continue to be a waste of time. So, how do we restore confidence in this country, in nationals and even in multinationals? Confidence does not depend on what we say. It depends on what we do. That is what is going to restore confidence. So, we need to create an environment that is going to be conducive to the restoration of confidence.

Currently, there is a lot of chest-thumping; that instead of a vote of no confidence, in fact, it was a vote of confidence. Let us look at the poverty in this country. Let us spare a moment to reflect on unemployment. Let us spare a thought on the condition of our roads and health services. The relevant question is not whether a majority of Members of Parliament voted in a particular manner; what we should be asking is whether we have addressed the problem of the condition of our roads, the poverty, unemployment, the hospitals, the state of our economy and the insecurity in this country. Are these factors passing a vote of confidence in this Government or not? That is the question, that those in power should be asking themselves. Is the state of the economy, unemployment and poverty passing a vote of confidence in this Government or not?

We went to Mombasa to discuss the state of the economy, we went to Mbagathi twice but enough is not being done in order to take the economy of this country out of the mess in which it is. The Government has admitted that the economy is in the ICU. It is still there. If it is going to go back to the general ward, certain actions must be taken. I do recommend to this Government that the way forward to the revival of the economy and the restoration of confidence in this country is not to stage-manage meetings at Mbagathi, where the Government decides who it is going to invite. No, that is not the way! What we need is an approach similar to what we have done in the Constitutional Reform Process. Mr. Deputy Speaker, Sir, there are things we want to say at meetings like those ones. We cannot say them in the presence of the President because we need to respect the institution of the presidency. So, the President does not have to preside over these economic fora. Let him open a forum like that one and go away so that we call a spade a spade and talk bluntly. The Attorney-General has gathered experience in presiding over the constitutional reform process debate. Why can we not ask the Attorney-General and the Minister for Finance, without involving the President to ask the various constituencies, for example, bankers, stockbrokers and economists and those who deal with money all the time, to sent representatives in an economic forum? It is not for the Government to pinpoint who it wants to invite at an economic forum. We want the institutions themselves to decide who should attend and present them at an economic forum, like we did with the Constitution at Reform Process. We want a multisectoral approach in order for us to debate. So, I am suggesting that instead of these economic forums that are presided over by the President, let the Minister for Finance and the Attorney-General draw a list of all the important constituencies, as far as the economy of this country is concerned, the association of manufacturers, the chamber of commerce, the bankers, insurance people and coffee and tea farmers and so on. Let them be invited to sent representatives. Let us go to the Bomas of Kenya this time to discuss about the economy of this country. This is what we want.

*(Loud consultations)*

**Mr. Deputy Speaker:** Mr. Sambu and Mr. Sumbeiywo, the people you are consulting with are strangers in this House. So, if you want to consult them, do so quietly, so that the Chair may not hear.

**Mr. Muite:** Mr. Deputy Speaker, Sir, if the Government has the political will to revamp the economy, then they have to involve all Kenyans in identifying what is wrong with the economy and in searching for the solution. We want a plenary meeting where all these institutions will be represented because the collective wisdom of the Kenya people will identify the problem and the solution, but the Government must be willing to implement that. If we had a plenary meeting like that one which is not controlled by the Government--- The Government must relinquish control and actually access the collective wisdom of the Kenyan people and they will be told how to move forward. If we had a plenary meeting like that one, out of the debate and the discussions, a working committee can then be elected. Last time we went to Mbagathi and we were over 200 members--- That sort of plenary, its importance is only in building a consensus which we need. But then after that consensus, we need to have a situation where those participants from all those constituencies will elect a working committee

which should be elected freely now to go and attend to the nitty-gritty; to identify solutions and a programme for implementation. There are some actions that can be taken and implemented immediately. There are others which can be implemented in the medium term and others that are long term. But I am sure if we move together as Kenyans, and if the Government allowed this environment, we would come up with solutions.

The Minister talked about revenue collection. I will invite the Minister through the Chair, to have discussions with the chief executives of major oil companies in this country. Let the Minister invite them as I have personally spoken to a number of them. They will tell the Minister to his face very candidly that a few months ago when the President took up the issue of fuel dumping here, it stopped for a time. But tomorrow if the Minister for Finance calls the chief executives of these oil companies, he will be told that today, it is back to business as usual. According to the statistics being given by the chief executives of oil companies, this country is losing between US\$50 and US\$60 million in revenue collection per annum because people buy petroleum products pretending that they are for export and then they are sold in this country. When you consider petrol alone, for example, when you produce Kshs1,000 from your pocket to fill your car, over Kshs600 out of that Kshs1,000 is going to this Government by way of taxation. Tax on sales is over 60 per cent. It is going into the coffers or is supposed to go to the Government. So, we are talking about a lot of money. If somebody buys petrol worth Kshs100 million today, pretending it is for export, and then that petrol is dumped here, out of Kshs100 million, Kshs60 million is going into his pocket. We are talking about the Government losing a lot of money.

So, these are loopholes that can be closed almost immediately in our revenue collection. But the Government has to have the will in order to close these loophole in tax collection.

For example, take the Government houses in Kileleshwa, Upper Hill and in all the urban centres; they have been dished out to individuals. The Government does not own these properties as private property. There is no such thing as Government land or houses. Public land and houses are held by the Government of the day on trust for the Kenyan people. They are not private property by the Government. They are held on trust for the Kenyan people. The old houses at Upper Hill used to have a plot; almost half an acre in size. There are very extremely valuable properties in Kileleshwa, Upper Hill and so on. If, for whatever reason, the Government does not want to continue owning a particular property like that one; let that property be advertised. Let it be bought by the highest bidder at commercial rates so that the proceeds of sales can go into the Consolidated Fund. This is a way in which the Ministry of Finance can raise revenue. When the proceeds of the sale have gone to the Consolidated Fund, that money can be used to repair our roads so that we all benefit. It can also be used in our hospitals so that we all benefit.

As I speak to you now, I got call from Kenyatta National Hospital that one of my constituents for whom we did a harambee to raise money to save his life was treated, but he is being held at Kenyatta National Hospital because the balance of the money that is being charged has not been paid. This is what is going on in all the public hospitals. Our hospital services are in a pathetic condition. So, a property like this one in Upper Hill or Kileleshwa should be sold to the highest bidder so that money would be used for poor people like those ones who have to go to Kenyatta National Hospital because they have no choice.

What happens, Mr. Deputy Speaker, Sir? Instead of this Government arranging to collect revenue like that, those houses are given to individuals by way of bribery and to buy political support. You find those houses being given to judges and people from whom the Government wants political support.

What is the justification for two people who take a beer, whether it is manufactured by Kenya Breweries Limited or Castle Company--- They are both poor and the following day one of them is given a letter of allotment of a Government house in Woodley, Upper Hill or Kileleshwa Estates. The day after, he sells it for Kshs20 million, 30 million or 40 million, which he puts into his pocket. What justification is there for one to be given a Government house which he later sells for that amount of money and pockets it? Why not me or any other Kenyan? How can we justify this? It is a breach of trust by the Government. It is wrong and this is corruption. The Government is converting these properties, that it holds on trust for us, to private property. As long as this is going on, who is going to have confidence in this Government? The Government says that it is going to fight corruption while it practices it. Yet, we continue to talk about some people who burnt some tractors at Karura Forest. The Government is not talking about the grabbing.

**An hon. Member:** They are all grabbers and we know them!

**Mr. Muite:** Mr. Deputy Speaker, Sir, nobody has talked about those who have grabbed part of the forest. We had given this particular contractor seven days notice to remove those tractors from the site.

**The Assistant Minister, Office of the President (Mr. Angwenyi):** On a point of order, Mr. Speaker, Sir. Is the hon. Member for Kabete Constituency in order to mislead this House that it is lawful to burn peoples' property, and yet the law in this country protects peoples' lives and property?

**An hon. Member:** That is an argument and not a point of order!

**Mr. Deputy Speaker:** Order! Of course, nobody is in order to burn anybody's property, whether he is an hon. Member or from wherever. I do not think that the hon. Member was really raising a point of order: He was merely trying to argue with the hon. Member on the Floor of this House. So, Proceed, hon. Muite.

**Mr. Muite:** Mr. Deputy Speaker, Sir, I am sure that when the hon. Member will catch the Speaker's eye, he will contribute what he was trying to raise in his point of order. He will also have the opportunity of defending the grabbers and telling us who they are. Is it not significant that each and every hon. Member of this Government who has spoken on this issue is protecting the Asian contractor whose tractors were burnt, when he has said he had no quarrel with anybody? He had been given seven days notice to remove those tractors from Karura Forest. How come that nobody in this Government has talked about grabbing, which is even a worse crime?

**Mr. Deputy Speaker:** Mr. Muite, let us debate the Finance Bill which is before this House.

**Mr. Muite:** Mr. Deputy Speaker, Sir, I am saying that even if, for whatever reason, the Government was to arrive at a decision to dispose of Karura Forest, it should advertise that chunk of land. It should be advertised, so that everybody who wants to buy the land can do so, and the money can go to the Consolidated Fund. That is one way of raising revenue, instead of dishing out the land for free to Lima Limited and other people. These people then sell it for Kshs40 million or Kshs.60 million the following day. That is corruption, which is a worse crime than the burning of the properties at Karura Forest.

**Dr. Kituyi:** I wish to inform hon. Muite that one of the possible reasons why there is nobody from the Government who is complaining about the grabbers is that Lima Limited, which is associated with hon. Biwott, received an allocation of 8.5 hectares of land in the Karura Forest.

**Mr. Muite:** We want to hear the Minister for Finance addressing these issues. Does he not want to collect revenue from those sources? These are some of the issues we want the Government to tackle if it is serious. If this Government wants to restore confidence among Kenyans---

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

**Mr. Deputy Speaker:** Hon. Mwenje, where have you been?

**Mr. Mwenje:** Mr. Deputy Speaker, Sir I have been sitting here in the Front Bench. Is it in order for hon. Dr. Kituyi to mention one person who was allocated land in Karura Forest and leave the others when he knows that it was not only Lima Limited, which was allocated the land?

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

**Mr. Deputy Speaker:** Order! Order! First of all it was out of order for hon. Muite to mention the name of a person in this House. If he is an hon. Member of this House, as you all know from our Standing Orders you should move a substantive Motion in the House. If they are not in the House, you cannot malign them because they cannot come and defend themselves. I let it through because I thought that he was doing it with a light touch. Now if he wants to compound it, then we are going to revisit what he said. I do not think that is what he intended to say in this House. Please, continue hon. Muite.

**Mr. Muite:** Mr. Deputy Speaker, Sir, the Government will not restore confidence among Kenyans unless it acts. I would like to say that a multi-sectoral economic commission will go a very long way towards restoring confidence in this country. We cannot delink the political and constitutional reform process from the economic reform process. All these are dynamic processes that lead up to the restoration of confidence. If the Government wants to create an environment in which confidence is going to be restored, and we are able to resuscitate the economy of this country, the way forward is to arrange the sort of economic fora that I have mentioned. In addition, we need the Government to create the overall environment in which confidence can be restored.

If we take the issue of the teachers, they have merely suspended the strike, but have not cancelled it. The bankers also merely suspended the strike. There is very extensive labour unrest in this country. This is so because no Kenyan is able to live from the money he is earning because of the high cost of living. It is way ahead of the income. Unless the issue of the economy is resolved, then we are sitting on a time bomb. It maybe true that this Government does not have money to pay the teachers, but it does not have the moral authority to tell them so. I am saying this because it is not the teachers who have been looting the economy or engaging in corruption in this country. The reason why there is no money to pay them is because it has been stolen by politically well-connected individuals. There is no money because the economy has been mismanaged. So, the Government does not have the moral authority to tell the teachers it does not have money to pay them. This is because it is responsible for the state of the economy. It also does not have the moral authority to tell the bankers that it is not going to exempt them from paying tax. If we are going to create that environment---

**The Minister for Local Authorities** (Prof. Ongeru): On a point of order, Mr. Deputy Speaker, Sir. Is hon. Muite in order to say that the Government has no moral authority, when he knows very well that on Thursday evening the moral authority was fully established in this House?

*(Applause)*

**Mr. Deputy Speaker:** Order! Order! Hon. Muite is in order to say anything in this House, so long as he is not infringing our Standing Orders. He has gone fairly close, but he has not gone so far. Proceed hon. Muite! Please, may I remind you that we are actually discussing the Finance Bill and not the Financial Statement. These are two different issues. During debate on the Financial Statement, you can make general comments about anything, but this is a Bill making specific proposals and those are the issues you must address. Proceed hon. Muite!

**Mr. Muite:** Thank you, Mr. Deputy, Speaker, Sir. The hon. Member for Nyaribari Masaba is also aware that the majority of Kenyans passed a vote of confidence in the 67 hon. Members who voted for the Motion. Those are the people who matter. Very soon you are going to see the power of those people who matter. The time is coming. I was just saying that if this Government wants to restore confidence for us to move forward, we have got to have a new team. This Government must begin to accept the concept of a Government of national unity.

**Mr. Deputy Speaker:** Hon. Muite, I am sorry to interrupt you but really now you have had enough time to lay your ground for attacking the proposals in the Bill. I would invite you to attack these proposals as per the ground you have laid.

**Mr. Muite:** Mr. Deputy Speaker, Sir, as you may wish. Let me then come to the issue of the bankers and say this that those workers who work for an airline get free air tickets. The workers who work in the hotel industry get free meals and there are many others. Yes, even those who are working in a bakery take home a loaf of bread. Those who work in the matatus their families are carried free. Those who work for the railways get, free travel. Even us as Members of Parliament we get allowances, that are not being taxed to buy vehicles. The amount that the Minister for Finance is collecting from the bankers is very small. The bankers work with money. If you do not give them enough incentive, and then you are asking them to look after peoples money, it is not possible. I appeal, through the Chair to the Minister of Finance to reconsider the issue of the bankers and to remove this tax entirely. If that does not happen, there is no need to hide anything from the Minister for Finance. We are in discussion with the union leaders of these bankers. We are talking to them, the doctors and all these people. And you will see before December a strike by all these sectors co-ordinated by us. We are going to co-ordinate this time. Unless you agree to revive the economy of this country---

You have stopped me from elaborating and I want to respect your ruling. So, I will wait for another opportunity to really elaborate on the differences between a one party system and a Government of national unity. The two are as far removed from each other as the north pole and the south pole. But I cannot go into that. All I am saying is that this country is in a serious economic crisis. If the Government does not want assistance in pulling this country out of the economic crisis, then it should start bracing itself. We are going to co-ordinate these strikes. We are going to call a general strike in this country because it appears to us that the only time this Government wants to negotiate is when they are pushed against the wall through mass action. So, we are giving notice today that we are going to go back to that in order to revive the economy in this country.

With those words, I beg to support.

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, I am not going to speak for a long time. But I would like to put on record quite a number of things. I will start with the proposed amendments moved by the Minister, that is the insertion of Item No.35.

Mr. Deputy Speaker, Sir, sometimes it can be tempting for one to confuse the possibility of a Member of Parliament acquiring a vehicle duty-free, to be a fringe benefit and, therefore, to satisfy the subordinate political class, with other benefits you will fix. You want to give them what you are giving to Members of Parliament. First, I would like to disabuse the House of that notion. A motorable vehicle that can take the roads after the *El Nino* is a necessary tool of labour for hon. Members of Parliament. Any civil servant who qualifies and does access a Government vehicle, paid for by the taxpayers, in the appropriation of his labour resources, has no justification whatsoever, to start competing for a duty-free vehicle. There is no justification why a civil servant, or a member of the disciplined forces who has a GK Pajero and an Elegance Mercedes Benz maintained by the taxpayers of this country, being given in addition to that, a duty-free vehicle. You cannot ask for that at the same time you are telling Kenyans that this is the time to tighten our belts. It just does not make sense. If we are tightening our belts, the top cream of the public service are the ones who are to lead by example. Even if they had



it coming, this is the time they should decide. At a time when we are reducing the size of engine of a vehicle for whom the vehicle is an instrument of labour, they have no other vehicles to go to talk to the constituents to be sent to the National Assembly. That is hardly the time, first, to reduce the vehicles to a category which already has public vehicles, some even with helicopters, like the Commissioner of Police. Secondly, to say that they can import duty-free a vehicle up to 12 passengers sitting capacity, what business do civil servants have to importing matatus? Item 35 is allowing them a vehicle of not more than 13 passengers. What labour relationship are they involved in, that requires them to have the capacity to carry around 13 people? Why should they be allowed to buy a new duty-free car every four years, as provided in the last line of Item 35?

Mr. Deputy Speaker, Sir, I think on the basis of all the logic that the hon. Minister had, even in attempting to modify the capacities for vehicles for hon. Members of Parliament, in the argument about stringent financial measures because of the austerity conditions that we are operating under, there is absolutely no justification whatsoever, for the introduction of Item 35.

**The Minister for Local Authorities** (Prof. Onger): On a point of order, Mr. Deputy Speaker, Sir.

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, I hope the hon. Member of Parliament is not wanting to start an argument.

**The Minister for Local Authorities** (Prof. Onger): Mr. Deputy Speaker, Sir, I am a little lost when Dr. Kituyi says that they are being allowed to buy matatus. Is he not misleading this House at this stage? This is because my notes reads "excluding", and not "including".

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, again I have to labour the point to the Minister for Townships. Motor vehicles not exceeding 13 passengers---

**Mr. Deputy Speaker:** Order! It reads "Excluding buses and mini-buses of more than 13 passengers". It means those that are less are included.

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, I thought that the Professor of Medicine was taught in the English language in this country.

**Mr. Deputy Speaker:** Order, Dr. Kituyi! We must be civil. Let us not pre-judge on what the hon. Minister is going to say in his reply to this debate. So, let the points and questions raised be accumulated by the Minister, so that he can respond in total to all of them.

**Dr. Kituyi:** Thank you very much, Mr. Deputy Speaker, Sir. In fact, I would like the hon. Professor of Medicine to be so civil and patience as his neighbour who is taking note of the issues that I am raising.

I wish to address myself to the matter of the provisions being made for refined sugar for industrial use. Of course, part of the concern that is being addressed here, relates to persons who are able to bring in commercial ordinary sugar under the guise that it is industrial sugar. We have just created new work for my constituent called Mr. Elijah Wasike Mwangale, that the Kenya Bureau of Standards is involved in the inspection of cargo of imported cereals and so on, as they come into the country. Surely, are we serious that the reason why sugar is being dumped in this country, is because it is often mistaken to be industrial sugar? That is not true. Nobody can import 10,000 tonnes of industrial sugar all of a sudden, who has not been supplying Coca Cola. There can never be any massive upsurge in the importation of industrial sugar without a correlated expansion in the consumption of industrial sugar in the country. Since there is no massive expansion in industrial activity anyway, how can anybody disguise dumping of sugar under the guise that it is industrial sugar? In fact, to my mind, what the Government should do if it worries that people are bringing in sugar, claiming it is industrial sugar--- On the open market of Singapore today, it costs less than US\$4,000 purchase a serviceable factory for converting ordinary sugar into industrial sugar. The Government should look for incentives for an entrepreneur to start manufacturing industrial sugar in Kenya, instead of looking for stringent measures of telling whether it is dumped sugar, or sugar destined for transit is dumped in the local market or whether it qualifies as industrial sugar and not ordinary sugar.

Mr. Deputy Speaker, Sir, in the same provision for industrial sugar, there is a problem that is very worrisome. The last sentence says: "such conditions as the Commissioner may specify". Recently, we had a very legitimate concern made by the officials of the Kenya Revenue Authority, that there are so many exemptions in our taxation laws. There are digressions given to the Minister and Customs Officers as they may from time to time decide. This makes it very difficult for objective implementation of taxation measures. I am very glad that the same KRA did acknowledge that this hon. Minister has been very judicial in the exercise of those powers. But I am not in any way meaning that I am praising the Minister. But you know, when you do less badly than others in a large crowd, you really look good. So, relative to the kind of people you are working with, Mr. Minister, you have tried very much.

Mr. Deputy Speaker, Sir, what I am saying is that in order to curtail the hand of temptation, why do we

not work towards taxation regimes which reduce unnecessary exemptions and digressions? That is the fundamental point that I am raising. Why do we leave it to the good intentions and habits of hon. Nyachae to stop corruption? Why do we not exclude him so that when he is replaced by a person who is less virtuous than himself, or less patriotic than himself, we do not start getting counterfeit leaders because they are made by money through corruption? I think it is important for institution building, that we steadily work towards removal of exemptions and digressions which do not make much sense for the country.

Mr. Deputy Speaker, Sir, my very good friend, the Minister for Agriculture, in seconding this Bill, did talk about movement towards equalisation of taxation measures, and said how it will be fair that we are going steadily to be fair to everybody. Even the authors of liberal bourgeoisie democracy, and taxation measures capitalists, know that there is nothing fair about equalisation of taxation measures. If you take the same amount of taxation in cents from every pound, for a multi-millionaire and for a worker, for one, you are reducing the decisions of whether there will be bread on the breakfast table or not. For another, you are reducing the engine capacity of the yacht he will be sailing on, or the luxury car he will have as car number four. There is no fairness in the equalisation of taxation measures, blind of class differentiation and income disparity. Equalised taxation is not fair taxation.

Mr. Deputy Speaker, Sir, in fact, there has been steady movement and propaganda from conservative economic thinking that as we move away from direct taxation and going to indirect taxation instruments we are becoming fairer because of the ease of collection. It may be true that indirect taxation extracted at source, is easier to collect than direct taxation. But indirect taxation increases the burden on lower income groups to subsidise the luxuries of the higher income groups. So, I hope genuinely, that at the time when liberalisation is leading to the destruction of social infrastructure, this Government do not drive us towards an era when we have equalised taxation measures. I do not think it is good for us. At a time when the State is running away from responsibility for the social reproduction of the workers, when it is not the State with the responsibility to pay for education and health care, and when it has failed to introduce rural mutuals to reduce the burden of the health insurance; when the State is being moved away from rural areas to improve on urban infrastructure to attract international investors, who zip through so long as the local stock markets are stable for the short-term, it is very dangerous for us to forget the social responsibility of leadership.

In fact, slightly connected to that, but partly different, I would like to say the following. Over the past decade, we have been embracing international propaganda about liberalisation. Everything is put at the doorstep of the World Bank. We want to liberalise this. We want to free conditions for investors, foreign and domestic. In the process, the State which had, for a long time, accounted for the rapid improvement of social infrastructure and social welfare, the State which made Kenya between 1963 and 1975 acquire the fastest expansion of infant immunization in the whole of the Third World, that State was forced against the wall to prove that it is good because it is moving money from immunization and putting that money in improving telecommunications in urban centres, so that international investors can bring in their money. We, as a political class, cannot afford to run away from responsibilities to the decaying whole infrastructure. We cannot afford to celebrate that we are doing well because we can attract foreigners to invest in Athi River. We must ask ourselves: "Why have we made it impossible for Kenyan investors to invest in Kitutu Chache, Suneka or Kapenguria?" This is because we are forced by multinationals and the ideological instruments of multinationals are the IMF, that is "International Ministry of Finance", World Bank, USAID and the so-called Paris Club, who are forcing us to surrender our social responsibility and, irrationally, transfer all public earnings to create conditions for vulnerable international capital which comes for a short while, but this financial *El Nino* which has done like in the South East Asia, South Africa and Latin America, leaves behind the carcasses of liberalisation. We must leave a certain cushion for our people. We must fight all temptations that take away our responsibility to invest in human resource development.

Mr. Deputy Speaker, Sir, on the matter of bankers and the Fringe Benefits Tax, I would like to state that I am slightly removed from the position held by my friend, the hon. Paul Muite. To my mind, the Fringe Benefits Tax is justified. However, if you are saying that there is injustice being done by some people not being taxed when others are being taxed, you must start at the implementation in such a way that people's anticipations can be accommodated. What do I mean? That if some people have been taking loans because they anticipated certain incomes or benefits from their employer, it is not fair to impose a tax which curtails those benefits overnight, without giving them a certain grace period in which they can re-adjust to the new conditions. To my mind, the Government and the Minister for Finance should have staggered the implementation of Fringe Benefits Tax over a number of years, to allow the employees of banks to reduce their burden in such a way that we do not radically change their livelihood, and we do not start forcing them to moonlight, like many civil servants have been doing.

Mr. Deputy Speaker, Sir, one area of taxation that I do not think the Government is attempting satisfactorily, is what I would call "carbon taxes". As the domicile of the United Nations Headquarters

environmental concern UNEP, this country should have been one of the leading countries in using taxation instruments to punish those who are using environmentally unjustifiable technologies, and to reward those who are innovating in a way as to preserve our environmental heritage. There are many cases where it has worked. In many countries, the introduction of a carbon tax that you are using a technology that is polluting the environment, there is a substantial additional tax that will be a lot better than the Minister for Environmental Conservation visiting slaughterhouses to be photographed clearing roads. It will show most obtainable and more serious attention to environmental concerns than the subject we were concerned about; livestock blood flowing through the streets of Dagorreti market. In fact, a carbon tax will be able to get that blood off the streets of Dagorreti market without the Minister putting on gumboots and walking there. On a larger scale, beyond the propaganda of the proponents of environmental pollution, it will help this Government to generate substantial amounts of money. If we could strengthen our environmental monitoring and strengthen the instruments of carbon taxes, we would not only raise more money for the Minister for Finance, but also, to raise through taxation, the monies that will be necessary for environmental audit of existing manufacturing projects in this country. It is only in that context that I will touch slightly on the matter of Karura and other forests.

Mr. Deputy Speaker, Sir, the destruction of the natural ecosystem of this country is not a matter of political potshot. It is too important to be relegated to the level of partisan competition.

Mr. Deputy Speaker, Sir, if we take away Karura Forest, Ololua Forest in Ngong and the Ngong Road Forest which is also disappearing, the lands of Nairobi will disappear. Nairobi would be enveloped in a smog like Mexico City. It is within our means and accessibility to curtail our own greed and save this situation before it becomes irreversible. We owe it to posterity. We must demonstrate that apart from seeking to impose carbon taxes on those who are polluting the environment, we save the limited biological diversity resources that are recycling the air that we consume in Nairobi and in the whole country.

How are we going to raise consciousness among ourselves and the peasantry in the protection of rural forests, if in our principle metroplan, we do not even see our maintenance interest into protecting the limited forest resources that there are?

Mr. Deputy Speaker, Sir, there are two things I wish to mention. One, the crisis with dumping in this country has never been a crisis of limited taxation. When there is dumping of sugar or maize and the Government tells us that they are now increasing taxation, they are not reducing dumping. This is only making the bribe that is paid by the dumpers just to go up a bit.

If a person has been evading paying duty of 15 per cent on imported maize, increased duty of 40 per cent on imported maize means that he has to pay a higher bribe than he paid before. There is no incentive in increased duty on a smuggler to smuggle less. This just means that what he smuggles in is now higher premium. It is easier. The smaller fish cannot afford to smuggle in any more, but the higher fish can now dispose of what he is smuggling in faster because of limited competition from fellow smugglers.

We have to address why taxation measures have so far failed to stop the greed and the corruption that has been the main culprit in the dumping of uncustomed goods on our domestic market? Similarly, I think it is very unfortunate, as we talk about liberalisation and development, because these two terms to me are not mutually consistent. A certain level of liberalisation is negating development. It is de-stocking our capital resources that we have been building over the past 30 years. There is nothing to celebrate about Kenya becoming a supermarket of South Africa. The fact that we now consume ketch-ups, tomatoes and onions from South Africa; cheese and milk from New Zealand, does not mean that we are more developed than we were five years ago when we did not have those things on our shelves.

*(Applause)*

Mr. Deputy Speaker, Sir, I looked at this document and on page 287, there is a schedule; the second schedule about taxation of imports. The good Minister wants to impose the same level of taxation on tomato ketch-ups as on seed maize. Part of the crisis in the agricultural sector in Western Kenya has been the popularity of Kenya seed maize in Uganda: That the private market in Uganda attracts Kenya seed maize at a higher price than in the Kenyan markets. This leads to individuals in Kenya Seed Company Limited off-loading a lot of our seed maize onto the Uganda markets. The same individuals who are shareholders in private seed producing companies, like West Kenya Seed Company, sell us sub-standard seed maize.

Under those conditions, I thought it would be in our national interest to reduce duty on seed maize so long as we can control the quality of seed maize coming in. But, if we are subjecting seed maize to the same duty levels as ketch-ups, we should impose even 100 per cent duty on ketch-ups. Those who have appetites for ketch-ups which do not taste like Kenyan ketch-ups, can enjoy their christmas when they go out there; those that

have forced their taste to be accommodated to Kenyan ketch-ups instead of forcing the Kenyans' to be accommodated to the South African Ketch-ups. Mr. Deputy Speaker, Sir, we share a collective responsibility to posterity, that we do not turn this country into a laughing stock of our fore-fathers who bequeathed it to us. We cannot afford in any way to use the word "development" as if it is the same as opening our country to be raped by capitalism from other countries.

There have to be certain limits to the level at which we liberalise our markets, particularly the agricultural produce markets. Why should we try to prove to Europe and America that we have liberalised our agriculture more than they are ready to liberalise theirs?

We cannot export agricultural produce to Europe, cereals to America or citrus fruits to Japan. If the fathers of liberalised ideology and dogma cannot liberalise their agricultural sector and yet, it accounts for a much smaller component of their gross domestic product and employment creation, than it is just for us, what moral obligation do we have to pretend to do what they want to experiment with our economy?

With those few remarks, I beg to support.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, I will be very brief so that the others will also have a chance. I have actually three issues only. I would like to support this Bill, but in so doing, I would like to bring to the attention of the Minister a few areas which we are unhappy about and which we believe should be addressed. We appreciate that the taxation levels in Kenya are very high. At a rate of 24 per cent of our Gross Domestic Product (GDP), that is one of the highest taxes in the third world countries.

I am sure many of us who have been listening to the radio heard, for example, the tragedy that occurred in Nigeria. People were smuggling petroleum from the pipeline. In the end, whatever happened, there was this fire and approximately 1,000 people lost their lives.

We are talking about smuggling goods into this country. If one happens to pass through Molo Town, and he is unfortunate that his car petrol tank is empty, any petrol he gets from any of those stations, will not take him out of Molo Town. Those people are fond of buying bogus petrol which is mixed with water.

I do not know why the law enforcement officers have not visited the Molo petrol stations. For two times, I have passed through that place and I had petrol. Every time I have had a problem on the road and the mechanics, when they inspect, find all the petrol I have taken from those stations is basically water.

So, I do not know why they have not had an opportunity to look into this problem.

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, we have been talking about duty evasion. Without us co-operating, I do not think we are going to help the economy to prosper. I have a case here of sugar imported in August, 1997, by companies called Mayo and Singh Enterprises. These companies, instead of paying duties to the Government for sugar that was destined to go out of the country, they diverted that sugar into the local market. They have not paid a total of Kshs93 million.

The documents are here. I have import entries Nos.3571, 0060, 601 and 3150. Those companies I said; are May Enterprises and Singh Enterprises. The directors of these companies are; Messrs. Abu Ali, Yusuf Ali and one Member of Parliament here, who was an Assistant Minister and was sacked recently on the same issue.

**An hon. Member:** Who is that Member?

**Mr. Obwocha:** Of course you know who he is. If we are going to have hon. Members from this side who are supposed to help the Government to get revenue and they are the same people who are violating the rules, what are we going to do?

So, apart from the case he has in court, Mr. Twaha has another one here. I wish to lay on the Table of the House these documents for the Minister to collect money for the people of Kenya. This is Kshs93 million.

*(Mr. Obwocha laid the documents on the Table)*

Mr. Temporary Deputy Speaker, Sir, the other issue I wanted to touch on is an issue that has been touched on by some of my colleagues and this is in respect of the Fringe Benefits Tax. We are pleading with the Minister that this tax has generated a lot of heat in the country. Remember, there was a strike by bankers. At one stage they were accusing this Parliament of passing this Bill without scrutinizing it and yet this particular proposal had not come here. So, we are really pleading with the Minister to do something about this Fringe Benefits Tax.

Those of us who deal with taxation agreed that where people enjoy fringe benefits, there must be an element of taxation. So, we have no quarrel with that approach to taxation because it is a well known fact that, where people enjoy fringe benefits, an element of tax should be imposed. But what we are asking is mentioned in the current provision in this Finance Bill, on page 218 to page 219. Some of us believe that the kind of taxation the Minister is asking for is on the higher side.

With regard to 12D II(a), it states that, they will tax the difference between the interest that would have been payable on the loan, if calculated at the market interest rates and the prescribed rates of interest as provided under section 5A of the Income Tax Act, Cap.470. The current market interest rates taken by the Minister are at the level where the Treasury Bills are being given out. We feel that these rates, when taken as they are, and what probably the bankers, for example, are charged, it is on the higher side. Take an example of a loan of Kshs1 million; if the bank is charging 10 per cent and you are saying that the difference between 10 per cent and 27 per cent is 17 per cent, you are going to tax that bit on the Kshs1 million. If you calculate the tax on that, it will in itself come to Kshs150,000. Now, what kind of income does this employee earn in this bank? I think it is on the higher side and I would like to request the Minister that we move an amendment on this. I have already submitted an amendment that will reduce the rate from the current market rate to, at least, 10 per cent so that the difference is manageable. We are not opposing the tax. We are aware that many people do get fringe benefits, they are all over. Some are in the hotel industry as my colleagues have said. But at this rate, I think it is too much for the workers and I am requesting the Minister to think about this issue so that when we come to the Committee Stage we do not go into issues we have not agreed on.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to talk about the issue of cars. I agree with my colleagues, that in these amendments, we notice that the Minister has proposed that duty-free cars should be given to a number of civil servants and holders of constitutional offices. But these same people have an opportunity, or they currently enjoy opportunities in getting free cars from the Government. So, indeed, if they are going to get any cars, then these should be limited. We do not get any free cars from the Government ourselves and we also intend to move an amendment so that the restriction in this engine capacity is also altered.

All in all, many of the tax proposals are commendable, except for the additional issues some of my colleagues have proposed. I would agree that some of these proposals are necessary to try and bring the economy back on track; the Government needs to collect revenue. We need to have money to run the Government. So, I plead with the Minister that when we come to the Committee Stage, particularly on the issues of the Members' exemption and the Fringe Benefits Tax, we should look at this issue very closely.

Otherwise, with other proposals, I beg to support the Finance Bill. Thank you.

**Mr. Mwenje:** On a point of order, Mr. Temporary Deputy Speaker, Sir, now that we have contributed enough and there is still more that we will say in the Committee Stage, I beg to move that the mover be called upon to reply.

**The Temporary Deputy Speaker** (Mr. Poghiso): If that be the case, let me put the Question, that the mover be called upon to reply.

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

**The Minister for Finance** (Mr. Nyachae): Mr. Temporary Deputy Speaker, Sir, first let me take this opportunity to thank hon. Members for their contributions which are very useful. At least, one encouraging thing about this country is that, all the leaders in this House do realise that we need to work together so that we can revitalise our economy.

Mr. Temporary Deputy Speaker, Sir, I would like to touch on some of the issues that hon. Members have just mentioned. On the infrastructure, particularly the roads, I think if hon. Members went through the Financial Statement they would see that we are having a move to establish a board which will be managed mainly by the private sector and that would remove any of the weaknesses that exist at the moment.

Mr. Temporary Deputy Speaker, Sir, on the issue of fringe benefits, I think hon. Members need to know that everybody who enjoys fringe benefits in this country pays tax on those fringe benefits. Therefore, there is nobody who gets away with it, including the people who get free fuel in the oil industry. They pay tax on that. Civil servants who have been mentioned here as getting free transport, pay tax on that. Therefore, whether it is in the banking industry, oil industry and manufacturing industry, everybody pays tax for fringe benefits. And that tax is needed because we do not want to go and play cards which would appear to be discriminatory.

Mr. Temporary Deputy Speaker, Sir, there has been mention of cars for the civil servants. We are having a policy of reform for the public sector. This reform is going to include the terms and conditions and privileges of

that employee. We must see civil servants as employees. When they have this privilege, it means, therefore, that the free cars which they have been seen driving--- the process is to allow those vehicles only for official work. Those who are privileged will be required to use those cars which have been brought in duty-free for official work only.

Mr. Temporary Deputy Speaker, Sir, there has been talk about measures to be taken to protect the sugar industry. Now, we are all together dealing with this problem. The only point I want to emphasise which probably has not come out very clearly, is that, we are no longer going to allow any other dealer except those who use the refined sugar for their own purposes to import it. The quantity is known. For example, Del Monte and Coca Cola Company. Those are the only ones who are going to be allowed to import refined sugar. Anybody else will not import in the name of refined sugar when he has no industry for that purpose.

Mr. Temporary Deputy Speaker, Sir, on the question of production of crops, in the Financial Statement, I talked about supporting food production. In fact, I want to confirm to this House that we have already appointed a Kenyan Agricultural Economist who is already studying how we can finance and support food production. It is not going to be maize as people have said, it is going to include beans and even sweet potatoes because those are our food stuffs. That is already being done. We are, therefore, supporting agriculture particularly in that area of food production. He is a Kenyan and for that matter a Kikuyu.

Mr. Temporary Deputy Speaker, Sir, as regards duty waiver on food production, I would like to state that there is no waiver on food production except that we have an agreement with some international bodies like the World Food Programme who bring food specifically for emergency purposes. We cannot stop those ones. We also have the International Committee of the Red Cross and the United Nations High Commission for Refugees which we are giving waivers. But all others, we are not giving any waivers.

Mr. Temporary Deputy Speaker, Sir, taxation on seed maize has also been mentioned.

**Mr. Ndwiga:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I hate to interrupt the free flow of the debate by the Finance Minister. But I would like the Minister to clarify, now that he is allowing duty waiver on some international bodies like the World Food Programme and the rest, about gifts destined for churches? Very many churches like the Catholic and Anglican churches get gifts in form of motor vehicles and other things. What is going to be the position?

**The Minister for Finance** (Mr. Nyachae): Mr. Temporary Deputy Speaker, Sir, the law is very clear, and it shows clearly the items which can be granted waiver. You will find that the exemptions will mainly be on medical facilities. Hospitals which are run by missionaries and so on, must be supported because Government hospitals alone cannot cope.

Mr. Temporary Deputy Speaker, Sir, I would like to talk about seed maize. We have said that we should not impose any duty on seed maize. If we do not impose any duty on that, we are going to kill our own research. Those who want to produce seed for Kenya, should come and do research here and produce the seed that is actually, acclimatised. We are encouraging people to carry out their research on seeds here, because if we do not do that Dr. Nderitu may have to be out of job. So, we have to tell those people: "If you want to come and not pay any duty on seed, come and produce it in Kenya." That is the purpose of doing that.

**Mr. Raila:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Again, I do not want to interrupt the Minister. I hate to, but there is a difference between research and commercialization of research results. The seed research that is being done by Dr. Nderitu is for new quality varieties of seed. It is the Kenya Seed Company which produces seed maize. Is the Minister in order to suggest that we are going to frustrate research by importation of seed, when the real position is that, locally produced seed should be able to compete with the seed which is imported from outside?

**The Minister for Finance** (Mr. Nyachae): Mr. Temporary Deputy Speaker, Sir, the position is very clear. Research on any seed takes a minimum of seven years. Now, we are saying that all research technology is found outside there. That is, all the knowledge remains outside there and then, we allow that seed to come here to be sold to us with our knowledge and technology which they are using there. The seed that South Africa and Europe are using--- For instance, let me give you the case of barley or wheat, is that they have a seed which they produce there which could double the yields. However, they do not want to give us that knowledge. They want to bring us seed of the type that they want and in the process, their wheat and barley yields are more than double, the cost is spread. So, they are able to sell much cheaper produce to us here, even if we impose taxation. We cannot compete. So, let them come and double our production here as opposed to allowing them to import.

Mr. Temporary Deputy Speaker, Sir, these are complicated issues. I am a farmer and I know what I am talking about. Let me talk about licensing of businesses. You will see that as we come to the Local Government Bill, you are going to find that we have stated there that, every business will have only one licence and not so many. We want to get rid of these too many licences being issued. I think that issue can be debated when the Bill

comes up.

Mr. Temporary Deputy Speaker, Sir, on the question of fuel diversion, I agree that there is a group of crooks who are diverting oil. However, let me say this: It is the big oil companies themselves who are also expected to help us to deal with this problem because they have licensed in conjunction with officers of the Government, every Tom, Dick and Harry. You find fuel pumps in the streets and in the villages and that is where the diverted oil is going. We are saying that the whole system must be overhauled together with the actual oil industry, so that we divert. The figure of US\$60 million which was quoted here is definitely very much on the higher side and we have discussed it with the oil industry. Last year around March to April, the figure was about US\$4 million and not US\$60 million.

**Mr. Gatabaki:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister, with all due respect, to put the blame of this oil business on the oil companies and exclude the regulatory authorities who are the police and the Customs Authorities? Is it in order for him to mislead this House that, the oil companies are the culprits when we know very well, and even the President himself has said that some individuals, the police and the customs officials are the culprits?

**The Minister for Finance** (Mr. Nyachae): Mr. Temporary Deputy Speaker, Sir, I know that when hon. Member sticks to something, he avoids listening to other things. What I said is that, the oil companies are the ones who release this fuel and they recognise those pumps. We need to work with them. I did also mention that these oil pumps which eventually become conduits for this kind of illegal activities are also licensed by the Government. I said that and I do not see what is the difference. I have not blamed anybody. I am telling the House what has been happening and what we want to deal with.

Mr. Temporary Deputy Speaker, Sir, I want to say that I appreciate what the hon. Members have stated about their transportation and I think I would not wish to dwell on this issue now because when we discuss this matter, most likely tomorrow, going clause by clause, I will table amendments that will be in accordance with what the Finance and Business Committee agreed to in conjunction with me. So, we should feel that, perhaps the work of the Members of Parliament and you are travelling to constituencies, is not considered as very prominent.

Mr. Temporary Deputy Speaker, Sir, therefore, I wish to move that the Finance Bill be read a Second Time.

*(Question put and agreed to)*

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

*Second Reading*

#### THE RETIREMENT BENEFITS (AMENDMENT) BILL

**The Minister for Finance** (Mr. Nyachae): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Retirement Benefits (Amendment) Bill be now read a Second Time.

The main objective of The Retirement Benefits (Amendment) Bill 1998 is to amend the Retirement Benefits Act No. 3 of 1997 to provide for the registration and regulation of custodians of scheme funds and to improve in the management and accounting for the Retirement Benefits Fund. The Act was approved by this august House in August 1997 and partially commenced on 20th November 1997. Hitherto, Kenya's retirement benefits policy had been implicit and was scattered in a number of unrelated statutes and regulations. The enactment of the Act, therefore, seeks to harmonise the statutes governing the sector. The Act's main objectives are to regulate and supervise the establishment and management of retirement benefits schemes and to promote the development of the sector. It also seeks to secure the interests of retired workers in the light of the changing socio-economic dynamics which have *inter alia* led to unprecedented increase in the population of the aged persons.

Mr. Temporary Deputy Speaker, Sir, while the enactment of the Act is intended to provide a viable alternative to the now waning social security under which the youth takes care of the aged, it is also intended to encourage Kenyans to start planning for their imminent retirement while still in active service. Experience elsewhere has proved that properly, nurtured retirement benefit funds can be a boon to economic growth by providing a source of long-term funding, by widening and deepening the capital markets and by enhancing savings and hence, capital formation. The Authority will not handle the schemes funds directly nor will it be geared towards controlling the sector. Instead it will register, regulate, supervise and inspect the key players in the

sector.

Mr. Temporary Deputy Speaker, Sir, in the past, the management and financial operations of schemes established by some public institutions and private sector entities have been far below expectation. It has been observed that investment returns on scheme funds have been inadequate due to poor management while, in some cases, it was due to outright administrative improbity. The sooner such schemes are brought within the expectations of the stakeholders, the better for everybody. Besides that, with increasing consumer awareness, it is becoming even more imperative for the Government to ensure that operations of schemes are carried out in a more transparent manner. This is why disclosure is one of the key provisions in the Act. In addition, the Authority has a major role in reforming the unfunded public pension, which has been a considerable burden to the Exchequer. This course of action is in line with the on-going public sector reform programme.

The key players in the sector, the trustees, fund managers and the custodians, will hence forth be registered by the Authority. Their roles will also be distinctly delineated so as to provide for transparency and underscore intra-sector self-regulation. The Act mandates the players to whistle-blow if the scheme's funds are jeopardised in any manner, or become open to such a threat. The Fund's manager will advise the trustees on available investment opportunities in the light of any special characteristics of a scheme, such as its demographic profile. The custodian will keep custody of the scheme's funds, or property, and disburse these as directed by the trustees within the provisions of the Act.

Mr. Temporary Deputy Speaker, Sir, the Authority will initially be funded by the Exchequer. However, in the course of time, the Authority is expected to generate adequate funds to finance its operations. The Authority is currently being managed by officers seconded from various public institutions, who have to-date laid down the ground work for the commencement of its operations. The team has already initiated the process towards the registration of existing schemes and prepared the rules and regulations which will govern the operations of the players in the sector. Arrangements to commence full operations of the Authority are at an advanced stage.

In conclusion, I wish to state that this is a very important legislation that needs the support of all hon. Members. Therefore, I appeal to hon. Members to give this Bill serious attention when debate commences.

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

**The Minister for Agriculture** (Mr. Mudavadi): Mr. Temporary Speaker, Sir, I stand to second the proposed amendment to the Retirement Benefits Bill. Really, this is not a new issue. It is a Bill which was deliberated on by this House towards the middle of last year. I recollect that the genesis of this Bill was that in the past all retirement benefit schemes in this country, the most prominent one being the National Social Security Fund (NSSF), were not faced with any competition whatsoever. Therefore, we required a regulatory mechanism to be put in place to ensure that contributors to various retirement schemes, or pension schemes, whether within the public realm or the private sector, can put their resources in schemes that are regulated by an authority that can have access to its books to establish whether the funds of that particular investment scheme are being utilised properly.

Mr. Temporary Deputy Speaker, Sir, I would like to say that this is a very important amendment in the sense that it will enable the strengthening of the Authority, or the powers of the regulatory Authority, to supervise and ensure that funds that go to pension schemes are invested prudently. If I recollect very well, there are a number of trust funds in this country which handle billions of shillings that relate to various pension schemes. For example, Barclays Trust Fund, controls well over Kshs16 billion of various investment funds from different contributors in the private sector. There are many such schemes. Over the years, public attention has been focused more on the NSSF, as if it were really the only organisation that handles pension funds. In reality, there are so many others that are handling enormous funds. The idea of this Regulatory bill is to ensure the establishment of an umbrella body that will have the *locus standi* to make an inquiry, seek to investigate and demand accountability from any of those pension schemes.

Everybody knows too well that even the funds that have done a lot towards the development of some countries in Asia, for example, have been largely funds that have been mobilised from trust funds and pension schemes from different parts of the world. Therefore, this is a very, very important area for the mobilisation of savings. It is important that we have an overseer, an organisation that can ensure that once mobilised, these resources are put into good use. Prudent investment of pension funds will, definitely, be the issue the Minister and, particularly, the Retirement Benefits Regulatory Authority, must emphasize on. We want to make sure that the custodians, managers and chief executives of these institutions, are people with sound financial and investment training, so that the organisations' resources can be put to good use.

For example, we can use some of the resources from these organisations for the generation of additional electricity supply. This is an investment that will yield quick results and at the same time provide a lot of service to members of the public. So, it is these kinds of people who can be trained to ensure that they are always focusing



on investment that will yield and generate employment, and add value to the resources of this county. We do not, at any one point in time, want to say that this investment should be strictly confined to real estate. There should be a very clear ratio or rationale when deciding on the kind of investments these managers must undertake. There must be a portfolio of investments that will make sure that they secure the funds and at the same time maximise returns to the various fund or scheme holders.

It is also important, as a reminder, to send a very strong message to the NSSF, that this time round, it is important that as an organisation, it manages and invests funds prudently. This is because, the Bill, as originally designed, gives a very clear time table as to when the mandatory cessions or contributions to the NSSF will cease or be phased out. So, it is important that the NSSF also puts its house in order, so that when this Bill is fully operational with the amendments that are being proposed to refine it, it will ensure that the resources it has will now be managed properly, and that it will compete with other key players. Therefore, the question of assuming that there will be free money available to it must come to an end. It will be competing and looking for resources from the public, and the public will also want to have these funds accounted for.

Mr. Temporary Deputy Speaker, these are very straightforward amendments to refine a Bill that has already been dealt with by this House; a Bill that is very, very crucial to ensure that we are able to mobilise savings in this country and direct them to positive and constructive investments that will yield results and make sure that the economy grows.

So, with those remarks, I second the Motion.

*(Question proposed)*

**Mr. Mwenje:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill. We are going to discuss this Bill at a time when a lot of employees in the Government are being retired early and they are given promises which we do not know whether they are forthcoming or they are false. As we speak now on the Retirement Benefits (Amendment) Bill, it is necessary to have this body that will look into these matters. I am disturbed by the fact that, as I stand here, only this week 760 employees were tricked into early retirement by the Kenya Airports Authority (KAA). They were promised a lot of benefits, gratuity and so many other things which we have come to discover were not true. The Minister for Finance tabled Legal Notice No.62 of 1998 exempting their benefits from being taxed yet, today, as we stand here, their benefits are being taxed irrespective of the Legal Notice. I do not know whether it is the Authority that has decided to go against the Legal Notice which has been tabled in this House, or somebody somewhere has decided to ignore it and tax the benefits of these employees of the KAA. That is why I support that we need to have a body that would look into this matter because I do not know how many more are going to be retrenched.

When we talk of retrenchment, many Government employees are being promised all these benefits so that they can take early retirement. That is fine, but why put other stringent conditions which they are not able to meet? Today, some of them are suffering. They are being forced to vacate the houses which they are living in even before they are paid their benefits, even where they have a right to stay in those houses. It is, therefore, very important to have this body which would look into the issue of early retirement and normal retirement and the benefits which they are supposed to benefit from. I want to tell the Government and in particular, some individuals in the Government; it is disturbing to retire employees on early retirement scheme and then, you form your own company to do the same job that the same employees were. This is tantamount to some kind of robbery when we talk of management.

Today, I am very worried and I would invite all MPs to visit the Airport and see how dirty it is because all those who were doing the cleaning were retired. An individual formed his own company, the directors being his wife and other people and they are supposed to be cleaning the Airport. Today, the Airport is very dirty and I would like to invite the Ministers for Health and Local Authorities to visit the Airport and see how dirty the Airport has now become. This is supposed to be an International Airport, yet, it is very dirty. I do not believe in this business of calling our airports "International" for example, Eldoret International Airport, Jomo Kenyatta International Airport, Moi International Airport and so on. Kennedy Airport is there. We do not have to add the word "international", but still the international standards must be maintained. I think we are suffering from some inferiority complex and that is why we have to insist on the term "international". We can be international without inserting this word. We have Kennedy Airport, and not Kennedy International Airport" When you allow an individual to form his own company and employ people who are not experienced to run cleaning services and then, you retire employees in the Government who have been there for over 25 years doing the job, that is tantamount to robbery. This--

**ADJOURNMENT**

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! Hon. Members, it is now time for us to interrupt our business and the House now stands adjourned until tomorrow, Thursday, 22nd October, 1998, at 2.30 p.m.

The House rose at 6.30 p.m.