

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 24th October, 2001

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of Pharmacy and Poisons Board for the year ended 30th June, 1995, and the certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of Nursing Council of Kenya for the year ended 30th June, 1999, and the certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of Ewaso Ng'iro North River Basin Development Authority for the year ended 30th June, 1998 and the certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of Kenya National Library Service for the year ended 30th June, 1998 and the certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of Kenya National Library Service for the year ended 30th June, 1998 and the certificate thereon by the Auditor-General (Corporations).

*(By the Assistant Minister, Office of the
Vice-President and Ministry of Home Affairs,
Heritage and Sports (Mr. arap Choge)*

Report of the Departmental Committee on Defence and Foreign Relations on a visit to the Kenya High Commission in London and the Kenya Embassy in Berlin.

*(By the Chairman of the Departmental Committee
on Defence and Foreign Relations (Mr. Musila)*

NOTICE OF MOTION

ADOPTION OF FOREIGN RELATIONS COMMITTEE REPORT

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

THAT, this House adopts the Report of the Committee for Defence and Foreign Relations on a visit to Kenya High Commission in London and the Kenya Embassy in Berlin laid on the Table of the House on Wednesday, 24th October, 2001.

ORAL ANSWERS TO QUESTIONS

Question No.393

CONSTRUCTION OF AIRSTRIP IN MBOONI

Mr. Kalulu alimuuliza Waziri katika Ofisi ya Rais ni lini ataanzisha uwanja mdogo wa ndege katika sehemu ya Mbooni.

The Minister, Office of the President (Maj. Madoka): Bw. Spika, naomba kujibu.

Uwanja mdogo wa ndege hautanzishwa katika sehemu ya Mbooni kwa sababu sehemu hiyo ya Mbooni inahudumiwa na njia kuu inayopita kuelekea Machakos.

Mr. Kalulu: Bw. Spika, nataka kumueleza Waziri historia juu ya hilo jambo kwa sababu Waziri anayehusika hajasafiri katika sehemu hiyo na haelewi sehemu yenyewe ni sehemu ya aina gani. Sehemu ya Mbooni ni sehemu ambayo wakati wa mvua, kama wakati wa *El Nino*, hupata taabu kwa sababu ni sehemu yenye milima. Ni lazima tupate msaada kutoka sehemu zingine ambazo ziko tambarare. Jambo la pili, kwenye mto wa Athi unaopitia huko Mbooni, na tangu Jumapili iliyopita, mamba wamerarua watoto kama wanne, katika mto huo. Wengine wangepata msaada wa dharura kama kungekuwa na uwanja wa ndege kule Mbooni. Hatuhitaji msaada wowote maana tuna udongo. Tuna sehemu ambayo inawezwa kujengwa---

Mr. Speaker: Very well, Mr. Kalulu! Now, we have got to the point. You know, the crocodiles are becoming a menace. So, they want to fly.

Maj. Madoka: Bw. Spika, nimefuata vile Bw. Kalulu amesema. Jambo la kwanza ni kwamba, sisi kama tunafikiria kujenga uwanja wa ndege, tunafikiria zile njia zote ambazo zinaweza kufikia sehemu hiyo na ninaelewa kweli kuwa wakati wa mvua, huenda kuwe na taabu huko Mbooni. Lakini, mpaka sasa, hatujafikiria mambo ya kuanzisha uwanja wa ndege katika sehemu hiyo.

Pia, tunapotaka kuanzisha uwanja wa ndege, ni lazima uwe baina ya kilomita 150 mraba. Kama hakuna njia kubwa ambayo inapita sehemu hiyo, hapo ndipo tunaweza kufikiria au kama kuna sehemu ambayo watalii wanatembelea sana. Lakini hicho ni kitu ambacho tunaweza kuangalia katika siku zijazo.

Mr. Kamolleh: Bw. Spika, nakushukuru kwa kunipa nafasi. Nafikiri Waziri bado hajamuelewa mwenzangu. Mbunge ameongea juu ya uwanja wa ndege mdogo, na hajasema ajengewe Jomo Kenyatta International Airport or Moi International Airport, ili wakati wa madhara waweze kupata madawa au chakula. Mimi naona mambo hayo hayahitaji pesa nyingi. Ni lini Waziri atafikiria mambo hayo kwa sababu anaelezwa kwamba juzi, watu waliraruliwa na mamba na hakuna ambulance iliyoweza kufika huko? Ni lini ataweza kusaidia?

Maj. Madoka: Ni lazima tuvitengeneze viwanja vidogo vya ndege vyema na tuhakikishe kwamba vinaangaliwa. Nimelisikia ombi hilo na tutaendelea kuliangalia hilo jambo.

Mr. Maundu: Bw. Spika, tatizo kubwa la mhe. Kalulu ni kufika Mbooni na kufanya mambo ya dharura. Ni kwa nini Wiziri hafikiriri kujenga daraja chini ya mpango wa *El Nino* kwenye huo mto ili mhe. Kalulu aache kuhangaika?

Maj. Madoka: Bw. Spika, hilo ni wazo zuri na nitamuuliza mwenzangu anayehusika na fedha za *El Nino* aangalie kama anaweza kujenga daraja katika sehemu hiyo.

Mr. Speaker: Are you happy, Mr. Kalulu?

Mr. Kalulu: Bw. Spika, sisi sote tulifika Kyanguli Secondary School wakati shule ilipochomeka na tuliona kwamba watoto wengine wangesaidika kama tungekuwa na uwanja wa ndege. Tukipata madhara kama yale yaliyotokea kule Kyanguli Secondary School katika Mbooni, hatuwezi kuwaokoa watu. Kwa hivyo, Waziri ni lazima aseme ni lini atalitenda jambo hilo!

Mr. Speaker: Hiyo ni hotuba! Natumaini Waziri amesikia!

Next Question, Mr. Twaha!

Question No. 506

GOVERNMENT ASSISTANCE TO
KORE COMMUNITY

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

- (a) whether he is aware that the Kore Community which had fled from Koreni because of insecurity over twenty years ago have been returned to their ancestral land; and,
- (b) what material support the Government is providing to the community as it tries to resettle.

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

(a) I am aware.

(b) The Community has always been considered along with others in the distribution of famine relief food, as a way of helping them.

Mr. Twaha: Mr. Speaker, Sir, these people fled the area due to insecurity. They came back after one year of very depressing life. These people do not need relief food! They need security so that they can continue with their daily lives.

Mr. Speaker, Sir, could the Minister assure this House that he will increase the number of firearms provided to the Kenya Police Reserve in that village so that those people can bring back their cattle?

Maj. Madoka: Mr. Speaker, Sir, the hon. Member has said there is relative peace in the area and we will continue to maintain peace in that area. Certainly, the issue of giving firearms to the Kenya Police Reserve in that area will be considered.

Mr. Twaha: Mr. Speaker, Sir, I am wondering whether the Minister is aware that, last Saturday, ten heavily armed bandits suspected to have crossed over from Somalia waylaid a car and killed one police officer.

I would like to know what the Government is doing about it! Could he also make an undertaking that the Kenya Wildlife Service aircraft which was withdrawn from Lamu will be returned so that we can track down these bandits?

Maj. Madoka: Mr. Speaker, Sir, that possibility is being considered.

Question No.543

IMPLEMENTATION OF POVERTY
ERADICATION PROGRAMME

Mr. Speaker: Mr. Leshore is not here? We will come back to the Question later.
Next Question, Mr. Sungu!

Question No.382

PAYMENT OF GRATUITY TO
MR. JABAM'S FAMILY

Mr. Sungu asked the Minister for Transport and Communications:-

(a) when the defunct Kenya Posts and Telecommunications Corporation will pay death and gratuity benefits to the family of the late Uhuru Jabam who died on 18th May, 1990 whilst working with the Corporation; and,

(b) why it has taken so long for the benefits to be paid.

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Speaker, Sir, I beg the indulgence of the House that I be given until tomorrow to answer this Question. Although I have an answer here, I notice that it has some flaws. As a matter of fact, I would like to verify the information that has been provided.

Mr. Speaker: What is your reaction, Mr. Sungu?

Mr. Sungu: Mr. Speaker, Sir, I have got no objection.

Mr. Speaker: Very well. That Question is deferred to Tuesday, next week. The Order Paper for tomorrow is already out.

(Question deferred)

Next Question, Mr. K. Mwangi!

Question No.466

ELECTRIFICATION PROJECTS IN MARAGWA

Mr. P. K. Mwangi asked the Minister for Energy:-

(a) whether he is aware that the District Development Committee (DDC) Maragwa, identified and recommended the electrification projects to be undertaken in the district by the Government during the 1999/2000 financial year; and,

(b) what the budgetary allocation was for the district for the years 1998/1999/2000.

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

(a) I am aware that the Maragwa DDC made recommendations to the Government on the electrification projects to be undertaken during the 1999/2000 financial year.

(b) The budgetary allocation for Maragwa District for the 1998/1999/2000 financial years was Kshs14.68 million and Kshs19.6 million respectively.

P.K. Mwangi: Mr. Speaker, Sir, I am surprised that my district had been allocated more than Kshs34 million during these two financial years. We have never seen any project undertaken by this Ministry!

Could the Assistant Minister tell us which projects were financed using this money?

Eng. Manga: Mr. Speaker, Sir, currently there is a project which is being implemented under the Spanish Credit Programme which is called Maragwa-Ichakagi Market and Mission Project.

Mr. Parpai: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister not misleading the House? He is talking about what is on-going when we are talking about 1998/1999/2000 financial years! We are now in the year 2001!

Mr. Speaker: Order, Mr. Parpai! Give the Assistant Minister a chance! Let him say what he has.

Eng. Manga: Mr. Speaker, I have answered the Question which was put to me.

Mr. Wamae: Mr. Speaker, Sir, rural electrification is a very serious issue. Millions of shillings have been paid out to Kenya Power and Lighting Company (KPLC), but people are not getting any benefits. Could the Assistant Minister direct that KPLC pays interest on the deposits they have received?

Eng. Manga: Mr. Speaker, Sir, the deposit that is paid is usually used for preliminary works such as estimates and surveys so that the project can be conceived. Without these preliminary works, the project cannot be there. We have to know how much it costs and, therefore, the deposit paid to KPLC is used.

Mr. Wamae: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Assistant Minister to evade answering the Question? The fact of the matter is that the amount paid is not for survey purposes. It is 10 per cent of the actual project! Could he be compelled to answer the Question?

Mr. Speaker: Eng. Manga, would you like to answer that question?

Eng. Manga: Mr. Speaker, Sir, I think I have already answered that question. The deposit which we used to request for is meant for preliminary works. After the preliminary works have been completed, we get money to do the actual works. So, that deposit is not wasted.

Mr. P.K. Mwangi: Mr. Speaker, Sir, Ichakagi Mission electrification project is on-going. Could the Assistant Minister assure this House that residents around that market will benefit from this project? Right now, they have not been considered.

Eng. Manga: Mr. Speaker, Sir, I assure the House that the project is on-going and very soon, it will be completed.

Mr. P.K. Mwangi: On a point of order, Mr. Speaker, Sir. What I would like to know from the Assistant Minister is whether the residents around that market will be considered! Right now, it is only the Mission which is benefitting from that project!

Eng. Manga: Mr. Speaker, Sir, the project can only be viable if it is connected to the consumers. Therefore, there should be no doubt as to whether other people will benefit. If they are within reach, they will benefit.

Eng. Toro: On a point of order, Mr. Speaker, Sir. The Assistant Minister did not answer Mr. P.K. Kamande's Question. He did not say which projects were financed using the Kshs14.68 million and the Kshs19.6 million he has mentioned. He has mentioned only one project. Does it mean that one project consumed the entire amount of Kshs30 million?

Mr. Speaker: Order, Eng. Toro! You are now taking us back under the guise of a point of order, to ask a supplementary question!

Mr. Muite: On a point of order, Mr. Speaker, Sir. I rise on a point of order to seek guidance from the Chair. The Assistant Minister appears to be running into problems in answering supplementary questions satisfactorily. Since his role is to assist the Minister, who is sitting next door, could we have your guidance as to whether the substantive Minister could be asked to stand up and answer to the satisfaction of the House?

The Assistant Minister for Local Government (Mr. Hashim): On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to say that the Minister is sitting next door, when we do not have doors in the House?

Mr. Speaker: Order, all of you! That is a figure of speech! We do not actually have to erect doors there to be a next door neighbour! It is a figure of speech!

But in response to Mr. Muite's guidance from the Chair, you cannot separate the Assistant Minister from his Minister because he is assistant to him. So, if he is asking for assistance from the Minister, the Assistant Minister is just discharging his duties! So, he is perfectly in order!

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. The Assistant Minister says that mistakes that were made before will not be repeated when other works are being surveyed. But he did not answer the Question. Will they pay interest on that amount?

Mr. Speaker: When will hon. Members know what a point of order is?

Mr. Angwenyi: Mr. Speaker, Sir, a point of order is to---

Mr. Speaker: Sorry! Let us proceed!

Question No.257

PURCHASE OF MAIZE IN MERU SOUTH

Mr. Speaker: Is Capt. Ntwiga not here? We will leave his Question until the end. Let us move on to the next Question.

*Question No.444*MISUSE OF LATF MONEY BY
THARAKA COUNTY COUNCIL

Mr. Mwenda asked the Minister for Local Government:-

(a) whether he is aware that the Tharaka County Council used money from the Local Authorities Transfer Fund (LATF) to buy fuel without following the laid down procurement procedure, thereby causing huge financial losses to the Council; and,

(b) what action he has taken against the concerned officers.

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

(a) I am not aware. The fuel in question was bought to fuel a Government grader since the Council does not own a grader. All the necessary procurement procedures were followed.

(b) In view of my answer to part (a) of the Question, the matter in part (b) does not arise.

Mr. Mwenda: Mr. Speaker, Sir, that is a very strange answer! That is why local authorities will never survive financially, because there is a lot of protection from the Ministry. If the Assistant Minister insists that all procurement procedures were followed, under the provisions of Section 143, Subsection 4 of the Local Government Act, there is a requirement that before the Council buys anything in excess of Kshs10,000, a notice should be put in, at least, one newspaper.

Mr. Speaker, Sir, could the Assistant Minister tell us when the notice was given, in which newspaper and who actually tendered for the supply of the fuel?

Mr. Hashim: Mr. Speaker, Sir, in June, 2000, the Council sent quotations to various companies. We gave the lowest company which had quoted for Kshs526,980. The company was an engineering firm called Nyalika Enterprises.

Mr. Mwenda: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to refuse to answer the question? I said that the law requires that the advertisement be made in a newspaper, giving 14 days notice for inviting tenders. Could he tell us in which newspaper the advert was given, when and who the tenderers were?

Mr. Speaker: Was that law repealed?

Mr. Hashim: Mr. Speaker, Sir, one of the procurement procedures is to give out quotations. We gave the award to the lowest bidder.

Mr. Speaker: Order! For the proper discharge of the House business, could we listen to questions that are being put and answer them directly? I think the question being asked of you is this: The law demands - not the hon. Member or the Chair - that a contract of a certain amount requires to be advertised in, at least, one daily newspaper. Now, the question that Mr. Mwenda is posing to you is: Was the law followed by advertising for that contract in, at least, one daily newspaper? The answer can only be yes or no!

Mr. Hashim: Mr. Speaker, Sir, the tender was not advertised in any newspaper!

Mr. Ndicho: Mr. Speaker, Sir, this House is here to defend the citizens of this country. Through the local authorities, a lot of public money is being irregularly expended and when Members ask Questions here, this is the kind of answers they get! In view of what is happening in Tharaka County Council, is the Assistant Minister aware that virtually in all local authorities, that is what is happening? That includes Thika, where a lawyer was paid Kshs5 million just for appearing in court in a case between a councillor and some council employees? What are you going to do to safeguard public money that is vested under the authority of local authorities?

Mr. Hashim: Mr. Speaker, Sir, since this is a new allegation, proper investigations will be done and appropriate action taken against the culprits.

Mr. Imanyara: Mr. Speaker, Sir, in view of his admission that the law was not complied with, what does he intend to do to the officers who failed to comply with the mandatory requirements of the law?

Mr. Hashim: Mr. Speaker, Sir, let me assure this House that we will take stiff action and, in future, all

requirements will be followed before any tender is awarded to any individual.

Mr. Mwenda: Mr. Speaker, Sir, this is very interesting! The Assistant Minister, in his own words, admits that the law was flouted with impunity by an officer! Yet, he says that, in future, steps will be taken against the officers. It is a matter of notoriety and common knowledge that the supplier of that fuel is the KANU District Chairman of Tharaka District! That is why the Assistant Minister cannot dare touch that officer! The Council lost in excess of Kshs200,000 in that illegal deal. What is the Assistant Minister going to do to recover that money that the Council lost as a result of an irregular contract?

Mr. Hashim: Mr. Speaker, Sir, some time in July or August, the hon. Member sent the same complaints to the Minister and investigations were conducted. They were found to be false! Therefore, the question of taking appropriate action against the supplier does not arise.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. If you read part (b) of the Question, it requires the Assistant Minister to have taken action before he came to answer. Now, he is saying that he will take some action in future. Is he in order to say that? Has he really answered part (b) of the Question?

Mr. Hashim: Mr. Speaker, Sir, as I said earlier, we awarded the tender through quotations and not advertising it through the newspapers. I said that, in future, we will be advertising all the tenders in our daily newspapers.

Question No.527

ALLOCATION OF OPEN AIR MARKET PLOT

Mr. Speaker: Is Mr. Wamunyinyi not here? We will leave his Question until the end. Let us move on to Question No.543 by Mr. Leshore for the second time.

Question No.543

IMPLEMENTATION OF POVERTY
ERADICATION PROGRAMME

Mr. Speaker: Is Mr. Leshore still not here?

(Question dropped)

Mr. Speaker: Let us have Capt. Ntwiga's Question for the second time!

Question No.257

PURCHASE OF MAIZE IN MERU SOUTH

Mr. Speaker: Is Capt. Ntwiga still not here?

(Question dropped)

Mr. Speaker: Let us have Mr. Wamunyinyi's Question for the second time!

Question No.527

ALLOCATION OF OPEN AIR MARKET PLOT

Mr. Speaker: Is Mr. Wamunyinyi still not here?

(Question dropped)

Mr. Speaker: Let us now move to Questions by Private Notice.

QUESTIONS BY PRIVATE NOTICE

HARASSMENT OF DAGORETTI HAWKERS

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

(a) Is the Minister aware that, according to a complaint signed by 41 Dagoretti Corner Hawkers dated 2nd July, 2001, officers from Karen Police Station are harassing hawkers in the area by arresting them and demanding Kshs1,000 from each, confiscating their wares and charging them in court for failure to give bribes?

(b) Could he investigate that matter and inform the House the disciplinary and legal measures he has taken against the police officers involved in that corruption and harassment of *bona fide* hawkers in Dagoretti Corner and other parts under the Nairobi City Council?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, you will recall that when this Question was asked, I was asked to confirm whether that complaint had been lodged with the police. As of today, the complaint signed by the 41 hawkers has not yet been lodged with either the Officer Commanding Police Division (OCPD), Lang'ata, or the Officer Commanding Station (OCS), Karen. Therefore, no action has been taken.

Mr. Anyona: Mr. Speaker, Sir, the Minister is trying to dodge the Question. When the Question first came to this House he said he was not aware. I was wondering what he was not aware of since we told him the police station that was involved and a complaint was written. We required him to say what investigations they had done. I went further and assisted him by laying on the Table of the House the actual complaint for him to go and investigate and he was so instructed by the Chair. Now he comes back to say that there has been no complaint at Karen Police Station. The complaint was tabled here! Has he investigated the document that was laid on the Table here which is the complaint?

Maj. Madoka: Mr. Speaker, Sir, I think the issue was clear. He said this complaint had been lodged with the police and I said that, that had not been done. As of today, it has not been lodged with the police, therefore, we have not taken any action.

Mr. Anyona: Mr. Speaker, Sir, could you assist us because here are poor Kenyans being harassed and the Minister is playing this kind of dance? I did not at any time - and the HANSARD will bear me witness - say that the matter has been reported at Karen Police Station. They would not report there, anyway, because those police officers are the ones who are arresting them. All I did was to bring to the House a copy of the complaint and the Minister was asked by the Chair to go and investigate that complaint which is part of our proceedings. Is the Minister not required to investigate what was laid here and tell us what he found out?

Mr. Speaker: Hon. Members are well advised to look at the relevant Standing Orders. An hon. Member is not allowed, under the relevant Standing Orders, to attach a particular opinion or draw a conclusion to a Question. A matter of corruption is either legally --- Mr. Minister, much more importantly, the hon. Member has brought this Question to the House and he is alleging that certain citizens of this country probably went to him and complained that they were being harassed by the police. Have you done any investigation at least in respect of the allegations in the Question?

Maj. Madoka: Mr. Speaker, Sir, we have checked and there has been no harassment of these hawkers.

Mr. Muchiri: Mr. Speaker, Sir, the Minister said and he is right that, according to the Police Force Standing Orders, a complaint must be made before a police regional commander. A complaint has been raised in this House and the Minister who is the most senior civil servant in that Ministry is aware of it. Since that complaint was tabled here and he received it as the Minister in charge of internal security, what action has he taken to ensure that hawkers in Nairobi and other areas will no longer be harassed and bribes demanded of them by the police?

Maj. Madoka: Mr. Speaker, Sir, as far as this particular Question is concerned, I have told the hon. Member to get these particular individuals to help us investigate this case. If they are not prepared to come forward, then it makes our work very difficult.

Mr. Anyona: I do not know what more help the Minister requires when 41 men and women, who are hawkers, are being harassed, write a complaint, sign it, it comes to the Table of the House and becomes part of our proceedings and yet the Minister still says he wants to be assisted to investigate it. Could he confirm or deny that there were hawkers at Dagoretti Corner who were arrested and that since they failed to pay a bribe, they were charged in a court in Kibera without the option of a fine? If he denies, could he produce the names?

Maj. Madoka: Mr. Speaker, Sir, I cannot confirm or deny that until I get specific cases.

Mr. Speaker: Very well. Next Question!

INVASION OF SUMBA ISLAND

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

- (a) Is the Minister aware that Ugandan Revenue Officers accompanied by their Army Personnel invaded Sumba Island of Lake Victoria on 11th August, 2001, and confiscated goods belonging to Kenyan shopkeepers?
- (b) What urgent measures will the Minister take to stop further harassment of Kenyan citizens and ensure their security?

Mr. Speaker: Is Mr. Wanjala not here? The Question is deferred.

(Question deferred)

DETENTION OF BENSON IRUNGU BY AIC CHURCH

Mr. Thirikwa: Mr. Speaker, Sir, I beg to ask the Vice-President and Minister for Home Affairs the following Question by Private Notice.

(a) Is the Minister aware that a child by the name of Benson Irungu son of Mr. Wamuri Kabui and Teresia Muthoni, residents of Kirima Sub-Location, Shamata Location, Ndaragwa Division, Nyandarua District is being detained at AIC Church Diguna?

(b) Is he further aware that the said child was a subject in the case No.430 of 2001 at Kapsabet Principal Magistrate's court?

(c) What immediate action will he take to have the said child released to his parents?

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Osundwa): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the child, Benson Irungu, is at AIC Church Diguna, in Nandi District.

(b) I am also aware that the same child is a subject in case No.430/2001 at the Kapsabet Principal Magistrate's Court.

(c) The parentage of the child is a subject matter before the court and the child will be released to his lawful parents as soon as the court determines who they are.

Mr. Thirikwa: Mr. Speaker, Sir, this is indeed, a very strange and sad case. This particular child was abducted from a place called Makutano and, four months later, he was found in Kapsabet. The parents of this child learnt of his whereabouts through the media. There is a lady called Keyesh who was actually convicted on her own plea of "guilty". Unfortunately, the accused was charged with different offences and not abduction. How long will it take to come out with the results of the DNA tests that were carried out on both parties so that the child can be released to his parents?

Mr. Osundwa: Mr. Speaker, Sir, the fact of the matter is as follows: The Officer Commanding Police Station, Kapsabet, arrested a group of eight members of an unlawful religious sect called "Morning Message". About 16 children who were suspected to have been abducted were found in that church and the OCS, together with the Children's Officer, moved them to Rainbow Children's Home for custody, care and safety while the suspects were charged as stated. The eight accused persons were found guilty and fined.

In the meantime, my Ministry put photographs of the children in the local dailies appealing to their parents or relatives to come forward and identify their children.

On 9th April, this year, one Teresia Muthoni went to the home and allegedly identified Benson Irungu as her son. At the same time, a woman called Rose Keyesh and a man known as Josephat Wamae identified the same child as theirs. The DNA tests were carried out and since this matter is still pending in court, I am unable to say when it will be finalised.

Mr. Sambu: On a point of order, Mr. Speaker, Sir. The Assistant Minister is misleading the House. The DNA test is the most conclusive way of settling issues of parentage. Did they find out who the real parents of the child are? Why should he mislead the House? If the DNA tests were carried out, let him lay the evidence on the Table.

Mr. Speaker: Order! This is the strangest matter that has ever come to this House about a child and parents. Mr. Assistant Minister, does this child not know who his parents are? At least, the child can be asked who they are. Is the Ministry not concerned about the welfare of a juvenile to expedite this matter as quickly as possible?

Mr. Osundwa: Mr. Speaker, Sir, as I said, there are two parties that are claiming this child. So, [**Mr. Osundwa**]

we decided that a DNA test be done so that proper identification can be made.

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

Mr. Osundwa: Mr. Speaker, Sir, may I finish? I have said here that since the results have been passed to the Magistrate who is handling this case, I cannot comment on anything that is in court.

Mr. Ndicho: Mr. Deputy Speaker, Sir, your concern is very clear and the Assistant Minister ought to have listened to what you asked him. Could the child be asked to say who his daddy and mummy are? Could you answer that question?

Mr. Speaker: How old is this child?

Mr. Osundwa: Mr. Speaker, Sir, I do not know the age of the child and that is why we opted for the DNA test.

Mr. Speaker: Order! I think it is becoming increasingly difficult to understand the casual manner in which the business of this House is being taken by the Front Bench.

(Applause)

We are talking about a juvenile, a Kenyan child that requires tender love and affection and yet the Ministry does not care to find out all the details. I think we must be much more serious than this. For heaven's sake, we are not here to do things on routine! We must attend to these things as a national institution and take them seriously because we are dealing with them for the benefit of all Kenya. I, therefore, order the Assistant Minister and I actually order that you do actually take this matter seriously. Find out who the parents of this child are and this must be done expeditiously and you report to this House on Tuesday.

(Applause)

I will give the Assistant Minister adequate time and I am not asking you to come and answer the Question. I am pleading with you, on behalf of that child, to go and settle this case amicably. Get the child back to the parents somehow.

Mr. Osundwa: Mr. Speaker, Sir, I have said that the DNA test has been concluded and the results given to the Magistrate. So, I would not know how to force the Magistrate to conclude this case.

Mr. Thirikwa: On a point of order, Mr. Speaker, Sir. The case the Minister is talking about has already been determined in the Kapsabet Law Court. Therefore, this is not a subject matter to that particular case unless there is another case I do not understand.

Mr. Speaker: Why are you all revisiting my order? Order! Messrs. Thirikwa and Osundwa will obey my order, and that is finished! Mr. Assistant Minister, do it on Tuesday!

Next Question!

RECOMMENDED HOUSE ALLOWANCE FOR LECTURERS

Dr. Ochuodho: Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Is the Minister aware that University of Nairobi lecturers are threatening to strike over discrepancies in house allowances?

(b) What are the recommended house allowances for lecturers and senior lecturers respectively?

(c) What plans does the Minister have to stem the looming strike?

The Assistant Minister for Education, Science and Technology (Mr. Awori): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that the lecturers at the University of Nairobi are threatening to go on strike.

(b) The recommended house allowances are as follows: (i) Lecturers - Kshs24,000; (ii) Senior Lecturers - Kshs40,000 per month

(c) As they are not threatening to go on strike, there is nothing to be done about it.

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. It is in the public domain that lecturers have already gone on strike over this matter. Could you give advice to the House on matters of seriousness? Even the Assistant Minister does not know about the looming strike when it is already on!

Mr. Speaker: Order! I cannot help because the last time I ever learnt about the lecturers' strike was through

the internet when I was out of the country. However, I must also confess that since I returned to this country, I have not heard about that strike. So, it could have been on and off. So, I really do not know! Mr. Assistant Minister, is it on or off?

Mr. Awori: Mr. Speaker, Sir, it is off!

(Laughter)

Dr. Ochuodho: Mr. Speaker, Sir, there are ten grades of employment at the University of Nairobi. With the permission of the Chair, I will just read the house allowances so that Members of the House can be made aware of the discrepancies.

The first grade that is I and H - Kshs3,000 to Kshs3,500, Grade "A" and "B" - Kshs5,500, Grade "C" and "D" - Kshs10,000 per month, Grade "E" and "F" - Kshs12,000, Assistant Lecturer - Kshs20,000, Lecturer and equivalent - Kshs24,000, Senior Lecturer and Associate Professor -

[Dr. Ochuodho]

Kshs40,000, Professor and equivalent - Kshs45,000, Deputy Principal - Kshs55,000, Deputy Vice-Chancellor and Principal - Kshs60,000 and finally Vice-Chancellor - Kshs80,000.

Mr. Speaker, Sir, there are two very interesting factors here. Between Grades "A" and "B" and Grades "C" and "D", one is almost getting double partly because I want to believe Grade "A" and "B" consist of too many employees. This is the same thing that recently happened when house allowances for Judges were increased and they ignored the Magistrates because they are too many. Could the Assistant Minister explain what is the rationale, having been a don? In the past, the difference between a senior lecturer and a lecturer was very small. Why are senior lecturers earning double, to the tune of Kshs40,000, which is twice as much as that of the normal lecturers who are earning only Kshs24,000? What is the justification for that discrepancy?

Mr. Awori: Mr. Speaker, Sir, in the first place, the first figures that the hon. Member quoted, I think, must have referred to non-teaching staff. The Question specifically refers, as I can see here, to lecturers. As far as I know, the house allowances for lecturers are, indeed, as the Member of Parliament has quoted; that is, the lecturers earn Kshs24,000 and the senior lecturers earn Kshs40,000.

Dr. Ochuodho: Why the big difference?

Mr. Awori: Mr. Speaker, Sir, the difference is obvious. One is a lecturer and the other one is a senior lecturer!

(Laughter)

Mr. Angwenyi: Mr. Speaker, Sir, before I changed jobs and came to this House, senior lecturers and lecturers were given similar accommodation. This House enhanced house allowances which were supposed to make the lecturers get houses of comparable quality and standard as where they were staying in University houses. Could the Assistant Minister explain to this House whether these house allowances that have been given can make them acquire similar or comparable accommodation as before?

Mr. Awori: Mr. Speaker, Sir, regrettably, I have no control over the market rates of the houses and, therefore, there is very little I can do. The senior lecturers are, indeed, getting Kshs40,000. The lecturers are getting Kshs24,000. It is quite possible that, in certain neighbourhoods, even Kshs24,000 could be able to get a house as comparable as before.

Hon. Members: Where?

Mr. Awori: You can get a house in Runda Estate for Kshs24,000. It depends entirely on how you investigate the situation.

Mr. Murungi: Mr. Speaker, Sir, it is true there is a difference between a lecturer and a senior lecturer, but the difference is not so great. I think this is what the Assistant Minister does not understand; that the difference between a lecturer and a senior lecturer is not as great as these rates imply. When I was a lecturer at the University of Nairobi, we were accommodated by the University at Caledonia and the rent of the same house I was living in is now Kshs70,000 per month. Could the Assistant Minister explain why the Government has decided to lower the housing standards for lecturers generally at the University of Nairobi and other universities?

Mr. Awori: Mr. Speaker, Sir, the amount of allowances that are given to the lecturers have to take into consideration the kitty; that is the amount of money available to the University from the Treasury. When the economy of this country improves and we have sufficient funds, we will be able to look at the allowances. At the moment, there is very little we can do.

Mr. Speaker, Sir, if I may just give an indication, the lecturers that we are talking about at University of Nairobi are 693 in number. They earn Kshs24,000 each and that is quite a bit of money. If we were to give them Kshs40,000 we would be able to run the universities.

Mr. Speaker: Your final question, Dr. Ochuodho!

Dr. Ochuodho: Mr. Speaker, Sir, it is very interesting to hear the Assistant Minister say that one can rent a house for Kshs24,000 in Runda Estate. I do not know whether he is talking of a servant quarter or a main house. What I also find interesting is the Kshs80,000 house allowance given to the Vice-Chancellor, which is a jump of Kshs20,000 from the amount given to the person immediately below his service scale. Before the recent salary increases, lecturers used to earn Kshs15,000 per month, while senior lecturers used to earn Kshs18,000 per month. I have been both a lecturer and a senior lecturer at the University of Nairobi. Could the Assistant Minister explain the big variation in the amounts paid to lecturers in the two cadres? The house allowance for senior lecturers was doubled while that for lecturers was increased only marginally. I agree that the two cadres should not earn the same amount. However, previously, the difference used to be Kshs3,000. Why did the Ministry not maintain that difference of Kshs3,000 or keep it at a ceiling of Kshs6,000?

Mr. Awori: Mr. Speaker, Sir, these salary increases were recommended by qualified people who looked at the whole remuneration spectrum. This is not a unilateral decision of either the Minister or the Vice-Chancellor. These people looked at all aspects of the situation.

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to deliberately mislead the House that the amount of money universities get from the Treasury is so little when we know that the parallel degree programme generates Kshs300 million annually for the University of Nairobi? Lecturers complain that despite the huge amount of money the programme generates for the university, their status has not changed. It was expected that the money the university earns through the parallel programme would be used to improve their welfare. Where does all that money go?

Mr. Speaker: Mr. Ndicho, you have asked a supplementary question!

Mr. Ndicho: Mr. Speaker, Sir, is the Assistant Minister in order to mislead the House?

Mr. Speaker: Order! That does not help! But, as a matter of interest, could you respond, Mr. Assistant Minister?

Mr. Awori: Mr. Speaker, Sir, for the information of the hon. Member, this has come as from 1st July, this year. This has been made possible by the parallel programme, which has brought in the Kshs300 million the hon. Member has mentioned.

STOCKING OF EXPIRED DRUGS BY GOVERNMENT HOSPITALS

Dr. Kulundu: Mr. Speaker, Sir, I beg to ask the Minister for Medical Services the following Question by Private Notice.

(a) Is the Minister aware that Government hospitals and other health institutions are stocking expired drugs?

(b) What justification does the Ministry have for this unacceptable practice?

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

(a) I am not aware that Government hospitals and other health institutions are stocking expired drugs. However, I am aware that, at times, expired drugs may be found in our health institutions as modalities for their disposal are being worked out.

(b) All disposal activities in the Ministry are conducted within the laid down regulations. We are improving on these regulations to ensure increased efficiency.

Dr. Kulundu: Mr. Speaker, Sir, the Assistant Minister's answer is very misleading. However, I understand his plight since he has to protect the image of the Ministry.

Mr. Speaker, Sir, this House's Committee on Health, Housing, Labour and Social Welfare had a chance to tour Central and Eastern Provinces in mid-September. We were astounded by the amounts of expired drugs at Kiambu, Murang'a, Nanyuki and Meru District Hospitals, and at Nyeri Provincial General Hospital. That could not have happened by chance at all those institutions. The impression the Assistant Minister has given in replying to this Question is that this was a one-off discovery. It appeared to us that it is now Government policy to administer expired drugs to patients in public institutions. Could the Assistant Minister confirm or deny that, in fact, the drugs store at Nyeri Provincial General Hospital is three-quarters full of expired drugs?

Dr. Wako: Mr. Speaker, Sir, it is true that medical stores contain expired drugs. Normally, when drugs expire

at rural dispensaries and health centres, they are taken back to the main stores. So, you will find expired drugs at all provincial hospitals countrywide. However, that does not mean that such expired drugs are dispensed to Kenyans.

Mr. Sambu: Mr. Speaker, Sir, expired drugs from dispensaries and health centres are returned to provincial hospital stores yet patients are denied treatment at health centres and district hospitals because they cannot afford to pay the cost-sharing money. So, could the Assistant Minister direct that patients who cannot afford to pay that money be treated and given the required drugs, so that our medical stores can be utilised fully before they expire?

Dr. Wako: Mr. Speaker, Sir, the charges made under the cost-sharing programme at health centres and dispensaries are quite low. The programme is run by management boards comprising of people from local areas, who have the right to say who can be given drugs without meeting that cost. So, it does not mean that people who cannot afford to pay for the drugs are not given service. People who cannot afford the cost are given free services once the management boards so recommend.

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

Mr. Speaker: Order! You have had your chance! Let other hon. Members have theirs' too.

Mr. Muite: Mr. Speaker, Sir, about three weeks ago, the five elected Members of Parliament from Kiambu District visited Kiambu District Hospital, where we saw the said expired drugs. Is the Assistant Minister aware that the root cause of accumulation of expired drugs is the formula for distributing drugs to districts and provincial hospitals, whereby the Ministry, through the central supply system, distributes whatever drugs it deems fit to send to hospitals! Instead of asking hospitals to present their requirements, the Ministry distributes the same drugs to every hospital irrespective of whether some hospitals require certain drugs or not. So, some hospitals do not use certain drugs until they expire.

Is the Assistant Minister aware of that

fact, and is he ready to change the drugs distribution policy, so that hospitals can be asked to request from the central supply system the drugs they require, so that every hospital can have the supplies it needs?

Dr. Wako: Mr. Speaker, Sir, I agree with Mr. Muite that it was actually the distribution method that led to accumulation of expired drugs at hospitals. Hospitals throughout the country used to be supplied with similar medical kits. However, we have now adopted a system of supplying specific drugs to specific areas, so that we do not have any more wastage in the form of expired drugs. We have moved away from what we call the "push system" to the "pull system"; hospitals can now order the drugs they need.

Mr. Speaker: Well, this is a very interesting Question. Let us have Mr. Kombo. I will give chances to two more hon. Members then Dr. Kulundu will ask his final supplementary question.

Mr. Kombo: Mr. Speaker, Sir, you know, the Ministry of Health is known as the "centre for corruption" in this country. Could the Assistant Minister confirm or deny that part of the problem is that medical staff at public hospitals would want to sell their own private medicine to patients and make money through corrupt practices and, therefore, they do not utilise the drugs that are sent to hospitals?

Dr. Wako: Mr. Speaker, Sir, I deny categorically that the Ministry of Health is corrupt. The fact is that we used to supply all hospitals with what we called "essential drugs" through a common medical kit under a World Bank programme. However, five years later, we reviewed the programme because the demand for certain drugs was higher in certain areas than in others. Some drugs would completely remain unutilized in certain areas, leading to their expiry. That is how shortages of certain drugs at certain hospitals came about. However, we have since reviewed the programme and now we provide specific drugs required by hospitals throughout the country.

Dr. Ali: Mr. Speaker, Sir, the Assistant Minister has accepted that there are a lot of expired drugs, which are sent from the lower to the higher level. He knows that there is a laid down procedure to get rid of these drugs. Why can the public health technicians and officers in the rural health facilities not dispose of these drugs instead of taking them back to the provincial general hospitals?

Dr. Wako: Mr. Speaker, Sir, actually the procedure has already changed. We are now making sure that if a drug has expired in a certain area, then the Board of Survey, which consists of representatives from the District Commissioner's office, the district health office, the hospital pharmacist and the drug inspector, can inspect the drug, list it down and send the list to the headquarters for the Accounting Officer to quantify. Then the list is sent back and the drug is destroyed on site.

Dr. Kulundu: Mr. Speaker, Sir, the procedure that the Assistant Minister has outlined has been in existence for, maybe, 25 to 26 years. So, it is not a new procedure. Could he explain why drugs which expired in 1993 are still in Nyeri Provincial General Hospital? Why is this procedure not being followed?

Dr. Wako: Mr. Speaker, Sir, if the hon. Member is honest, he will agree with me that the procedure of getting rid of expired drugs which used to be there was much longer. Drug inspectors had to come from Nairobi and the destruction of drugs was done by people from the provincial headquarters or Nairobi. However, the procedure that I have outlined is much simpler and that is why I have said that it is possible for drugs, which expire this year, to be destroyed this year.

Mr. Speaker: Time up! I have given enough time for Question Time. We have other things to deal with. Mr.

Murungi, you had a Ministerial Statement to seek?

POINT OF ORDER

DETERIORATING SECURITY SITUATION IN MERU CENTRAL

Mr. Murungi: On a point of order, Mr. Speaker, Sir. I rise on a point of order to seek a Ministerial Statement from the Minister of State, Office of the President in charge of internal security. I am seeking this Statement regarding the deteriorating security situation in Meru Central District, especially, North Imenti Constituency, which is represented by Mr. Mwiraria, who is out of the country.

Mr. Speaker, Sir, on Thursday, 11th October, 2001, three young men, namely, Nicholas Kiriinya M'Mathi, Alexander Nyamu M'Mathi and Simon Kimathi were killed by armed bandits at the Meru/Isiolo border, near the school of infantry. Their bodies were seen by the residents of the area on 12th and 13th October, 2001, but thereafter, they disappeared. So far only one head has been recovered.

On 13th October, 2001, two people were shot dead by armed gangsters at Ikumene Market, in the same constituency. So far, no action has been taken. On 13th October, two people were shot dead at Egoji Teachers College, and again, no action has been taken. So, we are very much worried that this Government does not protect the lives and properties of the Meru people. Therefore, I would like the Minister to issue a statement in this House explaining the circumstances under which all these deaths and shootings have taken place.

Secondly, he should tell us whether the bodies which have disappeared will be recovered and handed over to the relatives of the deceased for burial. Finally, the Minister should explain to this House what action the Government will take to improve the security situation in Meru Central District.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I am aware of the incidents in question. Investigations are continuing, but I will issue a comprehensive Statement in a week's time.

Mr. Speaker: Just an advice to the House: Issues as grave as the ones raised by Mr. Murungi belong properly to Questions by Private Notice rather than Ministerial Statements. That will alert the Minister in good time, allow him time to conduct his investigation and take requisite action and come to this House to respond.

So, I wish to ask hon. Members to proceed by way of Questions by Private Notice instead of seeking Ministerial Statements. I will not be very accommodating because those are short-cuts that will not help in sorting out those issues. Mr. Murungi, you had my full consent and I am not talking about you now. I am advising the House generally for the future. So, do not complain. I am not reprimanding you. You had my full authority.

Mr. Murungi: On a point of order, Mr. Speaker, Sir. In fact, the last Parliament had tried to solve this problem by introducing the Zero-Hour procedure. This was where, if there were any urgent matters, we could raise them during the Zero-Hour every Thursday. But hon. Members have been confused because when we request for Zero-Hour statements, we normally get notes indicating to us that matters should be raised as Questions. So, the Zero-Hour procedure has actually died. Could you advise this House what situations could be brought up during the Zero-Hour?

Mr. Speaker: Very well. It is my great pleasure to do that. Zero-Hour means exactly that; no time. It is supposed to allow an hon. Member, at the end of the business of the House, not expecting any response at all from anybody and should not get a response from anybody, to stand up and say something that he wishes to say about his constituency, Kenya generally or the world.

For example, the hon. Member for Imenti South Constituency could stand up and commend an athlete from his constituency who has done exceptionally well in a particular sport during the Zero-Hour. He may choose to say something else that does not require response. Zero-Hour was not meant to usurp the Question Time of this House. Equally, Ministerial Statements are not supposed to be a substitute to Question Time. They are supposed to make a Minister aware, immediately, of some issues that have arisen. This House does not have a policy that requires Ministers to come and tell the House, as a matter of policy, what they are doing to stop some problem that has arisen. This is so as a matter of policy, and not as a matter of fact.

I am sure that hon. Members will appreciate that they get more help by filing Questions by Private Notice or even ordinary Questions than by asking for Ministerial Statements, which, more often than not, are ignored, and if they are not, Mr. Speaker, has actually no power in the books to ensure compliance. This House should not act in vain. So, I want to encourage hon. Members to file Questions on grave issues. I am not saying that we will never seek Ministerial Statements, but I am just advising hon. Members that you are better advised to pin down the Minister by way of a Question, which forces him to come, for example, on Tuesday, and respond to that Question, rather than seek a Ministerial Statement and hope that the Minister will be kind enough to come and make it. I am also urging Ministers

to let hon. Members know what they are doing because they will require these hon. Members to pass their Bills and policy statements. Therefore, it is important for Ministers to let hon. Members know what they are doing and, through them, the country will also know what is happening. As I said earlier, it is better to address this House than addressing a Press conference, because the message will go even further. Just look at the Press Gallery on top of the Chair, how many newspapers and news organisations are represented in this House? They are there to cover you! The Chair will continue to give you chances! I will now proceed to give Prof. Ongeru a chance to address this House on a matter that he wanted to let the House know about through a Ministerial Statement.

Prof. Ongeru, the Floor is yours!

MINISTERIAL STATEMENT

MEASURES TO DEAL WITH ANTHRAX SCARE

The Minister for Public Health (Prof. Ongeru): Mr. Speaker, Sir, I take with grace your comments about Ministers using this House for issuing Ministerial Statements. I can quite confidently say that when we made a Statement with regard to *ebola*, with tremendous support from this House, we achieved a great success.

However, the Ministerial Statement that I am just about to issue concerning the anthrax scare, was necessitated by the fact that, at the time the information reached us on Thursday morning, we found that rumours were bound and it was going to be a tremendous scare to the population of Kenya. These rumours move very fast, and we would have dealt with the postmortem results rather than dealing with the results before postmortem. That was the basis upon which we had to issue an urgent Ministerial Statement. Even then, we were intending to issue a Statement in this House, so that hon. Members may be fully apprised about the current situation.

Mr. Speaker, Sir, as I said, the fear of possible and deliberate news of poisonous chemicals or harmful pathogens has recently increased since the 11th September, 2001 terrorist attack in the USA. Infectious agents such as pathogens, toxic chemicals or gases, for example, anthrax, botulism, smallpox, plagues, viral haemorrhagic fevers, *ebola* being one of them, and nerve gases are potential for use in biological warfare. This is an issue of national importance and obviously a security concern. The Government has, therefore, put in place measures to deal with anthrax scare, case management and investigations.

The initial analysis of incidents of anthrax in Kenya, between 1990 and the year 2000, shows anthrax to be normally an infection of animals such as cattle, goats, sheep, horses *et cetera*. Human beings get infected with anthrax bacteria from eating or coming in contact with contaminated meat of an infected animal. The natural cases of anthrax in human beings in Kenya are sporadic and not common.

There are three types of anthrax that one may get. The cutaneous infection, which is acquired through the spores of the bacillus anthracis, enters the skin through the existing wound or abrasion. With regard to signs and symptoms, I need not bore this House about them, but briefly they are localised evolution of a sore that begins as a small pimple or papule, small ring of vesicles, oedema formation, swellings without pus, unless there is secondary infection on the lesions and painful lymphadenitis which are swollen, may occur in the regional lymph nodes where that infection occurs. If it is in the arm, then the lymph nodes under the armpit get swollen or it is in the legs, then the lymph nodes on the groins become swollen and painful. Sometimes, we do have malignant oedema and fever which follows and toxemia which brings about shock and death may ensue. It is not the most virulent type.

The gastro-intestinal anthrax, which goes through the gut is contracted by eating anthrax contaminated meat from an infected animal. The early symptoms of infection include, abdominal pain, nausea, vomiting, anorexia fever, haematemesis, vomiting, bloody diarrhoea and oedema, massive swelling of the abdomen, which is ascites, and if untreated, it may also lead to shock, toxemia and death.

The most virulent one, the pulmonary type is contracted through inhaling the spores of *B. anthracis*. This form of anthrax infection is rare, but in the light of biological terrorism, it is the most important form of anthrax and very lethal. The symptoms of this type of anthrax infection begins with a flu-like syndrome, followed by sweats, fever, fatigue and sometimes may be mistaken for malaria, malaise and general tiredness of the body, unproductive coughs, then difficulties in breathing due to lack of oxygen. The patient can die within 24 hours, if untreated.

According to our national in-patient records, a total of 59 cases of anthrax were reported over a period of 11 years. All these cases were successfully treated in our health facilities, and I am glad to announce that none of the patients died.

In 1990, we had four cases and nobody died. In 1991, we had one case and the patient did not die. In 1992, we had unusually high number of 42 anthrax cases, but fortunately nobody died. In 1993, there were two cases but nobody died. In 1994, we had three cases and 1995, two cases and nobody died. While in 1996, we had three cases, 1997, we had no case. In 1998, we had one case and in 1999, we had no case. In the year 2000, we had one case. In

total, we had 59 cases and nobody died.

As indicated above, anthrax infection is, therefore, not a common disease. In areas where it has occurred, the Ministry of Health has been able to deal with it adequately and efficiently, thus resulting in no deaths.

With regard to 22nd October, 2001, the Ministry of Health had received 26 packages of suspected cases of anthrax contamination posted from different countries; including USA, Pakistan, India, Netherlands, Thailand and Kenya. Only one index case has been confirmed positive for anthrax, by both stain, smear, the growth of colonies or spores forming bacillus. The remaining 25 specimens, including the parcel addressed to the Deputy Speaker of this House, are also negative.

I want to say that, before I came to Parliament this morning, our team had examined 43 specimens and by this afternoon, they have about 60 specimens. So far, all of those that have been examined up to 43, this morning, are all negative for the bacillus anthracis, but except for one case from Atlanta, Georgia. In view of this, the National Task Force on anthrax, with representatives from the Ministry of Health, WHO, Ministry of Agriculture, Livestock and Rural Development, National Intelligence Security Services, Department of Defence, Postal Services and other relevant institutions and agencies, was formed to alert and create awareness and look into ways of tackling these threats. The National Task Force reports to the Minister for Public Health.

To efficiently address this issue, three sub-committees have been formed. These are; Information, Education and Communication, Epidemiological (contact tracing) and Case Management; and the Resource Mobilisation of Supplies of drugs.

In addition, the Ministry has prepared guidelines on case definitions, surveillance and control of anthrax for distribution to all health care facilities and similar guidelines for the general public, on how to handle anthrax and other biological agents.

I would like to take this opportunity to thank the public for this tremendous awareness and carefulness that they have exhibited. Therefore, we shall not be tired in examining these materials, except we have to tell them to reduce the number of scare materials that they sending to us. We would rather deal with more serious cases than the jokes that come through the mail. In this regard, the health care providers have also been advised that the drug of choice is penicillin V, amoxicillin and other alternative drugs which include tetracycline, particularly doxycycline, erythromycin and ciprofloxacin. In this regard, the Government has already put in place buffer stock of emergency drugs and protective gear available in most of our health centres. Additional resources will be mobilised as the situation evolves in collaboration with national and international stakeholders.

Mr. Speaker, Sir, the Ministry has also set up a hotline No.720533 to provide and receive information on anthrax cases. The hotline number operates between 7.30 a.m. and 10.00 p.m. Alternative hotline numbers have also been created in the Office of the President. These are 212386 and 720536, and can be used between 10.00 p.m. and 7.30 a.m.

Finally, the public is requested not to panic as we have fairly good experience in managing this situation. At the moment, the situation is completely under control. Therefore, the risk of infection from one person to another is minimal. It is not a contagious infection that can be transmitted from one individual to another, except, as I said by contact with the bacillus themselves on the skin, inhalation through the lungs, eating of contaminated meat or foodstuffs. Therefore, anthrax is not contagious. So far, most reports received about suspicious packages seem to be intended to scare people, but the Ministry of Health will continue to remain vigilant and investigate reported and suspected cases as they come.

Thank you, Mr. Speaker, Sir.

Dr. Kulundu: Thank you, Mr. Speaker, Sir. May I take this opportunity to thank the Minister for Public Health for that very elaborate Ministerial Statement and for the assurance that Kenyans, as of now, are safe from anthrax. Whoever developed this bacillus anthracis must have wanted to develop a very virulent strain. From the literature I have seen, it would appear that the only drug that this particular strain responds to is the ciprofloxacin. So, whereas the Minister has talked of penicillin, tetracycline and so forth, I would like to be assured that this country has got enough stocks of ciprofloxacin, which apparently is the only drug which this particular strain is sensitive to.

I would like to thank my Professor, but would he be kind enough to assure us that all health institutions in this country have got enough stocks of ciprofloxacin?

The Minister for Public Health (Prof. Onger): Mr. Speaker, Sir, I have just said that this country has treated 59 cases of anthrax, and no single death has occurred. We did not use ciprofloxacin but we used penicillin and simple tetracycline at the time. In the event that the bacillus anthracis is resistant to the first line of drugs, which are cost effective, then, by all means, we will use ciprofloxacin as the drug of choice. This drug will be used when we have done the culture and sensitivity studies which are within our capability.

I would also like to say that it is quite clear that the type of strains that may be used for biological warfare may not necessarily conform to the characteristics and appearance both at the stain and at the culture characteristics

that we obtained with the no-conventional anthracis bacillus. They maybe by-engineered and have a different morphology. Currently, we are re-examining the material for those sub-types so that we can know where they are. This includes looking at the gama rays. We would like to establish whether there is any radio-activity in these things. This is because you will never know the kind of engineering that may have been used in these toxic materials. But I would like to assure Kenyans that we have the capacity to deal with the situation. This country has a laboratory which is acclaimed worldwide as a security laboratory. I would like to assure Kenyans of their safety.

Mr. Musila: Thank you, Mr. Speaker, Sir, I too wish to commend the Minister for the seriousness in which he has taken this matter. Listening to the Minister, I am very convinced that he has taken adequate measures, which appear to be limited to the urban areas. I am worried about the rural areas, where most of the time we do not even have drugs in health centres and dispensaries. This case is not only limited to cities, but it could as well be spread in rural areas. The Minister has given us a hotline number, and yet those rural areas may not even have access to telephones. Could the Minister assure the House that the rural communities in this country will be protected equally, just like he is putting in place measures in urban areas?

The Minister for Public Health (Prof. Onger): Mr. Speaker, Sir, it may please the House to know that one of our drug kits that we send to the rural level, for example, the dispensary level, includes ciprofloxacin, not because we expected anthrax to come, but for the management of Sexually Transmitted Diseases (STD). Therefore, both the range of penicillin right down to ciprofloxacin are available at the dispensary level.

Mr. Speaker, Sir, our medical officers of health have received adequate instructions on how to deal with the eventuality of anthrax. May the House also know that even at the rural level; district hospital level, our laboratory technicians can diagnose anthracis.

Mr. Speaker: Very well! I will take two more questions. Mr. Minister, you will wait for the two questions and respond to both of them. After that, we will have fairly covered that issue. I will take Mr. Imanyara and Mr. Keriri's questions. That will end the matter!

Mr. Imanyara: Mr. Speaker, Sir, considering and bearing in mind that in 1998, this country was again the target of attacks that have a bearing on our relationship with other countries, and considering that the only positive case that has been identified in this country now originated from the United States of America (USA), I would like to know from the Ministry what collaboration we have with the Government of the USA. What is the support, if any, do we get from that country in view of the very close relationship and in view of the fact that we are being targeted because of our perceived close relationship with the USA?

Mr. Keriri: Thank you, Mr. Speaker, Sir. The Minister was good enough to tell us how long it may take for someone to die after coming into contact with the three types of bacteria. Could he tell us the gestation period of these three types after contact?

The Minister for Public Health (Prof. Onger): Thank you, Mr. Speaker, Sir. On the last query, this obviously depends on the mode of transmission. If you inhale the anthrax spores in the concentrated form, the onset of symptoms will be rapid within 24 hours. Therefore, you should not wait for a gestational period of between two to six weeks, when some of these patients may develop symptoms. That is the reason why we advise that when we have diagnosed that you have been in contact with the anthracis bacillus, immediate treatment should be instituted. That is how we have managed to treat all our patients without any of them dying. We would like to do this even in future.

As regards the question by Mr. Imanyara, it is true that within the Task Force, in my Ministry, the Head of CDC is a member. In our laboratories at the KEMRI, a member of the microbiology team which tests this bacillus has also been seconded to us from the CDC. It is also correct to say that Washington rang me on the material day, which was on Friday, to reassure us that in the event that we needed any support, it would be forthcoming.

Mr. Speaker, Sir, equally, I got a letter from the Director-General of the World Health Organisation (WHO) pledging their full support in the event that this country is put into this scare again. But as of now, I want to state that we have only had one case out of 60 so far tested. Therefore, the majority are negative and Kenyans have nothing to fear.

Mr. Speaker: Very well! I think the House does now appreciate the value of Ministers coming to the House and explaining to it what the problem is, what steps they are taking and seeking the support of the House. On behalf of the House, I would like to thank the Minister, and I wish to encourage all his colleagues to do what he has done. I will make time available to them.

That is the end of this session.

Next Order!

BILL

First Reading

THE CENTRAL BANK OF KENYA (AMENDMENT) BILL

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. With regard to Order No.7; The Central Bank of Kenya (Amendment) Bill, as you are aware, there is a case in the High Court filed by the Kenya Bankers Association, seeking to do exactly what the Minister wants to do here.

I seek your clarification on whether it would be in order for this Bill to be read the First Time when that case is pending.

(Applause)

Mr. Speaker: Order! Order! I am sorry, Mr. Imanyara. I really cannot give guidance now, because the Minister has not seen me about this issue. In fact, I noticed it on the Order Paper today and I directed that the Minister and the Attorney-General do see me on Tuesday to discuss this issue with me. And because of that, I will postpone the First Reading of this Bill until the Minister and the Attorney-General have had a discussion with me about this issue. It is important that we do discuss the legal implications of this Bill before we proceed.

Very well! So, that one is deferred.

(First Reading of the Bill deferred)

Next Order!

MOTIONADOPTION OF POWERS AND
PRIVILEGES COMMITTEE REPORT

Mr. Speaker: Order No.8, is deferred to Tuesday afternoon. But I wish to advise from the Floor that on Tuesday, when we come to this particular Order, the House will discuss this matter in camera. That means, on that day, when this Order is called, all the strangers and the Press will be removed from the galleries, and the House will proceed with this matter on its own without strangers. We will make sure that even the microphones into the various offices will also be switched off as we deal with this matter. This is a matter between Members and we want it to be discussed by Members themselves. So, it will be in camera. That is how it is in the rules and that is how we shall proceed. We will not do it in public.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. You remember when the Report was tabled here, you did rule that the copies are countermanded to protect the same principle you have just described. In view of the fact that this matter is coming up on Tuesday, when are Members supposed to get the copies so that before the debate comes, they will have read them?

Mr. Speaker: Order! Order! We have a little dilemma here. Members must know what they are coming to discuss and, therefore, they ought to have this Report. Ordinarily, they must have the Report, because in the old days, hon. Members kept the word to the House that they would not disclose what was coming to the House to strangers. Unfortunately, we all now know the new trend, nothing belongs to the House any more from the Members. Any time they get anything even before they communicate to the House, it is all over the place. I wish to appeal to hon. Members of this House to keep honour of themselves and the honour of this House. I will make those documents available strictly to Members, entrusting each one of you that you will keep the spirit and letter of the Standing Order, that you will not disclose the contents thereof to any stranger. I have appealed to all hon. Members to respect that rule.

The alternative will be to withhold this document from you and somehow expect you to come at the mention of this particular Order and contribute meaningfully to a Report you have not seen. I think that is wrong and untenable. I think, I will take the risk of appealing to your conscience and honour and give the Report to you. But on behalf of this House, I wish to say that the House will take unkindly any organization that will take that Report that will be discussed by this House in camera and publish it beforehand. I think I have the support of this House.

I do now issue a warning to all and sundry that you do publish that Report at your own peril. If you do that, you will have been contemptuous of the wishes of this House. I hope that is understood and, therefore, I will expect that every Member will get the Report, read it and keep it secret. When we come here, we will discuss it in-house. There will be no strangers. So, that is the best I can do in the circumstances.

(Motion deferred)

Next Order!

BILL

Second Reading

THE FINANCE BILL

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

Mr. Speaker, Sir, hon. Members will recall that when delivering the Budget Speech for Fiscal Year 2001/2002 in this august House, I expressed the urgent need to address the challenges of revamping our economy. With the first quarter of the fiscal year having come to an end, I would like to assure hon. Members that we have not deviated from our central theme of effective resource allocation for growth and poverty reduction.

Mr. Speaker, Sir, the macro-economic framework for this fiscal year has continued to remain stable. Inflation rates remain at single digit, the exchange rates have remained stable and the interest rates and Treasury Bills have continued to decline. The fiscal strategy, therefore, in this fiscal year aims at increasing the level of economic activity through enhanced economic activity for the private sector as the lead sector.

Mr. Speaker, Sir, the said strategy is built around key objectives and constraints that will enable us achieve a sustainable reduction in the level of public expenditure to the GDP, achieve a relative reduction in the level of domestic debt to GDP, and also to change the composition of Government expenditure to focus more on efficient public investment and operations and maintenance in the long-run.

The Kenya Revenue Authority has done a commendable job as far as revenue collection is concerned, despite a contracting tax base due to the poor performance of the economy. Our fiscal strategy aims at reducing the ratio of Government revenue to GDP; from 23.2 per cent in 2000/2001 to 22.1 per cent in the year 2003/2004.

Our core objective still remains economic recovery through increased productivity, employment and poverty alleviation. The tax measures and other proposals contained in the Finance Bill are intended to realise the stated objectives and also to address sectoral priorities as I will mention later.

Given the necessary economic imperatives, I intend to make some amendments to the Finance Bill which will be introduced during the Committee Stage. As stated earlier, these proposed amendments will not be a deviation, but rather they will be intended to add impetus to our policy framework.

Mr. Speaker, Sir, due to the economic down-turn and high production costs, growth in the manufacturing sector has been sluggish. In order to mitigate some of these negative factors impinging on the sector, I have taken a number of measures relating to Customs and Excise Duty. Duties on key raw material and capital goods have been lowered. Import Declaration Form fees applicable on raw materials imported to manufacture goods for export under the Export Promotion Programme Office (EPPO) has been waived.

The textile sector has been in recession for a long time and in order to encourage the industry to take advantage of the emerging export opportunities, duties on fibres have been removed. The yarns have been rationalised by removing duties on some of the yarns and raising duties on the other. The manufacturers who make goods to be supplied to other manufacturers in their process of production will also benefit from duty-free import on their raw material under the Essential Goods Production Support Programme (EGPSP).

Mr. Speaker, Sir, the performance of our agricultural sector has been dismal. Yet, retail outlets remain well-stocked with imported foodstuffs. In order to cushion the agricultural sector from these imports, duties on foodstuffs have been raised.

Felling of timber have continued unabated in our forests. To counteract this problem, duties on timber have been removed to facilitate import.

Mr. Speaker, Sir, previously, duty waivers on imports by charitable institutions and other needy cases were confined to 50 per cent. In order to ensure that critical imports are given adequate consideration for duty waiver, the Minister is now conferred with powers to give full waiver.

The many exemptions given by Government have had an impact on revenue. In order to enhance revenue, a number of low priority exemptions under the Customs and Excise and VAT Act have been deleted. Other exemptions have either been rationalised or combined, or confined to needy areas. Concerns about some administrative time spent on proposing numerous other exemptions in the Treasury have been addressed by moving this over to the KRA. Lecturers in public universities and civil servants will no longer need to apply for exemption, instead budgetary allocations have been made to cater for their exemption.

In order to be on course on our regional commitment, particularly on the harmonisation of tariff structures, as

it is a requirement in COMESA and East African Community, the top tariff band has been lowered.

As hon. Members are aware, bicycles are important as a mode of transport in the rural areas. In order to increase easy mobility, duty on bicycles has been removed.

During this Budget, I have also undertaken a number of excise measures. To adjust the value of oil taxes by inflation, Excise Duty on petrol has been marginally raised. Licenses for excise factories have also gone up.

Earlier in the year, excise stamp on cigarettes was introduced. To improve enforcement of the requirement for excise stamp, penalty for failure to fix excise stamp on cigarettes packets has been enhanced.

When presenting the Budget, I had proposed to introduce VAT on rental of commercial buildings. This policy decision has raised concerns, not only with yourself and the general public, but also with the investors. Given the sluggish pace of the economy, I will be proposing a withdrawal of this proposal in order to reduce pressure on tenants in commercial buildings.

In addition, the consumption of electricity of 200 units and below by domestic households will be zero-rated.

This Budget has introduced measures which are intended to expand the VAT tax base by expanding taxable services and designated goods. Under the VAT law, tax administration is enhanced and simplified by the reduction of the penalty rate and allowing for objection.

Mr. Speaker, Sir, with regard to the Income Tax Act, the major concern has been to reduce the tax burden of the low income workers. To achieve this, personal releases have been increased by 10 per cent and the lowest tax bracket has been increased by 6 per cent. So, further relief on the low-income earner, the minimum aggregates taxable value of benefit has been increased from Kshs2,400 per annum to Kshs12,000 per annum.

Hon. Members have noted the reintroduction of the Presumptive Income Tax (PIT). I know one hon. Member is not very happy with the PIT, but I would like to reassure him that this tax has been re-introduced but has been made optional. This means that those farmers who wish to pay PIT have the option to do so. And those that do not want to pay and would like to file normal tax returns are free to do so. So, the option is open. And it is up to the taxpayer, particularly the small farmer.

Kenyan residents working abroad will be allowed credit on foreign tax paid on the salaries which they earn in those countries. This will help to encourage them to remit some of their income to Kenya.

The Income Tax proposal also contain measures to encourage investments and savings.

Mr. Speaker, Sir, under miscellaneous measures, proposals have been made to transfer the responsibility of collecting catering and training levy and NHIF from their respective institutions to the KRA. The latter has better efficient level and operational machinery to collect revenue at lower cost.

Proliferation of counterfeit goods has made manufacturers incur heavy losses through cheating by the sellers of these goods. To counteract this problem, the Standards Act has been strengthened by reviewing penalties upwards for infringing Kenyan standards and also by making the Kenya Bureau of Standards has the power to impound counterfeits or contraband goods.

Mr. Speaker, Sir, small and medium-sized banks have been under pressure due to hard economic times. In order to give them some breathing space, the minimum core capital requirements have been set at Kshs300 million for a period of two years without escalation. To promote the tourism industry, the air passenger service charge has been lowered from US\$40 to US\$20. These and many other measures, which we will discuss in detail, are contained in the 2001 Finance Bill.

With these few remarks, I beg to move.

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Speaker, Sir, I stand to second the Finance Bill because it is really the basis on which we shall be able to either stimulate the economy or continue to constrict it.

Mr. Speaker, Sir, the Minister has made a few important points in his presentation, and one of those was to reduce the percentage of taxation in relation to GDP. The direction he is taking is very important, because one of the issues that have come at the forefront most of the time, is that, Kenya's taxation levels are extremely high and punitive. Therefore, there needs to be concerted effort on the part of the Government to systematically reduce this, so that at the end of the day, we will have a situation where industry or commerce would have a higher proportion of profit which they can re-inject back in the form of investments and, therefore, create more employment. So, I really support the move he has made; that the strategy is to systematically reduce the level of taxation in relation to the GDP. This is important, and we need to do it. Clearly, the economy has been depressed, and I will not be wrong to say that we are likely to see, perhaps, lower than expected target levels in the collection of our revenue this financial year. If we look at Corporate Tax, many organizations are posting very low profits. The ones who seem to be making some good returns are those who may have restructured much earlier, because quite a number of organizations are making losses and, indeed, some are winding up. So, clearly, the level of collections one anticipates in terms of the Corporate Tax is likely

to face a reduction. If that is the case, then we need to rethink our strategy in terms of how far we should go in making the tax levels higher when we know that the economy is shrinking.

Mr. Speaker, Sir, the other issue that the Minister has addressed and which was a matter of major concern in the industry was the level of VAT which is at 18 per cent now. I know it had taken the industry aback when this high level of VAT was being extended to the business premises in which the many people do operate. It is gratifying to note that the Minister has heeded the concern of very many people, either as hon. Members of Parliament or as the business community, who objected to the introduction of this. I would like to commend him for the responsiveness he has shown by foregoing the introduction of this measure. It will be very well received by the business industry. It is a fact that Value Added Tax on the business premises was going to be passed over to the consumers of all sorts of goods and services. The burden was not going to be that of the landlord. They were going to systematically make sure that if you are going to purchase your dinner, a shirt and so forth, this cost was going to be passed on to you. It was also going to have a major impact on areas like tourism where we know that if we introduce this VAT in organizations that, maybe, operate as tour operators and so forth, you were going to make sure that this tax was going to be carried by the consumers, because the landlords would have done it.

Mr. Speaker, Sir, in addition to that, we know very well that for business premises you enter into long-term arrangements. Normally, a lease for business premises, is five-and-half years or six years. That is a contractual obligation. So, to try and introduce a parameter in the middle which was not part and parcel of the initial contract arrangement between the landlord and the tenant was going to result in one party breaching the basic tenets of that contract. This would cause a lot of upheavals within many organizations. Therefore, I think the Treasury has, indeed, acted wisely in ensuring that this particular clause which had been earlier proposed is deleted.

Mr. Speaker, Sir, there are also some other concerns which I am sure the Minister is giving due consideration. As we deal with the COMESA trade and so on, we are beginning to realise or to tumble across problems that had earlier not been anticipated. I have in mind areas like the sugar industry and a number of agricultural areas, where in terms of our policy and our commitments, we had said that we would attain the zero tariff with effect from 1st October, 2000. What is now becoming apparent is that, because of this arrangement which one would understand in the sense that it is part of the broad original, they are injuring part of our agricultural sector. In this context, one would be looking at the maize, rice and sugar industries. The issue of the tariff structure, particularly when it comes to agricultural products, which are issues that relate to the Finance Bill, need to be sorted out through very carefully, because we now know that there are a number of countries which are within the COMESA ambit which have major advantages over the level of production, either through efficiency or through subsidies in their respective countries. They are beginning to have very serious implications on our own agriculture and our own industries. These are issues that we need to look at.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, I would also want to stress that the Ministry of Finance should constantly look at its dumping strategies. Not too long ago, through the media, we were made aware of the fact that there are now some fellows who are actually counterfeiting products that are actually manufactured here and then bringing them in as imported goods, which is a threat to the local industry. If at all we want to continue having our open system and, indeed, have an open economy, we should ensure that all the loopholes that will be misused by unscrupulous people to try and ruin the level of competitiveness among our industries; trying to kill our jobs so that we end up creating jobs in other markets, need to be sealed.

Mr. Temporary Deputy Speaker, Sir, I would, therefore, urge the Kenya Revenue Authority to work tirelessly day and night to make sure that those kind of tricks are completely sealed. What is more important is that, we would like to see visibility in the way these cases have been dealt with. At times, after the initial arrests which are publicised, when it comes to the ultimate decision of what action was taken, we never get to know the result or it fizzles out. That again is not the kind of thing that would encourage people to trade without thinking of how to continue avoiding loopholes.

Mr. Temporary Deputy Speaker, Sir, one other issue that has come out very strongly in this Finance Bill are the amendments that are proposed in relation to the Penal Code, which I think are also positive. I think we need to continue looking at our industry or our economy as an economy that can move away from the cash mentality. I think, sometime back, when one was looking at the Banking Act and so forth, there were some proposals that were made which were, perhaps, not well received. The reality is that, within this Finance Bill, some suggestions are being made

which are amendments within the Penal Code. They would help in ensuring that issues of bouncing cheques are taken seriously. We should make sure that if we issue a cheque, it is a cheque that is going to be honoured. That is very vital to the operations of this economy. I hope this time round, hon. Members of Parliament will see the suggestions that have been put here with respect to that positively. Last time it was assumed that some people were being targeted within their individual capacities, but in reality we know that we cannot have a situation where people keep on carrying cash around. We cannot have a situation where you have to keep on going to pay a bank in order for a bank to facilitate a banker's cheque. We need to have a situation where one can issue the bank a cheque, and it is an instrument that will carry the day. It is only proper that we also know that the issues that are being proposed here are those that will ensure financial prudence. They will ensure that we live within our means and make commitments that we can honour.

Mr. Temporary Deputy Speaker, Sir, I urge the House to consider this matter like it did previously when there was such a proposal. At that time, it came under a different Act of Parliament which was not suitable. But this time, a provision has been made so that it comes under the Penal Code.

Mr. Temporary Deputy Speaker, Sir, I do not want to belabour this matter. The Finance Bill is important because it involves taxation. I hope hon. Members will discuss these taxation measures with open minds. We all know the very famous quotation which somebody made many years back in the United States of America, that "there shall be no taxation without representation." I hope the empty seats we are seeing here is not a reflection of hon. Members either neglecting their role in analyzing what the tax measures are in this Finance Bill, or a reflection of hon. Members not bothering to go clause by clause and understand what is being proposed in the taxation measures. This is an extremely vital Bill. I hope it will be given the necessary consideration by all Members of Parliament so that we can discuss it fully. We have to look at all the clauses because they have far-reaching implications not only in terms of revenue collection, but also in the take-home package of individual citizens of this country.

Mr. Temporary Deputy Speaker, Sir, I urge the Minister to work progressively and rapidly towards the reduction of all taxation levels. We look forward to an occasion when the VAT level will be lower than the 18 per cent we pay currently. We know that higher taxation levels can only breed tactics of evasion. The sooner we rationalise our activities in the economy and match our collections with expenditure, the sooner these taxation levels will come down. By so doing, we will give the necessary impetus to our business people to create jobs.

With these few remarks, I beg to second.

(Question proposed)

Mr. Michuki: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to these proposals by the Minister for Finance with regard to taxation, policy and regulatory measures within the economy.

Mr. Temporary Deputy Speaker, Sir, I wish to respond to the concerns of the Seconder of this Motion, that there are empty seats in this House. Members of Parliament are champions of the famous phrase "no taxation without representation" but they are not here now when taxation is being---

QUORUM

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Do you think it is in order for this House to continue discussing this important Motion when the House is empty? There is no quorum!

The Temporary Deputy Speaker (Mr. Imanyara): Yes, we do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! We have a quorum now. You may proceed, Mr. Michuki.

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, as we discuss this important Motion, there are very few Members of Parliament in the House because the Minister for Finance, and the KANU Government, have failed to explain to Kenyans how the taxes they pay every year are spent. On this side of the House---

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is Mr. Michuki in order to accuse the KANU Government when its side is full and the Opposition side is empty?

(Applause)

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, I am not on the Chair, but that is not a point of order. However, it is because year in, year out, a lot of revenue is being raised from Kenyans, but there is highly inadequate explanation as to how that money has been spent. In particular, in this multiparty period, it is now almost ten years and this question has remained unaddressed.

The Minister for Finance, in his introduction of the Motion, did refer to the measures that are contained in the Bill, which he allegedly wants to take on the basis that the private sector would remain the lead sector. It is the private sector whose many parts and components have collapsed.

Let us take the tourism sector where over 50 hotels at the Coast have either been closed or are under receivership. Nobody seems to bother about, for example, the effects of the events of the 11th September 2001 in America, which have completely disorganised the tourist industry. Therefore, we are discussing this afternoon a question on how much of our national savings we should direct into agriculture. It was quite clear from the Minister's reaction that he absolutely had nothing towards that end. So, agriculture remains unattended and the inputs in agriculture, be they fertilizers, insecticides, the seeds that are being planted, in most cases, and in many parts of the country, are beyond the reach of the ordinary person. The Government has agreed that 56 per cent of the total population is living below the poverty line and, therefore, unable to meet or even afford the level of prices that have been brought through merchants and middlemen and in particular, with regard to fertilisers which are given to this country freely by donors.

There is also the issue of the ability of our own products, whether raw or manufactured, to be competitive in the world market. We now find ourselves selling very expensive sugar, receiving very little for our coffee, and having to import things which we should not be importing because the sectoral allocations that used to be made are no longer there. Therefore, we need to raise the competitiveness of our own products, particularly now that we are time and again arguing with Egypt about our tea, imposition of duties and levies, which then create problems of the level of earnings of our farmers. Therefore, measures must be included within the Finance Bill to alleviate this situation.

I am glad that the Minister has listened to many people, and in particular, even to the Committee on Finance, Planning and Trade of which I am an hon. Member, where we pointed out to him that he has to abandon his proposals to enforce Value Added Tax on rents on buildings. Otherwise, he would turn our towns into ghost towns and centres of crimes because people were beginning to move to work in their houses instead of their proper offices. I want to thank him for listening to the pleas and I am glad that the Seconder of the Motion has also been informed about the withdrawal of that proposal.

One of the proposals that the Minister must also address before this Bill is passed, and I urge this House to listen to this proposal which we have examined within the Committee and that is according to the Minister; if you go back to his Budget Speech, and indeed, what he has told the Committee, subsequently, he imposed Kshs2 per litre of petrol, believing that the oil companies were going to absorb the Kshs2. He was just there, hoping that the Kshs2 he had imposed would be absorbed by petrol traders or shylocks of this world; that, they would forgo their incomes willingly. Instead of bringing a law to get his intentions properly fulfilled, he imposed the tax and made money for oil companies because the Kshs2 that he imposed were not absorbed by the oil companies. They are now being paid by the consumers. He should, therefore, either remove the tax or bring a law that forces the oil companies to absorb the Kshs2. Otherwise, it is an additional burden to the consumer at a time when the economy is shrinking; when incomes are inadequate, and, in fact, when that kind of proposal will be regarded as being unfair.

The question of Presumptive Tax remains a tax in countries where people do not want to exercise their own brains to seek money from elsewhere. The Presumptive Tax is regarded as the most primitive tax because it is not based on principals of taxation. The principals of taxation say that tax is charged on ascertainable income. You must ascertain the income, and that income must be net of the expenses. That is what you tax. But if you look at a farmer, whether a tea or coffee farmer, or that he or she has a kiosk where there is a number of people buying his or her tea or scones, and he makes money by just looking at him or her, instead of looking at his or her books--- We just look at his or her face. Can you imagine a tax based on looking at an individual's face, instead of looking at his or her books? So, that is taxation of a lazy administration, which does not want to work for a certain income. It should be outlawed. I would urge the House to reject this tax until such a day that the Minister for Finance agrees that he should go to those he thinks should pay the tax, look at their books and ascertain that they have income which can be taxed. Otherwise, it will still remain.

I will continue urging that it should be regarded as a highly primitive type of tax.

Mr. Temporary Deputy Speaker, Sir, I thought that there would be justification by the Minister in the Finance Bill, given that the Attorney-General has over-delayed the Statute Law (Miscellaneous Amendments) Bill which was drafted 18 months ago and has never been prioritised for this House to consider, to very urgently consider taking into account the debate that was here yesterday, regarding the disclosure of various accounts in public interest. In the last

few months, we have witnessed international events which call for very early action in the control of the movement of resources from one country to another, particularly the section that represents money laundering and hiding it in various places. That is money that is causing havoc. If the likes of Osama bin Laden did not have money laundered in various countries, they may not have been able to cause such tragedy that has occurred in the last few weeks. Therefore, as a matter of urgency, I call upon the Minister for Finance to introduce an amendment within the Finance Bill, to the Banking Act, so that either this House or the Government in power may require, in public interest, that such disclosures are made without hindrance.

With those few remarks, I beg to support.

Dr. Anangwe: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to make my contribution on the Finance Bill.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir---

Dr. Anangwe: It is me!

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Angwenyi, what is your problem?

Mr. Angwenyi: I thought you said "Angwenyi!"

Dr. Anangwe: No! Anangwe is not Angwenyi!

The Temporary Deputy Speaker (Mr. Imanyara): Order! I said "Dr"! I did not know that you are "Dr. Angwenyi"!

Dr. Anangwe: No! He does not have that one!

Mr. Shidiye: On a point of order, Mr. Temporary Deputy Speaker, Sir. Mr. Angwenyi is also a doctor! He has been a lecturer at the university! I think there is some confusion here!

Dr. Anangwe: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to make my contribution on the Finance Bill. Let me say that this Bill is part of the sequence of events which started with the Budget Speech presented earlier by the Minister in this House. Many of the financial and taxation proposals have been discussed in the course of discussing the Financial Statement, the estimates and so forth. That may be an explanation why many people are not here because there may be nothing new in terms of what is contained in the Finance Bill. Many of the measures may have been implemented under the provisional Collection of Tax and Duties Act, which the Minister imposed on 14th June. So, that is a sufficient explanation why Members of Parliament are not here. It is not that they are not interested.

Mr. Temporary Deputy Speaker, Sir, given that we have had an opportunity to discuss and many of the statements made have been supportive, I presume that we are going to pass this Finance Bill. I hasten to say that I too do support this particular Bill. The Finance Bill contains amendments in respect of the Customs and Excise Duties Act, Value Added Tax Act and the Income Tax Act.

Mr. Temporary Deputy Speaker, Sir, reading the Finance Bill, one sees a lot of amendments. But the difficulty is that, some of the amendments are hanging, with regard to the original text in which they are relevant in the original or parent Act that has not been made known to Members of Parliament. I know that we are expected to refer to the existing Statutes. But you are aware that our library is very small and it does not have adequate volumes for 200 Members of Parliament to make reference. Therefore, my earnest request is that as the Parliamentary Service Commission establishes itself, it should explore the possibility of giving each Member of Parliament a whole slate of statutes to be the stock in trade, so that they can make references if and when amendments of this type are brought in without the original Act having been presented.

Mr. Temporary Deputy Speaker, Sir, looking at the Finance Bill, some amendments have been made. May I make particular reference to amendments which transfer authority from the Minister to either the Commissioner of Income Tax, Commissioner of Value Added Tax or the Commissioner of Customs and Excise Duty. Of course, the essence and the rationale for such amendments is understood. The current Act bestows the responsibility on the Minister for Finance. Such a responsibility tends to make the Minister look like a civil servant. He has to approve certain remissions and exemptions which might turn him into a civil servant, to an extent that he forgets his political role. It may be even at the expense of his constituency, particularly when he is bogged down with routine administrative decisions to be made. So, it is only fair that somebody is bestowed with that responsibility.

Mr. Temporary Deputy Speaker, Sir, but the measures taken in this particular Bill may look like we are jumping from the frying pan to the fire, by bestowing certain measures and responsibilities on the Commissioners of Customs and Excise Duty, Value Added Tax and Income Tax. We are literally giving those officers too much room to exercise discretion and responsibilities that used to be exercised by the Minister. My fear is that such a discretion can be put to abuse.

If an officer is given the mandate to waive certain taxes under the law, there is, of course, a tendency for him to take advantage and turn that into private gain. That breeds the so-called corruption. Therefore, my suggestion

would be that, if the Minister for Finance is going to shed off the responsibility of exercising certain powers in respect of exemptions and remissions of duties and taxes, let us create mechanisms where such a responsibility can be exercised by other people in a transparent and accountable manner.

My proposal is that the Ministry should see it fit to establish a tribunal which would act in a quasi-judicial capacity. The chairman manning such a tribunal should be a judge and, of course, the relevant commissioners will be represented. The private sector can be represented by either the Kenya Association of Manufacturers, The Kenya National Chamber of Commerce and Industry or associations of professionals like accountants and auditors. This way, we will avoid a situation where we bestow responsibility of such importance, which could be very lucrative, on a dishonest officer. Therefore, may I appeal to the Minister to create that mechanism of a tax tribunals so that Kenyans and businessmen who deserve such kinds of exemptions will get a fair hearing, and they can appeal. In addition, it will also remove the individual officers, whether it is the Commissioner of Income Tax, Commissioner of Value Added Tax or Commissioner of Customs and Excise from vulnerability. If you charge this particular officer with such a responsibility in a situation where there are many powerful interests outside, or in the business world, they will put this officer in a very awkward position and he will find these pressures very irresistible. If he refuses their demands, in some cases, he may lose his job.

I would, therefore, like to appeal to the Minister to create a viable mechanism like tax tribunals, which can take over that responsibility from him and discharge it on behalf of Kenyans. I am not saying that tax tribunals cannot be as corruptible. They will be less susceptible to corruption since the membership is composed of several other people and there is a process through which such appeals from individual businessmen or Kenyans may have to go through. Also, many people will be listening to what is being said and cases have to be argued. There must be a provision for legal representation during discussions and hearing of such a tribunal, because this will minimise the occurrence of corruption and enhance accountability and transparency in the interest not only of the Government in terms of collection of revenue, but also that of other Kenyans who wish to be listened to in order for the relevant decisions to be made.

There is a clause that deals with the remission of taxes and that is the amendment to Section 138 of Customs and Excise Act, and the amendment to Section 23 of Value Added Tax. These are clauses 34 and 59. These clauses do provide for remission of duty in respect of sugar, wheat, milk, maize, edible vegetable fats, oils, rice, textiles, new and used clothing and footwear. The conditions, under which these may be imported and the duty not paid is in respect of civil strife, national calamity, disaster and in officially recognised refugee camps. We do not have those conditions and they did not appear last year. When they appear, they are, of course, manageable within the resources available. My worry is that with that kind of provision for remission in respect of these important crops which affect our farmers, there is a tendency of traders to take advantage of such a remission in order to import agricultural products in excess of domestic demands, resulting in the reduction of income for our farmers. This also creates a loophole where the particular Government officer concerned with this issue may not be able to resist the temptation or pressure. We would be better off without that kind of provision. I am sure that the existing laws and measures within the Government system are adequate enough to take care of this situation in the event of a civil strife or disasters of that magnitude. There is no point of creating a loophole just because of refugees, which may end up being exploited to the detriment of our farmers.

Clause 75 touches on Presumptive Tax. Arguments have been made here for and against this issue. We removed this particular clause from the Finance Bill last year and the same arguments that were presented then are still relevant today. The assumption is that farmers are smallholders. If I pick a case of sugar cane growers in this country, the bulk of them are smallholders with less than three hectares, and their income in 36 months amounts to Kshs3,000. If you calculate this amount per year, you will find that what they earn is below the threshold taxable base. In other words, they are amongst the people who ought not to be taxed for what they earn, which is less than Kshs10,000 per year. The Minister did say that anybody who earns less than Kshs10,000 should not be taxed. Most of these farmers do not even earn Kshs10,000 per year, and yet we have Presumptive Tax.

The Minister did say that it is optional; that is, you can choose to pay or submit your papers with income tax. This is unnecessary. The lives of farmers have deteriorated in terms of income. They are poorer than they were before, and it is only fair that we do not punish them further, particularly for those of us from the sugar cane growing areas. We cannot pay any more taxes because we have suffered; we are already poor, and our farmers need some relief. Presumptive Tax would only add to their woes. It is only fair that the Minister should consider, at the Committee Stage, removing this particular tax, so that we can offer relief to the farmers in many places.

Clause 84 addresses the issue of bouncing cheques. The Minister made a passionate appeal that we should approve this particular provision, but there are penalties within the banking system, for those who have bank accounts. If you bounce a cheque, you will be expected to pay a certain amount of money and that is adequate enough. I do not know how far this particular provision will make things better. My fear is that people will run away from banking and

end up saving their money under their mattresses. We have to look at the pros and cons. If you create a penalty which is punishable by imprisonment, one might as well choose to have a bank in his own house or to buy a safe to keep his earnings to avoid issuing a bouncing cheque and end up going to prison. So, let us look at the pros and cons of all the measures that we have put in the banking industry. We may assume that they will seal a particular loophole, but, on the other hand, you may find that depositors are withdrawing their money from banks. So, let us see how feasible these measures are.

Mr. Temporary Deputy Speaker, Sir, listening to the Minister, he did make a very important statement here in respect of the taxes he had proposed in respect of rents. He did say that in his Financial Statement, he would charge that particular tax. However, he now says that he is going to withdraw that proposal at the Committee Stage and there may be many other proposals. This raises a fundamental issue as to the wisdom and prudence of declaring certain taxation measures on the Budget Day. The tendency, of course, is to say by midnight tonight, certain measures will be in effect and here he has, of course, removed this particular tax. What happens to the taxes that have been raised between the day---

Mr. Mboko: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead this House that the Minister for Finance, during his Budget Speech on June 14th, said that VAT on rents would start with immediate effect while he said that it will be effective on 1st September this year?

Dr. Anangwe: Okay! Whether it is September or June, the fundamental issue I was saying is that since many of the measures that are being proposed by the Minister in his speech are, by and large, tentative and may be subject to revision, particularly when the Finance Bill is passed, what is the wisdom of making those measures at that particular time to be effective, when you could probably await the discussion and passing of the Finance Bill? This is so that the measures that used to be there in the previous financial year would continue to have effect up to that particular stage when the Finance Bill is passed and would continue on until the next Finance Bill is passed in the following year.

So, I am simply saying that when we pass certain measures and put them into effect at some stage, we say we are revising. What happens to the taxes that have already been extracted from the population? They may not be refundable. However, is that fair, particularly, if we have reached a stage and we have said this particular tax is not justified during the discussion on the Finance Bill?

With those remarks, I beg to support.

Mr. Omingo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute to this very important debate on the Finance Bill as read by the Minister for Finance.

First and foremost, I want to echo the words issued by my fellow colleague on the other side, that he is worried that the Minister for Finance is one of the busiest civil servants, but at the same time, giving powers to the Commissioner of Income Tax or VAT, this will give him leeway for corruption. I do not know what kind of decision he is drawing, as to whether we should make him a civil servant or let him get corrupt. I do not know where he stood. Nonetheless, I want to imagine that there was some bit of balance he wanted to strike, but I believe the Minister, as a politician as well, is supposed to delegate some of these powers. If he did not have confidence in his employees, I am not too sure whether he would keep them in employment. Therefore, I feel like taking back the powers of the Commissioners and it shows the integrity the commissioners have bestowed upon his workers.

Mr. Temporary Deputy Speaker, Sir, when the Minister was moving this Motion, he said that he appreciates the efforts done by the Kenya Revenue Authority (KRA) employees to collect revenue. I appreciate that too. Having been bred in the revenue, I appreciate the fact that employees of KRA undergo strenuous working environments and require better pay. If surely you want me to deliver, I must show reason why I must deliver. If I deliver, I expect a return from my delivery. In KRA today, in terms of management of resources, that is salaries and allowances, there is what we see normally as two-tier/four-tier salaries. There is executive, medium payroll and the lowly-paid, apparently those who entered from the Civil Service. I think it is important, if the Minister is serious in ironing out corruption, in trying to reduce the temptations that are before the employees of KRA, that the payroll should and must be harmonised. I think we must be fair. You cannot have a father, for instance, enjoying food on a high table and the children are eating from the floor. There is no charity in that. We are saying let them not get the same amount of food on the table, but the same spiced food. That is all we are talking about. Give them *pro rata* as they receive, but the same structure. What is happening in KRA is that there are some who were employed later and those who entered from the Civil Service when KRA was being formed, and there is a disparity in their pay. Facing reality, a driver in the KRA earns more than a senior technical officer and you expect equity, rationality and delivery without necessarily being compromised in your thinking. We expect KRA staff to be remunerated well.

Recently, perhaps towards the close of last year, KRA underwent a restructuring programme where the indications were that if we must pay you well, we give you additional responsibility and offload a few. Those who were left serving employment, luckily as I was going out, have got bigger responsibilities, but perhaps similar pay but

again with a double standard. The Chief Executive earns more than any other person. This in itself is not rational and the Minister should look into this very seriously.

Mr. Temporary Deputy Speaker, Sir, procedure of conflict resolution in the KRA rather on the assessments--- The procedure of resolving problems or objections based with KRA, I think, is too tedious and lengthy. That is why I believe the Minister, in his own wisdom, empowered the various commissioners of KRA to resolve conflicts and perhaps give waivers and remissions where they deem fit. Nonetheless, it also borders upon the discontentment of the officers in the KRA. You are supposed to deliver and meet strict deadlines apparently without commensurate pay. We want them to be paid and upon discovery of any compromise, we sack them immediately. It is important that you justify what this employee is earning and what delivery he is supposed to produce. I am glad that the Minister for Finance produced penalties on taxes, but I still think especially on the VAT, they are still too high. We are saying that penalties are not there to put people out of business. They are supposed to correct an omission or wrongdoing. However, if they are meant to be compounded year in, year out, to a point where you find an employer or rather a taxpayer unable to pay and most of them fold out of business, I think it is not fair. We need to have some strict and acceptable level of penalties, which are supposed to be corrective and not destructive. In VAT, I believe they are destructive.

Mr. Temporary Deputy Speaker, Sir, on the issue of the tax rates, we have now signed the East African Co-operation Treaty where I strongly recommend that if we have to be competitive with our sister countries, we require harmony in terms of our tax tariffs. This is because if, for instance, Kenya's taxes are higher, I would rather want to cross over to Tanzania and buy goods if they are cheaper because of the tax rates. So, I would recommend strongly - I believe the Assistant Minister is here - that let us read our budgets perhaps on the same day to avoid anybody eavesdropping on each other's budget for the benefit of their own countries' budgets.

Mr. Temporary Deputy Speaker, Sir, on Presumptive Income Tax (PIT), there is a misconception of this particular tax and when we talk about it, we need to understand what it surely means. PIT is that tax that you opt to pay on a particular fraction of your sales and forget about it and go to sleep if you want. You accumulate the other portion and present accounts, returns and all computations related to capital allowances at the end of the year. So, if you opt for one, you do not go for the other. Here, we should take into account the benefits of the small-scale farmer who, in the first place, cannot afford the cost of an auditor who must prepare the books. We do not want to ignore the fact that these fellows, young or small as they are, benefit from the infrastructure that has been created using tax money. We are trying to provide an environment for them to do simple arithmetic, present the results to the Commissioner and then go to sleep, or opt to wait and pay auditors to audit their accounts; pay accounts professionals to prepare their books of accounts, and pay tax consultants to present their cases at the Income Tax Department. So, farmers will have a chance to choose between the two.

Mr. Temporary Deputy Speaker, Sir, very few local farmers went to school. So, most of them cannot fill in a return form. Anybody who has attained Standard Seven level of education can compute simple percentages from figures, fill in the returns forms, pay up the Commissioner and close the books. We are saying that the level of illiteracy among local farmers justifies that tax. If we all use the resources, and the small-scale farmer contributes a small portion of revenue to the Exchequer, we will broaden the tax base and, by extension, the tax rate will go down. That way, many people will want to contribute to revenue collection through tax payment because many of the tax rates will be low. We must involve everybody. If we encourage people to hide behind small-scale businesses, people will close their big companies and then go to the streets and call themselves small-scale farmers or traders. We have large-scale farms and businesses such as M/s Kakuzi and M/s Delmonte Kenya Company. If we do not include other big farms and companies in taxation, we will lose most revenue. So, the income that can be generated from the informal sector is quite tremendous. The Commissioner should try to formulate ways of taxing small-scale businesses so that we can reduce the prevailing high tax rates.

We should also look into the seriousness of implementing the tax laws we make. Today, if one thinks that he should not pay tax, he will go to court and block the Commissioner from collecting legitimate tax. The Commissioner should be empowered to do his work effectively. Whatever tax must remain uncollected should be that whose collection would result in the violation of the Constitution through the back-door. If any tax falls within the Constitution, it should be paid; one should not go to court to block the Commissioner from collecting it. Unfortunately, those who block the Commissioner from collecting tax from their businesses through court orders are well-connected "good boys".

Mr. Temporary Deputy Speaker, Sir, we should, therefore, protect the Commissioner's actions. Whenever a dispute is not properly resolved, there should be provision for a tribunal to look into the matter against the recommendations of the Commissioner. The Income Tax Act states very clearly that you can only go to court when there is a mixture of law and fact. However, people go to court to acquire injunctions stopping the Commissioner from collecting revenue from their businesses after stealing from the Government. The other day, I read in the newspapers

that Maj. Madoka had said that our Judiciary is corrupt. I am not certain that he said so; the Press could have misquoted him. But if it is true that our judicial system is corrupt, what would you expect? One can spend only a few shillings to have a court injunction issued, to delay the submission of revenue to the Government. Consequently, the Government and the country suffer.

Several years ago, the personal identification number (PIN) system was introduced to enable the Kenya Revenue Authority (KRA) to easily access all businesses and persons who are supposed to remit revenue to it. But from the very beginning, the issue of introducing the system was politicised and, to date, it is not working. The "good boys" were not comfortable with the PIN system because they knew that it would expose them; with good flow of information, they cannot not evade paying tax. But for how long are they going to hide? I have said time and again that our evil deeds will haunt us for a very long time. Japan is today paying for the war crimes committed by its people. So, let everybody pay the tax he is supposed to pay; the PIN system should be allowed to work to improve tax collection, so that Kenya can also prosper.

Some people in this country have the tendency of using their positions in society to flout the law as they wish to their own advantage. What about the ordinary Kenyan who cannot afford it? History will judge such persons very harshly. I also recommend that the Ministry and the KRA get in line with modern world. We appreciate the fact that electronic commerce is now picking up worldwide, thanks to information technology. Apparently, most Kenyan workers are not well versed with this new technology. That makes the KRA lose a lot of valuable revenue. We, therefore, recommend that KRA employees should have relevant computer training to enable them work more efficiently. If one finds that he cannot log into a computer system, he may shy away from the technology and claim that his records are in order and proceed to do other things. Therefore, KRA employees should undertake intensive computer-aided auditing training to enable them unearth any fraud easily.

The KRA top brass are Government appointees. I would like to highlight a case touching on, for instance, the Minister for Finance or his Assistant Ministers, who are here; they are also appointees of the President. You can hear on the 1.00 p.m. Kenya Broadcasting Corporation (KBC) news bulletin that they have been transferred or sacked. Therefore, I recommend strongly that these officers should have security of tenure, so that they can execute their duties professionally. The fight against irregular sugar importation, for example, has cost many KRA employees and their directors their jobs. The persons behind this malpractice are the "good boys". Therefore, top KRA managers should have security of tenure so that they can execute their duties without fear or favour. Of course, upon their appointment, these officers are expected to discharge their duties professionally. However, that does not happen due to interference from other quarters. Once one is appointed to a high profile office, he knows that he must be a "yes man" to keep his job. So, he will always go by the whims of his appointer at the expense of professionalism. Therefore, I strongly propose that key office-holders should have security of tenure.

Mr. Temporary Deputy Speaker, Sir, we have another problem. We are heavily taxed. But every time the Commissioner-General of the KRA appears on television to make some pronouncement regarding revenue collection, he always says that the Authority is just about to meet its target, or it has already over-shot its target. The KRA has always met or over-shot its Value Added Tax (VAT) collection target. But there is an unfortunate state of affairs that even tax collectors undergo. The simple question one should ask is how our taxes are being used. One will only be encouraged to pay tax if one learns that previous tax collections have been used to, for instance, seal potholes on certain roads. One can agree to pay a little more tax in future because one will have realised the importance of doing so. We want to make the work of the KRA easier.

Mr. Temporary Deputy Speaker, Sir, roads are in a deplorable state. When traders along a certain road get together to repair the road, the City Council officers ask for bribes in order allow its recarpeting. Then you can imagine the pain these people undergo. Let us understand why and how our money is used and we shall be encouraged to contribute even more. This is a very basic question and anybody can ignore it, but it has a serious bearing in terms of compliance.

For instance, in Income Tax, the compliance rate is about 40 per cent. Where is the 60 per cent and what makes people default? This is because you will hear about a fraud case involving millions of shillings and our good friends are enjoying the same loot and still sitting in high offices. This money does not come from the blues, but it is taxpayers' money. When you decide to collect more tax, you collect it from the same people who have been contributing. That money is still being misappropriated. This, therefore, kills the morale of the taxpayers. It even kills the morale of the members of staff because they are not well paid. When your child is coughing, you cannot afford even a Cofta tablet. If you want to deliver your wares to the factory, you cannot reach there because roads are impassable.

Mr. Temporary Deputy Speaker, Sir, I was in Kisii about two weeks ago and I saw there is a gentleman who owns a garage, which tax officers wanted to destroy. I did not know where the tax officers had passed through because there is a bridge along Daraja Mbili area which collapsed sometime ago and has not been repaired. I do not know

whether the tax men crossed the river using a motorboat and wanted to chop off the head of that particular taxpayer. We would have had a calamity this time, but maybe the tax man was fast enough and saved his life. We are saying that if you want to go and collect taxes with pride, you should drive through a road, but not wade through the mud to collect more taxes. The collected revenue should benefit the taxpayer.

On the issue of property rent, there is income tax on net rent. There is nothing that stops the Government from collecting the Value Added Tax (VAT) from premises because they are the biggest income generators. We are saying if the Commissioner of VAT grants the constructor VAT exemption on construction materials, he, by extension, should also reap the benefits of that building. I do not understand why there is hue and cry about commercial buildings. That again touches on some clique of people who own commercial properties in this City, who are the ones shouting loudest. That provision of the law is handy, welcome and should be implemented to the letter.

We are saying that we cannot afford to tax a kiosk owner and ignore a person who owns a multi-million shillings building at the centre of Nairobi because he is a "Mr. X" in a powerful position. That is a wonderful legislation and I expect the Minister and the House to respect that proposal. That will, perhaps, reduce the imbalances in revenue collection. We are saying that the essence of taxation is distribution of wealth to the citizens of this nation. If there is supposed to be even distribution of wealth, why are we being selective?

I want the Minister to tell us that there is inefficiency in collection of revenue from sector "X", and we propose to him what we think should be done. If you will collect revenue from a particular sector of the economy and not from another, that will be lopsidedness. This House will not have done justice if it will also sit back and watch the big commercial building owners going scot-free, without paying taxes.

Mr. Temporary Deputy Speaker, Sir, touching on the tourist sector, we "sat" on it a while ago and almost pushed it down to a negative growth rate because of political expediency. I want to suggest that any taxes or levies on the tourist industry should be withdrawn so that we can encourage tourism. The Government had the authority and the responsibility of protecting the tourist industry by not unleashing terror on its own citizens. Now, it comes in to say that when the industry is growing, it is required to pay taxes. If the Government valued that particular sector, it would have protected it. The tourist industry should be protected as it grows, and we shall move in and collect taxes.

One provision that I encourage in the Minister's speech is the taxation of the charter planes which carry tourists. When these charter planes land in here, Kenya transacts business through them. It is a good idea that we should also tax the aircraft operators. Most of us were hiding behind lack of provision regarding carriage of cargo by aircraft, but the Minister has introduced a provision that still targets aircraft operators. This is a welcome move.

Finally, I want to touch on the issue of the security of the law enforcers and tax collectors. We had a few cases of people being butchered in Mathare Valley. If people know that you are a tax officer and collect revenue at someone's expense, and you drink *Muratina* in Mathare Valley, they will chop off your head. So, the Kenya Revenue Authority (KRA) should provide security for its employees and adequate accommodation. In the United Kingdom, revenue collectors are armed. This is because these officers are exposed to serious danger if they work in an environment like that of Kenya, where people are hostile, do not want to pay taxes and when you push them to a corner, they will rebel.

I want to give a word of caution to officials of the KRA. Kenyans have been pushed to a corner, and doing their work calls for patience and diplomacy. Otherwise, it will be very difficult to collect revenue, especially in the circumstances where the revenue collected is not necessarily used for the purposes intended.

With those few remarks, I beg to support.

The Assistant Minister Transport and Communications (Mr. Keah): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to make my contribution to the Finance Bill.

While I support the Finance Bill as moved by the Minister for Finance, I expect that he will certainly consider bringing in certain amendments to the Bill to provide for over and above what he has suggested. But first, I want to make a remark on the fact that lack of funding from the International Monetary Fund (IMF) and the World Bank will certainly affect the Appropriations-in-Aid and, therefore, this is bound to affect the contribution towards capital development. I do not know how the taxation measures which we have been discussing will cater for this gap. I, therefore, realise that, perhaps, we might not achieve the 2 per cent growth rate that the Minister thought we would achieve.

Be that as it may, I know we are in a big dilemma at the moment between raising taxes and, indeed, assisting investors to invest. Striking a balance between raising taxes so that we can finance our Development and Recurrent Expenditures, and on the other side encouraging investors to invest in the country, is difficult; but I believe that is why the Minister is there.

I believe that is why the Minister is there. I would like to suggest that, indeed, at some appropriate stage, in the course of the year, and prior to the preparation of the Budget for the following year, we have some sort of seminars organised by the Kenya Revenue Authority (KRA) or the Ministry, to let the Kenyan public suggest what taxation

measures can be put in place. This is because some of the suggestions that have been made this year, should have been left out at the initial stages if we had such seminars, because they really looked out of the way.

Mr. Temporary Deputy Speaker, Sir, a tax like VAT on commercial buildings was a little bit far-fetched. I know my colleague there has said that he is happy with it, but I am unhappy with it. All it means is that, that tax has been passed over to everybody, including small operators such as accountants, small auditors, legal practitioners *et cetera*, who had offices in the centre of town. These people have a burden of looking for alternative offices away from the town centre and move to the periphery of Nairobi, simply because they cannot afford that extra burden of paying VAT on commercial buildings.

I am glad the Minister has heard our cries and the cries of wananchi and has, at least, for the time being, deferred that tax. I hope that tax has gone for ever. This is because if it is tax on commercial buildings, it is already entrenched in the Rental Income Tax. So, I am happy that the Minister has heard the cries of those small practitioners, particularly those operating in the City centre. I know that my colleagues who had offices in the town centre, both in accountancy and law, will be very happy indeed.

Mr. Temporary Deputy Speaker, Sir, also, with regard to the issue of Presumptive Tax, I know that we have to raise revenue through taxation for development and recurrent expenditure. But we also have a duty to educate the general public on what the law says about taxation. If we want proper tax administration, then we should look at where we have a shortfall in tax administration.

I believe we should have one tax which we are sure of and which is equitable. We should encourage every single person who is taxable to prepare proper books of accounts. I am not saying so simply because I am auditor or an accountant and, therefore, I am looking for work for myself; no! I am saying so because it is a good practice for every businessman to prepare books of accounts. This is what we should be doing. We should be encouraging businessmen and everybody who falls within trade and professional fields to prepare and maintain proper books of accounts. Really, taxation on sales, in my view, although it is a tax, is not a fair tax; after selling you are left with the net profit. It is the net profit that should be taxed. But I do appreciate the new development because the Minister has offered an option. The farmer either chooses to be taxed through Presumptive Tax method, or he prepares a statement of accounts. To me, this brings in an element of one not being sure in the taxation aspect. Tax should be real, sure and fair to everybody.

Having said so, let me say that there is need for improvement in the tax collection. The corridor talks have it that we are still collecting 40 per cent of the tax that we are capable of collecting or we should be collecting. So, where is the 60 per cent of the tax which is not being collected? These may be corridor talks - I can see my colleague is shaking his head - but when you talk to some of the businessmen, believe me or not, they say: "Well, there are still a lot of loopholes and shortcomings in the tax administration and collection." I am only appealing to the KRA and the Ministry to look into it and see whether this corridor talk has truth in it or whether it is just a red herring. For example, I would like to be assured that every item that comes into the country is subjected to taxation, be it Customs Duty or whatever. So, all I want the Ministry and the KRA to do, is to look into this aspect and ensure that we have improved the collection method and the tax administration. I know the Minister has said that they have improved tax collection or administration, but I want to be absolutely sure that, that is so.

Mr. Temporary Deputy Speaker, Sir, I want also to talk on tax which was introduced through the Legal Notice No.96, relating to the periodical counting of stock. I have friends in the areas of stationery, spare parts, radios, *et cetera*, who maintain stock cards or stock records for the small traders. I know Kshs300,000 per month is deemed to be the threshold, but there are not many businessmen who make this turnover. It is really difficult for some of these people to maintain the stock cards.

A minute ago, I was talking about good practices. Yes, I agree it is a good practice for these organisations and kiosks whose business turnover is Kshs300,000 per month, to be keeping stock cards, but some of them do not do that. What I would want to suggest is that, perhaps, this should come on gradually. What is this period that we are talking about? Is it daily, weekly, monthly or a once-a-year exercise? I know that those who maintain accounts for their businesses do stock-taking once a year. This is what we should encourage businessmen to do at the moment or, maybe, do it twice a year. But to expect these taxes to be uniform to every person who maintains or keeps his stock records after selling *lesso* clothes and gets a turnover of Kshs300,000 per month at the coast--- There are also those who sell radios and electrical equipment. I find it a little bit unworkable to tax these people. I would urge that this Legal Notice No.96 be reviewed so that the small-timers can benefit. The big-timers like Uchumi Supermarkets, Nakumatt Supermarkets, *et cetera*, are okay because at any time, when you buy an item there, the stock record is updated there and then. But some businessmen in River Road, *et cetera*, find it difficult to do that and you should not threaten them. If you are going to deal with them in accordance with the law, some of them may even close down their businesses. This is

not the right time to do that. Indeed, it will never be the right thing to do at any time because it will encourage businessmen to close down their businesses. We want employment opportunities to be generated throughout the

country.

Mr. Temporary Deputy Speaker, Sir, I want to commend the Ministry of Finance and the KRA for reducing customs duties. Some goods had customs duty reduced from 5 per cent to 3 per cent, or from 2.5 per cent down to zero, particularly in the field of manufacturing. I would like to encourage the Minister to effect a reduction on customs duties. In order for us to be competitive within the COMESA and the rest of the world, we should try and zero-rate tax on virtually all the raw materials used in manufacturing.

Mr. Temporary Deputy Speaker, Sir, while we would like to balance revenue, we would also like to encourage them in order for our goods to sell within the COMESA region. While I am talking about the COMESA region, I would like the Ministry of Finance and Planning and the Kenya Revenue Authority, as well as the Ministry of Trade and Industry to look into the COMESA rates. We do not want to be a dumping ground for commodities or items that benefit from the COMESA duty when, in fact, they are not produced in COMESA countries. We would like the Ministry, the KRA and the Ministry of Trade and Industry to be very vigilant on this aspect. They should send a team to investigate and find out whether those goods which are imported into our country from the COMESA region are manufactured in those respective countries, or whether they are bought outside the COMESA countries and traded on the high seas. I think this is an important function and there ought to be proper co-ordination between the Treasury and the Ministry of Trade and Industry.

Mr. Temporary Deputy Speaker, Sir, we are aware that the Minister said that the Excise Duty on petrol should not be passed on to the consumers but, indeed, it was passed on to them. So, what is the answer? We expect that when he will reply, he will tell us what we should do because we have suffered as a result of that tax. I am saying this because the oil companies have passed on this tax to the consumers, contrary to the Minister's directive. We would like to know the redress we shall get on this aspect.

Mr. Temporary Deputy Speaker, Sir, the other aspect I would like to talk about is the bouncing cheques, which suffer bank charges. We should train our people on how to use the cheques properly, but I believe that as time goes on, cheques will also be a thing of the past because these days people use "plastic" money.

QUORUM

Mr. Kajwang: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would not have wished to disturb my friend who is making a very good contribution, but he is making it to empty Benches because we are very few! I think there is no quorum.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kajwang, are you raising the issue of lack of quorum?

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, we are less than 30.

The Temporary Deputy Speaker (Mr. Imanyara): It is true that there is no quorum. Ring the Division Bell!

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Imanyara): Order! We now have a quorum.

Mr. Keah, you may continue!

The Assistant Minister for Transport and Communications (Mr. Keah): Thank you, Mr. Temporary Deputy Speaker, Sir. I am surprised. This is the most important aspect of debate in this House in a year, and yet hon. Members---

(Mr. Shidiye consulted with Mr. Angwenyi)

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Shidiye! Please, allow Mr. Keah to make his contribution.

Mr. Keah, you can continue.

The Assistant Minister for Transport and Communications (Mr. Keah): Thank you, Mr. Temporary Deputy Speaker, Sir. I am surprised that hon. Members do not seem to be interested in contributing to the Finance Bill, which is one of the most important Bills. I was on the issue of bouncing cheques, and I had said that as time goes on and education is enhanced, bouncing cheques may become a thing of the past. Nevertheless, bouncing cheques suffer bank charges. I would have thought that the bank charges are punitive enough, rather than taking someone who has deposited a bouncing cheque to prison. I think it is a little bit far-fetched to send someone to prison for having had a bouncing cheque. As much as I like the intention and the spirit in which the issue of bouncing cheques was brought in the Finance Bill, I feel that this could be done away with. I would like to urge the banks, under the Banking Act, to put

in place stern measures and, perhaps, deny the individual who has a bouncing cheque the opportunity to operate a bank account. We would like to encourage investment and I would like to see this aspect of the bouncing cheques done away with.

The other aspect I would like to touch on is on the Value Added Tax (VAT) imposed on second-hand motor vehicles. I am glad to hear from the Minister's statement that this will be removed from the Bill. I am happy that this very cumbersome exercise will not be there.

Mr. Temporary Deputy Speaker, Sir, I am just about to finish. I would now like to comment on local authorities. Most local authorities out there, particularly in the rural areas, are collecting taxes from small traders within their jurisdiction to enhance their revenue. But in most of them, there is hardly any service being provided. Where there is no service being provided, I think the local authorities should see to it that it is provided. Some of the market centres do not even have simple lavatories or latrines. It is unfair, as an elected representative of the people, to see local authority officers impound goods of small traders simply because of lack of licences, when we are trying to alleviate poverty.

Finally, Mr. Temporary Deputy Speaker, Sir, taxpayers who traverse the section of the road in my Kaloleni Constituency, between Miritini and Mariakani, have complained bitterly to me that despite all the taxes they are being levied, the state of the road is pathetic. That section has damaged their vehicles. Those people with factories around that area, like Tabioka, Steel Makers and Corrugated Sheets have complained about the damage that is done on their vehicles. I am taking advantage of the Finance Bill to ask that, that section of the road be done with immediate effect, because the taxpayers have threatened to go on strike or close down their businesses. I have in mind people who have factories along that road, and also other Kenyans from upcountry and Mombasa. As they traverse that section of the road they get disappointed. I am appealing to the Minister for Roads and Public Works, and even through the Minister for Finance, to have that road done. Those taxpayers are crying and they need service. I want to repeat it once again so that it is heard in no uncertain terms that the taxpayers utilising the section of the road between Mariakani in my constituency, through Mazeras to Miritini, where I border with Changamwe, are calling for justice to be done by having that section of the road done through the taxes they pay.

With those few remarks, I beg to support.

Mr. Kamande: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to contribute to this very important Motion on taxation. I commend the Minister for some of the proposals which he spelt out during the Budget Speech. At the same time, I would like to say that Kenya is one of the countries which are highly taxed. I think you would agree with me that an irresponsible farmer milks his cow until it dies. Kenyans have reached a point where they cannot continue to be overtaxed without services being offered. We cannot continue paying taxes to the Government and instead of the Government giving us more, they are taking away even the little they give us. How can we continue asking Kenyans to pay for kids who are under five years in hospitals? Are we really caring for our children? This Government should be mindful of those little children because they need that support from the Government.

Mr. Temporary Deputy Speaker, Sir, I would like to comment on the issue of VAT. VAT has turned out to be an animal to small-scale traders, because when tax collectors visit rural areas, they just look at the size of a shop without realising that the turnover is very low. They continue registering these traders without educating them. What is this VAT for? But when they complain, they are told to go and seek deregistration, which takes years. At the same time, they are supposed to pay Kshs10,000 per month. By the time they are deregistered, they are about to be auctioned because the VAT would have shot up to over Kshs1 million. But when they were registered, they were never told of all these loopholes. What is the point of starting something without educating these people? Let them be educated and they will understand the whole issue of taxation. We should not assume that since all these people are in business, they are all educated. They are not. They cannot even keep proper records. It is the work of the Government to see that they do that, because even keeping proper records and stock cards for evaluation by the VAT staff is very vital. At the same time, I would urge that VAT be collected at the source instead of collecting it from the consumers. Why can we not, for example, collect VAT from Bidco and that will simplify your job, instead of running all the way from Nairobi to Saba Saba and Moyale, collecting VAT? We should get it from the source.

Mr. Temporary Deputy Speaker, Sir, considering the level of poverty in this country and the fact that more than 56 per cent of our population does not even earn Kshs30 per day; and the fact that we want our children to access basic education; and considering the fact that we have only 8 per cent of electricity in this country, I urge the Minister to reduce tax on kerosene. Let this Government reduce it in the same way it has done on generators and big machines.

We should allow even small people in the rural areas to enjoy these facilities because they are not a preserve of the rich. Let even children in the rural areas enjoy this facility. It does not make much sense to reduce tax on generators because people in the rural areas cannot afford them. Therefore, they cannot enjoy electricity. At the same time, we are saying that their children cannot do homework.

I would like to comment on taxation on commercial buildings. We should not practice double taxation in this country. It is common knowledge that many people who own commercial buildings are charged income tax. At the same time, we want to charge them VAT. Tomorrow, this Government will charge them something else. Mr. Minister, let us reap where we sowed. Do not try to reap from each and every person because you may end up losing your direction.

Mr. Temporary Deputy Speaker, Sir, I urge my colleagues to oppose this proposal on taxation on commercial buildings. This is because, at the end of the day, this tax will be passed on to the common wananchi. The landlords will ask the tenants to pay this tax because it was passed by this House. They are not ready to do so. Landlords are very few, but tenants are many. We should not hide behind the fact that this tax will be shared between the landlords and the tenants. This is because we know very well that it is those small people on the streets who do not even own houses who will be taxed. That is very wrong. We should not exploit them further.

Mr. Temporary Deputy Speaker, Sir, there is one issue that I would like to comment on before I sit down. This is the issue of *matatu* industry. If there is an industry that is over-taxed, then it is the *matatu* industry. The owners of *matatus* are supposed to pay for commercial licence, TLB and Road licence, among other taxes. If we want to keep these people in business, let us check some of these taxes. This is because TLB gives a chance to policemen to ask for bribes. If they have to get it, then they should be issued with it without much ado. They should get it from Times Tower in the shortest time possible. We should not tell them to pay on this counter and then wait for TLB to be processed in the next counter and so on. Kenyans do not need policemen to assist them get TLB because some of them are political appointees. They should be given something else, maybe from KANU. We should not tax Kenyans.

Mr. Temporary Deputy Speaker, Sir, I would also like to comment on the issue of bouncing cheques. We discussed it last year and it is also appearing in this Finance Bill. In fact, we should not give a bouncing cheque because this is being dishonourable. But at the same time, we do not have enough prisons to keep those people who issue bouncing cheques. Why should they be sentenced for three years because of issuing a bouncing cheque? This is because one might have issued a cheque without prior knowledge that it will bounce. If a person is being charged by the bank for issuing a bouncing cheque, why then should we take him to court? We should understand the circumstances that led him to issue a bouncing cheque before we take drastic action against them. Even if the Government wants to punish those who issue bouncing cheques, the punishment should not be punitive. For example, if you issue a bouncing cheque to hon. Kamande or somebody else, it will be unfair for you to be taken to jail. What kind of crime have you committed? This is not a very serious crime like the one committed by those people who do shoddy jobs and get paid huge amounts of money. We cannot compare somebody who issues a bouncing cheque of Kshs1,000 with somebody else who is paid over Kshs600 million in a corrupt manner. Why should we take somebody who issues a bouncing cheque to jail and let those who get Kshs600 million in corrupt ways go scot-free?

Mr. Temporary Deputy Speaker, Sir, with those few words, I beg to oppose.

Mr. Mkalla: Mr. Temporary Deputy Speaker, Sir, I am pleased to present to the House the report of the Departmental Committee on Finance, Planning and Trade on the Finance Bill. The Finance Bill was referred to the Committee---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order! Hon. Members, the Chairman of the Finance, Planning and Trade Committee is presenting a report and you are consulting so loudly. You are interfering with his presentations. Please, consult in low tones, otherwise, I will be obliged to ask you to go and do so outside.

Mr. Mkalla: Mr. Temporary Deputy Speaker, Sir, the Finance Bill was referred to the Committee on 4th July, 2001, upon a Motion moved by the Minister pursuant to the provisions of the Standing Order No.101A.(1). The Committee commenced deliberation on the Bill on 15th July, 2001, and it held five sittings. The Minister for Finance, accompanied by the Permanent Secretary, attended three sittings of the Committee and gave an overview of the Bill. The Committee also invited the Commissioner-General, Kenya Revenue Authority, and his team on three occasions. They gave valuable insights into the thinking that went into the proposals in the Bill.

Mr. Temporary Deputy Speaker, Sir, after the deliberations on the Finance Bill, the Committee the following issues and tax proposals whose implementation was considered to have serious ramifications on the economy and referred them to the Minister for further discussion.

On Clause 65, VAT on rental business premises, the Committee noted that the stakeholders in the real estate business were not consulted to formulate mechanisms for implementation of the VAT and also address the effects this tax would have on investors and other stakeholders. The Minister confirmed he was staying implementation until January 2002. However, the Committee is recommending a complete withdraw of this particular charge.

On compulsory stock records on the Legal Notice No.96 of 14th June, 2001, the Committee further noted that although paragraph 6(1) of the 7th schedule of VAT Act requires every dealer of taxable goods to keep updated

records of all transactions which might affect the tax liability; the following problems would hinder proper implementation. One, businesses with computerised systems would have an undue advantage over those using manual bin green cards and ledgers, hence making them liable to penalties.

Two, the exercise will be too tedious and time consuming, particularly for the small-scale dealers. The problem of breakages, pilferages and theft of goods will further complicate the reconciliation of data.

Three, traders not familiar with their accounting principles will be forced to hire the services of the bookkeepers which, in turn, would increase their expenditure, making it too expensive for them to remain in business. Unnecessary harassment of business people by Trade Officers might create room for corruption. On the issue of the increase of Excise Duty on petrol by Kshs2 per litre, vide Legal Notice No.136 of 20th September, 2001, the Committee was concerned that this increase translates to a heavy burden on the ailing economy. In this regard, we were observing a situation where cement costs only Kshs350 per bag in Mombasa, but due to the heavy costs in transporting this cement, for example, to Kisumu or the western part of Kenya, the same bag of cement would be costing Kshs700 per bag, which is two times the cost at Mombasa, or at least, 100 per cent more. We considered this issue, particularly when we were looking at competition with the other countries within the COMESA region, whereby their total cost of production is low, and this might put us out of business.

Mr. Temporary Deputy Speaker, Sir, on Clause 65 which relates to the effect of VAT on tourism industry; considering the hard times and competition the tourism industry was going through, the Committee felt that imposition of any tax would worsen the situation.

Mr. Temporary Deputy Speaker, Sir, we also considered the Catering Levy Fund which was being transferred to the Kenya Revenue Authority. In the Budget Speech for the financial year 2000/2001, the Minister for Finance proposed the transfer of collection of the 2 per cent Catering, Training and Tourism Development Levy to the Kenya Revenue Authority. The proposal took effect on 1st July, 2001 as contained in the Kenya Gazette Supplement No.44. It is important to note that a similar move had been proposed and partially implemented by the Kenya Revenue Authority in 1999 and 2000. The transfer of the collection of 2 per cent by Kenya Revenue Authority could not continue in 1999/2000 because this Parliament rejected the Bill proposed then, due to its inability to address crucial legal technicalities which would have made the application of the law ambiguous and inoperational under the prevailing circumstances. The legal issues that Parliament requires to address itself to are as follows: Section 18 of the Hotels and Restaurants Act established Catering, Training and Tourism Development Levy Trustees as an autonomous body with powers of perpetual taxation, to sue and be sued in its corporate name, to acquire, hold, manage and dispose of property, whether moveable or immovable, and to enter into contracts as deemed necessary. It is important to note that the Kenya Revenue Authority is also an autonomous body.

Mr. Temporary Deputy Speaker, Sir, with regard to the collection of the 2 per cent Training Levy, the Hotels and Restaurants Act, Cap.494 clearly stipulates that the levy shall be paid to the Catering, Training and Tourism Development Levy Fund. There is nowhere in the Hotels and Restaurants Act where an amendment has been made to have money received by the Kenya Revenue Authority and then forwarded to the Catering, Training and Tourism Development Trustees. The amendment contained in Section 89 of the Kenya Gazette Supplement Bill, 2001, has not addressed itself to the main issues. For example, there are other bodies like the Hotels and Restaurants Authority and the Kenya Utalii College which also collect revenue. I think this might bring some problems.

Mr. Temporary Deputy Speaker, Sir, in 1999, one of the reasons why Parliament did not pass sections of the Bill transferring the collection function of 2 per cent to the Kenya Revenue Authority was because various intricacies had not been looked into, to sort out the many grey areas. This has not been done to date. That is, will the 2 per cent levy be collected using the Hotels and Restaurants Act, Cap.494 or VAT? Unless the sections of the law contained in Cap.494 dealing with the collection of the 2 per cent levy are first procedurally amended by Parliament, the collection of 2 per cent levy by the Kenya Revenue Authority will cause conflicts and confusion in their application.

Mr. Temporary Deputy Speaker, Sir, with the transfer of the collection of the 2 per cent levy, the issue of staff who had been hired to perform this responsibility and who have executed employment contracts needs to be addressed. Though the Trustees retrenched about 60 per cent of its employees, a big percentage left behind is in the levy collection department. Therefore, their future has to be soberly and humanely considered.

Mr. Temporary Deputy Speaker, Sir, the mandate to transfer the collection of the 2 per cent levy cannot be done without proper legal machinery being put in place. Parliament resolved that the Catering, Training and Tourism Development Levy Trustees should retrench to cut down on the administrative costs. This was done, and the compliance and administrative costs drastically reduced to below 15 per cent, and not 25 per cent as claimed by the Minister. The Kenya Revenue Authority is overstretched and understaffed, and thus cannot capably be efficient in the collection of this levy.

Mr. Temporary Deputy Speaker, Sir, still with regard to the transfer of the Catering, Training and Tourism Development Levy, Sections 1(c), 89, 93 and 169, and those in Section 8(g)8911 on page 733 and those on Section 93,

page 734, because of the reasons I have given, there is need to delete these clauses so that people do not suffer unnecessarily and make it complicated for the implementation of those particular clauses.

Mr. Temporary Deputy Speaker, Sir, there is also the question of the cost of production in this country. We have always said that the road network in this country today is not well done. This does not apply only to the major roads from Mombasa to Malaba which also connect us to the hinterland countries of this region; there are also many other road that have not been properly done. This does not mean that the Government of Kenya does not give money for such works to be implemented, but we need to be a little more careful on the jobs that are supposed to be done. I believe the money could be effectively and efficiently utilised, thereby creating good road network and reducing the cost of production in this country.

Today, we are depended upon by the landlocked countries, particularly in the usage of the Port of Mombasa. Containers that have to move from the Port of Mombasa to Malaba, and up to the landlocked countries like Rwanda and Burundi, are delayed on the road because of its poor state. Realizing that Kenya is in competition with other countries like Tanzania, I would like to request that the Ministries concerned become more vigilant, and the finance managers who have been recently appointed take their work more serious so that at least the projects intended to be implemented are actually covered and there is no loss of money.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Mkalla! You still have 15 minutes more; so you may continue tomorrow.

Hon. Members, it is time for the interruption of business. The House, is therefore, adjourned until Thursday, 25th October, at 2.30 p.m.

The House rose at 6.30 p.m.