

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 2nd May, 1995

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

## PRAYERS

## ORAL ANSWERS TO QUESTIONS

*Question No.052*

### GOVERNMENT PROJECTS IN KIGUMO

**Mr. Mwaura** asked the Vice-President and Minister for Planning and National Development:-

(a) how many Government-aided projects have been undertaken in Kigumo Constituency between 1976 and May 1994; and

(b) whether he could give a breakdown of such projects, and the amount of money spent by the Government on each project.

**The Assistant Minister, Office of the Vice-President and Ministry of Planning and National Development** (Mr. Oyondi): Mr. Speaker, Sir, I beg to reply.

(a) Between 1976 and May 1994, the Government, through my Ministry, has undertaken twenty three (23) development projects in Kigumo Constituency.

(b) The amount spent on each project and the Financial Year of funding are given as follows:-

	Kshs.	
1. 1976/77 Githima-Turuturu Bridge	60,000	
2. 1976/77 Kiahiti-Kahariro Bridge	80,000	
3. 1976/77 Kamahuha Fodder Development	40,000	
4. 1976/77 Githembe (Njora) Bridge	50,800	
5. 1978/77 Nginda Fodder Project	40,000	
6. 1978/79 Kigumo Fodder Project	40,000	
7. 1981/82 Gikigie Cattle Dip	45,980	
8. 1982/83 Kiriangoro Craft Training Centre	98,700	
9. 1982/83 Murang'a Agriculture Show Ground Development Project	99,000	
10. 1983/84 Kaharati Cattle Dip	68,000	
11. 1985/86 Muthithi Youth Polytechnic	468,000	
12. 1986/87 Kwiya Women Group Block Making	114,800	
13. 1986/87 Karega Cattle Dip	83,600	
14. 1987/88 Manyatta Cattle Dip	110,000	
15. 1987/88 Ichagaki Cattle Dip	113,000	
16. 1988/89 Gakoigo-Kagenyo Bridge	967,000	
17. 1989/90 Nginda Youth Polytechnic	573,582	
18. 1989/90 Boro Cattle Dip	95,000	
19. 1989/90 Kamahuha Girls School Roof Catchment	422,000	
20. 1976/77 Nginda-Kigumo Soil Conservation	128,800	

21. 1982/83	Ndugamani-Kaimere Soil Conservation	180,000	
22. 1982/83	Sabasaba-Kandani-Kagui School Afforestation	12,760	
23. 1993/94	Rarakwa Secondary School	7,200,000	
	Total		Kshs. 11,111,022

(Mr. Oyondi laid the list on the Table)

**Mr. Mwaura:** Mr. Speaker, Sir, I am grateful to the Assistant Minister for the way he has answered that Question, but if you look at the period covered, from 1976 to 1994, that is a span of almost 17 years.

Mr. Speaker, Sir, my constituents pay quite a lot of tax. In fact, it is a lop-sided development because the taxation from the constituency amounts to more than that Kshs.11 million which has been spent there and we have a lot of roads, we need water in my constituency and my understanding is that since the Ministry for Planning and National Development is in charge of planning of the development of any section of our country, I would urge the Ministry to ensure that money put aside urgently to help the development of roads in my constituency, water and electricity---

**Mr. Speaker:** Order, Mr. Mwaura! You are now making a speech! You are not asking any question!

**Mr. Mwaura:** Mr. Speaker, Sir, I am just giving the highlight---

**Mr. Speaker:** Order! Order Mr. Mwaura! You only have audience here if you comply with the rules.

**Mr. Oyondi:** Mr. Speaker, Sir, I would like to inform the hon. Member that other than through the Ministry of Planning and National Development, the Government, through other Ministries, initiated or assisted projects in Kigumo [**Mr. Oyondi**]

Constituency during the period between 1976 and 1994. If the hon. Member wants to know about anything covering roads he may wish to get details from the relevant Ministries particularly the Ministry of Public Works and Housing, because normally we do not handle that aspect of development. So, he can put that Question to the relevant Ministry and he will be replied to accordingly.

**Mr. Mwaura:** Mr. Speaker, Sir, could the Assistant Minister tell the House, out of the projects which have been listed, how many of these have been developed through donor assistance?

**Mr. Oyondi:** Mr. Speaker, Sir, almost all projects are funded through donors because you know very well we used to handle Rural Development Fund (RDF) and all the 22 projects in Kigumo Constituency were funded under the Rural Development Fund (RDF). The last project, project No.23, which is still ongoing, is an EU-funded project.

**Mr. Kamuyu:** Mr. Speaker, Sir, can the Assistant Minister tell this House the amount of money that was specifically spent on health development and how many dispensaries have come up during those 18 years?

**Mr. Oyondi:** Thank you Mr. Speaker, Sir. That is the question really the hon. Questioner should direct to the Ministry of Health.

**Mr. Speaker:** Next Question, Mr. Otieno Karan.

*Question No.029*

OWNER OF PROVINCIAL HEADQUARTERS

**Dr. Otieno-Kopiyo**, on behalf of **Mr. Otieno Karan**, asked a Minister of State, Office of the President:-

- who is the Landlord of the provincial headquarters offices in Kisumu;
- what the total cost of renovation and fencing which was recently undertaken on the building is; and,
- who was the contractor awarded the tender.

**The Assistant Minister, Office of the President** (Mr. Awori): Mr. Speaker, Sir, I beg to reply.

- The Government is the owner of the land on which Kisumu Provincial headquarters stands.
- The Government has spent approximately Kshs.1 million to renovate and fence the Kisumu Provincial Headquarters.

(c) The Ministry of Public Works and Housing undertook the major repairs and renovations work for the Kisumu Provincial Headquarters.

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, since the Assistant Minister claims that the Government is the

owner of the land on which the Kisumu Provincial Headquarters stands, who actually owns the building in which the headquarters is accommodated? Who owns the actual building? I am asking this question because from our understanding these premises belong to the Kenya Railways Corporations and the building is in the process of being sold to an individual. In fact the renovation is taking place so as to prepare the premises for sale to an individual, probably a KANU supporter. I would like to know who owns this building.

**Mr. Awori:** It is owned by the Government of Kenya!

**Mr. Orengo:** Mr. Speaker, Sir, would the Minister confirm or deny allegations that the building is going to be condemned and given to the Nyanza Provincial Commissioner?

**Mr. Awori:** Mr. Speaker, Sir, I deny the allegation.

**Mr. Obwocha:** Mr. Speaker, Sir, since the Minister has said that the building belongs to the Government, can he tell the House how much money so far has been spent by the Government? I am asking this because that building is not complete although the offices are still required by the civil servants.

**Mr. Awori:** Mr. Speaker, Sir, hon. Obwocha is mixing up the two properties.

**Mr. Speaker:** Mr. Murungi's Question!

**Mr. Ogur:** On a point of order, Mr. Speaker, Sir. Is the hon. Assistant Minister aware that there is a new building for the Provincial Commissioner and nobody has moved there because there are certain finishing touches which have not been made? However, we now hear that the Government has money to renovate the old building thereby using more money. Do you not see, Sir, that this is a question for the Assistant Minister to answer? There is something fishy about this whole---

**Mr. Speaker:** Order Mr. Ogur! What is your point of order!

**Mr. Ogur:** Mr. Speaker, Sir, there is a new huge building to accommodate the offices of the Provincial Commissioner which is already completed, but the Government is going to the old building and has started renovating it. It appears that the Government is back-peddling by using a lot of money to renovate the old building instead of completing the new one. Why is the Government doing this? In whose interest is this being done? I am asking this because we are beginning to believe that there is somebody interested in having the old building renovated so that it can then be condemned after it has been renovated.

**Mr. Awori:** Mr. Speaker, Sir, the old timber building has cost about Kshs.1 million to renovate recently. The new headquarters building still requires Kshs.178 million to complete. When it is completed and the officers moved there, the old timber structure is going to be renovated for the staff of the provincial administration.

**Mr. Speaker:** Let us move on now to Mr. Murungi's Question.

*Question No.091*

NUMBER OF PARAMOUNT CHIEFS

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

- (a) how many paramount chiefs there are in Kenya;
- (b) what their basic salary is; and,
- (c) what the procedure for promotions from a chief to a paramount chief is.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Speaker, Sir, I beg to reply.

- (a) Independent Kenya does not have paramount chiefs, but has 22 special chiefs.
- (b) The basic salary for special chiefs is in the range of K£4,092, minimum and K£6,066 per annum maximum.
- (c) To be considered for a post of special chief, one has to have been a retired chief who commands respect, has deep understanding of cultural values and has leadership attributes that demand for his services to be hired.

**Mr. Murungi:** Mr. Speaker, Sir, I am surprised by the answer given by the Assistant Minister because when His Excellency the President visited Trans Mara, he appointed one of the chiefs from the Assistant Minister's constituency as a paramount chief. Furthermore, this question of special chiefs is also surprising because under the Chiefs Authority Act, Cap.128, it is only the chiefs and Assistant chiefs who are recognized and conferred with legal powers under that Act. Can the Assistant Minister tell this House under what legal provision these retired special chiefs exist in law and what legal powers they exercise and under what law?

**Mr. Sunkuli:** Mr. Speaker, Sir, when His Excellency the President visited Trans Mara, he did appoint one person to be a special chief. A number of words are used in Kenya when they happen to be the words properly understood by the local people. I know the hon. Member himself uses the word "subchief" sometimes to mean an assistant Chief. Other terms could be used to describe the Deputy P.C. as the personal assistant to the P.C. The

special chiefs are employed by authorized officers in line with Cap.185 of the laws of Kenya as delegated to that special officer by the Public Service Commission. I understand my hon. colleague's sentiments because he has a legal mind. However, I would like to read again the provisions of Cap.185.

**Mr. Orengo:** Mr. Speaker, Sir, the Assistant Minister says that the special chiefs are appointed by the Public Service Commission. Would he tell this House under what law the President appointed a person as a special chief?

**Mr. Sunkuli:** Mr. Speaker, Sir, the appointment of chiefs and the whole regulation regarding how the chiefs and other members of the provincial administration operate, falls under the Office of the President. Once the President declares his intention of having somebody appointed a special chief, it is up to the authorized officer who is the Permanent Secretary in the Office of the President, under Cap. 185, to actually effect that appointed legally.

**Mr. Murungi:** Can the Assistant Minister explain why no paramount chief or special chief has been appointed in the whole of Meru District?

**Mr. Sunkuli:** Mr. Speaker, Sir, the appointment of paramount chiefs is also done according to the needs and requests of the people of a particular region.

**Mr. Mwaura:** On a point of order, Mr. Speaker, Sir. This is a very important Question and I would like the Assistant Minister to tell this House whether this retired chief was employed under contract or not. I am asking this because---

**Mr. Speaker:** Order, Mr. Mwaura! you are absolutely out of order to ask a question under the guise of a point of order.

Proceed Mr. Sunkuli.

**Mr. Sunkuli:** Mr. Speaker, Sir, the Office of the President listens to the demands of the people and when a request for the appointment of a special chief is made, that request is examined and if found to be genuine, then we do appoint certain people as special chiefs. I would like to ask the hon. Questioner to listen to what I have said and see whether he can get anything useful from it.

**Mr. Speaker:** Let us move to Mr. Muite's Question.

*Question No.177*

ADVERTISING IN THE *KENYA TIMES*

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

(a) what the criteria used by the Government in placing all advertisements by Ministries in the *Kenya Times* newspapers is; and

(b) why open tenders are not invited from other interested media publications.

**The Assistant Minister, Office of the President (Mr. Sunkuli):** Mr. Speaker, Sir, I beg to reply.

(a) The criteria used by the Government in placing all advertisements by the Ministries in the *Kenya Times* Newspapers is financial consideration. *Kenya Times* charges the lowest advertising rates compared to other publications. *Kenya Times* is also the only local newspaper which had agreed to accept Government Local Purchase Orders whereas the others insist on cash payment in all transactions with the Government.

(b) Open tenders are not invited from other interested media publication because the Government knows that advertising rates from other local newspapers are comparatively too high for the Government to afford.

**Mr. Muite:** Mr. Speaker, Sir, since obviously the Government cannot know that the others papers will charge more expensively without calling for open tenders, would the Assistant Minister agree with me that the exclusive advertisement by Ministries in the *Kenya Times* is a way of using taxpayers' money to build the *Kenya Times*?

**Mr. Sunkuli:** That is certainly not the case.

Mr. Speaker, Sir, the hon. Member has said that we do not know what it costs for the other newspapers to carry out these advertisements. But we do know that to advertise in the *Daily Nation* and *Sunday Nation* on Wednesdays and Sundays, one has to pay Kshs.152,958.00; on Fridays, it costs Kshs.183,513.60; on other days it costs Kshs.135,086.40. For the *East African Standard*, it costs, on Wednesdays and Fridays, Kshs.105,775.20 and on other days it costs Kshs.98,128.80. For the *Kenya Times*, on Wednesdays and Fridays, it costs Kshs.57,805.85 and on other days it costs Kshs.52,913.65.

**Dr. Kituyi:** Mr. Speaker, Sir, this Assistant Minister is being very impressive in stating untruth with a straight face. We all know that it does not matter how cheap a publication is if it has a very limited readership. Now, the very fact that *Kenya Times* is very cheap is not enough reason to argue that is why the Government is

using it. Can the Assistant Minister confirm or deny that the reason why other publications do not accept Government Local Purchase Order (LPO) is because Government is not able to pay? It is always refusing to pay when it has already been offered the services.

**Mr. Sunkuli:** Mr. Speaker, Sir, I am contending that that is the opinion of the *Daily Nation* and because that is the opinion of both the *Daily Nation* and the *East African Standard*, we can only advertise with the only company that accepts---

**Dr. Kituyi:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order - while I appreciate *Daily Nation* and the *East African Standard* to be better than the *Kenya Times* - to insinuate that my suggestions are opinions of the *Daily Nation*?

**Mr. Sunkuli:** Mr. Speaker, Sir, the way I judge them is that they look quite similar!

**Mr. Maore:** Mr. Speaker, Sir, even if we agree that *Kenya Times* might be as cheap as 50 per cent, or even if it were for free, what is the intention of the Government in putting an advertisement in a newspaper while it knows very well that the circulation of that paper is extremely low? What is the purpose or intention of advertising in such a paper?

**Mr. Sunkuli:** Mr. Speaker, Sir, the *Kenya Times* paper is read throughout the Republic.

*Question No.215*

ABOLITION OF SITTING ALLOWANCE

**Dr. Kituyi** asked the Minister for Education considering that most schools introduced sitting allowances for members of boards of governors when payments were sourced from Government grants, and in the light of the changed situation where most funds now come from the overburdened members of parents teachers associations (PTA), if he could consider abolishing sitting allowances for boards of governors in all public schools.

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

My Ministry has never introduced sitting allowances for members of boards of governors for public secondary schools in this country. The question of abolishing the said sitting allowances by me does, therefore, not arise.

**Dr. Kituyi:** Mr. Speaker, Sir, it is always my understanding that Ministers correct ills whether they are responsible for them or not once they fall under their purview. Since I have informed this Minister about this matter, whether it was started by the Ministry or not, there is the reality that members of boards of governors are getting a lot of allowances every time they sit. We know that as a reality. Now, having informed him - since he apparently did not know - can he make an undertaking that in places where there are sitting allowances for members of boards of governors, that that will be abolished forthwith?

**Mr. Lengees:** Mr. Speaker, Sir, as I said before, the Ministry of Education has never introduced such allowances for members of boards of governors. The PTA can give any money to members when they have money available for their own members. But the Ministry can never overrule that. When a school decides to give money to its members, maybe for travelling or lunches, they can do so as long as they do not overburden the PTA.

**Dr. Kituyi:** On a point of order, Mr. Speaker, Sir. I have not at any one time suggested that PTA members coming to meetings are paid allowances and PTA have never passed that members of boards of governors are to be paid allowances. They are usually "richer" than members of PTA. Can the Assistant Minister make a specific statement that in those irregular cases where without the authority of PTA members of boards are drawing sitting allowances that that must be stopped forthwith?

**Mr. Lengees:** Mr. Speaker, Sir, I think the hon. Member should also point out some specific cases where this problem has occurred. But at the moment, the Ministry of Education cannot issue any statement over that matter.

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

*Question No.198*

IMPROVEMENT OF WAMBA SCHOOL

**Mr. Farah:** Mr. Speaker, Sir, on behalf of Mr. Leshore, I would like to ask this Question.

**Mr. Speaker:** Are you sure you have those instructions?

**Mr. Farah:** Yes, Sir, unless he has changed his mind.

**Mr. Speaker:** I think he has changed his mind! So, the Question will be deferred.

*(Question deferred)*

*Question No.035*

RELOCATION OF WATER KIOSK

**Mr. Speaker:** Mr. Ndilinge not here? Next Question, Mr. Mathenge.

*Question No.153*

MEASURES TO ATTRACT TOURISTS

Mr. Mathenge asked the Minister for Tourism and Wildlife what plans he has to attract wealthy foreign tourists to visit the world-famous Treetops Hotel and the Aberdare National Park so as to boost tourism earnings for Kenya.

**The Assistant Minister for Tourism and Wildlife** (Mr. Sing'aru): Mr. Speaker, Sir, I beg to reply.

My Ministry markets and promotes Kenya as a viable tourist destination as a package. In so doing, we take comprehensive approach to all the attractions available. These attractions include the wildlife in our game parks and reserves, the sandy beaches, the scenic beauty together with the wide cultural diversity of our people. This exercise also covers those areas indicated in the Question.

**Mr. Mathenge:** Mr. Speaker, Sir, now that the Assistant Minister has told us that he caters for all areas, including the ones I have asked about, can he tell us when his Ministry is going to get the tourist roads around Mt. Kenya area improved so that more and more tourists can tour those areas?

**Mr. Sing'aru:** Mr. Speaker, Sir, every year, the Ministry draws promotion and marketing programmes that cover the existing and potential markets. This campaign is done mainly through the tourism Department using the overseas offices and this can be done solely by the Government or jointly with the private sector.

**Mak'Onyango:** Arising from the reply given by the Assistant Minister, if it true that the tourism industry is divided in circuits, why then do we have different circuits attractions and to what extent would the Assistant Minister say that something has been done to promote Lake Victoria which is one of the greatest tourists attraction in this part of the world?

**Mr. Sing'aru:** Mr. Speaker, Sir, I think that is a different question.

**Mr. Mak'Onyango:** On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to evade this very direct question?

**Mr. Speaker:** This one was about Treetops Hotel but you are asking about Lake Victoria. Hon. Sing'aru, would you like to say anything about it?

**Mr. Sing'aru:** Mr. Speaker, Sir, I am sticking to the original Question.

**Mr. Mutahi:** Mr. Speaker, Sir, there is a question that the Assistant Minister did not answer. He was asked when the roads surrounding the Treetops Hotel are going to be repaired because they are not passable. When are they going to be repaired for use by tourists?

**Mr. Sing'aru:** I think it is upon the Ministry of Tourism and Wildlife to see that all the tourist attractions are reached by tourists.

**An hon. Member:** When will this be?

**Mr. Sing'aru:** When funds are available.

*Question No.165*

PAYMENT OF WILDLIFE COMPENSATION

**Mr. Nyagah** asked the Minister for Tourism and Wildlife:-

- (a) why the Ministry has taken more than six (6) years to compensate the family of the late Mr. Njue Mukiri, of Kiambere, who was killed by wildlife in Embu,
- (b) whether he is aware that the Ministry had agreed to settle his claim during the 1992/93 Financial Year; and,
- (c) when the family of the deceased will be compensated.

**The Assistant Minister for Tourism and Wildlife** (Mr. Sing'aru): Mr. Speaker, Sir, I beg to reply.

(a) My Ministry has taken long to compensate the family of the late Mr. Njue Mukiri of Kiambere due to inadequate budgetary provision in respect of payment for compensation claims for deaths and injuries. I am aware that my Ministry had agreed to settle the claim in Question during the 1992/93 Financial Year but this could not be done for the reason indicated in "a" above.

(c) Arrangements have now been made to pay compensation to the family of the deceased during the current Financial Year.

**Mr. Nyagah:** Mr. Speaker, Sir, I wish I could believe that answer the Assistant Minister has given me because it has taken six years for this to be done. Year-in-year-out you are promised in writing that this payment is going to be done but all of a sudden miracles do happen, you now want to pay it. I want you to confirm or deny that this letter emanated from your office and I quote it:-

"I acknowledge receipt of your letter of 6th October, 1989 in respect to the above and hereby confirm that the claim was approved."

By the way this letter was written on 9th October, 1989.

It was approved under Minute No.3.5/89 of Embu District Wildlife Compensation Committee of 17th May, 1989 and the recommendations forwarded to the Permanent Secretary, Ministry of Tourism and Wildlife through the Director of Wildlife Conservation and Management Department for payment. The letter goes on to say:-

"You may now inquire with the Permanent Secretary through the Director---"

Another letter at the same time reads---

**Mr. Speaker:** Mr. Nyagah, why do you not just table the document? We do not have all the time to read those letters.

**Mr. Nyagah:** Since I have given him the background---

**Mr. Sing'aru:** Mr. Speaker Sir,---

**Mr. Nyagah:** You wait, I will give you an answer quite soon. Have you given that background of a letter that has emanated from your office and having promised that come Financial Year July 1992/93 you would pay, why have you not paid these poor fellows, Kenya subjects? You have continued to mislead them. Why?

**Mr. Sing'aru:** Mr. Speaker, Sir, I think the hon. Questioner will be happy today. The payment voucher number is 5348 of Kshs. 30,000 and was prepared on 24th April, 1995. There is also a cheque of Kshs.90,000. This is because there are two other people from that area including Mrs. Mwendwa Njue.

**Mr. Nyagah:** Mr. Speaker, Sir---

**Mr. Sing'aru:** I think I am answering the Question.

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

**Mr. Nyagah:** Mr. Speaker, Sir,---

**Mr. Speaker:** Order! Mr. Nyagah, if you persist in having that dialogue alone, I will move to the next Question. Would you like to ask the Assistant Minister any questions?

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. The Assistant Minister has not finished reading the answer he was giving the hon. Nyagah.

**Mr. Speaker:** Order! Order! It is not his fault that he did not finish.

**Mr. Wamae:** Mr. Speaker, Sir, if his Ministry had agreed to pay compensation in 1992/93 Financial Year, why has it taken three years to make payments?

**Mr. Sing'aru:** Mr. Speaker, Sir, it is due to lack of funds but now we have enough funds to pay the deceased.

**Mr. Mbui:** Mr. Speaker, Sir, arising from the answer given by the hon. Assistant Minister, does the Ministry consider the life of the deceased to be worth only Kshs.30,000?

**Mr. Sing'aru:** That was passed by this House. So, if you want to amend it, then this House can do so.

#### *Question No.221*

#### SPEEDING OF CASES HEARINGS

**Mr. Gitau** asked the Attorney-General:-

(a) whether he is aware that a lot of cases have been pending for a long time at the Gatundu Law Courts, resulting in the accused being remanded at the Thika Prison for several months; and,

(b) if the answer to "a" above is in the affirmative whether he could facilitate the hearing of these cases since justice delayed is justice denied.

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the Resident Magistrate's Court at Gatundu has been experiencing difficulties in hearing and finalizing cases before it owing to heavy case load. This is not unique to the law court at Gatundu as it affects nearly all courts in the Republic.

(b) On 14th October, 1994, in reply to a similar Question, I informed this august House that the Chief Justice would review the case load at the Gatundu Resident Magistrate's court with a view to improving on its performance. I am pleased to inform this House that this has now been finalised. I further stated that the Chief Justice would direct the courts generally to be more firm on applications for adjournment of cases on the part of advocates. This has been done.

(c) I also informed the House that the Commissioner of Police and the Commissioner of Prisons were to look into the Question of transportation of remand prisoners between Thika and Gatundu---

**Dr. Kituyi:** On a point of order, Mr. Speaker, Sir. Is the hon. Attorney-General in order to pay more attention to what he did last year to answer a Question that was asked last year instead of focusing on the specifics of the Question before the House right now?

**Mr. Speaker:** Order! I think that is very frivolous. No hon. Member is obligated to answer any Question the way any other hon. Member wants it to be answered. Proceed.

**The Attorney-General** (Mr. Wako): In fact this Question is similar, in fact word by word, to the Question that was asked on 18th October, 1994 and, therefore, I am focusing on my answer and what was to be done and what has been done. I also informed the House that the Commissioner of Police and the Commissioner of Prisons were to look into the question of transportation of remand prisoners between Thika and Gatundu which has at times led to adjournment of cases. This is being looked into but there are financial constraints.

**Mr. Gitau:** Mr. Speaker, Sir, it is true that this Question was asked last year; but my purpose of repeating it is to prove that what the Attorney-General promised this House has never been done. Therefore, we are not happy if we are promised changes which do not take place. There has been no improvement at all. The conditions in police cells and also in Thika Prison are very harsh; indeed, I have been a victim of these delays. Parents of young in Gatundu are on my back, asking me what is happening. They say that their children are contracting serious skin diseases in Thika and Gatundu cells because cases are never heard. As of now the Gatundu Court needs to be expanded. We need, may be, three magistrates to hear these cases. Will the Attorney-General tell this House what is going to happen? He should either transfer these cases to other courts or just release the suspects.

**Mr. Wako:** Mr. Speaker, Sir, this Question was asked in October, 1994 and we are still in the same financial year. However, a review of the cases has been done and finalised. Indeed, we have a new magistrate at Gatundu who, I think, is trying his level best to dispose of the cases. The question of transportation is a difficult one because it means that the police and prisons should have been given more transport facilities. That is really a question of finance and it is being looked into. I do not agree that Gatundu and other courts are very heavily congested by remand prisoners. It is a problem that is being faced not just at Gatundu but throughout the Republic. I do agree that, if I had enough money today I would put up at least one more court house so that there are two magistrates at Gatundu. But today the position is as it was six months - I do not have the money to put up the courts.

**Mr. Orengo:** Mr. Speaker, Sir, this Question relates to people who are innocent before the law: they are people who are being remanded awaiting trial. The Office of the Attorney-General is known to be very reluctant in granting bail. In fact, it is the interference from the Attorney-General's Office which makes it very difficult for the courts to grant. The Office of the Attorney-General continues to deny people or oppose bail when people are entitled to it, which is a constitutional right. Can the Attorney-General resolve this problem by making sure that his office does not oppose bail when there is no need to deny it in the courts?

**Mr. Wako:** Mr. Speaker, Sir, I am glad that the hon. Member has in his last sentence used the phrase "...to oppose bail even when there is no need to oppose it". My office does not oppose bail when there is no need to oppose it. We only oppose bail when this is merited taking into account the circumstances of the cases, the seriousness of the offence and so on. And this policy will continue. However, from my tours around the country I have seen that there are people, particularly in a number of magistrates' courts, there on remand who ought not to be there. I would like to inform this House that the Commissioner is now going to look into the issue of remand prisoners with a view to seeing what we can do to reduce them.

**Mr. Raila:** On a point of order, Mr. Speaker, Sir. Is the Attorney-General in order to mislead this House on the question of bail when our visit to the Nairobi Area remand prison revealed that over 50 per cent of the inmates there had actually been granted bail far out of their reach because they could not afford it?



**Mr. Wako:** Mr. Speaker, Sir, as I have informed the House, in consultation with my colleague, the Minister for Home Affairs and National Heritage and the Commissioner of Police we are currently reviewing old cases throughout the Republic of prisoners who are on remand with a view to taking action to ensure that prison population is drastically reduced.

**Mr. Speaker:** Mr. Ndilinge's Question for the second time.

*Question No.035*

RELOCATION OF WATER KIOSK

**Mr. Muoki:** Mr. Speaker, Sir, on behalf of hon. Ndilinge, I do apologise and request that this Question be deferred.

**Mr. Speaker:** Very well; the Question is deferred.

*(Question deferred)*

**QUESTIONS BY PRIVATE NOTICE**

EVICION OF PHARMACY TENANT

**Mr. Speaker:** Hon. Members, hon. Raila intimated to me that he wanted this Question deferred, and so be it.

**Hon. Members:** But hon. Raila is in the House! The Question is a property of the House!

**Mr. Speaker:** Order, hon. Members! A Question only becomes a property of the House when asked. It has not been asked and hon. Raila knows why he wants it to be deferred. There are certain issues that he wants to rectify in the Question so that it will be answered properly. So, it will come up in due course. Mr. Mwiraria Question.

IMMINENT COLLAPSE OF UNION

**Mr. Mwiraria:** Mr. Speaker, Sir, I beg to ask the Minister for Co-operative Development the following Question by private Notice.

(a) Is the Minister aware that the Meru Central Co-operative Union is faced with imminent collapse following the refusal by the Commissioner of Co-operatives to implement the recommendations of the probe report on the Union prepared by the Ministry?

(b) What immediate steps is the Ministry taking to save the giant union from total collapse, given the large number of societies presently applying for withdrawal from the Union?

(c) Could the Minister make available to this House the probe report?

**Mr. Speaker:** Anybody here from the Ministry of Co-operatives Development? Well, the Question is deferred to next Thursday. Next Order.

**MINISTERIAL STATEMENT**

IMPORTATION OF CEREALS AND SUGAR

**Mr. Speaker:** Mr. Nyachae, you have the Floor, but you have to ensure that you are through in another five minutes.

**The Minister for Agriculture, Livestock Development and Marketing (Mr. Nyachae):** Mr. Speaker, Sir, I beg your indulgence if I go beyond five minutes.

Many allegations have been made to the effect that a number of things are not functioning properly due to lack of action by Ministry of Agriculture, Livestock Development and Marketing and the Minister concerned. I will address the issues one by one. First, with regard to the grain industry, as hon. Members are aware this industry was fully liberalised on 27.12.93. At that time the country was faced with drought and shortage of grains which was posing serious threat to food security for our people. In order to get enough food for the country the Government, through the National Cereals and Produce Board (NCPB) imported about 2.2 million bags of maize.

To supplement this import the private sector was also encouraged to import grains. When the weather conditions improved during the 1994/95 season the country was able to produce more grains and the Government introduced variable duty effective from September 1994 to protect our farmers from dumping into the country of cheap and

subsidised imports. Whilst we all recognise the fact that formulation of Government policies and the consequential operational approach is based on the principle of collective responsibility by those of us in the Government it is, however, important for the hon. Members to acquaint themselves with portfolio allocations in our system. The Ministry of Agriculture, Livestock Development and Marketing has no direct responsibility for imports, nor does it have the machinery for knowing the amount and quality of goods entering into the country, including grain imports. In addition, the Ministry neither has the role of implementing the variable duty nor the mechanism for ensuring that imported goods coming through Mombasa and purported to be for neighbouring countries are not off-loaded into the domestic market.

Mr. Speaker, Sir, on the allegation that was made in this House last week that I or any of my companies are involved in the importation of grain and sugar, I wish to table the list of those companies which have imported this commodities since liberalisation. From the list, it is clear that only one company with which I am associated imported 10,500 metric tons of maize in 1993 and which arrived in early 1994 when the country was still facing problems of maize shortages. Since that time, neither myself nor any of the companies I am associated with has imported a single grain of maize. We have also to recognise obvious realities that there are certain industries which have to import industrial refined sugar which is not manufactured in the country and, which is needed for soft drinks, chocolates, sweets and fruit processing. One of the companies I am associated with, that is Swan Industries, comes under this category and the last time it imported a limited amount of industrial sugar as raw material was in July, 1994. On the allegation made last week that there were two ships arriving in Mombasa with sugar or maize belonging to me or any of my companies, I would like that to be substantiated with documentary evidence and not mere hallucinations as there was no such thing. I have no sugar or maize arriving or recently arrived apart from the maize and sugar I have just mentioned which came during the time the country was facing serious shortages several months ago. I would like any hon. Member of this House with any documentary evidence contrary to what I have said to produce it and table it here rather than make malicious allegations.

Mr. Speaker, Sir, with regard to payment to milk farmers, I would like to say the following: The Ministry of Agriculture, Livestock Development and Marketing is charged with the responsibility of promoting conditions conducive to increased milk production to meet the needs of this country and to export any surplus that may arise. As any hon. Member would care to know how the Government machinery works would be aware, the Ministry of Agriculture, Livestock Development and Marketing does not have any direct responsibility for controlling the quantity or quality of milk that comes into the country. It also does not have any machinery of supervising such imports. Once the milk is produced by our farmers, the Ministry ceases to have any direct responsibility and has no control over what happens thereafter, including marketing and payments to farmers. With regard to the National Cereals and Produce Board (NCPB) payment to farmers, I would like to state as follows: When the unforeseen weather conditions improved during the 1994/95 season resulting in increased domestic maize production, the Government directed the NCPB to salvage the crop which was rotting in the farmers fields and stores because the private sector had proved unable to handle the crop that was being offered by farmers. The Government issued the directive because NCPB has the necessary infrastructure and storage facilities for quicker and more effective market intervention. The Ministry of Agriculture, Livestock Development and Marketing can ensure NCPB's payment to farmers only when this Parliament provides adequate funds through the Ministry of Finance. The moment the Ministry gets such funds, the NCPB will pay the farmers without delay. To blame the Ministry for the delay in paying farmers when enough funds have not been made available is no solution to the problem facing us.

With regard to funds for seasonal credit through the Agricultural Finance Corporation (AFC), I would like to say the following: Over the years, the AFC has been obtaining funds from the Cereal and Sugar Finance Revolving Fund to on-lend to farmers for crop production. Let it be known that between 1974 and 1995, the farmers are in arrears in loan repayments to the tune of Kshs4,500,923,000. This money, plus another Kshs450 million borrowed from the Post Bank Credit is still to be recovered from the borrowers. Consequently, the Ministry of Finance has found it extremely difficult to release more funds to us because there are serious problems of recovery. Although I would like to get some Kshs750 million right away to pass on to the AFC, that money has not been allocated to the Ministry. Under these circumstances, I do not know what the hon. Members expect the Ministry to do to avail funds to farmers. With regard to seeds, I would like to state as follows: One of the things that I have noticed is that some hon. Members do not seem to know where to direct their Questions. This has come out even more clearly from the issues raised and discussed in the last week's debate. There appears to be a misconception among some hon. Members and some wananchi that the Ministry of Agriculture, Livestock Development and Marketing is responsible for production, processing and marketing of seeds. It is important for the hon. Members to know that the Ministry of Agriculture, Livestock Development and Marketing gets involved in seeds matters only through the provision of advice to our farmers on how to use and plant seeds when they have

been made available to them.

There has also been some criticism on the Ministry regarding requisition and utilisation of stabex funds. The Ministry does not have any role in the Lome Convention arrangement and has no direct system of requisition of stabex funds from abroad. The Ministry only advises on how the stabex funds could be utilised once they have been secured. It is, therefore, unfair to criticise the Ministry for not obtaining the stabex funds. I am also not sure that it is in conformity with the dignity of this House when we drift into personalising national issues being debated in this House to the extent of imputing improper motives on other Members with clear intention of character assassination.

Mr. Speaker, Sir, I table the list of all the imports that have taken place so that hon. Members can peruse that list. Thank you.

*(Mr. Nyachae laid the list on the Table)*

**Mr. Orengo:** On a point of order, Mr. Speaker, Sir. Is the Minister making a Ministerial or a personal statement?

**Mr. Speaker:** Mr. Orengo, if you want to elicit any clarification---

**Mr. Orengo:** No, Mr. Speaker, Sir, I just want some guidance from you because the Minister is being double-faced in reading out this statement. There are matters which are of a personal nature which have been raised in this statement. If he was presenting a Ministerial Statement it should be wholly devoid of matters of a personal nature. Could you give us some guidance whether the Minister can capitalise on privileges granted to him in this House to give a Ministerial Statement and yet make statements of a personal nature? If he feels that he needs to address you on matters of personal nature he should say so without taking us for a ride.

**Mr. Speaker:** Order! Let us just get this one out of the way. I think it has taken a lot of our time. I think one central issue that hon. Orengo has raised which I think is valid is that obviously Ministers are entitled to make Ministerial statements when they think it is appropriate to do so for the benefit of this House and for the benefit of the Kenyan public. Nevertheless, I think the issue that Ministerial statements and personal statements should not be mixed is also valid and since I have not given guidance in the past, I will not blame the hon. Minister for it.

Next Order!

## BILLS

### *Second Reading*

#### THE SUPPLEMENTARY APPROPRIATION BILL

*(The Assistant Minister for Finance*

*(Mr. Keah) on 27.4.95)*

*(Resumption of Debate interrupted on 27.4.95)*

**Mr. Speaker:** Prof. Anyang'-Nyong'o, you were on the Floor.

**Prof. Anyang'-Nyong'o:** Mr. Speaker, Sir, when we last rose in this House, I was making contributions to this Bill. I was making contributions specifically at that point and time with regard to the Development Expenditure in the President's Office and I had some very specific things to say on this point. I think in this Bill, we have monies specified for both Recurrent Expenditure and Development Expenditure in the President's Office. I want to raise certain specific issues and continue with what I was saying last time with regard to Development and Recurrent Expenditure in the Office of the President.

The point that I made was that while I do appreciate that close administration is something that we need to spend some money on, I am not particularly appreciative of the interpretation currently given to the role of assistant chiefs and chiefs. I think those of us who are supportive of close administration as a way of enhancing development would like the employees of the provincial administration to be used for purposes for which they would make provincial administration efficient and productive.

**The Assistant Minister, Office of the President (Mr. Sunkuli):** Mr. Speaker, Sir, if I heard the hon. Member for Kisumu Rural properly, he said that "those of use who are supportive of close provincial administration". Is that the official FORD(K) policy now?

**Pro. Anyang'-Nyong'o:** Mr. Speaker, Sir, when I say "those of us", I suppose I am including hon.

Sunkuli. I was just trying to make contributions within the ambit of his mission. It is not for me to take his position; it is for me to make contributions that would be useful to him as an Assistant Minister in the Office of the President. I, have particularly made my point known about reforms necessary in the provincial administration, but while it exists, I think it should do a good job. So, I am making my contribution within the framework of what exists. I also reserve my right of making my contribution of what I think ought to be. At the moment we are speaking of what exists. When we form the Government we shall put in place what we think ought to be.

While we confine ourselves to what exists, I do feel that the assistant chiefs and chiefs should be used for the purposes for which they have powers within the Constitution so to exercise their powers. But if they are used for purposes which are not constitutional, they lead this Government to spend money which it ought not to spend. For example, I know that constitutionally, no assistant chief or chief has the power to pursue an individual and arrest him forcefully. That is the power that is given to the police. An assistant chief or chief should report to the police to perform their functions. He should not in any way be found pursuing somebody to arrest him forcefully whether using KANU youthwingers or not.

The present practice---

**Mr. Speaker:** What clause of the Bill is that?

**Prof. Anyang'-Nyong'o:** Mr. Speaker, Sir, I am talking of R01 and D02. Votes R01, and R02 *etcetera*, are related to Recurrent Expenditures in the President's Office. Vote D01 is related to Development Expenditures, which I am coming to. I am only saying that when we are budgeting for Recurrent Expenditure there are certain practices in provincial administration which of necessity lead to excessive expenditure precisely because Constitutional powers are exceeded. I have a concrete example of an Assistant Chief in West Kanyadwera Location in my Constituency, who is currently being apprehended for murder because he was pursuing a thief himself and took it upon himself to kill that person. This is going to involve the Government in a lot of litigation and they may have to pay thousands of shillings in damages to that family just because Assistant Chiefs and Chiefs are exceeding their powers.

I remember several years ago we got a Circular from the Office of the President signed by the Head of the Civil Service which was cautioning the Civil Servants to ensure that they do not exceed their powers when exercising their duties. That Circular, I am afraid, is not being obeyed by assistant chiefs and chiefs. They are exceeding their powers and if indeed, Kenyans are given their full constitutional rights, this Government can pay a lot of money in damages where these assistant chiefs and chiefs have actually infringed in people's rights. The practice of assistant chief and chiefs of also using KANU youthwingers to exercise powers of maintaining peace and order in the countryside is wrong. Very soon one of these days one of these youthwingers is going to inflict bodily injury when people are resisting their actions and this chief or the assistant chief may have to sued for a lot of damages for such action. I think in the name of efficient administration this kind of practice should be totally discouraged.

Let me go to another point on the same issue, the meaning of an independent Civil Service. We are here voting Supplementary Recurrent for Civil Service Reform under R03. This amount is required for the year ending June 30th, 1995 for salaries and expenses for the Directorate of Personnel Management including general administration and planning, Civil Service Reform Secretariat, Training Schemes and Training Institutes. I think it is very important for us when undertaking Civil Service Reforms to realise that we are living in an era of political pluralism. People voted for political pluralism and the Civil Service should be an independent Civil Service, serving the Government of the sovereign Republic of Kenya, not any a single political party. A particular party can express its policies to Parliament and once these policies are passed in terms of Development Plans or in terms of the Budget. It is the Budget under Development Plan that the Civil Service is meant to implement, but not the goings on.

Mr. Speaker, Sir, it is wrong in terms of our Constitution and in terms of what I know of independent civil service for any Government Minister to come to this House and tell us that the Civil Service is implementing the KANU manifesto; the Civil Service is implementing the Development Plan and the Budget, not a manifesto. If the KANU Government wants its manifesto implemented it must be reduced to Sessional Papers and development programmes which, if they are passed by this House, become policies of the National Assembly of the Republic of Kenya and not of any particular political party. The Government, therefore, victimising individual civil servants on the grounds that they are not loyal to KANU, is unconstitutional and it leads to the partiality of the Civil Service not its independence. In approving Vote R03, we hope that we are approving it in the spirit of an independent civil service; serving a plural political order and not a partial civil service serving a single party regime. So, that mentality of a single party regime should constitutionally be banished from the minds of those in Government who think we are still in the past regime.

Mr. Speaker, Sir, we have to realise that no situation is permanent. We may think that we are saying that

the Government must serve a particular party but I think that if we obey our constitution and realise that political parties come into power and go, we shall we be doing this country much more good than we are doing at the moment.

Mr. Speaker, Sir, while talking of recurrent expenditure in those areas that touch on the Ministry of Home Affairs and National Heritage, the situation in our prisons and police cells is deplorable. I myself have been a visitor to the police cells in Kamukunji Police Station and the police cells at Kabete Police Station and I do not think that any civilised society should have police cells like those. So, if we are planning for any development expenditure for improving the Police Department and the Prisons Department, we should take into consideration the improvements needed in police cells and also in prison cells. If one of these days we can have a Parliamentary Select Committee just to visit our prisons remand cells and police cells, we shall realise that we are living in two worlds; one world in which we do not treat those under custody, who are still presumed innocent until they go to a court of law to be judged, and those of us who are walking outside who are also innocent but one of these days may be caught guilty of gross violations of human rights precisely because we are keeping beings in very inhuman conditions and we are not willing to recognise that or ameliorate it. I hate to think that I am going to pass this Supplementary Appropriation Bill when I have no assurance from the Government whatsoever that conditions in our prisons and police cells are going to improve. This is because my heart bleeds when I think of how human beings are mixing with human waste and are lying on each other in these terrible conditions and yet we are passing lots and lots of money for what we call Civil Service Reform when we really do not think seriously of these reforms.

Mr. Speaker, Sir, under R05 we are being asked to approve the sum required in the year ending 30th June, 1995, for the salaries and expenses of the Ministry of Home Affairs and National Heritage including general administration and planning, archives, museums and historic monuments, prisons department, children services, probation services and Betting Control and Licensing Board. The most important word here is planning. If you are really spending money to plan, I hope we are going to spend money to plan for improvement in prisons and police cells. This is because quite honestly, these are citizens of this sovereign Republic of Kenya and they are citizens who need their rights to be recognized and serviced under our present Government and future governments.

Mr. Speaker, Sir, there is one more point that I want to raise with regard to Vote R01 which has to do with recurrent expenditure again in the Office of the President. I want to connect it with Vote D01 which is development expenditure in the office of the President. In 1993, this Government commissioned a study and a report under Engineer Peter Wambura which was meant to review Government projects. That report, to me, was a very good report. It came out with an analysis of Government projects; those that it regarded as priority projects and those that it regarded as core projects. It gave the Government a very clear guideline on how to finish uncompleted projects and how to sequence expenses on these projects. Characteristic of this Government, the very good Peter Wambura Report has been put in some shelf somewhere and completely ignored. In R01 and D01, we know for certain that there are several projects that are still uncompleted. I would also relate that to Vote R31, which has to do with the universities. I myself have visited some of these projects and you will find that buildings are started and left half-way. One good example is the Provincial Headquarters in Kisumu on which a Question has just been asked and answered today. The Government says that Kshs.173 million is still needed to complete that project. You could go to similar projects at Moi University, Kenyatta University, Egerton University, you name them, and they are all buildings done and left uncompleted. They only need a few million Shillings to complete. Quite often of this Government is paying a lot of money for the cranes just standing there. These cranes have to be paid for on a daily basis. There is no way the Government will run away from paying for the expenses of these cranes. So, the thing to do is to plan to complete these projects.

Mr. Speaker, Sir, I do hope that in preparing Supplementary Estimates the Government takes into consideration the recommendations of a report like the Peter Wambura Report and completes these uncompleted projects. I hate to see that next year we shall be doing the Budget and we have to make provisions for expenses that we could have avoided; things we are paying for for uncompleted projects because we have to pay because the contractors have their equipment there and they cannot move them precisely because the contract was not yet finished. I hope that this comment I am making in very good faith will be taken into consideration in the budgeting system of this Government and we shall avoid preparing supplementary estimates which do not go to complete what is being done but only go to fuel the machinery of a governmental bureaucracy.

Let me come to that issue of governmental bureaucracy. We are talking of civil service reform. The present practice of civil service reform in our Republic is really one in which the Government specialises in retiring people; up to the age of 40 years. Now, the Ministers here will agree with me that somebody only begins to be productive at the age of 40. I see very few Ministers in this Government who are less than 40 years old. If

we were to go by the age of 40, being retired, all of them would have quit the Government a long time ago. But they all have great faith in serving this Government for the next 15 years; at least they tell us that every day; that we are here for 10, 15, 20 years. I do not think that the age remains constant. It keeps on ticking away; they are going to their 50s, 60s and so on and yet they are now presiding over a Government which is retiring people in their hundreds at the age of 40. Really, after we have invested in human resources and they are just beginning to pick in their productivity and you retire them, whether this advice from the World Bank, IMF and so on, I do not think it is correct. This Civil Service Reform should take into consideration efficiency and productivity. If we take into consideration efficiency and productivity, you will find that what we are voting here for Civil Service Reform, and if that money is going to be used for retiring people at the age of 40 years, we are becoming pennywise and pound foolish. I will repeat, we are becoming pennywise and pound foolish.

Mr. Speaker, Sir, I would prescribe one formula for our Civil Service Reform. I would vote, if I were this Government, some budgets for what I call benefits for a Civil Service. When somebody reaches the age of 50 years, you can say that this person does a hard day's job

**Mr. Speaker:** Order! Can I just enquire from you, Prof. Anyang'-Nyong'o, whether you are aware of that in an Appropriation Bill. Hon. Members are not allowed to discuss the policy? That should have been done on the earlier Statement which was moved earlier. This one, strictly, is supposed to be confined as a Supplementary Appropriation Bill. It is out of order to bring policies into the debates. That should have been done last week on the other Motion.

**Prof. Anyang'-Nyong'o:** Mr. Speaker, Sir, can I seek information from you? Which Motion was it, last week?

**Mr. Speaker:** It was the Motion on Supplementary Estimates. That is where policies are discussed.

**Prof. Anyang'-Nyong'o:** Mr. Speaker, Sir, I get you, but I also made my point known last week that I thought that we were really loaded in discussing that Supplementary Estimate. It was done so fast that hon. Members were not allowed time to discuss it. It was put in our Pigeon Holes hardly before it was discussed. I made these points last week in making a point to this Government that they should give hon. Members time to discuss the Supplementary Estimates both in terms of when they bring the documents and time given this House to discuss it. It is not for us to insist to talk for long. We are doing it in the name of the people of Kenya and for the help of this Government. If they are afraid of information, let them say so. I will, therefore, not go for long because I am doing this not in my interest as an hon. Member but in the interest of the people of the Republic of Kenya.

Mr. Speaker, Sir, let me go to my specific points. Vote D20 - the amount that is required here for Rural Water Supply and Self-Help Water Supply, and we are Voting a Supplementary Estimate for Kshs.1.8 million and Appropriations-in-Aid of Kshs30.2 million, and there is an asterisk saying, "Deficiency." Just by putting the word "Deficiency", we do not know what it means. This is not a magic word, and I told the Minister for Finance last week that very few people in this Parliament understand some of this jargon, and this "Deficiency" should have been explained.

Mr. Speaker, Sir, water is an extremely important issue in this country. Just recently we had the Swedish give us aid for what they call Swedish Rural Water Supply. I hope that when the Minister comes to reply, he will tell us the relationship between this Water Supply mentioned here, D20 - the Development Expenditure and R20 - the Recurrent Expenditure for the same, where the Swedish Rural Water Supply Project fits, because this was just announced the other day.

Mr. Speaker, Sir, I must say that although you are confining us from discussing policy, quite honestly, and although you are saying that we should have done this in the Supplementary Estimates, this is the Supplementary Appropriation Bill. This is the Bill that gives these people the power to spend the money, and we should not just let it go because if we have any question, we are entitled to raise it. I would like to know, as a matter of fact, why it is that we are adding Kshs1.8 million and what this Kshs30.2 million Appropriations in Aid is, and why it is asterisked as "Deficiency". We would like to be informed. Okay!

Mr. Speaker, Sir, there is another issue that I want to raise with regard to D21 - The Schemes for Rural Afforestation Extension Studies on the Saw Mill Industries. This is a substantive point. We have known that we Vote money for studies, and quite honestly, in this D21, we are having nearly Kshs3.3 million and Kshs1.6 million Appropriations in Aid, although you say that the Repatriation is exactly what goes towards the Supplementary Estimates, but here it is a bulksome. We may run the risk of a lot of this money going to Local Rural Afforestation Extension Studies. This is usually a conduit for siphoning money for giving good boys for consultancy and for somebody writing one page and being paid Kshs.50 million. We have seen it and this evidence has come to us in the various Committees. So, I get very concerned when I see something written in the middle of the paragraph called "Studies". I would like the Minister to allay our fears and to tell us very clearly

why we are spending that much money in D21 and I would like a specific answer as to exactly how much money will go towards the so called tariff.

*[Mr. Speaker left the Chair]*

*[Mr. Deputy Speaker took the Chair]*

Mr. Deputy Speaker, Sir, I would have gone a long way to make more points about the rest of the paragraphs, but I do believe that there are many more hon. Members who want to talk on this issue.

I would like to end by saying that next time we have the Supplementary Estimates in the House, and before the Appropriation Bill is discussed, first, the Estimates should be put in our Pigeon Holes in good time so that we can study them and consult with wider society on this one, particularly professionals people in the Insurance Industries, Accounting Industries and Development Experts so that we ourselves are informed of why these Estimates are the way they are.

Secondly, I would also like that when the Minister next time comes to present the Appropriations Bill, he presents it in much more details than he did it this last time so that hon. Members can follow paragraph by paragraph why they are voting the money they are voting now. I have said this not because I want the Minister to do unnecessarily more work, but because I am conscious as he is, that many hon. Members of this House would like to follow in much more details what money they are Voting to be spent because money in this House is perhaps one of the most important functions that we can perform when we are giving you powers to do so.

Mr. Deputy Speaker, Sir, finally, I do think that what I said last time, which the hon. Minister for Transport and Communications appreciated sincerely, is that we need a seminar on the Budgeting System in this country. This seminar is not only needed by the Government and hon. Members but also donors, Aid Agencies and so on. I have gone through the various Budgets and Development Plans and so on, but they do not read well. Quite often, there are a lot of loopholes in the Budgeting System, and this is one of the reasons why sometimes money is not disbursed by donors. Today, the Minister for Agriculture, Livestock Development and Marketing was talking about Stabex Funds. I was standing on a point of order, but he was also on a point of order. I would like to inform the Minister for Agriculture, Livestock Development and Marketing, that the point he was making about Stabex Funds is a little bit out of the mark. I do happen to know that since 1991, the European Economic Community (EEC) has not been able to release Stabex Funds. It is not because of the mistakes of their own, but because of the mistakes of this Government.

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): Thank you very much, Mr. Deputy Speaker, Sir, for giving me this opportunity to join those who have contributed to this Bill. First of all, I would like to say that I agree with the hon. Members of the opposition that more time should be given to the hon. Members of this House to scrutinize the Printed Estimates, be they Supplementary or otherwise. I can see the problem that my friends in the opposition have. In fact, the hon. Member who has just sat down, has been speaking about aid from Denmark under Vote D20. If he had enough time to scrutinize the Printed Supplementary under D20, he would have found that Denmark is not mentioned in any provision under D20. He said that this was announced only recently and he is actually right and therefore, it will appear under the actual estimates and not in the supplementary estimates. What actually appears under Vote 20, is the Japanese aid. He also mentioned something under Vote D21 to the effect that there is a question of studies.

Mr. Speaker, Sir, I think hon. Members are confusing the heads with the actual provision. The provisions are stated very clearly and the heads are also clearly stated. However, the heads as they appear in the Bill, are the same heads that appear year after year and describe the provision which appear under them in that particular vote. For example, in the 1993 Appropriation Bill, all the heads are the same for the 1994 supplementary estimates. So, these are permanent unless something is added like the "secretariat" under Vote R1. There is a provision under that definition for operations of the secretariat on stabilization of the Civil Service. That is the only head that has been added in this Bill. The idea is to have the Secretariat which is already doing structural adjustments under the Office of the President. The reason is that when this Secretariat was established, it was not provided for in the main estimates and that is why it is now appearing in the supplementary estimates as an additional head.

Having said that, I would to urge my friends on the Government said to agree with me that we need extra time to study the Bill, because as things are now, hon. Members, particularly the new ones, are at a loss to know what the Bill is talking about. For example, when hon. Muchuki, was moving a Motion in an attempt to extend debate on this Bill, I specifically said that we need to be given more time to scrutinize the Bill. If that time had been allowed, hon. Members would not be debating in details when contributing to debate on this Bill as has been

done by the hon. Member for Kisumu Rural. In fact, most of the things he has been saying are not even provided for or even being asked for in this Bill. The same case applies to what the hon. Member for Kikuyu has been saying. Although he impressed as having read the Bill, at least for the first time, but appeared not to understand it thoroughly because he has not had the time to read the previous estimates which I have here with me. In fact, he misled this House by saying that under Vote R36, under the Recurrent Estimates on the Ministry of Housing, that houses were being given out without any Appropriations-in-Aid being reflected anywhere. He should have known better that supplementary estimates do not show Appropriations-in-Aid and that it is only the Development Estimates that do reflect the Appropriations-in-Aid. Therefore, if he had the chance to look at D36, he would have seen that Appropriations-in-Aid of K£3 million are reflected there while the Recurrent Expenditure under the same Vote was K£2.7 million. So, these are the sort of things that would be avoided if hon. Member would have had enough time to read the Bill a bit closely. That is why I am saying more time should be given to hon. Members to read the bill and understand it fully so that there is no contradictions made when debating the Supplementary Appropriations Bill.

Mr. Deputy Speaker, Sir, during the 22 years that I have been in this House, there is something in this Bill that I have seen in this type of Bill. Perhaps when the Minister stands to reply, he will tell us what it is and this is the provision under sections 2, 3 and 4 of the Bill. This is the first time that I have seen this kind of a provision and I am trying to find out whether the Sixth Parliament which was responsible for incorporating these three sections, ever passed the Supplementary Bill that year to cover what appears in Schedules 1, 2 and 3. If they did, then the Minister should tell us that these provisions are going to cover what the Public Accounts Committee referred to as that time as "pending bills". The Chairman of the Public Accounts Committee (PAC) dwelt on pending bills and after reading this Report, it did recommend that pending bills should be done away with as much as possible. Here, there is a possibility that these three sections I am talking about are covering these pending bills so that we do not have them appearing in the PAC Report. If that is the case, then it is a very strange situation which I have not come across during my 22 years experience in this House. So, we should like to know why these schedules are appearing in this particular Bill.

Mr. Deputy Speaker, Sir, Clause 3 says:-

"The Treasury may issue the sum of £48,217,360 16.85 out of the Consolidated and apply it towards the supply granted for the service of the year ending 30th June, 1992"

I have never seen a situation like this before and I presume that if there were any Supplementary Estimates for the year ending 30th June 1992, there was eventually a Supplementary Appropriations Bill which must have approved that money. It is surprising to note that when the Minister moved the Bill, he did not specify these very strange clauses that are included in this Bill. He did not specify whether they are going to settle the pending bills, which I suspect is the case. It would look odd that Parliament as at that time was in Session but then failed to legalize the over-expenditure of this Government during that lengthy period of five years that they were in this House.

Mr. Deputy Speaker, Sir, the same case applies to Clause 2 in passing the Supplementary Estimates that were incurred within the year ending 30th June, 1991.

*[Mr. Deputy Speaker left the Chair]*

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

Again, comparing this Bill with the others I have seen in this House, I have found that that provision is very strange. But as I said, I would be satisfied if those clauses are going to clear the pending bills so that the next estimates can be light. Such bills could go along way in finishing the unfinished projects which hon. Members of the Opposition were pointing out, such as the Provincial Commissioner's Office in Kisumu. Otherwise, the Bill is straightforward and having read the Supplementary Printed Estimates, they are only being legalised by this Appropriation Bill so that the money that has been utilised or is going to be utilised for the control of floods in my Constituency is legally apportioned by this House for the use by the Ministry of Water Development.

Mr. Deputy Speaker, Sir, having said that, I think, hon. Members should be in a position to support this Bill. With those few remarks, I support the Bill.

**Mr. Mutere:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this important Bill. I will make a few observations on this Bill.

First of all, this is with regards to the statements of excesses for the two years, 1991/92. Under normal accounting procedures, once the year is ended and you have a balance sheet stipulating the state of affairs for that



particular year, that rests the matter there as far as that particular year is concerned. Now, it is interesting that with this particular Bill, despite the fact that we had figures produced way back in 1991/92, we are now being asked in 1995 to come up with fresh appropriations to cover some of the figures that had already been reflected at that particular point. It is of concern to some of us to find out what were the actual balances as at that particular time. With accounting exercises, it is important to have your figures right. Once you close those figures, it is a reflection of the state of affairs as at that point. Now, when the Minister replies, I would like him to elaborate as far as this particular provision is concerned, particularly covering sections two and three.

Now, Mr. Deputy Speaker, Sir, another point I would like to bring out is the question of Development Expenditure versus Recurrent Expenditure. Now, as I understand it, the Recurrent Expenditure is supposed to cover the financial years for which they are specified. Now, the Development Expenditure is also supposed to cover capital items. Now, when you go through this Bill, you find that in some cases, after the mention of the various capital expenditures that are supposed to be expended, it also covers about administrative aspects of the capital expenditure. Now, this, to me, is rather unusual because the administrative expenditures are supposed to be covered under the Recurrent Expenditure and not under capital expenditure. So, I would like the Minister to elaborate on why it is necessary to include general administration and planning expenses in the Development Expenditure. This is rather unusual.

Mr. Speaker, Sir, another point that I would like to bring forward here is about the various amounts that are purported to be for supplementary appropriations. The general understanding of the supplementary is that you have fallen short of the printed expenditure and you are now looking for extra funds to be able to see you through the period up to and including 30th June of that year. Now, one wonders that we are now in May and the new financial year is starting in July, so we have only two months to go. One wonders the colossal amounts of funds that are being sought out here, whether they are really necessary to be authorised at this particular point in view of the fact that---

**The Assistant Minister for Finance (Mr. Keah):** On a point of information, Mr. Deputy Speaker, Sir. I would like here to inform the House of an erroneous matter that could be misleading the whole House with respect two issues. One, it is in respect of the statement of excesses of 1991/92 and the other in respect of timing. The fact that we are now in May and the budget will come in June, do we really need this money between now and June. Those are the two issues that I would like to dwell on briefly.

One, the statement of excesses 1991/92, were approved as a result of the Public Accounts Committee (PAC) by this House on 4th May. Until Parliament approves those excesses, they cannot come to the House for appropriation by the House. Since May, 1994, we have not had an opportunity to present them either in the 1994 budget because by that time the 1994/95 budget had already been prepared. So, this is the first opportunity we have in Parliament to obtain Parliamentary approvals of those excesses incurred in those years.

Two, the budget is for a full year and it does not mean that these expenses once approved, are for the period between now and June. It is really in respect of the whole year. When we made the estimates and when the Parliament passed those estimates earlier on, we had certain figures. But since then we know that in the year we shall require so much more and hence we are asking Parliament to approve what we now know will be required up to 30th June, 1995. I thought I should make that clarification in order to correct the erroneous impression being created in the House.

**Mr. Mutere:** Thank you, Mr. Deputy Speaker, Sir. Thank you for that information and it is valid. But, besides that, we have cases where already some expenditures have been incurred and we are being asked to ratify that. I have no quarrel with that as long as it is in order and has passed through the necessary committees.

This brings me to another point about the Estimates Committees which operated, I think, for only one session. I happen to have been a Member of that Committee and it only met once. I hope that the necessary machinery is going to be put in place to ensure that this Committee works well so that in turn it will be able to scrutinise some of those things before they come to the full House.

With those few remarks, Sir, I beg to support.

**Dr. Lwali-Oyondi:** Mr. Deputy Speaker, Sir, I wish to make a few remarks on this particular Bill. First, I must thank the speaker who was on the Chair on Thursday for having allowed this Bill to continue up to today. The way it was brought here was rather stealthy and it caught many hon. Members by surprise. Bills being what they are, where hon. Member of Parliament do not pretend to know them all, we ought to have enough time to consult various authorities who many give us advice on various sections which may not be very clear to us. In this way, when we come and contribute on these Bills we will do so with a bit of knowledge, background and we will be relevant. Therefore, in future I hope the Minister for Finance will have to give us a bit of notice, at least one week, so that we can go through those voluminous documents. I do not mean to say that we want one week to debate these Bills. We want to at least have enough time to look at these Bills so that we can be able to intelligibly

debate them because they concern money and money is the actual moving power of any given institution including running a country. From what the Assistant Minister has just explained, it would appear that most of this money has already been spent and we are just as it were rubber-stamping it. I have seen that some of the money we are supposed to approve now has already been used in some projects like for example, the renovation of the Kisumu Provincial Commissioner's Office. This means that we are just approving what has already been spent and I was wondering whether that is quite in order. I hope that the Assistant Minister will make sure that after this rectification, the officers concerned will have to live within their budgetary provisions and should there be a need for further expenditure, it comes to this House and we see to it that we approve it or look into ways and means of trying to make sure that our officers spend money within the limits that are set. It is not we who give the estimation but it is Minister himself who comes with such estimation and gives us what we should approve as a Budget. After approving it, he and his officers go and spend the money and usually they do not wait until we approve the expenditure or give an appropriation approval. They just spend and we have to come here and rubber-stamp it. I think we should have some financial discipline whether this is on the national or personal level so that we do not get embarrassed and get to---

**The Assistant Minister for Finance** (Mr. Keah): On a point of information Mr. Deputy Speaker, Sir. I rise on a point of information on the continual misleading notion about these Supplementary Estimates. Take for example the hon. Members's salaries and allowances. Nobody in the Treasury or even the Clerk of the National Assembly would have known how much would have been approved for the hon. Members to have been included in the original Estimates hence the Supplementary Appropriation Bill. The hon. Members seems to be thinking that Treasury or the Clerk could anticipate these figures and include them in the original Bill. So, I want to correct that wrong notion about Supplementary Estimates.

**Dr. Lwali-Oyondi:** Thank you very much the hon. Assistant Minister for that information. In the case of the example he has given it was first brought in this Parliament. We knew about the expenditure concerning the hon. Members' salaries but if somebody overspends on motor cars or something like that, it does not look good. If it was money voted for let us say, transport, I think that money should be spent within that limit. If money is underprovided then of course the following year the Minister concerned should make sure that he is given enough money so that there is no overexpenditure. There is no need for us to keep on pleasing people during the month of June. For example, next month we shall have a very beautiful Budget in which everybody will give a very good comment on it and then we end up having no money to spend in the Ministries and therefore overexpenditure comes about.

Having said that, I would also like to comment particularly on the Office of the President which of course includes the Provincial Administration. This is the Office that consumes money in the largest amounts whenever Estimates come to this House. There is a misuse of this particular Office. The Provincial Administration have taken the role of being Kanu activists. For example, I was invited by wananchi to attend Labour Day celebrations as their representative in Nakuru. They gave me a chance to talk to my people only for the District Commissioner (DC) to come up and tell me that I was not allowed to speak. Whoever gives him that authority, I have no idea. I have been given the mandate by the wananchi by electing me without rigging or giving them anything to this House and as such, I have a right to speak to them anywhere. For the DC to work for Kanu in Nakuru and refuse me to speak on this particular day which I went just because it was the Workers' Day, it was not fair. I am not personally interested in attending any other national day and I will never to ever go there again until wananchi tell me to do so. Let him not think that he will keep me out of this Parliament. The motto of my Party is always "let the people decide" and for his information I will keep on speaking the truth and nothing more. I will speak for wananchi and nobody will dissuade me from not speaking for wananchi. The only thing this particular Office fears is that we might mention that the PCs and DCs have allocated themselves many Government Houses but the thing is that whatever we do we have our civil servants to cater for.

Mr. Deputy Speaker, Sir, anybody who is selling their houses should tell us whether the world is ending tomorrow so that we have no need for civil servants. This question of selling houses and then bringing here provisions for house rent to enable civil servants to rent houses is not in order. It is one of the worst misuse of public utilities, which will be talked about for a long time in the history of this Government. This Government might go down in history as one of the most corrupt Governments that have ever been seen in Kenya. Why are we selling all these houses? From where shall we be getting KShs.60,000/- a month to give one civil servant a decent house? These are some of the things we have to look into. I am sure the Minister for Finance will in the next Budget be coming out with one of the biggest estimate provisions for house rent because the Government officers have lost their houses to individuals.

I would also like to know why some of the promises we have been given here have not been fulfilled. I have been told that streets lights will be installed in Nakuru Town in this or that financial year, but up to now we

do not have street lights in this town. It is so dangerous to walk in the streets of Nakuru that last time Kanu youth wingers ambushed a former Nakuru Town assistant chief and hit him fatally. These are some of the problems we have. We also suffer from policemen and rogues because of lack of street lights.

We were also promised water which we have not been given. The roads in Nakuru Town are stinking. The streets are so muddy that you would think they are a neglected pig sty. So, the money we vote here for road maintenance should be used to help not only Nakuru Town but also other areas like Eastleigh area of Nairobi. The money should not be used to hunt down politicians and throw them into jail at the whims of the Government which seems to fear everybody because it is not performing well.

I do not want to take too long on this Bill because there are other hon. Members who would like to speak on it. However, I urge the Minister to bring the next Bill on time.

With these few remarks I beg to support.

**Mr. Kariuki:** Mr. Deputy Speaker, Sir, I would like to thank you very much for giving me this time to say a few words on this Bill. It seems from this Bill that a lot of money has been spent and a lot more is going to be spent to do various jobs that the Government requires performed.

I do not think I will be in the position of my hon. friend here who had a lot of time to criticise this Bill and the Government as much as he could and he got away with it. My first point is in connection with disaster relief and running of food stores in remote areas. I think time has come when we have to reassess ourselves and see whether relief assistance reaches the deserving cases. There are some areas which need to be given more consideration than others. However, the biggest problem is in relation to distribution. The way this food is being distributed nowadays leaves a lot to be desired. This is because it is distributed through chiefs without other people being invited to witness the distribution. Relief food has become a source of income for some of the administrative officers, including chiefs. So, we have now to decide whether management or storage of this food should continue to be left in the hands of a few people, especially chiefs. Some of them do not do the job to the required standard. A lot of food has been sold to private individuals. The same thing goes for fertilizers and seeds which are donated to our people by the Government. Their distribution is also a big problem. If the money being asked for here will be utilised we expect to see a new kind of manageable system, where food will be distributed without a lot of waste occurring.

Mr. Deputy Speaker, Sir, having said that much about the Office of the President I will go further down--

**The Assistant Minister for Agriculture, Livestock Development and Marketing** (Dr. Misoi): On a point of order, Mr. Deputy Speaker, Sir. Since this Supplementary Appropriation Bill has been exhaustively debated for the last two days would I be in order to move that the Mover be now called upon the reply?

**Mr. Deputy Speaker:** In that case I will put the question for the House to decide.

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

**The Assistant Minister for Finance** (Mr. Keah): Mr. Deputy Speaker, Sir, I would like to thank you for giving me the opportunity to reply to hon. Members' comments on the Appropriation Bill. First and foremost, I would like to take this opportunity to thank hon. Members for their contributions and comments which we, in the Ministry of Finance, and all the various Ministries of the Government, have taken into account.

There are a few things that I would like to touch on in order to correct certain misconceptions about budget, in general, and the Appropriation Bill and Supplementary Estimates, in particular. First of all, I want to agree with hon. Members who were concerned about the correct use of budgeted funds. I whole heartedly support it and I do indeed urge Ministry officials---

## QUORUM

**Mr. Mulusya:** On a point of order, Mr. Deputy Speaker, Sir. I do not want to interrupt the hon. Assistant Minister's reply, but he seems to be replying to a House which has no quorum.

**Mr. Deputy Speaker:** Order! I understand correctly that there is no quorum. I order that the Division Bell be rung.

*(The Division Bell was rung)*

**Mr. Deputy Speaker:** Order! We now have a quorum.  
Proceed, Mr. Keah.

**The Assistant Minister for Finance** (Mr. Keah): Mr. Deputy Speaker, Sir, I said that on the usage of funds, I entirely agree with hon. Members that funds voted by this august House should be spent on the items and purposes for which they were voted. On the issue of misuse of funds, the notion that has been created in this House, that every item of the expenditure budgeted for is for misuse is totally incorrect, and I would like to correct that misconception. One hon. Member, hon. Dr. Lwali-Oyondi wanted a whole week to debate the Supplementary Estimates. I would like hon. Dr. Lwali-Oyondi to look at section 143 (3) of the Standing Orders. That provides for one day unless by leave of the House---

**Dr. Lwali-Oyondi:** On a point of order, Mr. Deputy Speaker, Sir. I think the Assistant Minister has really misunderstood what I said. I said we should have a notice of one week so that we can consult the experts. You do not come with the experts here to debate. The debate could go on for one day, but we should have a notice of at least one week in order to seek the views of experts.

**The Assistant Minister for Finance** (Mr. Keah): Well, certainly they had more than one week between the laying of the Papers here and when the Bill was published and when it was passed to them. Be that as it may, let me carry on. In so far as the Statement of Excesses 1990/91 and 1991/92 is concerned, I would like to reiterate here again for the benefit of hon. Members that, this is the first time that we have authority to bring this matter to Parliament to approve the expenditures of the Government, indeed, after approval of the Public Accounts Committee which was on the 4th of May, 1994. This, really, is true transparency and accountability and recognition of the fact that it is only this august House that has the power and authority to approve all the expenditure of this Republic. As for the 1994/95 Supplementary Estimates, these were necessary because, after the preparation of the Budget and the approval thereof by this House, we came to know of certain expenditures which we need to explain; that there were salaries that were approved after the Budget was prepared. These include the salaries of teachers, doctors as well as those of hon. Members. In fact, I am informed by the Clerk of the National Assembly that unless we approve this Bill, there will be no more allowances for the hon. Members because he has exceeded his Vote and he is unable to pay hon. Members this week unless we approve these Supplementary Estimates. That is not blackmail. It is true in itself.

Mr. Deputy Speaker, Sir, in so far as the Appropriations-in-Aid are concerned, this is both domestic and also contained in donor funds as well as loan funds. This is all described in the Constitution and I would like to ask hon. Members to understand that if, for example, we have budgeted for donor funding to come in and those funds, for one reason or another do not come, we have to show and reflect their respective reduction in the budget. Again, those have got to be brought to this House. I am afraid that the point mentioned by Prof. Anyang'-Nyong'o that we are sometimes unable to absorb donor funds, is very true. It is true because donors sometimes insist on the Government's contribution and if we are unable to raise the counterpart funds, we do not get the donor funds, and that is where the incapacity comes in. The point here is that some of the donor funds can only be utilised when there are counterpart funds available. That point should also be understood. The other point is, really, to assure hon. Members that there is nothing sinister in these Supplementary Estimates, the details of which are adequately contained in the big pink books. There is really no difference between the big pink books and the Supplementary Appropriation Bill except, perhaps, for the presentation and layout because, this is strictly designed to incorporate what we had in the original Finance Bill so that they all coincide. The repetition here really coincides, as a matter of procedure, with the original Finance Bill. This is the reason why we cannot really reduce or even increase the wording of the Supplementary Appropriations Bill.

Mr. Deputy Speaker, Sir, while talking on this, I would want to point out that on R36 as well as D36, the wording should be "Ministry of Lands and Settlement" rather than "Ministry of Lands and Housing." This is on pages 165 and 170. Having mentioned those particular aspects, I do not think there is very much more for me to amplify rather than ask hon. Members to accept and approve these Supplementary Estimates in order to ensure that the Government carries out its work right up to the end of the year; 30th of June, 1995. I believe that I have covered everything that I should have covered in terms of response to Members' contribution.

With that, I beg to move.

*(Question put and agreed to)*

#### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[Mr. Deputy Speaker left the Chair]*

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

### IN THE COMMITTEE

#### THE SUPPLEMENTARY APPROPRIATION BILL

*(Clauses 2, 3, 4, 5, 6 and 7  
agreed to)*

*(First Schedule agreed to)*

*(Second Schedule agreed to)*

#### *Third Schedule*

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Chairman, Sir I beg to move:- THAT, on the Third Schedule, page 165 Sub-heading R36, the words in the third line "housing" be deleted and replaced there with the word "Settlement" so that R36 reads:-

"The amount required in the year ending 30th June, 1995 for the salaries and expenses of the Ministry of Lands and Settlement including general administration and planning, the Departments of Land Adjudication and Settlement Surveys, Land, Housing Services, Housing Development and Physical Planning - Kshs.2,767,775 and on the Appropriations-In-Aid -"

*(Question of the amendment proposed)*

*(Question, that the word to be deleted be  
deleted, put and agreed to)*

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

**Prof. Anyang'-Nyong'o:** Mr. Temporary Deputy Chairman, I would like clarification on R01 which refers to Kenya Airports Authority and General Service Unit. Could you get clarification from the Assistant Minister whether that Supplementary Vote includes funding for the construction of Eldoret Airport or not?

Secondly, I have a question on R29, page 164, Schedule 3 - the amount required for Office of the Clerk to the Legislature and grants to the Electoral Commission. I would like to know whether grants to the Clerk and Legislature include the payments of allowances approved by this House in the reports of the Public Accounts Committee and the Public Investment Committee last year and this year regarding the allowances for members of staff of the Legislature who served in those Committees.

**The Temporary Deputy Chairman** (Mr. Wetangula): Mr. Keah, are you clear with the question?

**The Assistant Minister for Finance** (Mr. Keah): Yes, Mr. Temporary Deputy Chairman. I am clear with the first one, but with regard to the second one I will need to consult.

As far as the R1 is concerned, I would say that Eldoret Airport to the best of my knowledge, is not included there. With regard to R29 the answer is yes.

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Chairman, the Assistant Minister has just said that the Eldoret Airport is not included in R1. Since the construction of the airport is going on, is he not misleading this House? There must be money coming from somewhere.

**Mr. Temporary Deputy Chairman** (Mr. Wetangula): Ask him!

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Chairman, Sir, from which account is the Assistant Minister getting money for constructing this airport since we have not approved any money for the project?

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I need to look at the detailed accounts book. The funds for constructing Eldoret Airport are contained in an account from the

Exchange Rate Savings that we have been able to place in the Treasury and they are included in the detailed Appropriation Estimates in the Supplementary Estimates Book.

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Chairman, Sir, the Assistant Minister has just stated here, I hope he is still listening while consulting at the same time---

**Mr. Temporary Deputy Chairman** (Mr. Wetangula): Dr. Lwali-Oyondi, I hope you are not opening debate on this issue. You had ample time to debate this issue.

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Chairman, Sir, we are all aware that the issue of this airport has not been brought to this House for debate. And if there are any savings of public funds from anywhere, they should be used for purposes that have been approved by this House. So, could the Assistant Minister elaborate on these savings? If there is any monies saved by the Government, they should be used on what we have already approved.

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

**The Temporary Deputy Chairman** (Mr. Wetangula): One minute, Mr. Keah! Mr. Maore, are you standing on the same issue?

**Mr. Maore:** Mr. Temporary Deputy Chairman, Sir, it is very important that the Assistant Minister clarifies from which account he is funding this project. This House is entitled to authorise every cent spent from the public funds. We want to hear from the Assistant Minister whether he is using clandestine funds to implement that huge project of a major international airport at Eldoret. Is the

[**Mr. Maore**]

project being funded with funds from a secret account?

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, we are talking about The Supplementary Appropriation Bill, 1995. In this Bill the Eldoret International Airport Project is not mentioned. If hon. Members want to raise an issue about that project they can raise it elsewhere and not through this Bill which does not contain that project.

*(Third Schedule as amended agreed to)*

#### *Fourth Schedule*

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I would like to move the same amendment; replacing the word "housing" on the second line with the word "settlement" so that under Vote D36 it reads:-

"The amount required in the year ending 30th June, 1995, for the Ministry of Lands and Settlement---

**Prof. Anyang Nyong'o:** Mr. Temporary Deputy Chairman, Sir, I have a question on Vote R07 where recurrent expenditure has been reduced by K£103.7 million. The question I have regards Government investment as a recurrent expenditure. This is on page 167. Government investment is listed under R01 as a Recurrent Expenditure. I do not know how an investment becomes a recurrent expenditure. Could the Assistant Minister clarify this? I also ask that in collaboration with Vote D07 which refers to among other things, capital and share investments in banking and other institutions and for providing loans to statutory organizations. Could the Assistant Minister clarify whether we have a double book entry; one for a reduction in Government investment under Recurrent expenditure in Vote R07 and reducing Government investment under Development expenditure and that reduction relates to share investment in banking and other institutions? You are reducing the Vote by K£103.7 million and you are referring to that as Government investment. How does this recurrent expenditure of Government investment relate to Vote D07 which is also Government investment?

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, let me explain that the transfer there from the Ministry of Finance, on the Recurrent Vote R07, is merely a re-allocation of funds to be absorbed to shown in the specific Ministries; in terms of recurrent expenditure. So, the K£103,796,000 has merely been transferred from the Ministry of Finance to be shown in the other various Ministries. It has been spread out to the other Ministries. The same explanation is carried on Vote D07. We are reducing the Development Expenditure to be incorporated in the other Ministries, out of the Ministry of Finance. Instead of the Ministry of Finance showing everything, it has been taken to the respective Ministries that are incurring the expenditure. So, there is absolutely no question of recurrent expenditure appearing as development expenditure and vice versa. That would be wrong accounting. But the wording may show that we are utilising an item of

recurrent nature by description as a development item. All I can say here is that this is an accounting terminology. This is because even in a development expenditure you will have some description which may connote recurrent but in fact it is not recurrent. For example, you may have---

**The Temporary Deputy Chairman** (Mr. Wetangula): Order, hon. Keah! You are now making an unnecessary speech. The question the hon. Member asked was very simple.

**The Assistant Minister for Finance** (Mr. Keah): I have finished. I was only elaborating, Mr. Temporary Deputy Chairman, Sir.

*(Question of the amendment proposed)*

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

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

*(Fourth Schedule as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

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

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[Mr. Deputy Speaker in the Chair]*

## REPORT AND THIRD READING

### THE SUPPLEMENTARY APPROPRIATION BILL

**Mr. Wetangula:** Mr. Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Supplementary Appropriation Bill and approved the same with amendments.

**The Assistant Minister for Finance** (Mr. Keah): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Minister for Labour and Manpower Development** (Mr. Masinde) seconded.

*(Question proposed)*

*(Question put and agreed to)*

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

**The Minister for Labour and Manpower Development** (Mr. Masinde) seconded.

*(Question proposed)*

*(Question put and agreed to)*

*(The Bill was accordingly read the*

*Third Time and passed)*  
*Second Reading*

THE KENYA REVENUE AUTHORITY BILL  
(*The Minister for Finance on 23.4.95*)  
(*Resumption of Debate interrupted on 26.4.95*)

**Mr. Deputy Speaker:** Prof. Anyang'-Nyong'o was contributing.

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, when the House rose last time, when we were discussing this Bill, I was on the Floor and I was making contribution to the provisions of The Kenya Revenue Authority Bill and having a very interesting exchange with the hon. Attorney-General on this issue.

Mr. Deputy Speaker, Sir, the point that I was making last time regarded, among other things, the membership of the Board and I drew the attention of the House to an article that had appeared in the *Sunday Nation* on April, 23rd 1995 page seven by a Kenyan academic Mr. David Ndi. It was headlined, "Taxing prospects for New Revenue Body" and I was drawing the attention of the Minister for Finance to this article because I think it makes some very interesting contributions to the Bill that we are discussing and I think that there are certain points that are pertinent to some suggestion we were making.

Mr. Deputy Speaker, Sir, if you allow me, I will just quote a part of the article in the *Daily Nation* regarding the membership of the Board. Mr. Ndi writes as follows:-

"Not only does the Revenue Authority as presently proposed fails to address these problems but there is a danger that it could make some things worse. The most critical shortcoming of the Bill is that, it provides for--

**The Assistant Minister for Agriculture, Livestock Development and Marketing** (Dr. Misoi): On a point of order Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** What is your point of order?

**The Assistant Minister for Agriculture, Livestock Development and Marketing** (Dr. Misoi): Is the hon. Prof. Anyang'-Nyong'o in order to quote a newspaper which is not authoritative in his contribution?

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, if you think it is not in order, what do we do? But I thought it is good for you to listen to what a Kenyan is saying about this Bill. If you think it is not authoritative and you think you have all the knowledge you need, then you could ask the Speaker to close the House and we go home today because I humbly thought that it would be useful to the Government and since the Deputy Speaker has not said I am out of order I will continue to remind you of what Mr. Ndi said.

Mr. Deputy Speaker, Sir, Mr. David Ndi makes very interesting points which I think the Assistant Minister should listen to and since I did not want to cram, I used to cram things when I was acting at a nursery school but I have grown a little old and with age it becomes difficult to cram and especially when I am not on stage. I mean drama is different from Parliament. Although hon. Misoi thinks they are the same but that is his own priority, he can think so but I do not think so.

Mr. Deputy Speaker, Sir, what Mr. David Ndi said is the following:

"The most critical shortcoming of the Bill is that it provides for political appointment of the Board Chairman and three other Members. Political appointees to parastatals owe their allegiance to those who appoint them and their political constituency and not to the taxpayers. The Revenue Authority would be particularly vulnerable because the potential for conflict of interest when it comes to tax matters is huge. In addition attractive remunerations that the Authority will offer to its employees is likely to make political hiring a serious problem as is the case in other lucrative parastatals--

**Mr. Deputy Speaker:** Mr. Sunkuli!

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I do not know whether I missed the point but is the hon. Anyang'-Nyong'o actually quoting from the newspaper or he is reading from it?

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, really I would take this point seriously if they were serious but they are not serious. I can leave this aside and just talk, I will raise the same points. I just wanted to quote it so that you do not think I am making it up, but since you insist that I should not quote it, I will say what Mr. Ndi said because I have read the article.

The point is that political appointees in bodies like these are dangerous because first and foremost they will owe their allegiance to the constituencies from which they think they have been appointed.



Mr. Deputy Speaker, Sir, for example we have in this nation something which I think is very undevelopmental. We have a very professional organisation like the Kenya Revenue Authority and he says we need about 10 board members and you begin to say one must come from North Eastern, one must come from among the Ndorobos, one must come from where, and even if the Ndorobos do not have a single person who is a tax expert or a revenue expert we will go and get a simple county clerk officer somewhere, I do not now where, and take him to this body because he is bearing the weight of the Ndorobos on his shoulders and you are saying you are a developing nation. You want to catch up with Korea and Singapore and all these things and you are getting an innocent Ndorobos--- By the way he did not tell you that he wanted to be there but because tensions for what you call tribal arithmetic you bring him there. Yes, I do not want us to ignore the ethnic arithmetic of this nation but surely, if you are going to fetch people from the burdocks and give them responsibilities they can not handle, this nation is not going to develop. This is the point that Mr. Ndiu is making. That if you appoint somebody on political grounds, he will be more responsible towards the constituency from which he is appointed than to the profession he is meant to serve. Yes, we should pay attention to ethnic balance. This is politically important but surely, we should be much more concerned about the developmental aspects of bodies like these rather than to political expediences.

Secondly, Mr. Deputy Speaker, Sir, knowing fully well that this Authority has been created--- One of the reasons given in the Memorandum and Objects of Reason by the Attorney-General is that these people should be paid well to do a good job. This assumes that once you are paid well you will do a good job. But you are forgetting that these people are being paid well in a culture replete with corruption, in a political system whose moral standards have gone down to the rock bottom, among a people who associate with their kindred with whom they have been engaged in rent seeking activities than with professional commitments. Before you think that you are going to cleanse the Revenue Authority or the tax collecting regime in this nation - before you think that you are going to cleanse it of corruption, you must begin by cleansing the whole Government of corruption. You must begin by creating a culture of clean government.

Mr. Deputy Speaker, Sir, even if you paid these people a lot of money, that alone would not make them efficient in collecting this tax. If today you were earning Kshs.20,000 per month, and somebody who wants to have his car worth Kshs.3 million cleared comes to you and says he would like his car to be cleared duty free, you would definitely say, "I cannot do this job without getting something". The gentleman then says, "Okay", and the next day, you are paid Kshs.100,000. Therefore during a culture of "rent seeking" which is going on in the Government today, getting Kshs.20,000 per month is not going to stop you from seeking rent from wherever you are. So, I am saying that what this Bill is saying here is extremely important; that because these people are going to be political appointees, and precisely because they are going to be paid more money in the Kenya Revenue Authority, we are opening a can of worms for more corruption in that Authority.

Mr. Deputy Speaker, Sir, I have been at the Customs Department over the Hill twice to do something and how every corner of that building is inhabited by creatures of corruption, is amazing. Not a single paper can move without somebody paying "*Kitu kidogo*" to the officers working there. Although we are going to pass this Bill, let me warn this Government that it is not going to do wonders in the Customs Department up on the Hill. So long as we are not going to clean up the whole of the Department and get rid of this "rent seeking activity", the import and export business in this country will never develop this country. We shall still continue to a third-rate Republic always going on its knees to be classified as the least developed country in the world. I am very much concerned about this because I think that this country has, indeed, a lot of potential for industrial development. It has the potential to become a newly industrialized country by the year 2010. However, as long as we have men whose vision ends at the amount of "rents" they collect at the end of the day, then this country will never develop. I am afraid to say that we have a lot money hustlers in this country and if I had a Bible here, I would read for them Job 6:1-10. I hope the Assistant Minister for Finance and the Leader of Government Business will read Job 6:1-10. One of the verses says that when a cow is eating grass, it does it in silence and that when the camel is chewing the cud, it does it in silence. However, any animal or person suffering will never suffer in silence. This is why the Government always complains that the Opposition is making noise. We are making noise because Kenyans are suffering but "these cows and camels which are eating grass" are doing so in silence and have no time to speak. They are eating the grass and chewing cud: they are enjoying themselves.

Mr. Deputy Speaker, Sir, all the things that were collected yesterday from the port through this corrupt Customs Department, must have been chewed in quietness. If you make noise, you might be discovered---

**The Assistant Minister, Office of the President** (Mr. Sunkuli): On a point of order, Mr. Deputy Speaker, Sir---

**Prof. Anyang'-Nyong'o**: One of them is making noise just now! Let him go ahead and do so, Mr. Deputy Speaker, Sir.

*(Laughter)*

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I would like to know whether the hon. Member has actually used the particular Book he has been quoting properly. What he is now saying gives the impression that the Government is chewing grass, meaning that the Government is doing something useful as opposed to the Opposition whose work is to make noise all the time.

**Mr. Anyang'-Nyong'o**: Mr. Deputy Speaker, Sir, I hope you do remember what Jesus said at one time, namely that even the devils can quote the scriptures. One of them is just attempting to interpret the Bible but that does not worry me, but I hope that the message has sunk.

Mr. Deputy Speaker, Sir, let me go to the Bill itself and say that I hope the point I have made about the Board has been taken. When we come to amend this Bill, we shall do one thing, namely that the majority members of that Board represent the taxpayers in this country. We shall therefore ensure that we have consulted the Federation of Kenya Employers, Kenya Association of Insurers, the Accounting Association of Kenya and the various unions and professional bodies. We shall also ensure that we consult the various representatives of farmers in this country. We shall also ensure that we get real experts in taxation within the Board membership and we shall not depend on direct representatives of the Government in the likes of Permanent Secretaries and the rest. One can be a Permanent Secretary but not necessarily an expert in revenue collection. If indeed, Permanent Secretaries were experts in revenue collection, this country would not have such a poor system of revenue collection because we have Permanent Secretaries in all Government Ministries. We are making these proposals to make revenue collection in this country more efficient and effective and not just for the sake of opposing the Bill.

Let me now go to Clause 18 which reads as follows:-

"The Authority shall keep accounts and records of its transactions and affairs and shall ensure that all monies received are properly brought to account and that all payments out of its funds are correctly made and properly authorized, and that adequate control is maintained over its property and liabilities that the Authority may incur under this Act. The annual accounts of the Authority shall be audited by the Controller and Auditor-General."

Mr. Deputy Speaker, Sir, the point I would like to make is with regard to the accounts of this Authority being audited by the Controller and Auditor-General. This is the point of clarification that I would like to get from the Minister. We are setting up a parastatal under this Board called the Kenya Revenue Authority. In one of the clauses it says that this Authority is established with all intents and purposes as a parastatal and then they proceed in clause 20 to exempt the parastatal from the State Corporations Act. The question is why create the parastatal in the first place? If you want to create another government department, whose accounts are subject to auditing by the Controller and Auditor-General, why do you not create it straightaway? Why do you do a double job of creating a parastatal, then you exempt it from the State Corporations Act, and then hand it over to the Controller and Auditor-General? If you want to create a government department, just create a government department and let it be like all other government departments under the Controller and Auditor-General.

Mr. Deputy Speaker, Sir, we have from time to time said in this House that the idea of exempting parastatals from the State Corporations Act creates a lot of problems. Why does the Government want to create problems for itself all the time? I know you are going to say that we must have a parastatal because you want to pay these people more salaries. However, that would be cheating Kenyans. If you want to pay these people more so as to be more efficient, then pay all the civil servants more so that they too can be efficient. Why are you isolating these people under the guise of being a parastatal and then exempt them from everything that a parastatal should do? People in this legislature look more closely into these things than you seem to think. So, my proposal would be that since this is still a government department, they are an elite government department. You are creating conflict in Government. Why should somebody who works in the President's Office feel that he is not an elite person as much as somebody else in the Customs Department? If these people were under a parastatal subject to the State Corporation's Act, subject to the Auditor-General (Corporations) and so on, then we would know that they are parastatals like the AFC, IDB and so on. But this idea of "smuggling" a Government Department through the back-door into a parastatal so that they earn more, I do not think it is going to augur well with the rest of Government Departments. I do not think so. At least, it is not washing well with me! So, this, to me, is becoming a knock knee proposal. It will stand up, but it will not walk very well because the knees are knocking at a very critical point.

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, clause 21 deals with regulations and I would like to quote:-  
"The Board may make regulations for the carrying into effect the provisions of this Act and in particular and without prejudice to the foregoing:-

1. Describing the terms and conditions of service, including pensions, gratuities and retirement benefits of all members of the authority;
2. Describing the procedure of appointment of all members of staff of the authority.
3. Describing the code of conduct and discipline.
4. Respecting the administration and management of the funds of the authority".

Mr. Temporary Deputy Speaker, Sir, these are extremely important responsibilities given to the board and the board must have them. These can be handled by no other person but the board. The board must have independence to exercise those powers. If those powers are in any way "swindled" outside the board by a politician of whatever nature, then this authority will begin on an extremely unfortunate footing. Its functioning will hurt deeply the efficiency and ability of the authority to exercise its powers. I am cautioning the Minister that in both the appointment of the chairman of this board and the functioning of the board members, the board must exercise those powers independently. The board must in all ways act autonomously of whatever parent Ministry under which it falls. This is why this authority must for all intents and purposes cease from being a government department and function as a parastatal. This Bill that puts it for all intents and purposes as a government department defeats the spirit or the powers of this board. If this authority functions as a government department, then there is no way the board will exercise its powers autonomously. That is why I am saying that this Bill at this point in time is a "knock knee" Bill because in one way it gives powers to a board and the board should function as such, and then it takes away those powers by subjecting the authority to the limits of a purely Government Department.

Mr. Temporary Deputy Speaker, Sir, I wish the Attorney-General was here, but he always assures me that even if he is not here, he is listening to what we are saying wherever he is because this is extremely important in his capacity as the Chief Legal Adviser to the Government to ensure that those powers given to the board can be exercised, if the Bill does not suffer other shortcomings that I have pointed out in other clauses.

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

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

Mr. Temporary Deputy Speaker, Sir, we must realise that the Government, for all intents and purposes, in a liberal democratic society and in a free market economy reserves the right to direct revenue towards capital formation in certain critical sectors of our economy. That is one responsibility of the Government in a liberal democratic society and in a free market society. There is no free market where everything is just free! The Government must reserve the right to direct revenue towards capital formation in certain critical areas of the economy. But for it to do so, it must be a democratic Government. It has to be a Government that responds to the spirit of accountability and transparency otherwise the so-called direction of revenue towards capital formation in certain critical sectors of the economy boils down to ferreting revenue towards rent seeking, as I had said earlier, and towards the pockets of certain people.

The second function of the Government in a liberal democratic economy is to ensure that physical and social infrastructure is well run and maintained, and that the State machinery is clean and efficient. One of the reasons why Kenyans complain a lot that they pay taxes and do not get the benefit of their taxes is because the Government fails in these three critical responsibilities. The first one is directing revenue towards capital formation in certain critical areas of the economy. That is why we see all types of parastatals collapsing due to corruption and mismanagement and so on. I hope that when we pass a Bill like this one, we shall begin looking into how to direct revenue towards capital formation in critical sectors of economy.

I am glad that my dear friend, Mr. Kirugi M'Mukindia, is here, the Minister for Commerce and Industry, because, of late, he has been making some extremely useful comments. Him and I do concur on this particular issue of the Government directing revenue towards critical areas of the economy for purposes of capital formation.

I do hope that in pursuing that thesis, he also carries with him a broom to clean the Government of corruption and mismanagement. These are the two things that inhibit this Government from directing revenue towards critical areas of capital formation in our economy. This is one of the reasons why in an effort to liberalise they end up by paralysing the economy rather than liberalising it for the sake of development.

The other thing, Sir, is the issue of maintaining and sustaining an efficient social and physical infrastructure, roads, railways, airlines, hospitals, schools, health services and so on. I want to say that however much we try to "lionise" Harambee, we shall never become, namely, an industrialised country through Harambee. Harambee is a way by which the Government cuts down its expenditure for social infrastructure, schools and hospitals. Nobody can build a road through Harambee. The Vice-President knows that because the road that was built in his area towards Magadi - I cannot remember the name - was never done through Harambee. That is capital expenditure by the Government. In fact, Government must be able to invest meaningfully in physical and social infrastructure.

By the way, Harambee now has become so abused that in a Bill like this we should have introduced the idea of a "development equalization tax." I think we can do very well by having a development equalization tax rather than Harambee business. In the olden days, we used to have something called GPT or something like that which was "repatriated" very efficiently to the rural areas. I think that a development equalization tax - which I am quite prepared to pay myself - would be much better than this Harambee business. I am sure people would pay this tax and this tax would go towards the project of your choice. But this wanton Harambee--- These days people organise Harambee for anything; pre-weddings, sick child, mother-in-law bitten by a snake and so on. All kinds of things, there is a Harambee for it. It has gone "wild"! That is one reason why we do not have a good saving system in this country. You cannot save because you are not in charge of money you pay for Harambee. Somebody comes here harassing you in the lounge, "I want Harambee for this," and you give it to him. You do not know whether it is going for capital formation or for wanton consumption or some personal spending and we are told this and yet we say that we are in need of revenue. I will hope that this Kenya Revenue Authority will discuss this Harambee very thoroughly and come up with what I call, a development equalization tax. I will tell you that people in this Parliament would say exactly what I am saying but they do not have the courage to do so because they think that if they say so, the President is going to be unhappy. The President would be very happy if he hears that he is not going to be bothered to go and auction goats somewhere in the Rift Valley every time somebody wants to build a school. I think the President has just 24 hours in a day and during these days when there is so much to be done in Africa and in Kenya, his time would be better spent looking after the major affairs of this nation than auctioning goats. So, I think this is a very important point that the Kenya Revenue Authority will look into when it comes into looking at ways and means of raising revenues for this country.

Mr. Temporary Deputy Speaker, Sir, let me come to another point. Every parastatal must have performance standards and I hope they do. Every parastatal at the end of every year must have what we call, a target for performance. How is a parastatal to be assessed by the Government as having fulfilled its work properly? Now this Bill does not have any clause dealing with performance target or standards of this particular parastatal and yet I see in both Sessional Paper No.1 of 1994 and a lot of Government documents of Parastatal Reform Programme that performance targets is now a very important matter in making sure that parastatals are efficient and they perform properly. Yet when we introduce a Bill which is extremely important and for something like revenue collection which is extremely sensitive, I have not seen any Clause that deals with performance targets of this particular parastatal. I do not mean to say that every year it must collect so much, no, but there must be a mechanism of assessing the performance targets of this particular parastatal. I would have thought under Clause 21, this particular provision should have been provided. Like after "d" I would suggest an amendment to the hon. Assistant Minister that, among the functions of the Board would be to ensure the fulfilment--

*(Messrs. Keah and Masinde consulted)*

Among the functions of the Board--- I crave the attention of the Assistant Minister for Finance because I think my point at this point in time is more important than his. So, I hope you will resume his so that he can listen to me. Hon. Masinde! I was making a point to the hon. Assistant Minister that Clause 21---

**The Assistant Minister for Finance** (Mr. Keah): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Prof. Anyang'-Nyong'o to speak directly to the hon. Masinde and in fact shout at him? I thought it is the rule of the House that every communication should be made through the Chair. Would you rule him out of order please?

**The Temporary Deputy Speaker** (Mr. Wetangula): What did you say Professor?

**Prof. Anyang'-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, I am ruled out of order by my own

conscience. You were also busy so I was deputizing for you unofficially for one or two minutes.

I was trying to propose to the hon. Assistant Minister that in Clause 21 you could think of adding a new "e" after "d". I thought one of the functions of the Board could include the setting and the assessment of performance targets of this particular parastatal because I think ensuring that the performance target of the Kenya Revenue Authority is attained is extremely important and this should be a specific function of the Board. You might put it somewhere else but I thought that it would be very appropriate in that particular Clause since every parastatal as I was reminding you, is now to be assessed according to the performance target that it sets for itself or by the Government every year. It could help if that function is specified for the Board.

Finally, in Clause 14, I will read it and make my point.

"No person employed by the Authority shall be personally liable for any act or omission done or committed in good faith in the performance of his functions under this Act."

I think when the hon. Paul Muite was making his contribution he made reference to this particular clause. This clause is called "Indemnity against liability". I do not know whether it is a routine legal thing that is usually inserted in Bills like this; indemnifying the individual from the responsibility of a whole body like the Authority. If you say no person employed by the Authority shall be personally liable for any act or omission done or committed in good faith in the performance of his functions under this Act, who interprets this good faith? Is it the Board, Minister, this Parliament or do we have anywhere in this Bill where good faith as a clause is explained because when I look at Clause 2 I do not see where good faith is explained? This is a very key phrase in this Bill. We have definitions of words in this Bill such as Authority, Board, Chairman, financial year, functional head, member, Minister and revenue but what does good "faith" mean because I think indemnifying people against liabilities is a very important thing? In the Public Investments Committee, we are always holding the Chief Executive, the board or whatever whenever we think that somebody has acted on behalf of the Authority and somebody needs to be held liable. Who will be held liable when some monies disappear and he says, "I did it in good faith. The cheque came, I saw it and passed it to So-and-so. On its way to So-and-so, it disappeared through an act of God." I think this particular clause will find it rather difficult to pass in this Parliament because the Attorney-General should explain in Clause 2 what "good faith" means because for us it is a very important phrase.

You cannot just tuck it here and think that we shall just let it go. As the past Chairman of the Public Investments Committee, the Committee that is gone, I will want to know who is going to be held liable for certain acts of omission or commission that the Authority might be involved in.

With those major qualifications and calls for amending certain sections of the Bill I will for the moment support the Bill.

Thank you.

**Mr. Nthenge:** Thank you very much, Mr. Temporary Deputy Speaker, Sir. I rise to speak on this Bill because I give it a lot of weight in my thinking. I think what is to be introduced is a worthwhile organisation for the Government. This is because we are bringing all revenue collecting organs of the Government under one body.

Now, a lot of people do not seem to understand what taxation is. For the benefit of those who may not be quite sure of what I mean by taxation let me say something about it. Taxation is nothing more than an Harambee by the Government and its people according to one's ability to pay. It is conducted by force. In other words, unlike in ordinary Harambees, you are not given an option to pay or not to pay. So long as you have an income of a certain amount you have to pay your tax. This is what becomes Harambee proceeds for a nation.

I am afraid to say that 90 per cent of our people seem to look at tax money as if it belongs to the Government. But, who is the Government? The Government is you and I and nobody else. Every citizen of this nation is part of the Government, for the Government cannot perform unless it has money. Everybody, wherever he lives on earth, pays money to his own government. So, we Kenyans pay money to the Kenya Government so that it can spend that money on us. So, since you and are the Government, the way the money we pay is spent is the concern of you and I. In other words, you and I should insist that since Government money is our money it must be spent well. You may hear a driver saying it does not matter how he drives an official because the vehicle belongs to the Government. Now, such a driver forgets that vehicle belongs also to himself. So, actually, he should be concerned about the use of the vehicle because if it goes for repairs he will be a loser. So, I would like it to be understood that every Kenyan should be a supervisor of the users of our national Harambee money. That is why I feel it is a mistake for us to leave a few civil servants to supervise the expenditure of our tax money. So, if you and I see a Government vehicle being used improperly we should get most concerned, because this is our vehicle and not the driver's.

Now, people who have floated the idea that you can spend public money the way you want have spoiled this nation. At this stage I would like to call upon the head of state to call together all old leaders so that we go

round and correct the mistaken belief that you can spend Government money as you want, as if it were an individual's money. I would like all the elders in politics to go round the country and urge our people to stop playing around with tax money. This payment of tax means a lot of sacrificing by the tax payer. For example, many of the civil servants, and even Members of Parliament, have never received their salaries in full because the Government takes its share in advance. So, do you not think that we should get most concerned about how this kind of money is spent?

Now, the body to be introduced under this Bill will take care of this money. This means that this body will need to be run by men of integrity. It would be a very big mistake for the Minister to appoint to this body a person whom he knows to be a thief. Putting a thief in charge of money is like putting an hyena to watch over meat. And, how can you have a hyena for a watch man over meat? It will eat it all! So, the integrity of the board members will have to be above board.

Mr. Temporary Deputy Speaker, Sir, I have a suggestion for the Minister in relation to appointments to this board. It is, that when it comes to appointing it he writes down names of candidates for appointment and then sends them to various bodies, including the Special Branch and CID officers to investigate and comment on their characters. You see, I may appear trustworthy here in Nairobi and yet where I come from I am known to be a useless bugger who never even pays his employees. But it is strange that today only sleazy people who know how to appease great people are getting big posts. That is why our public bodies are finished; they do not make any money! If you are the Minister who makes appointments these people will even call you a small god so that they can get appointed to positions to make money and not to serve. They get appointed to make money and not to serve. I want men who may not even require to be paid because they have enough money of their own and they cannot even finish it. May be, he is a pensioner and he has investments and he is not greedy. He could be very rich and yet very greedy, like some hon. Members here. They are so greedy that they want to take anything even from a baby. If they steal even the medicine of the dying, they are not worth anything, according to me!

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, Mr. Nthenge. You are now out of order. We only have hon. Members here. We do not have greedy people here.

**Mr. Nthenge:** I am very sorry, Mr. Temporary Deputy Speaker, Sir. I beg to withdraw and apologise for using a wrong term. Emotions are terrible! Any way, the point I am making is; hon. Members---

**Col. Kiluta:** On a point of order, Mr. Temporary Deputy Speaker, Sir. After having listened to the previous speaker and the speaker on the Floor, it appears as if we have exhausted almost every point. I would, therefore, suggest that the mover be called upon to reply.

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

**Mr. Mathenge:** On a point of order, Mr. Temporary Deputy Speaker, Sir. How can the debate be closed on this very important Bill? This is a very important Bill ---

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, Mr. Mathenge! All the decisions in this House are made by yourselves, not by the Chair.

**The Assistant Minister for Finance** (Mr. Keah): Thank you, Mr. Temporary Deputy Speaker, Sir, for the opportunity to reply to hon. Members in respect of the comments they made towards this very important Bill. I thank all the hon. Members who have had an opportunity of making their contributions and, I must emphasize here that those contributions have been taken with the seriousness that they deserve. It is the intention of the Ministry of Finance to bring, at the Committee stage, a few amendments arising out of the comments that have been received here. I would also welcome any other comments, for example, I have had consultations with hon. Osogo. He has certain amendments to propose. I would urge any other Member who may have very serious views which he may not have been able to contribute, to let me have such views for purposes of consideration and incorporation at the Committee stage.

Mr. Temporary Deputy Speaker, Sir, having said that, I would like to avail myself of this opportunity and make comments on the specifics of Members' contributions. For this purpose, I will try to go clause by clause, as appropriate. Hon. Members expressed concern regarding the management and staffing of the Authority. They expressed a desire to have serious, dedicated, well qualified and hard-working people employed by the Authority, whose personal integrity should be beyond reproach. I want to assure hon. Members and this august House that all employees will be vetted to weed out non-performers and those who tarnish the good name of the Authority. The Authority will recruit qualified and professional personnel with relevant and competent experience, including accountants, lawyers as well as computer experts, economists, and if need be, even political scientists. I would

like to assure this august House that the performance standards will, in fact, be set for the employees employed by the Authority. I want to assure Prof. Anyang'-Nyong'o that, perhaps, there is no need to include that specific suggestion because, this is, in fact, already carried, one way or another, by the provisions of this Act. There will be close and effective monitoring of the staff and there will be accountability as well. A code of conduct will be written to which each employee must adhere. There will also be performance standards set and this will be contained in an overall document which will be a management document.

Mr. Temporary Deputy Speaker, Sir, having said that, there was a lot of fire-works in so far as the board of directors is concerned, as contained in clause 62. We, as a Ministry, have considered the matter and, certainly, we feel that the appointment by His Excellency the President is necessary in order to give the Chairman that very power and also the authority that is vested on him from the President. Section 8, therefore, must be read together and we will have to make some amendments and the Minister has already moved that, so that it reads:

"His Excellency the President will appoint the Chairman and may terminate the appointment of the Chairman as well."

This will be carried through in the amendment and we would like, as a Ministry and a Government, to give the respect of His Excellency the President in the appointment of a very important person in the name of the Chairman of the Authority. As far as the Board itself is concerned, the Ministry of Finance has considered very seriously the composition of the Board. The Ministry sets the policy in so far as the revenue collection is concerned. The Ministry has authority to supervise the collection of revenue for this Republic. The Ministry is in charge of the total revenue collection of the Republic. We felt, therefore, that the people who are closely connected and related with the formulation of policy in so far as revenue collection is concerned such as the Permanent Secretary of the Treasury, the Financial Secretary, the Governor of the Central Bank as well as the Attorney-General, have definite status in so far as the Board is concerned. I know hon. Members have doubted whether these people will have enough time to attend Board meetings and to deliberate on the business of the Authority. Since revenue collection is fundamental and of primary importance not only for the recurrent operations but also for development, it is imperative that they, of necessity, make time to attend the Board meetings and to deliberate on the policy aspect of the Authority. To say therefore, that they are too busy to attend the meetings is neither here nor there. Indeed, it will be part of the business of these people to attend the meetings of this very important Authority. I would like to assure hon. Members here of that particular aspect that the Kenya Revenue Authority will be assessing and collecting Government revenue, enforcing the laws relating to this revenue collection and will be dealing with all matters concerned with the Authority for the purposes of collecting the revenue.

It is the responsibility of the Treasury to formulate the physical policy, while the Central Bank, as the custodian of the Government revenue, is charged with the responsibility of maintenance of sound monetary policy. It is in this regard, therefore, that Treasury and Central Bank must combine forces, as well as the legal force of the Attorney-General so that their combined efforts are not only visible, but also conspicuous and present in so far as the authority is concerned.

A provision has been made for the Board to have within it professionals. I want to assure this august House and this nation that in the appointment of the professionals as contained in Article 6(g), that this will include professionals and competent people conversant with the knowledge of accountancy, as well as law and representatives representing the general public in addition to the manufacturers, industrialists *etcetera*. This will be taken into account and I am confident that the taxpayers will be adequately, professionally and competently represented in the Authority.

Mr. Temporary Deputy Speaker, Sir, hon. Members have expressed concern over the "blanket" indemnity given to officers under Section 14 of the Bill. The provision here is very important because it acts as a double-edged sword in that the employee will be aware that if he does anything that is not in line with the requirements of his office while performing his duties, he will be held personally liable. We have provided in this Section, this very important aspect so that each employee is conscious, is aware and knows that he has the accountability and will be held responsible for anything he does. What we intend to do in this Section is to possibly amend the Section so that it reads better. We intend to bring an amendment at the Committee stage to the effect that any person employed by the Authority shall be personally liable for any act or omission done or committed in the performance of his functions under this Act unless it is proved that he was acting in good faith. So, we will change the wording a little bit as suggested by hon. Muite and others, and we are quite willing to make those changes.

Mr. Temporary Deputy Speaker, Sir, an impression has been created concerning Section 16 that the Kenya Revenue Authority will be allowed to retain 4.5 per cent of the revenue collected. In this respect, hon. Members fear that this may give the Authority too much money which may lead to misuse of the funds. I want to

mention and elaborate here that although Section 16 allocates to the Authority 1.5 per cent of the estimated revenue and 3 per cent of the excess revenue collected in each successive three months period, there is a proviso limiting the total amount payable to the Authority to a maximum of only 2 per cent of the actual amount collected in that period. This means, therefore, that at no time will the Authority have access to funds in excess of 2 per cent of the revenue collected. This mode of financing is necessary so that the Authority has adequate funds necessary for smooth operations throughout the year.

The additional funds are necessary to ensure that the additional expenditures resulting from the higher remuneration are met. Also to ensure that the funds are released on time to avoid disruption of the administrative operations, to ensure that adequate financing of the on going tax modernisation project and computerisation aspect and any other future capital project are concerned and finally, to ensure that there is enough money for adequate training programmes for the Authority.

Mr. Temporary Deputy Speaker, Sir, I would like to assure the House again that appropriate financial regulations and procedures are now being worked out and that this will include provisions for both internal and external auditors.

In so far as the First Schedule is concerned, hon. Members felt that the listing is restrictive and that all Acts pertaining to revenue collections should be included.

Section 5(2) allows the Minister to amend the First Schedule. These powers were given so that the Kenyan Revenue Authority streamlines its operations. Additionally responsibilities may also be given by simply bringing the relevant Act under this schedule. Hon. Members worries and concerns have been taken into account. We will, therefore, make amendments very briefly in the following Sections and this will come in the normal way, going through the Attorney General. But outside these suggestions, I do ask hon. Members to let me have whatever suggestions they may have so that we can incorporate them together with the summary that I am just about to give.

Mr. Temporary Deputy Speaker, Sir, Section 6(g) is one of those that we propose to amend and that relates to the three eminent citizens of this Republic with professional competence as well as expertise and those will be drawn from the accountancy profession, legal professional as well as from industry. So, wananchi will be catered for adequately.

Section 13(1) is also another Section that we will be amending.

Mr. Temporary Deputy Speaker, Sir, currently, each of the three Revenue Departments is manned by a Commissioner. The Kenya Revenue Authority will also be collecting other revenues as listed in the First Schedule of the Bill. Once the Kenya Revenue Authority's operations are firmly rooted, no doubt other types of fees and levies collectable by the Authority will be expanded. This may require the appointment of an additional Commissioner to oversee these collections. Provision should therefore be made in order that the Bill can cater for such an eventuality. Therefore, I would like to propose the following amendment: To insert immediately after paragraph 13(1)(c) the following new paragraph (d):-

"Such other Commissioner as may be deemed necessary."

As far as the indemnity is concerned I have already proposed the amendment to section 14 which will be knocking out the word "no" and inserting the word "any" and then deleting the words "good faith" and inserting in place thereof the words "in the performance of his functions under this Act unless it is proved he was acting in good faith."

On section 19 (2) with deal with internal audit reports, we also intend to propose an amendment so that this section is amended by deleting the words appearing immediately after the word "report" and inserting the words " and shall also submit copies of the report to the Minister and the Controller and Auditor-General."

Mr. Temporary Deputy Speaker, Sir, these amendments, together with any others that hon. Osogo and Prof. Anyang Nyong'o may have--- I would like to have the amendments proposed by the two hon. Members by tonight so that we can rush them through to the Attorney-General so that they will be brought here in the normal way for discussion during the Committee Stage.

Other than that, Mr. Temporary Deputy Speaker, Sir, I think I have generally covered virtually all the comments that have been made by hon. Members. I want to assure hon. Members again that this Bill is a sound Bill. This Bill intends to consolidate the revenue collection efforts in our Republic so that we can collect more revenue. With enhanced revenue collection we, as a Government, will be able to carry out the operations of this Government both recurrent as well as development. I want to assure hon. Members once more that it is the intention of the KANU Government to make sure that any mistakes of the past years in so far as Authorities of this nature are concerned will certainly not be repeated. I also want to assure hon. Members that the Government will be very vigilant indeed and carry out its responsibilities with the vigour and authority that it has. I must remind hon. Members that we are a Government and as a Government it is our duty to govern and it is our intention to



govern and we shall indeed govern.

With those remarks, I beg to move.

*(Question put and agreed to)*

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

#### **ADJOURNMENT**

**The Temporary Deputy Speaker** (Mr. Wetangula): Hon. Members, I think this is a convenient time for us to interrupt our Business. The House is, therefore, adjourned until tomorrow Wednesday, 3rd May, 1995, at 9.00 a.m.

The House rose at 6.25 p.m.