

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 2nd November, 2000

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

LEAVE TO INTRODUCTION THE CHIEF'S
AUTHORITY (AMENDMENT) BILL

Mr. Muchiri: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-
THAT, this House grant leave to introduce a Bill for an Act of Parliament entitled The Chief's Authority (Amendment) Bill.

ORAL ANSWERS TO QUESTIONS

Question No.427

DISMISSAL OF MR. NASONGO

Mr. Shitanda asked the Minister of State, Office of the President, why Mr. Lawrence Nasongo, Force No.39121, was dismissed from the Police Force in 1991 in contravention of the Force Standing Orders and the Police Act Cap.84, Laws of Kenya, and without due regard to the laid-down procedures.

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

(a) The ex-police officer was dismissed from the service for failing or ceasing to be an effective and disciplined police officer. He had accumulated over six disciplinary offences and various warning letters. After his dismissal, he was given seven days to appeal, but he never did so. He waited until after six months and, therefore, his appeal was time-barred.

Mr. Shitanda: Mr. Deputy Speaker, Sir, there is a tendency in the Police Force where junior police officers are being victimised. Mr. Nasongo is one of the people who have been victimised for refusing to run errands like carjacking for senior officers and covering up criminal offences.

The Minister has told the House that Mr. Nasongo was dismissed after having committed about six offences, but he has not disclosed the nature of the offences, because some of them are normally very petty. Could the Minister tell us the particular offences which this police officer committed, particularly the sixth one which led to his dismissal from the force?

Maj. Madoka: Mr. Deputy Speaker, Sir, first, I think the hon. Member has made a very serious accusation; that this particular ex-police constable was used for carjacking. If he has any evidence, I think it is only proper that he gives it to us, so that we can follow it up.

Mr. Shitanda: On a point of order, Mr. Deputy Speaker, Sir. I did not say that Mr. Nasongo was used for carjacking. I said, senior police officers have a tendency of using their juniors to run private errands like carjacking.

Maj. Madoka: Mr. Deputy Speaker, Sir, I will not answer that, unless he comes up with any particular evidence on the senior officers who sent the junior officers for carjacking missions. The six offences are: In August 1981, he discharged a bullet without lawful excuse. On 11th October, 1982, he negligently damaged a trunk-call register, on 12th October, he wilfully disobeyed a lawful command; on 11th January, 1983, he was guilty of an act to the prejudice of good order and discipline; on 6th March 1992, without reasonable excuse, he failed to attend duty and on 6th March, without reasonable excuse, he broke out of the police lines. Earlier on, on 14th January, he was given a warning letter; on 26th January, 1983 he was also given another warning letter and on 19th January, 1987 he was also

given another warning letter.

Mr. Muchiri: Mr. Deputy Speaker, Sir, the offences committed by that officer are very petty and by nature, they are offences which an officer can fabricate against a junior officer.

Mr. Deputy Speaker, Sir, can you withdraw the letter of dismissal--

Mr. Deputy Speaker: I cannot!

Mr. Muchiri: Mr. Deputy Speaker, Sir, I

know you cannot but through the Chair, could the Minister withdraw the letter of dismissal and, if possible, treat those offences as trivial? This is because, training one police officer costs this Government over Kshs100,000.

Maj. Madoka: Mr. Deputy Speaker, Sir, the hon. Member, having been in the police, I am sure, knows how serious some of these offences are. But I think it was fair since this officer was given an opportunity to appeal and he never bothered to appeal within the specified time. Therefore, I am not prepared to withdraw the letter of dismissal.

Mr. Mwenda: Mr. Deputy Speaker, Sir, the cardinal principle of natural justice is that, no person shall be condemned unheard. In the case of this particular officer, he was dismissed unheard and then asked to appeal if he was not happy. Could the Minister tell this House why it was not deemed right to have this constable given an opportunity to be heard before he was dismissed?

Maj. Madoka: Mr. Deputy Speaker, Sir, as I said, he was given an opportunity to appeal so that he could be heard but he never presented himself within the specified time.

Mr. Deputy Speaker: Maj. Madoka, the point the hon. Member is making is that, he should have been heard before he was dismissed and you are saying he was given an opportunity to appeal after he was dismissed. So, you have not answered his question.

Maj. Madoka: Mr. Deputy Speaker, Sir, in all these cases, there are normally orderly procedures. He appeared before the officer in charge for all the offenses I have mentioned.

Dr. Kulundu: Mr. Deputy Speaker, Sir, this officer was dismissed after failing to respond to some order within seven days. Given the inefficiency of our postal services, is the Minister satisfied that seven days is a long time enough for an officer to respond to an order and was he given any reminder?

Maj. Madoka: Mr. Deputy Speaker, Sir, he did not need to be given any reminder, because he was within the police lines and the letter was hand delivered to him. So, he had ample time to appeal if he indeed, wanted to.

Mr. Shitanda: Mr. Deputy Speaker, Sir, when policemen commit offences and they have to appeal, they normally make those appeals through their station bosses. This is a case where Mr. Nasongo was dismissed because of charges framed up against him by the station boss. Is it not possible that a boss of a station can decline to forward the appeal to the headquarters? Could the Minister allow some appeals to be heard even when they are time barred, in cases where the accusations that have led to somebody's dismissal are normally committed in a station where he is working? What other mechanism can we use to ensure that those policemen perceived to have committed offences are dismissed after being heard?

Maj. Madoka: Mr. Deputy Speaker, Sir, I do not know whether the hon. Member is trying to say that this individual appealed. We have no evidence that he appealed, and that his letter was delayed by the officer in charge. If there is any such evidence, I will be prepared to look at it.

Mr. Deputy Speaker: Next Question, Mr. Gatabaki.

Question No.362

EARNINGS FROM GOLD/DIAMOND EXPORTS

Mr. Murathe, on behalf of **Mr. Gatabaki**, asked the Minister for Finance:-

- (a) how much money Kenya has earned from exports of gold and diamond jewellery since 1990 to date on a year-to-year basis; and,
- (b) who the major exporters of gold and diamond jewellery are.

The Assistant Minister for Finance and Planning (Mr. Arap-Kirui): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I have a list of the jewellery articles exported from Kenya between 1990 to 1999. The exports relating to year 2000 will be prepared at the end of the year, because this is the adopted system. If I quickly run through the figures in terms of totals for each year, they are as follows: 1990 - Kshs160,914,385; 1991 - Kshs1,550,561,953; 1992 - Kshs9,650,141,078; 1993 - Kshs4,734,098,492; 1994 - Kshs13,122,051; 1995 - Kshs8,213,515; 1996 - Kshs2,417; 1997 - Kshs295,354; 1998 - Kshs51,225,386, and 1999 - Kshs3,988,999.

(b) I also have a list of companies which are the major exporters of articles of jewellery totalling 144. With your indulgence, I beg to lay the list on the Table.

(Mr. Arap-Kirui laid the document on the Table)

Mr. Murathe: Mr. Deputy Speaker, Sir, could the Assistant Minister tell this House the amounts that were remitted to the Central Bank of Kenya from Goldenberg International Limited, Company No.20?

Mr. Arap-Kirui: Mr. Deputy Speaker, Sir, the totals that I have given are receipts that were received for these exports and, obviously, they

[Mr. Arap-Kirui]

would all have been transmitted to the Central Bank.

Mr. Kihara: Mr. Deputy Speaker, Sir, can the Assistant Minister tell us where these "very lucrative mines" are situated in Kenya?

(Laughter)

Mr. Arap-Kirui: Mr. Deputy Speaker, Sir, maybe, the hon. Member might give a better answer than myself, since I am not a geologist.

Mr. Kihara: Mr. Deputy Speaker, Sir, the Assistant Minister is avoiding to answer the question. Is it in order for him to continue refusing to answer a very legitimate question? He should know where these mines are.

Mr. Deputy Speaker: Order! The gold might not necessarily have originated from Kenya in order for it to be converted into jewellery. So, really, that is an unfair question to the Assistant Minister.

Mr. Ndicho: Mr. Deputy Speaker, Sir, I put it to the Assistant Minister that since he has failed to tell us where these mines are located can he confirm or deny that most of the gold, jewellery and precious stones have been entering Kenya through trans-shipment from Tanzania, Zambia, South Africa and other countries? Secondly, could he confirm that they pass through this country and there are pretences that they have been exported from this country? Lastly, could he confirm that all the transactions of these precious stones have been used to loot the Central Bank of Kenya to the tune of Kshs68 billion?

Mr. Arap-Kirui: Mr. Deputy Speaker, Sir, I do not know anything about that, except the figures that I have readout and this indicates that these were exports made in this country.

Mr. Deputy Speaker, Sir, secondly, with your indulgence, I know that some of these matters are in court and I do not know whether some Members would like to go through it. If they do, I think this might be called "a backdoor" to obtain information that is already a subject of a court process.

Mr. Murathe: On a point of order, Mr. Deputy Speaker, Sir. We have just been given a schedule now, since the answer was not supplied before. The description of the answer by the Assistant Minister is about articles of jewellery and parts thereof or other precious materials, whether or not plated or clad with other precious materials and then they give a value. We are not interested in the matters that are in court. There is a schedule that so-and-so exported so much gold and that such-and-such a person remitted so much money.

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

Mr. Murathe: Mr. Deputy Speaker, Sir, my question is: The Assistant Minister is not in order to mislead this House---

Mr. Deputy Speaker: Order, Mr. Murathe! If you want to ask a question, I will give you an opportunity, because you are now asking a question.

Mr. Murathe: Mr. Deputy Speaker, Sir, the Assistant Minister is misleading the House that---

Mr. Deputy Speaker: Order! Are you on a point of order or are you asking a question?

Mr. Murathe: Mr. Deputy Speaker, Sir, I am on a point of order.

Mr. Deputy Speaker: What is it?

Mr. Murathe: Is the Assistant Minister in order to mislead this House, that he is not able to supply details of the specific amounts that have been purported to be exported by individual companies and the receipts thereof, to the Central Bank of Kenya?

Mr. Arap-Kirui: Mr. Deputy Speaker, Sir, I do not think I have misled this House. I get the Member right. I think he is seeking a clarification and the information is as I have given. What I have given as descriptions the way this schedule has been laid down, is by definition as in the various clauses that govern exports and imports. That is the number and description of items that fall into each of these numbers, like No.200 which is "Articles of Jewellery and Parts Thereof"; No.900, "Articles and Jewellery and Parts Thereof" based on Base Metal and others is "Precious Stones" and so on. These are various definitions as given in our analysis and I have explained, the totals for each year have been given and that is the information that I have.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I thank hon. Murathe for asking this Question on my behalf because I had gone to a funeral. However, I did get a bit of the answer to this Question. However, the whole issue about this Question is what has been raised, regarding the exports of jewellery and gold in the 1990s. The entire issue of Goldenberg relates to this and the person we wanted to clear the air is no other than the Vice-President who tabled documents here saying--

Mr. Deputy Speaker: Ask your question!

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I am coming to the question. This nation exported gold worth US\$1 billion. The issue is: Can the Assistant Minister confirm to this nation and the entire world community that, indeed, Kenya did export gold worth US\$1 billion, and if not, can the Government apologise to the people of Kenya for misleading them and creating a crisis called "Goldenberg" that has denied this nation aid and, in fact, dignity in the eyes of the world?

Mr. Arap-Kirui: Mr. Deputy Speaker, Sir, obviously, Mr. Gatabaki has just walked into the House and maybe, he has not had time to read the schedule. I have given the figures as outlined in the schedule year-by-year and that is monies received.

Mr. Donde: Mr. Deputy Speaker, Sir, I would like the Assistant Minister to tell this House whether it was really necessary for doing trans-shipment of gold and making this country add 35 per cent to the value of that gold from taxpayers' money? Was it really necessary that we take somebody's gold, pass it through Kenya and give him 35 per cent on top of taxpayers' money?

Mr. Arap-Kirui: Mr. Deputy Speaker, Sir, I think I am being asked to give my opinion whether it was necessary or not. The fact remains this was done and it was legal.

Mr. Parpai: On a point of order, Mr. Deputy Speaker, Sir. What has actually caused the drop because in 1990 when you read the figures, the country exported Kshs1 billion worth of jewellery? What has made it drop to Kshs200,000 in 1997?

Mr. Arap-Kirui: Mr. Deputy Speaker, Sir, I think the Member's ideas may be as good as mine. Again, I am being asked to give an opinion. Since nobody has come forward to export these articles, there is not very much that we can do. However, if I can just elaborate a bit, you see, we saw a very sharp drop but from 1998 it is sort of beginning to go up. Maybe, these people are beginning to re-establish themselves and you never know, since we might soon be able to see a few billions of shillings exported.

Mr. Sungu: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister satisfied that these minerals which are being imported into Kenya for the purposes of exporting are not being used to finance internecine wars in Africa which are causing deaths of people in Zaire, Angola and lately Sierra Leone? Secondly, is he aware that there is international hue and cry over the importation and exportation of diamonds from these war-torn areas?

Mr. Arap-Kirui: Mr. Deputy Speaker, Sir, I think I am not aware of what the Member is talking about. However, trans-shipment and re-exportation after adding value is not unusual. That is how the West has become very rich and prosperous. Amsterdam, I believe, is a leading centre for the business of diamonds, none of which are mined in Holland. I think we could borrow a leaf from what has happened in the West and do something similar.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, in view of the severely and even criminally unsatisfactory answer given by the Assistant Minister, particularly in the schedule given to me - that, in 1990, it was Kshs6 million; in 1985, it was Kshs9 billion, and the following year Kshs45,000--- In view of this unsatisfactory answer that is an abuse to us and contemptuous to this House, could the Assistant Minister go and come back with a comprehensive statement, or is it denial that Kenya ever exported gold and diamonds? Could the Assistant Minister, in view of this shabby answer given to us, go back and give us a satisfactory answer? This answer is shoddy and shabby, to say the least!

Mr. Arap-Kirui: Mr. Deputy Speaker, Sir, I believe hon. Gatabaki is entitled to use any adjectives he can think of. But the fact remains this is a very detailed answer we have given him. If he is unhappy about it, I believe it is rather unfair because we have made an effort to give him a very detailed answer. I think I will leave it at that.

Mr. Gatabaki: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to think this House has no ideas and that is why he is giving us varying figures? For example, in one particular year, Kenya exported gold and diamonds worth Kshs9 billion. In another year, we exported gold and diamonds worth Kshs4,000. Is it in order for the Assistant Minister to keep misleading this House that Kenya has ever exported gold and diamonds worth any amount?

Mr. Deputy Speaker: Order! As I have had occasion to advise you in the past, let me do it today, hopefully, for the last time. Hon. Members have got the perfect right to express displeasure with the answers given. They express that displeasure by invoking the provisions of Standing Order No.18. That is to say they can move a Motion of adjournment to discuss the dissatisfactory answer. If such a request is placed before the Chair, I can assure you that the Chair will be very sympathetic.

Next Question, Mr. Sungu.

Question No.632

PAYMENT OF BENEFITS TO MR. OUMA

Mr. Sungu asked the Minister for Finance:-

(a) if he is aware that pension and provident fund benefits for Mr. Thomas B.N. Ouma, Personal No.672631, ID.No.1164175/64, who was an employee of the former East African Community, have remained unpaid since the collapse of the organisation to date; and,

(b) when the Ministry will pay the said benefits to Mr. Ouma and all former employees of the defunct East African Community.

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

(a) I am not aware that Mr. Thomas B.N. Ouma, Personal No.672631, ID.No.1164175/64, is due for the payment of pension from the Government. However, I am aware that he has been demanding provident fund benefits from his service with the former East African Community.

(b) I am not in a position to pay Mr. Ouma provident fund benefits as he is not in the Kenya Government list of former contributors to the Provident Fund of the defunct East African Community.

Mr. Sungu: Mr. Deputy Speaker, Sir, this gentleman was employed by the defunct East African Community in 1966. He left in 1977 when the Community collapsed. Later on, he joined the Public Service and he retired in 1994. Therefore, he is due for a pension from the Government. I have documents to prove that Mr. Ouma contributed to the provident fund of the defunct East African Community up to 1977 when it collapsed. I have a copy of a receipt showing a total of Kshs30,000 was deducted from him. Therefore, some money is due to him. Could the Assistant Minister confirm with this document which I will lay on the Table and process benefits of this fellow?

Mr. Marrirmoi: Mr. Deputy Speaker, Sir, a letter was written to him requesting him to avail all the details. If the hon. Member can produce those details, we shall process the benefits.

Mr. Sungu: Mr. Deputy Speaker, Sir, may I lay this document on the Table?

Mr. Deputy Speaker: Yes, Mr. Sungu.

(Mr. Sungu laid the document on the Table)

Question No.593

CONSTRUCTION OF BONDO DISTRICT HOSPITAL

Dr. Oburu asked the Minister for Medical Services:-

(a) if he is aware that construction works at Bondo Sub-district Hospital stopped seven years ago after the contractor M/s Kitek Limited abandoned the site; and,

(b) what steps he is taking to terminate the contract and appoint a new contractor to be paid by the surety bond undertakers.

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

(a) I am aware the construction works at Bondo Sub-district Hospital stalled as a result of the contractor abandoning the site.

(b) The Ministry is in the process of terminating the existing contract with a view to reviving the stalled work under a new contractor.

Dr. Oburu: Mr. Deputy Speaker, Sir, I am quite surprised that the Minister admits that the contractor abandoned the site seven years ago and they are only intending to terminate his contract now. This is criminal negligence. That notwithstanding, I would like to know from the Assistant Minister how much money has been allocated for the completion of the hospital in the current budget. When exactly did the termination of the contract take place?

Dr. Wako: Mr. Deputy Speaker, Sir, no funds have been allocated to the hospital in the current budget. As I said, the contractor abandoned the project. Right now, we do not have funds for development and, therefore, it is not possible for us to allocate any funds to that hospital.

Mr. Otula: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that the supervising architect was soliciting funds from the contractor which made the contractor to abandon the site?

Dr. Wako: Mr. Deputy Speaker, Sir, I am not aware.

Mr. Ojode: Mr. Deputy Speaker, Sir, could the Assistant Minister inform this House, what was the main

reason for them not to allocate enough funds to complete this project?

Dr. Wako: Mr. Deputy Speaker, Sir, funds have been allocated all through, but because the contractor has abandoned this project, those funds have been returned to Treasury.

Capt. Ntwiga: Mr. Deputy Speaker, Sir, how much was the contract worth and what percentage of the work has been completed?

Dr. Wako: Mr. Deputy Speaker, Sir, the first phase of the contract was worth Kshs6,385,300.56 and the contractor did 60 per cent of the work.

Dr. Oburu: Mr. Deputy Speaker, Sir, I have asked this Question in this Parliament six times since I became an hon. Member. There are people who signed a surety bond for the contractor. The law of contract provides that when there is breach of contract, then the surety bond is expected to pay for the completion of the project. Could I know from the Assistant Minister what is going to happen in this particular case? Are they going to invoke the particular clause on breach of contract so that whoever signed the surety can pay for the completion of the hospital?

Dr. Wako: Mr. Deputy Speaker, Sir, the contractor has abandoned the site and has not been working since 1990. However, he is claiming to be back on site and he wants credit to be paid to him. We are disputing that credit. Therefore, we want to ascertain how much has been done and how much money is required for the completion of that hospital, so that we can be in a position to terminate his contract.

Mr. Ojode: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is misleading the House. He has said here clearly that]

the work has already been done up to 60 per cent. What kind of verification will he do again on the same work because he has already given us the percentage of work done? How much money had they paid this contractor? What is the percentage of work remaining now?

Dr. Wako: Mr. Deputy Speaker, Sir, as I said, the contract started in 1990 with initial allocation of Kshs1.2 million. In 1990/91 Financial year, we allocated Kshs2 million. In 1991/92 Financial year, we allocated Kshs1.5 million and in 1992/93, we allocated Kshs9 million. Out of this, Kshs6 million was returned to Treasury. That is where the problem is.

Mr. Deputy Speaker: Mr. Assistant Minister, Dr. Oburu asked you whether you are going to invoke the surety bond so that the people who signed surety for the contractor can be called upon to honour their surety?

Dr. Wako: We will look into that, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Seven years later you are still looking into the issue?

Dr. Oburu: Mr. Deputy Speaker, Sir, we know for a fact that there is somebody somewhere who has been frustrating this project for all those years. Can the Assistant Minister assure the House that action will be taken to effect the clause on breach of contract, and that there will be no other delay for another seven or ten years as it has happened? Why did it take seven years? It is easier for the Ministry to return money than to revoke a contract. They are returning Kshs6.5 million instead of revoking the contract. Can he give us that assurance?

Dr. Wako: Mr. Deputy Speaker, Sir, I would like to assure the House that we will look into this issue and make sure that the contract takes some form.

Mr. Deputy Speaker: Next Question, Mr. Kombo.

Question No.630

BENEFITS FROM AFRICA GROWTH
AND OPPORTUNITIES ACT

Mr. Kombo asked the Minister for Tourism, Trade and Industry what measures the Ministry has put in place to ensure that Kenya qualifies to benefit under the Africa Growth and Opportunities Act (AGOA) which was passed by the United States Congress early this year.

The Assistant Minister for Tourism, Trade and Industry (Mr. Ekirapa): Mr. Deputy Speaker, Sir, I beg to reply.

Kenya has put a lot of measures in place to ensure that it qualifies to benefit under the African Growth and Opportunities Act (AGOA). I wish to inform the House that Kenya was amongst the 34 Sub-Saharan African (SSA) countries which were designated as beneficiary countries under AGOA on 2nd October 2000, which is a month ago. In fact, Kenya was the first Sub-Saharan country to send a letter of intent expressing her interest in participating in AGOA. It was also the first country to send both a Government and private sector delegation to lobby the US Congress to get Kenya included in the list. It was the first country to send a detailed list of General System of Preferences (GSP) products and prepare a Textile Visa Implementation System.

Mr. Deputy Speaker, Sir, because of the importance of this matter, I would like to add the following information. Kenya has made substantial progress in meeting all the requirements to reap maximum benefits offered by the AGOA. For example, Kenya has submitted a list of 304 products of her export interest to the US Trade

Representative (USTR) for consideration under the GSP scheme into the US market in August this year. This list can be expanded in future depending on how Kenya develops her own products. I would also like to add that Kenya has complied with all the requirements of the US Customs by putting in place an effective Visa system to ensure that no textile trans-shipment occurs through Kenya to the USA. A Legal Notice spelling out all legal requirements to be met by textile exporting companies will be gazetted this Friday.

Mr. Deputy Speaker, Sir, in addition, the Legal Notice not only states the conditions to be met by exporters of textiles and apparels, but it also spells out the heavy penalties to be faced by any defaulter. An example of such stiff penalties is a fine not exceeding Kshs1 million or three years imprisonment, or both.

Mr. Deputy Speaker: Which question are you answering, Mr. Assistant Minister?

The Assistant Minister for Tourism, Trade and Industry (Mr. Ekirapa): I have answered the original Question and I am adding some additional information.

Mr. Deputy Speaker: Well, Mr. Kombo, I did not hear you ask a supplementary question.

Mr. Kombo: No, Mr. Deputy Speaker, Sir, but I have a supplementary question.

The Assistant Minister for Tourism, Trade and Industry (Mr. Ekirapa): Mr. Deputy Speaker, Sir, because of the importance of this matter to the economy of this country, I wish to add some additional information.

Mr. Deputy Speaker: Order, hon. Ekirapa! This is not an occasion for a Ministerial Statement. You have been asked a specific Question to which you have already supplied an answer. Let those others come out via a supplementary question.

Mr. Kombo: Thank you, Mr. Deputy Speaker, Sir. I do appreciate that the Assistant Minister does realise the importance of the Question. The answer that I received without the additional information is incomplete because under AGOA, good governance, respect for the rule of law and human rights are extremely essential for the American President to ensure that the country remains on the list. The fight against corruption is one of the cardinal issues in good governance. In this country, we have witnessed cases of people in the Executive who have been charged with criminal offenses in courts of law, but who still hold Government positions. Is the Executive committed to good governance to ensure that the American President can keep Kenya on that particular list? If those people who are charged cannot have the decency to resign, can the Kenyan President sack them to demonstrate to the American President that he is committed to fighting corruption and hence, good governance in this country?

Mr. Ekirapa: Mr. Deputy Speaker, Sir, I was answering the economic and business question and not a political one. Let me add that---

Mr. Murathe: On a point of order, Mr. Deputy Speaker, Sir. The hon. Assistant Minister is misleading this House. He did not understand the question raised by the hon. Questioner. He knows very well that one of the conditions for Kenya to qualify for AGOA is to sign the Global Coalition for Africa to hold principles against corruption. Kenya is the only country which has not signed that convention and he stands here to say that this is an economic question and not a political one---

Mr. Deputy Speaker: Order! Order! Do not stand on a point of order and then start haranguing everybody. Proceed, Mr. Assistant Minister!

Mr. Ekirapa: The American Government is satisfied with the submissions which the Kenya Government has made and hence, Kenya has qualified as one of the 34 African countries that will benefit from AGOA.

Mr. Twaha: On a point of order, Mr. Deputy Speaker, Sir. A few minutes ago, the Minister for Finance told us that it is okay to trans-ship gold and diamond. But the Assistant Minister is telling us that there are heavy penalties for trans-shipping textiles. Why is it okay to trans-ship gold and diamond and not textile?

(Applause)

Mr. Ekirapa: Mr. Deputy Speaker, Sir, I cannot comment.

Mrs. Mugo: On a point of order, Mr. Deputy Speaker, Sir. It is on record that one of the Assistant Trade Secretaries did say that it is very doubtful whether Kenya will benefit from this scheme because we lack transparency and good governance. We are also hit by corruption. The Assistant Minister is telling us that we have "a clean bill of health". Is he not misleading this House?

Mr. Ekirapa: Mr. Deputy Speaker, Sir, at no point did the American official who visited here make that statement. Let me repeat that Kenya has fulfilled all the conditions required under the AGOA; we have been accepted to benefit from that Act. There are only four issues the Americans have requested to know something about, to which we have replied.

Hon. Members: What issues are those?

Mr. Ekirapa: Mr. Deputy Speaker, Sir, if hon. Members will be patient, I will answer their question. If they

interrupt me, I will sit down.

Mr. Deputy Speaker: Order! Mr. Assistant Minister, if you ignored those jibes, you would make progress.

Mr. Ekirapa: Mr. Deputy Speaker, Sir, I will ignore them from now henceforth. As I said, the Americans are satisfied with everything we have done; they have accepted Kenya to be among the 34 Sub-Saharan African countries to benefit from AGOA. The Americans asked us four questions, which I believe we have answered satisfactorily. They raised the restriction of the rights of assembly of trade unions. They believed that Kenya was not respecting the rights of trade unions to the extent that the police could interrupt trade union meetings. They also raised concern on the Government's ability to remove top trade union officers such as the COTU Secretary-General, among others, from power. The other question that the Americans raised with us concerns the dismissal of employees in the Export Processing Zones (EPZs) area. They thought that employees within the EPZs were not allowed to join trade unions. Finally, they raised the question of child labour. They believed that the children who pick coffee were being forced to work in those farms. We have answered all the above questions satisfactorily. I would like to assure this House that the Americans are happy, and that Kenya is going to be a beneficiary of AGOA. We are waiting for a letter of confirmation from the USA Government; our people are ready to start exporting commodities under that arrangement to the USA.

Mr. Kibicho: Mr. Deputy Speaker, Sir, it is not good to play politics with this issue. Kenya wants to trade with the Americans. The Government knows very well that it has been told by the Americans to de-link the Government from COTU. The Assistant Minister is now telling this House that they have answered the Americans' concerns. How has the Government answered those concerns without de-linking itself from COTU?

Mr. Ekirapa: Mr. Deputy Speaker, Sir, the Americans were not concerned about the issue the hon. Member has raised; they were concerned about the requirement that the President appoints three top COTU officials after their nomination or election by the COTU General Assembly for appointment. They asked why COTU itself could not elect its own Secretary-General and other officials.

Mr. Kombo: Mr. Deputy Speaker, Sir, in the past, we lost the business of textile exportation because of mismanagement within the Government. The fish exportation business has suffered the same fate because no Department in the Government knew what to do. Could the Assistant Minister assure this House and Kenyans countrywide that we will not muddle ourselves in this area as we open up trade under the AGOA, so that we do not repeat a situation where two Permanent Secretaries, who were supposed to handle textile industry issues, engaged in a quarrel and ended-up not dealing with those issues? We do not know whether the fish industry falls under the Ministry of Agriculture or the Ministry of Planning. Could the Assistant Minister assure this House and Kenyans that there will be a system and a body that will handle the matter?

Mr. Ekirapa: Mr. Deputy Speaker, Sir, I would like to confirm that my Ministry is in full control of this system. AGOA is opening up enormous opportunities for this country to trade with the USA. We cannot afford, at any level, to do something that might jeopardise our business with the USA. There are about 2,000 items that Kenya will be eligible to export to the USA duty-free and quota-free. I would like to ask hon. Members to acquaint themselves with the list of those items and tell Kenyans of all classes to avail themselves of this opportunity.

Mr. Deputy Speaker: Mr. Assistant Minister, why do you not make copies of the AGOA and avail them to hon. Members as a means of enabling them to understand its contents, so that they can sensitise Kenyans on its provisions?

Mr. Ekirapa: Mr. Deputy Speaker, Sir, the AGOA is available in the internet, but we will make the same available.

Mr. Deputy Speaker: Order! Mr. Assistant Minister, I do not believe that.

Mr. Ekirapa: Mr. Deputy Speaker, Sir, we will make arrangements.

Mr. Deputy Speaker: No! Even yourself are not in the internet. So, please, make copies of the AGOA and avail them to hon. Members.

(Applause)

Mr. Ekirapa: We will, Mr. Deputy Speaker, Sir. I believe that it is very important that every hon. Member gets a copy of the AGOA.

Question 587

SEWERAGE FACILITY TO CHUKA TOWN

Capt. Ntwiga asked the Minister for Local Government:-

- (a) whether he is aware that there is no sewerage facility in Chuka Town; and,
- (b) when he will construct the said facility in the town.

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

- (a) I am aware that there is no sewerage facility in Chuka Town.
- (b) The construction of a sewerage system in Chuka Municipality will commence once a source of funding is identified.

Cap. Ntwiga: Mr. Deputy Speaker, Sir, you have heard the answer given by the Assistant Minister to my Question. I would like to inform him that Chuka Town is highly populated, but does not have a single tarmac road, bus park or sewerage system. Since he has said that the construction of a sewerage facility in that town will commence once the source of funding is identified, may I inform him that, in 1995, such a facility was about to be constructed in Chuka Town under a German Agency for Technical Co-operation (GTZ) programme, but the funds were diverted elsewhere. Could the Assistant Minister assure me that this will be done now that the GTZ is going to fund more projects under its programme? The GTZ is a source of funding.

Mr. Hashim: Mr. Deputy Speaker, Sir, it is true that Chuka Town is the District Headquarters for Meru South District, and that despite its increasing population over the years, it has no sewerage system. The town is currently being serviced satisfactorily by equipment donated by the GTZ through my Ministry. As the hon. Member said, that service has been terminated, but I will ensure that it is restored.

Mr. Mwenda: Mr. Deputy Speaker, Sir, the Assistant Minister has admitted that the said facility is not available in Chuka Town which has having been a municipality for a long time. If the Government is serious about providing the said facility to its residents, could he tell us whether a survey has been done and the actual cost of putting up that facility?

Mr. Hashim: Mr. Deputy Speaker, Sir, in 1985, Chuka Municipal Council set aside adequate land for the construction of the town's sewerage system, but since the source of funding for the project has not been identified, a proper feasibility study has not been done.

Mr. Ndwiga: Mr. Deputy Speaker, Sir, I am sure that you are not satisfied with that answer. Chuka Municipality was established by the Government; its residents have set aside land for the construction of its sewerage system, but the Assistant Minister is telling this House that a source of funding for that project has not been identified since 1995. Is this, really, a serious Ministry? We have just gone through the Budget. When will the Assistant Minister start planning and allocate funds for the upgrading of the sewerage system in Chuka Town?

Mr. Hashim: Mr. Deputy Speaker, Sir, as I said earlier on, the Ministry is very concerned about that, and once the funds are available, we will implement that project.

Mr. Ndwiga: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to continue misleading this House? The Chair has already ruled on use of the phrase: "When funds become available." We do not want those kind of answers. My question was very clear: What plans does the Ministry have? Does the Ministry have any or does it not? If you have plans, when will you implement the project? We do not want to be told: "When funds become available." If you have planned for the project, you should be knowing when funds will be available.

Mr. Hashim: Mr. Deputy Speaker, Sir, I think I have replied to the question. Since there is no provision in the Budget at the moment for this project, so, when funds become available, we will implement the project. But the funds are not available now.

Mr. Deputy Speaker: Order, Mr. Hashim! You know we have a three-year budgeting horizon. Have you made provisions within that period, or are you going to set provisions beyond that period?

Mr. Hashim: Mr. Deputy Speaker, Sir, there are no provisions at the moment for this project.

Mr. Achola: Mr. Deputy Speaker, Sir, could the Assistant Minister inform the House, if he could stop laughing because he is not going to understand what I am saying, what criteria the Government uses in deciding where and when to build the sewerage system? This is because that problem does not only afflict the sugar sector; it is everywhere in Kenya, even in Migori. Could he tell us what criteria they use to decide where and when to install the sewerage system? The question is now in your court.

Mr. Hashim: Mr. Deputy Speaker, Sir, regarding Migori, that is another question altogether because there are no provisions for the Ministry to identify the project in every county council or municipality.

Mr. Twaha: Mr. Deputy Speaker, Sir, could the Assistant Minister inform this House whether in future we shall also be required to do Harambees to build sewerage systems?

(Laughter)

Mr. Hashim: Mr. Deputy Speaker, Sir, the Government is determined to give services to its people, but if

leaders find it necessary to conduct Harambees so that they give services to their people, there is no problem.

Mrs. Mugo: Mr. Deputy Speaker, Sir, could this Government explain to us what plans it has and inform us if we can have a settlement area which excludes sewerage? What kind of development is that? In Nairobi, there are so many of them without a sewerage, system including Kawangware which is very old. What is the policy of this Government on sewerage system? Do you have any policy?

Mr. Hashim: Mr. Deputy Speaker, Sir, the Government has set aside the Local Authorities Transfer Fund (LATF) money and it is the duty of municipalities or county councils to plan on how to use them, so that they can solve the problem of sewerage.

Capt. Ntwiga: Mr. Deputy Speaker, Sir, the reason why hon. Members are supposed to be re-charging their constituents for money is because of a reason like that. You have heard hon. Members asking whether they will be holding Harambees in order to do that kind of work. Could the Assistant Minister tell us whether in the current LATF money he has earmarked money at least for a bus park or just a single road to be constructed in Chuka Town or a sewerage system? If he has done so, could the Assistant Minister think of increasing that money or do something about it?

Mr. Hashim: Mr. Deputy Speaker, Sir, the question of increment of money does not arise, but I will ensure that the projects that the hon. Member is proposing are going to be implemented.

Question No.168

UTILISATION OF AGRICULTURAL PRODUCE CESS

Mr. Achola asked the Minister for Local Government:-

(a) whether he could inform the House how agricultural produce cess collections are shared out between the services provided to the farmers and the local authorities; and,

(b) how much cess was collected by the Migori County Council during the year 1999/2000 and how was the said collection utilised.

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

(a) The agricultural produce cess collections are shared out between the services provided to the farmers and the local authority as provided for under the Legal Notice No.120 of 4th September, 1998.

(b) Migori County Council collected a total sum of Kshs7,185,069 as cess from sugar-cane and tobacco during the financial year 1999/2000. The amount collected together with the balance of Kshs3,217,524 during 1998/1999 was utilised as follows:-

Office administration	Kshs1,437,016
Rehabilitation and opening of Gogo-Medida-Oyani Road 24 kms	Kshs3,331,949
Construction of the new County Hall and offices	Kshs1,784,171
Councillors allowances /staff salaries	Kshs3,388,942
Arrears Kisumu and Migori Agricultural Shows	Kshs 100,000
Return of telephone services to the council	Kshs 70,000
Contribution to the famine relief in Turkana	Kshs 207,900
Cess monitoring committee expenses	Kshs 82,615
Total	Kshs10,402,593.

Mr. Achola: Thank you, Mr. Deputy Speaker, Sir. Just before I ask a supplementary question, could the Assistant Minister explain to the House what proportion of cess money is supposed to be divided between the farmers and the council?

Mr. Sirma: Mr. Deputy Speaker, Sir, according to Legal Notice No.120 of 4th September, 1998, which was issued by the Minister for Local Government, the regulation spells out that 80 per cent of the amount collected by the Districts Crop Cess Monitoring Committee is for the improvement of roads within the local authority and the other 20 per cent is for the recurrent expenditure in the respective local authorities.

Mr. Ochilo-Ayacko: Mr. Deputy Speaker, Sir, it is apparent that the Legal Notice has been violated by the said council, and this Government is known for making laws that it does not intend to follow. What action are you going to take against the councillors and the chief officers who have violated the Legal Notice?

Mr. Sirma: Mr. Deputy Speaker, Sir, that is one of the councils which have a very weak financial base, and with the number of councillors and the staff in that council, they have violated it. We intend to take disciplinary action against the officers who used the money unwisely.

Mr. Ndwiga: Mr. Deputy Speaker, Sir, if this council has a weak financial base, what is going to happen in future now that the Kenya Roads Board Act, which we passed in this House, says that funds for it should come from cess money? Therefore, it means that all cess money from Migori County Council will go to the DRC of Migori. Where is the county council going to find the money?

Mr. Sirma: Mr. Deputy Speaker, Sir, they will look for alternative sources of revenue.

Mr. Omamba: Mr. Deputy Speaker, Sir, what is worrying me is that because the District Roads Committees are in charge of repairing the roads in the districts, when will the Ministry surrender that money to the DRCs?

Mr. Sirma: Mr. Deputy Speaker, Sir, we have not released any money to the DRC.

Mr. Achola: Mr. Deputy Speaker, Sir, I would like the Assistant Minister to make some promises because, according to the way the County Council of Migori utilises the cess money, only 33 per cent was utilised in repairing roads for the farmers and 20 per cent went to our brothers in Turkana. I do not mind that money going to Turkana. Could the Assistant Minister tell us what specific action he is going to take to ensure that the farmers of Migori district are not denied their rights? This is because there is no point of taxes being deducted from the produce and the farmers are not benefitting. What are you going to do to ensure that farmers are getting services for the taxes that they are paying?

Mr. Sirma: Mr. Deputy Speaker, Sir, we want to enforce the Legal Notice No.120. Disciplinary measures are usually taken against the officer who has violated the Legal Notice. We also want to warn the local authorities in this country to adhere to the Legal Notice No.120 of 1998.

QUESTIONS BY PRIVATE NOTICE

CONSUMPTION OF POWER ALCOHOL IN CENTRAL PROVINCE

Mr. Kamau: Mr. Deputy 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 many young people in Central Province are slowly dying due to consumption of power alcohol which is currently being sold in most areas of the Province?

(b) What is the Ministry doing to stop production and sale of this product?

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

(a) I am not quite aware that these people are slowly dying, but I am aware that the youngsters are taking this illicit brew against the advice of the Provincial Administration and the various elders.

(b) We are trying, together with the Ministry of Health who are working closely with the public health officers, to curb the consumption of this illicit brew. The problem we are experiencing is that most of these brewers send samples of the right products to the Government chemist or the Kenya Bureau of Standards, but after that they start making adulterated brews. We are trying to ensure that these brews are not on the market.

Mr. Kamau: Mr. Deputy Speaker, Sir, this has been a subject matter in this House for a very long time. It has been discussed many times in this House and we have even passed a Motion on it. The Minister has been going round launching the AIDS Committee and giving very touching speeches. The same Minister now seems not to care about this big problem. In Central Province, this problem is much bigger than the AIDS problem we have been talking about. Young people have been committed to slow deaths by the consumption of these illicit brews. The youngsters have become addicts. Now that the Minister has accepted this, could he tell this House whether Kenyans have been given the freedom to choose what they should drink, even if it is poisonous? What is the Government doing to make sure that these brews are eliminated once and for all and more particularly in Central Province and other parts of this country?

Maj. Madoka: Mr. Deputy Speaker, Sir, as I have said, this is the responsibility of the Ministry of Health and working closely with the public health officers, they have gone out to try and curb the sale of this illicit brew. I know that they have made random inspections in the various market centres and that various people have, in fact, been prosecuted. We will continue to do that.

Mr. Wamae: Mr. Deputy Speaker, Sir, this is a very serious matter and the Minister should take it seriously. Could he ensure that the bars which are selling these illicit brews are denied trading licences so that we can stop this menace once and for all?

Maj. Madoka: Mr. Deputy Speaker, Sir, we will pursue that line.

Mr. N. Nyagah: Mr. Deputy Speaker, Sir, mine is going to be fairly close to what hon. Wamae has asked. Would the Minister take immediate action by withdrawing the licences from these people who are selling this illicit brew and also charge those who are selling it?

Maj. Madoka: Mr. Deputy Speaker, Sir, as I have said, some people who were found selling this illicit brew have already been charged. We will continue to pursue the line that has been suggested, that we possibly withdraw the licences of these bars.

Mr. Ndicho: Mr. Deputy Speaker, Sir, the Minister is not taking this matter seriously. In his written answer he says: "As to "a", I am not aware. In "b", arising from part "a" above part "b" does not arise." This is a very serious issue as far as the youth in Central Province are concerned and the Minister is now giving a misleading answer. What he is saying on this hand is what he is also saying on the other one. No wonder the President is very uncomfortable with this Minister because he says one thing and is contradictory on another. Is he in order to give contradicting answers?

Maj. Madoka: Mr. Deputy Speaker, Sir, the President is not uncomfortable with me. The answer I have given is what counts and not what is on the written reply. It says there: "I am not aware." I did say that I am not aware they are dying, but that I am aware of the illicit brew that they are drinking.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, in his answer the Minister said that the brewers of this stuff submit samples that meet health regulations and yet they go on to adulterate whatever they eventually bottle and sell. Since whatever is sold has the brewer's label, would the Minister now move again to the brewers rather than the distributors?

Maj. Madoka: Mr. Deputy Speaker, Sir, I said we are following all of them together. We have had problems with the brewers and we have even charged some of them.

Mr. Michuki: Mr. Deputy Speaker, Sir, in 1998, I brought a Motion to this House and the House passed that Motion which banned all these drinks that continue to ruin the youngest people in our nation. Given that the labour force and the future of this country lies in the young people, would the Minister agree to bring legislation to this House banning the manufacture and consumption of these very obnoxious drinks?

Maj. Madoka: Mr. Deputy Speaker, Sir, we will consider that.

Mr. Kamau: Mr. Deputy Speaker, Sir, although the Minister is somehow giving very good responses, could he confirm or deny that the people who are encouraging the sale of the illicit brew are the Provincial Administration? He knows for a fact that the PC, Central Province, issued a circular actually allowing the sale of the brews in the Province. These people who are selling the brews have been showing the public health officers this letter. Could he confirm or deny that?

Maj. Madoka: Mr. Deputy Speaker, Sir, I deny that, but I would like to see the Circular the hon. Member is talking about.

DESTRUCTION OF CROPS BY ELEPHANTS

Mr. Kiunjuri: Mr. Deputy 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 wild animals, and especially elephants, are destroying crops in the areas of Tigithi, Lamuria and Ndaiga and thereby threatening any eventual harvest?

(b) What immediate action is the Minister taking to arrest the situation?

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

(a) I am aware that we have had some crops being destroyed by wild game although 98 per cent of Laikipia District has been severely affected by the current drought. So, there are very few crops.

(b) We have translocated ten elephants from the Olpejeta Ranch to Meru National Park, we are upgrading the Olpejeta boundary fence and fencing 33 kilometres of Ol Ndaiga property and community lands adjacent to the ranch.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, it is true that 98 per cent of Laikipia District is faced with drought, and it is also true that pockets of irrigation are going on. The fact that we have drought does not mean that we have the right to irrigate those pockets. However, we have 250 elephants in Olpejeta Ranch and the Minister has said that they have only translocated ten elephants. I do not see any difference. He would rather let the ten elephants remain in the area. It is shocking that out of 250 elephants, he has only translocated ten elephants. Could the Minister tell this House when the on-going project of fencing started and when it will be completed?

Maj. Madoka: Mr. Deputy Speaker, Sir, first, let me say that we have translocated ten elephants and we are continuing with the exercise. I am afraid I have not got the details as to when the project of fencing will be completed.

Mr. Mwiraria: Mr. Deputy Speaker, Sir, the problem Laikipia faces is the same problem Meru faces. In North Imenti Constituency in areas like Onturiri, Ngusishi, Kirimara and Chugu Locations, near the municipality, where there is irrigation, the elephants are having a field day and the Kenya Wildlife Service (KWS) personnel appear to be doing absolutely nothing. Could the Minister promise the House that he will get the KWS to begin keeping elephants in the forests where they belong? Otherwise, I am afraid our people will get very anxious and they may resort to old tactics of getting rid of elephants.

Maj. Madoka: Mr. Deputy Speaker, Sir, I would like to assure the hon. Member that we are doing our best to try and keep the elephants out of these particular areas.

Mr. Kihara: Mr. Deputy Speaker, Sir, could the Minister consider allowing cropping of some of these animals because, like in Naivasha, zebras have become a major menace to farmers? These animals are like domestic animals and they are all over the place.

Maj. Madoka: Mr. Deputy Speaker, Sir, I would like to request the hon. Member to liaise with the KWS, because that is something which can be considered.

Mr. Twaha: Thank you, Mr. Deputy Speaker, Sir. Earlier this year, hon. Kiunjuri brought a Motion to this House and it was passed. This Motion raised the level of compensation for deaths caused by wild animals; from Kshs30,000 to Kshs1 million. When will the Government bring a Bill to this House so that we can enact that into law?

Maj. Madoka: Mr. Deputy Speaker, Sir, I admit that we have not started doing that yet, but it is something which we will start doing.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, the Government is only concerned about wild animals and not human beings. Last week, a zebra died of natural causes in Kihato Village in my constituency, and the GSU from Ajurio Ranch terrorised the villagers the whole night. I would like to inform this House that a curfew has already been imposed between Narumoru Town and Namuria and the Minister is aware of that. Could the Minister borrow a leaf from India and use all the means and ways available to tame all the elephants so as to reduce animal-human conflict once and for all? Could he consider doing that?

Maj. Madoka: Mr. Deputy Speaker, Sir, that is a massive exercise, and I do not think I can give a positive answer at the moment.

Mr. Wamae: Mr. Deputy Speaker, Sir, some of these animals are kept in ranches by the White Settlers who make a lot of money by renting rooms to tourists in these lodges. Could the Minister make sure that the people who keep these animals in ranches compensate the farmers when their crops are destroyed?

Maj. Madoka: Mr. Deputy Speaker, Sir, that is something which we will have to look into.

DUTY ON MAIZE IMPORTS

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

(a) Is the Minister aware that Legal Notice No.80 of 21st June, 2000 imposed duty on maize imported to this country indiscriminately?

(b) What action has the Minister taken to reduce the tariff to conform with PTA rates?

The Assistant Minister for Finance and Planning (Mr. Arap-Kirui): Mr. Deputy Speaker, Sir, I had earlier on agreed with Mr. Parpai that we defer this Question so that we can give him more up-to-date information, because there has been quite a bit of movement recently regarding this subject.

Mr. Deputy Speaker: Mr. Parpai, do you agree?

Mr. Parpai: Mr. Deputy Speaker, Sir, we have agreed, but when will the Question come up again?

Mr. Deputy Speaker: The Question is deferred to Thursday, next week.

(Question deferred)

SAFETY OF KENYANS IN COTE D'IVOIRE

(Mr. Nyauchi) to ask the Minister for Foreign Affairs and International Co-operation:-
What steps has the Government taken to ensure that Kenyans living in Cote d' Ivoire are not in any danger, in view of the current political upheaval in that country?

Mr. Deputy Speaker: Mr. Nyauchi's Question is also deferred to Thursday next week, because he is out of the country.

(Question deferred)

POINT OF ORDER

MOTION FOR ADJOURNMENT:
MEMBER DID NOT SEE THE SPEAKER

Mr. Mwenje: Mr. Deputy Speaker, Sir, I beg to move a Motion to adjourn this House under Standing Order No.20(1) to discuss a matter of national importance concerning the state of affairs in the Nairobi City Council (NCC). The services of the NCC are now on the verge of collapse. The image of our Capital City is now at stake. I consider that I have the necessary number of hon. Members to support my Motion so that we can now adjourn the House and discuss the matter.

*(Mr. Mwenje asked hon. Members
to stand up in their places)*

Mr. Deputy Speaker: Order! Hon. Mwenje, you have no mandate to direct the proceedings of this House from that chair or any chair!

I would like to say that this matter was, in fact, brought to the attention of the Speaker yesterday. Hon. Mwenje had an appointment with the Speaker this morning. The Speaker waited for hon. Mwenje, who did not turn up at the appointed time.

Hon. Members: He is very busy!

Mr. Deputy Speaker: He may be very busy, so is the Speaker! Unfortunately, the Speaker had to leave for the "Good Governance Seminar" at the Kenya School of Monetary Studies. So, he could not wait for hon. Mwenje any more. Now, Mr. Mwenje wants us to discuss the NCC; that it is about to collapse, but he really has not told us what will make it collapse tomorrow, if it has not collapsed today. Really, I must take a decision as to whether that which is purported to make it collapse, unstated as of now, is enough for us to adjourn the House to discuss it. Hon. Mwenje, you have to do better than that. I gave you an opportunity to tell the House what is going wrong in the NCC so that I can take a decision as to whether to allow your Motion; even to go to the point of those 15 hon. Members standing to support it. So, really, the Standing Order goes further and says a lot more than just asking for 15 hon. Members to support it. It also requires my approval and you had an opportunity to discuss that with me this morning, which you did not.

Mr. Mwenje: I did!

Mr. Deputy Speaker: You did not! As of now, I do not know what will make the NCC collapse. If I am not convinced that the NCC will collapse, I cannot be convinced that it is a matter that requires adjournment of the House. I, therefore decline.

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. You are aware that yesterday, we discussed the matter with the Speaker. We agreed that the matter will come today. But he was not in the House. In the absence of the Speaker, I saw the Deputy Speaker. We agreed with him that, if I can be supported by 15 Members, the matter will be discussed. The matter is of definite national importance. The stealing in City Hall is still going on as we speak here! It is so urgent that unless---

Mr. Deputy Speaker: Order! The sting of your emotion is that the City of Nairobi is about to collapse!

Mr. Mwenje: There is no water now!

Mr. Deputy Speaker: Order! I have already ruled that I will not allow that Motion!

Next Order!

Mr. Mwenje: Mr. Deputy Speaker, Sir, you are contradicting your own ruling!

Mr. Deputy Speaker: I did not make any ruling! I asked you to go and find the Speaker! I asked you to send the notice to the Speaker. That is what I told you in my office this morning. But, naturally, you did not find the Speaker because you did not keep the time appointed for your meeting. Thereafter, you did not come back to me! If you had raised it properly, I would have given you the [Mr. Deputy Speaker] indulgence. But you have not done it properly.

Next Order!

BILLS

Second Reading

THE FINANCE BILL

*(The Minister for Finance on 31.10.2000)**(Resumption of Debate interrupted on 1.11.2000)*

Mr. Mwenje: Mr. Deputy Speaker, Sir, I was on the Floor!

Mr. Deputy Speaker: Proceed!

Mr. Mwenje: Mr. Deputy Speaker, Sir, although I will contribute to the Finance Bill very unhappily because of your earlier ruling, which was inconsistent with what we had agreed earlier, I will still contribute. But I wish to say that, as I contribute to the Bill, I hope we will discuss the matter on Tuesday. I hope the Speaker will agree that we should proceed on Tuesday.

But, nevertheless, let me contribute to the Finance Bill. As I was saying yesterday, a lot of revenue is collected and misused. A big portion of the revenue is misappropriated. That is a very unfortunate situation. If you go to a hotel and order for any food, you will notice that there is "Service Charge" on the bill. Service Charge on a cup of tea can never be controlled. You will never know how many cups of tea have been sold. Unless there is somebody to check what comes out of the kitchen - like what happens in a bonded warehouse - nobody will know how much has been sold and how much Service Charge has been collected. The Minister for Finance must design a way to find out how much Service Charge is supposed to be paid.

Mr. Deputy Speaker, Sir, nobody knows how much Training Levy is collected or spent. It is collected in various classes of hotels, but who checks to know how much it is? The Minister for Finance must design a system to know how much Service Charge and Training Levy is collected and how those taxes are used.

Mr. Deputy Speaker, Sir, I would like to refer to Clause 98 of the Banking Act, where the Minister proposes to amend or repeal Section 9. If particular banks want to amalgamate, they will need the Minister's permission. That is controlling business where it is not necessary. If I decide to enter into a partnership with Mr. Speaker in any business, I do not need to consult the Minister for Finance. I do not see the need for a consent from the Minister for Finance. I do not agree with that issue. If banks want to amalgamate, let them do so. After all, that is what most banks in the world are doing. The other day, the ABN Bank amalgamated with the Amro Bank and became the ABN-Amro Bank. It is now a very strong bank. It is for that reason that many banks have collapsed. They have not agreed to amalgamate with other banks. I feel it is important to let free those in business to do their business. Let them amalgamate.

Mr. Deputy Speaker, Sir, in the same vein, Clause 97 of the Finance Bill deals with insurance companies. The insurance companies in this country have let us down. They do not pay claims. There are so many individual and company cases pending in courts. The Minister needs to check why that is happening.

Mr. Deputy Speaker, Sir, before I conclude because my morale has gone down, when it comes to bouncing cheques, I do not think it is good to make that a criminal offence. Why does the Minister think that criminalising it make things better? The Minister knows that if you obtain money by false pretences, the CPC will take care of that. Why does he want to make it criminal now? That provision is put there to fix politicians! There is an intention to put that provision in the Bill. We know that it has been used before and will be used now and in future. We will have to amend that. If you give a cheque in an Harambee and it bounces, what do you obtain by false pretence? Why must you be penalised for that? I may even decide it was not worth it and withdraw the cheque. So, let the Minister for Finance know that we cannot allow such a thing. Whoever brought that idea, whether it was the Minister or the Ministry officials, it had political intentions. We should never allow bouncing of cheques to be criminalised in this country. Professionally, I am a banker and I know how many cheques bounce. They bounce, not necessarily because somebody wanted them to bounce, defraud or did not have the money. There are so many reasons why a cheque can bounce.

Mr. Deputy Speaker, Sir, sometimes the signatures differ, or an overdraft may not have been arranged for and all such kind of things. If somebody wanted to victimise you, he will say that you drew a bouncing cheque and he will criminalise you because of that. Who does not draw a bouncing cheque? Sometimes even banker's cheques bounce! I have been a banker and I know that even banker's cheques can bounce, either because the signature differs or the arrangement was not proper. So, let the Minister know that, in this country, we can never allow the criminalising bouncing of cheques. I want to warn my fellow politicians that this is a trap! One day, you will all be caught in it. I do not want to dwell much on that, but let us follow the normal procedures of the CBK where, if you obtain a bouncing

cheque, then of course, you will know what to expect.

Mr. Deputy Speaker, Sir, this Bill contains a lot of amendments. Some are good while others are bad. I hope that when it comes to the Committee Stage, we will be able to amend some of the Clauses, including the one which deals with the roads funds so that we can operate properly.

Finally, it is up to the Government to collect revenue and spend it well. But it does not do that at all. Even if revenue collected, it is misappropriated the following day and, therefore, it does not serve us in any way. This is the order of the day in this country. Therefore, let the Minister know that while we allow taxes to be collected, we will no longer allow money to be misappropriated, whether in the Government, in the local authorities or anywhere else. We will say "no" and continue saying "no" and we will follow all those who are stealing public funds. Even if it is not by this regime, they will be followed by a future regime. Who knows whether I will not be the President at that time?

With those remarks, I beg to support.

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Muchilwa): Thank you very much, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Bill.

Mr. Deputy Speaker, Sir, the collection of revenue, after the publication of the Finance Bill, is not the problem. The problem is what happens to the money after it has been collected. We do not seem to get our priorities right. If you go to the streets, or the countryside, and ask wananchi what they want most, they will tell you that what they really yearn for and want most, is the reduction of poverty. Wananchi want to eat and they want to have money in their pockets for medical care. They want to pay school fees and college fees for their children. After they finish those financial commitments, they want to see their children get some gainful employment. That is what wananchi want, not retrenchment of their children. In short, Kenyans are yearning for economic recovery. They are not interested in political rhetoric; neither are they interested in very good plans that cannot be implemented.

Mr. Deputy Speaker, Sir, economic recovery is not possible if there is no enabling environment that facilitates wananchi to produce goods and services for their well-being. The enabling atmosphere can only be brought about by the Government. That is the purpose of taxation; so that the Government can have the money to provide an enabling environment. If economic recovery is what wananchi want, and if it is what we all want, then why do we not make it possible through allocation of resources? The country is going through one of the worst droughts in living memory. Drought has affected all aspects of our economy. I am happy that the Government responded in only one sector by trying to help wananchi and this is in the industrial and commercial sector. At least, the Government borrowed money in order to boost power supply. But that particular sector is very small compared to agriculture. In this House, we keep saying that agriculture is the mainstay of the Kenyan economy because it is responsible for 80 per cent of employment opportunities and accounts for approximately 50 per cent of the Gross Domestic Product (GDP).

Mr. Deputy Speaker, Sir, I am not saying that it is bad to assist the power sector, but why do we not help the agricultural sector? If this is the mainstay of our economy, why have we not made efforts to prove that we really want that sector to come up? I am sure those of you who have travelled from Kisumu have seen the devastation of agriculture along the road in the areas just before Naivasha and even up to Nairobi. Farmers planted their crop twice and they lost all of it. If anybody wants to view the rest of the country, he or she can go by helicopter and see the devastation. Farmers have lost everything. They have lost money which they borrowed from banks at very high interest rates. The ranch owners have lost a fortune. Here in Nairobi, pretty soon, the population of cattle will be equal to that of cars. The cattle come from ranches which have been financed by somebody and that means very heavy losses.

Mr. Deputy Speaker, Sir, when farmers make such losses, and there is no organisation that can come to their aid, how do we expect our economy to pick up? An institutions which used to help farmers failed. But why did it fail? The Agricultural Finance Corporation (AFC) failed because it was financing a sector that, by its very nature, must make losses. This is because when you have a drought, like the one we are having now, farmers will not pay the credit extended to them by the AFC. So, if you turn to the AFC and tell them "you must make a profit", you will be joking. So, it is time we stopped joking and really addressed these problems.

Mr. Deputy Speaker, Sir, there were institutions which used that to help farmers, like Kenya Meat Commission (KMC), which failed because of the same reasons. It is a shame to hear that the Minister who was in charge of the Ministry of Lands and Settlement took 1,000 acres of KMC land. That is a shame! The land should be taken away from him! That Minister was notorious for doing all sorts of bad things. I know of Government houses that he took, one of which belonged to a nurse at Kenyatta National Hospital. He took this house and gave it to his daughter and also gave another one to his secretary. When such things happen, they should be corrected. I hope the present Minister for Lands and Settlement will take corrective action in order to revive institutions like the KMC. It is more expensive to have these cows dying, and then we rush to help those Arid and Semi-Arid Lands (ASAL) and so on with borrowed food and food bought from elsewhere, than to spend some money to help those people by resuscitating the KMC and taking other remedial measures that can help them.

Therefore, the Government should promise to write off all loans given to AFC by the Treasury. This should

be done, so that the AFC can in turn write off loans that it had advanced to farmers in order to give them a chance to start again. If the Government wrote off Kenya Airways debts, which were individual ones, why then should it not help farmers, particularly knowing very well that it is through doing so that the economy can pick up? If the economy does not pick up and we have no food, and we are always rushing to go and beg for it somewhere else, we are just compounding the problem. We are good at spending money on security but the biggest security in any country is food security. This is because if people become hungry, then we will not be able to control them. It is meaningless for the Government to employ a lot of security personnel and pay them a lot of money to try and control these fellows, when prevention would have been better than cure.

The Government has even guaranteed loans for an institution like the Nairobi City Council which, as we have read in the papers, is buying commodities at ten times their original price. All these parastatals have gobbled a lot of money and the Government has written it off. It is important that the Government writes off money that it advanced to the AFC, so that the AFC can start afresh. It should write off the money it advanced to the KMC and also provide money to the National Cereals and Produce Board (NCPB) to be able to buy whatever grains the farmers produce. This year we have very little grain and, in Western Province, there is a lot of rain which has destroyed the grain although there is no market for it. Why can the Government not provide market for the farmers? These are issues which should be seriously addressed by the Minister for Agriculture and his counterpart, the Minister for Finance. They should show seriousness because unless they take these issues with the Government and cause it to deliberate on them and allocate resources, then we shall be seen as mere jokers.

Mr. Deputy Speaker, Sir, I know when I say that loans should be written off, there are those who hide under the pretext that the World Bank will object and begin castigating Harold Wackman and the IMF and paint them black. Those are not good excuses. If we go and explain this to Harold Wackman and his team, and he is here to see our problem, he will help us and see to it that our agricultural sector is protected. We will realise that by helping the farmer, and doing certain things, like they did a good thing and rushed to help us in the power sector, then we will be okay. So, we should not, as a Government or as Kenyans, begin castigating those who are helping us; like the IMF. We should think about the problems and blame ourselves, if we are not performing.

Mr. Deputy Speaker, Sir, let me talk about the sugar sector. Sugar is now a rare commodity and some sugar mills have closed down because of lack of cane. However, if you look at it, you will realise that the fault lies squarely with us. The other day, a Member of Parliament, for the second or third time, talked about idle land and said that the Government should tax all idle land. That is a big joke! In Nyanza Province, and Western Kenya where I come from, and particularly the Nyanza Sugar-Belt--- I am talking about Kibos, Chemelil, Miwani, Sondu, Muhoroni and those other areas, there is a lot of idle land. The land is idle because there is no money to develop it. The AFC, which was giving money as I said earlier, is no longer being supported. So, in fact, the AFC is being pushed to try and sell farmers' land because it has to generate money. Those farmers, quite apart from lacking money to develop the land, when they develop the land, have no market because the cane crushing capacity in those areas is not there. Who is going to help to create this enabling atmosphere in order to enable Miwani to begin crushing cane, get Muhoroni back on its feet and to relieve Chemelil from getting all the cane from Nandi and elsewhere, to the extent where they cannot cope? These are the reasons why we ended up with the problem of having no cane. If a farmer can grow his cane and take it to a factory and crushes it and then after crushing it, they sell their sugar and they give him nothing, where is he going to get the money from to grow more cane? These are very important issues and they touch on the economy of this country. So, if we are saying that we want our economy to pick up, and if we write good papers, it is not enough to write those papers and talk because Kenyans are not interested in that talk. We should borrow money the way we did for the power sector and let it be applied to enable farmers to also pick up.

With those few remarks, I beg to support.

Mrs. Mugo: Thank you, Mr. Deputy Speaker, Sir. I rise to contribute to the Bill before the House. It has been on record that Kenya is among the most highly taxed countries in the world. It is also on record that Kenya is among the countries with the lowest standards of living. It is also on record that Kenya is one of the poorest countries where more than 50 per cent of the people are living below the poverty line. Those are statistics which do not tie together. So, for a country which is so highly taxed, we should witness service delivery to meet essential needs which are normally the factors which determine the level of poverty. Poverty is mainly measured by the lifestyles of people, their access to basic needs such as education, health, shelter and the infrastructure that is available in the country to foster economic growth. Those are the areas where the taxes in normal countries, with normal governments, are utilized.

Mr. Deputy Speaker, Sir, I think it is time we, as Kenyans, started asking loudly, and expected some answers from the Government, as to where the taxes go. If our people are highly taxed and then we look at the education delivery or availability or accessibility of education by Kenyans--- It is quite clear that a lot of our children are not going to school, since their parents cannot afford school fees. It is also clear that we have a shortage of schools. We

have a lot of informal schools which are subsidised by either churches or private people and not really funded by the Government. Where does that money meant for education go? This is one of the areas where we should see some improvement. We know of some developing countries, like Nepal, where there is universality of education. Every child, from poor or rich family has access to education. This is because education in that country is subsidized. That is what we should be seeing in our country; taking into consideration that we have a lot of industries, especially multinationals that pay the Rebate Tax and Kenyans are heavily taxed.

Mr. Deputy Speaker, Sir, another area which I would like to address myself to is health care in this country. We do not have enough hospital beds. Our people cannot access the few hospital beds that we have because of cost-sharing which is out of their reach. Our people are so poor. About 50 per cent of our people live below the poverty line. It is sad that we expect them to cost-share for medication. Where do you expect them to get money from to pay for their medication? In essence, this means that the Government has signed their death warrant; that they should die because they cannot access medicine, and yet the taxes have been paid. I think the Government should tell us where they take all these taxes that we pay to them. We can analyze all sectors because they are all in a bad state. For example, we have bad infrastructure, roads, sewerage systems and street lights. It is a pity that in the slums there is absolutely no infrastructure. They have no water, street lights and roads. I even wonder sometimes, whether this Government ever thinks of the common persons. It is ironical to tell us that it is the same people who sustain this Government. What happens to the taxes that they pay? Who is supposed to think about those poor people living in the slums? Does it mean their lives do not matter? The very high taxes we pay, and which are supposed to feed this country, eventually end up in some people's pockets. When will these pockets be full?

Mr. Deputy Speaker, Sir, when we talk about poverty in this country, I think food poverty is the worst. It is shameful that most Kenyans cannot afford even one meal in a day and yet, the Ministers are proud to fly flags and even to have time to celebrate national days. We spent so much money on those national celebrations, while Kenyans cannot afford a single meal in a day. Instead of spending these taxes to feed Ministers and other privileged people at big banquets at State House on national days, we should just go to a parade and remember there was a national day and go home and spend some of that money on a Famine Relief Programme until the famine is over.

Mr. Deputy Speaker, Sir, taxes are paid to alleviate suffering and ensure delivery of services to the citizens of this country. But what we see are Ministries buying the newest models of vehicles even before the earlier ones have been put to good use. There is very high expenditure by the Executive; Ministers and top civil servants. Why can we not spend that money on the ordinary wananchi at least to make their lives a bit comfortable?

Mr. Deputy Speaker, Sir, water shortage has become a very serious problem in this country. We have always had this problem, but now it is acute. It is sad that the Government promised to provide Kenyans with clean water by the year 2000. However, come the year 2000, water has disappeared. There is no water in our homes, not even dirty water for that matter. Women are spending long hours looking for water. The other day, we went to Ukambani and we saw women trekking for miles looking for water, instead of spending their time on productive activities. Now, even women in Nairobi and other urban centres are also spending most of their time looking for water. This is because this Government has failed completely to plan for the taxes we pay. It is time that the Government thought afresh on how to ease the suffering of the ordinary wananchi; even if this will be done at the expense of all the comforts of Ministers, top civil servants and other parastatal bosses who have run down their institutions. The Government should not continue injecting money into these parastatals because their chief executives spend that money on useless luxuries instead of productive work that will create wealth in this country.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, the payment of land rates has hit people very hard, especially in my constituency. Dagoretti Constituency is a peri-urban constituency. It was transferred from Kiambu, in Central Province, to Nairobi Province. Most of the land there is inherited. Most people have big acreages of land because they have a rural setting. Since we became part of Nairobi City Council, my people have been receiving exorbitant land rate demands. We are not able to pay those rates. Some of my constituents are now supposed to pay over Kshs1 million as land rates and yet, their land is dormant. There is nothing on this land. There are not even street lights, tarmac roads and water to justify those rates. So, I do not know how they are expected to pay those land rates. I would request the Minister for Finance to consider those taxes levied unfairly on people who do not receive any service. There is no garbage collection in that area. Therefore, we have absolutely nothing to show that we are part of the City other than the name. The only thing my people can do with the land is to plant crops when it rains. But with all Karura Forest

grabbed and all trees cut down, we get very little rains these days. Those people are not able to pay those rates, unless somebody wants to grab their land and sell it illegally. I would like to appeal to the Minister for Finance to reconsider those land rates and lower them to figures that people can pay. I appeal to the Nairobi City Council to provide us with roads, water and electricity, so that we can then build rental houses.

Mr. Temporary Deputy Speaker, Sir, the residents of Dagoretti Constituency contributed the required 10 per cent towards the Rural Electrification Programme. There are about ten groups who paid their money to the KPLC. The Ministry pledged to pay 90 per cent of its share towards this project in Dagoretti, but two years later, there is no electricity. I think this Government is taking our people for a ride. What have they done with this money? We should either have it refunded or be supplied with electricity. We should have electricity because we deserve it.

Mr. Temporary Deputy Speaker, Sir, in Dagoretti, we have the biggest abattoirs which have been supplying meat to this City since the collapse of the KMC. The people who own those slaughterhouses pay a lot of money in form of taxes, rates and other levies, but nothing ever comes there. There is no proper waste disposal system. The Minister for Environment visited the area after there was a hue and cry because children were dying. The river is so polluted. We were so happy that something was going to happen. I even went to the Minister's office because of that cry of the people. Up to now, the traders keep on paying the rates for this service but nothing is being developed for them. Could we have hygienic abattoirs? Could we also have a proper waste disposal system provided since the people of Dagoretti pay for these services? All the taxes go into that hole which never gets full. I am glad the Minister is here and he is shaking his head, admitting that it is true. This has been happening for the last two years. Where does the money go? People continue to pay rates and there are no services. So, I would request the Minister for Finance to make sure that people get services for the rates that they pay. We are tired of just paying for a few people's comfort. We want our citizens also to enjoy the sweat of their work.

Mr. Temporary Deputy Speaker, Sir, it is very sad that after all these years, the Government has failed to prioritise what is really important to the citizens of this country and not just to a few people. We would like to see more money being used to provide security for the citizens of this country and for training our Police Force. There is a hue and cry because sometimes we do not know who really are the police and who are the robbers. The Minister of State, Office of the President, is proud that he is heading the Police Force. This Department falls under the Office of the President. The President should be proud to have a disciplined Police Force. We should be able to ask a policeman for help the way people do in London. However, we cannot do that here because of fear. They might even rob you. This is very serious. The police say their uniforms are stolen and used by criminals. So, when something wrong happens, it is not the police who are guilty; it is the criminals who are using the police uniforms which were stolen. This has to come to an end. The taxes collected from the people have to be put to proper use, and one such use is provision of security.

The business people in my constituency cannot even do their work. They pay their rates and other taxes but the same police officer, especially the ones from Muthangari Police Station, are notorious. They go round collecting Kshs500 from each person to avoid being harassed. Are they being taxed twice? Do we have an official tax and another under the table? I hope the Minister will make sure that it is only him who collects taxes. We need retraining of the Police Force to do away with all these kangaroo courts where the youth are rounded up before they can even get home. If one is paid Kshs200 as a casual worker he has to part with it by bribing the policemen on the way. What are we then paying taxes for?

Mr. Temporary Deputy Speaker, Sir, law and order has broken down in this country and it is up to the Government to use the taxes it collects to restore back law and order and revive the security machinery. Women are being raped. A few minutes ago we were talking about young men dying as a result of drinking power alcohol. This alcohol is brewed in Naivasha but somehow it finds its way to Central Province. It passes all the road blocks on the way without being noticed. Corruption is killing this country. This problem arises because corruption starts from the top to the bottom. We would like to see the Executive and Cabinet Ministers clean from corruption, so that they can control the bottom. But we cannot clean the bottom unless we clean the top.

Mr. Temporary Deputy Speaker, Sir, the priorities are completely wrong. In fact, I think the Government should be taken for a refresher course, if there is such a thing. The top officers, including Cabinet Ministers, need a seminar to re-educate them on what their responsibilities are, because authority goes with responsibility. They cannot have their cake and eat it. They should fly the Kenyan flag because they are serving wananchi and not because they are serving their own interests. But considering that most of our leaders have no conscience whatsoever, I do not think they deserve those ministerial flags at all. It is high time wananchi rose up and demanded to know where their taxes go. They can refuse to pay those taxes if they feel their interests are not being served and thus bring this Government to its knees. This is possible! It is those taxes that keep this Government in power and they do not care to serve the people whatsoever. I am speaking like this because I probably represent one of the hardest-hit constituencies. I do not know why the Minister for Finance, and others, have completely forgotten us. In Dagoretti, we have not seen water for more than a year. In other parts of Nairobi, it is only recently that the taps dried up. There is no development that we can

talk of in Dagoretti and yet, we continue paying taxes. I think it is about time I told my constituents to withhold that tax. Maybe, we can run our own services. It is like we do not need the Government any more. What good does the Government do? We do Harambees for the hospitals, schools, medicine and everything else. We used to do Harambees only for building churches, while other services were provided by the Government. It is the Government's responsibility to provide such services.

Mr. Temporary Deputy Speaker, Sir, a lot of Kenyans are going through untold suffering. The very least this Government can do is to put aside some of the money that is earmarked for these numerous presidential trips abroad and spend it on the people. I never see what we get out of most of those trips. They cost so much because a whole lot of Ministers and other favoured people accompany the President just for the joy ride. The Government has to decide on its priorities. I think the President should cut down on his foreign trips unless they are absolutely necessary. We were shocked by the treatment the President got in Washington some time ago when he visited that country. He did not even see President Clinton. What is the use of these visits? They just misuse money for things which are not necessary.

We can do our things here instead of going to beg out there. So, the Government should recover the money that the Pattnis and Somaias have stolen from this country. We should concentrate on recovering what has been stolen here by the Pattnis, of this world. The on-going court cases in connection with monies that have been stolen from public coffers by Ministers and other Government officials, should lead to the recovery of that money. If this is done, it will not be necessary for us to go on begging missions. It is shameful for a whole President to go out begging on behalf of Kenya! The Minister for Finance is trying very hard to correct the situation, but he is surrounded by very dubious characters.

Mr. Temporary Deputy Speaker, Sir, before I sit down, I would like to call upon the Government, from now onwards, to evaluate projects it intends to involve itself in. Completion of Government projects countrywide has been to the tune of 3 per cent. It would be a waste of public money for the Government to start any new projects. This country has many street children. I am worried, because I have not seen them in the streets lately. I do not know what has happened to them. Although they live in the streets, those children are ours; they belong to this country even though we have failed to take care of them.

There is a stalled Government housing project along Thika Road. Those buildings were meant for the defunct Nyayo Bus Service Corporation. The NBS was another Government "disaster", which consumed a lot of public money. Also, there are Government houses along Limuru Road, which have not been occupied; there are about three housing estates, whose buildings have been lying idle for a long time.

Could the Minister for Finance find a little money - some of the money that is being wasted left, right and centre - with which we can establish a training programme for street families, so that those children can become useful citizens? Their street mothers will, definitely, cook for them. Such a programme will not cost a lot of money. The money the Government collects in taxes is enough to look after street children in this country. We have watched television clips, where street children were being bundled into lorries. We, Nairobians, would like to know where our children are being taken. We hope that they are not being slaughtered somewhere in order to get rid of them from the streets.

This is a very serious matter; those children are ours even though they live on the streets. I propose that the Minister finds a little money to take care of their welfare. There are many mothers without jobs, who can be employed to look after those children very cheaply. We have many university and secondary school graduates who can teach the street children at very minimal fees, so that they, too, can become responsible people. I can see that the Ministers are not even interested in listening to what I am saying; they do not care whether those street kids go to hell or die.

I hope the Government will now start taking Kenyans' lives as important, be it that of a street child or not; all lives are important. Street life is most difficult for girls. We should have girls removed from the streets to one of the children's homes and looked after. Street girls are tomorrow's mothers. Whether we like it or not, those girls will bear children. What shall we do with them? Will we, again, take them to wherever the current street children are being taken?

In conclusion, I would like to ask the Minister for Finance to look into this country's prisons. Prisoners have their fundamental human rights. It is a pity that, in the recent past, this House voted against the private Member's Motion that sought the introduction of a legislation to abolish the death penalty. The abolishment of the death sentence would save this country a lot of the taxpayers' money used to keep death row convicts in prison for many years, doing nothing. I understand that the death sentence is no longer being executed; nobody, the President included, signs the relevant documents to have that punishment executed. Justice delayed is justice denied. The State does not have finances with which to keep prisons in clean and healthy conditions like in other civilised countries. The Minister for Foreign Affairs and International Co-operation will agree with me on this issue. We travelled to some developed countries and saw how clean the prisons are out there. In civilised countries, you would not know that one is a prisoner.

The Minister for Finance must avail some money to be used to make prisons all over the country, especially women prisons, liveable. With the prevalence of the HIV/AIDS virus, it is terrible for convicts to continue living in the current conditions in prisons. Those are some of the areas I feel the Minister has failed to put taxpayers' money into, to serve Kenyans. A Minister said that convicts are not on holiday. I would, however, like to remind him that as long as those convicts are in prison, it is the Government's responsibility to look after them well. We pay taxes, so that Kenyans can be served well. Prisoners, too, have lives; the Government owes them service and decent living.

It is my hope that the money we are about to approve, through this Bill, will be used in the areas intended. The Government should stop wasteful spending. We should put our hearts where our minds are, and our actions where our speeches are. We have noted that the Government's actions portray a completely different picture from the commitments it gives here.

With those few remarks, I support.

Mr. Achuka: Bw. Naibu Spika wa Muda, Mswada huu unahusu pesa. Pesa ni kitu ambacho kukizungumzia hapa ni kama kupoteza wakati wetu. Kwa mfano, miji katika serikali za wilaya, pamoja na Jiji la Nairobi, imezoroteka kwa sababu rasilimali za miji hiyo zimefanywa kuwa mali ya watu binafsi. Wananchi kote nchini wanabebeshwa mizigo kwa manufaa ya watu wachache. Wao hutozwa kiasi kikubwa cha ushuru wa mapato bila kupata huduma zo zote. Nchi hii iko na shughuli nyingi za kiuchumi, lakini shughuli hizo zimefanywa za kuwanufaisha watu binafsi. Eti wanasema uchumi utarekebisha na kutakuwa na maendeleo, lakini hakuna kitu ambacho kinaendelea katika Kenya kwa sababu mpaka wakati huu maendeleo yote ya nchi yamekwama na kuzoroteka.

Bw. Naibu Spika wa Muda, kwa mfano, ninaposimama hapa, nasikitika juu ya hali ya barabara kati ya Marich Pass na Lodwar Town, ambayo ni kama kilomita 200. Barabara hiyo imekuwa tisho kwa wananchi ambao wanasafiri kati ya Kitale na Lodwar. Haipitiki kwa sababu imebomoka, na ni miaka karibu minne sasa, na hakuna kitu kinachofanywa ili kurekebisha hiyo barabara. Mimi, kwa niaba ya watu wa Turkana na Kitale, ningemuomba Waziri anayehusika na mambo ya barabara atueleze ana mipango gani kuhusu hiyo barabara kati ya Marich Pass na Lodwar, kwa sababu imekuwa mkasa mkubwa. Watu wachache ambao wako na pesa wanasafiri kwa ndege na wengine wanataabika. Hata mimi mwenyewe kama Mbunge, badala ya mimi kusafiri, naishi karibu na Kitale. Ukisafiri kutoka Lodwar kwa gari na kuja mpaka Nairobi, ukifika Kitale, kwa sababu ya barabara mbaya, gari hilo litakuwa limeharibika na ni lazima lirekebisha. Kila sehemu ya gari hilo itakuwa imevunjika na gharama ya kurekebisha ni kama Kshs40,000. Inatulazimu sisi kusafiri kutoka Lodwar mpaka Lokichoggio ndio tupate ndege ya kusafiria mpaka Nairobi. Karibu kila mtu sasa anatumia hiyo mbinu ya kusafiri. Hata watu wanaomba kuwe na safari za ndege kutoka Lodwar mpaka Lokichoggio ili mtu ambaye anajiweza asafiri kwa ndege mpaka Nairobi. Wakati mwingine tunasafiri kutoka Lokichoggio mpaka hapa Nairobi ili tuweze kwenda Kitale, Nakuru na kurudi mpaka hapa, kwa sababu barabara ya kutoka Kitale kwenda Lodwar haipitiki na ina mashimo mengi. Barabara hiyo ni kama mtaro.

Sijui kama wale ambao wanahusika na kuangalia maslahi ya wananchi wanajua hali ya barabara hiyo au la. Sasa, shida inayotokana na barabara hiyo itaendelea mpaka lini? Hakuna pesa hata kidogo ambazo zimetengwa na kupewa yule ofisa wa barabara katika Wilaya ya Lodwar kwa kufanya kazi ya kurekebisha au kurudisha mchanga kwa hiyo barabara? Hata hivyo haifanyiwi chochote na hiyo barabara inakaa namna hiyo. Kwa sababu ufisadi bado unaendelea, hakuna kitu ambacho kinafanyika. Halafu tunasema tunaendelea kumaliza ufisadi. Ufisadi bado unaendelea mpaka sasa kwa njia kama hiyo. Kama pesa ambazo zinatengewa wilaya zingetumika sawa sawa, ingekuwa afadhali kidogo kwa sababu, baada ya mwezi moja, kungekuwa na urekebishaji wa barabara zote. Lakini pesa hizo zote zinawekwa kwa mifuko ya watu na hatujui ni nani anafanya hivyo.

Mimi niko na shaka kwani kule Turkana hakuna uchunguzi wa haki unaofanywa. Zile pesa zote ambazo zimeletwa katika Wilaya hiyo ili kufanya maendeleo ya wananchi, zinatumiwa vibaya. Nasikia hata mafuta yanatolewa kutoka Lodwar na yanapeleka Kitale, Busia na Bungoma halafu barabara inabaki vivyo hivyo. Kwa hivyo, mimi ninamuomba Waziri ambaye anahusika achunguze mambo hayo kwa sababu hakuna pesa hata kidogo za ukarabati wa barabara. Mimi ninasikitika sana na wananchi wanalia sana, lakini hawana la kufanya. Hii ni kwa sababu ukienda ofisi zote, utakuta wameziba masikio; ni kama watu ambao wako na mipango na wanajua kinachoendelea. Watu wachache wanajua vile wanazitumia pesa zinazoletwa Lodwar, na wananchi wanabaki wakilia.

Kwa hivyo, tunapoteza wakati tukisema ya kwamba tunatengeneza uchumi. Kama kuna mbinu nyingine, yafaa iletwe ili kuwe na haki na ukweli, na tuone ya kwamba pesa zote za wananchi, zikiwa ni za mashirika, serikali za wilaya na kila taasisi zote, zinatumiwa sawa sawa. Lakini kama hakuna mpango kama huo, sisi tutaendelea kudidimia na tutakwisha.

Kwa hayo machache, mimi sina maneno ya kusema.

(Laughter)

Mr. Mwiraria: Thank you, Mr. Temporary Deputy Speaker, Sir. Let me make some brief comments on the Finance Bill before the House. I want to start off by commenting on the Value Added Tax (VAT), at the rate of 18 per cent, which is far too high for the ordinary mwananchi in Kenya. But what makes matters worse is that the VAT does not discriminate. Everybody - the rich and poor - pays the VAT equally. However, in the present Bill, there is discrimination against the poor. For instance, the *mitumba* industry is subjected to 18 per cent VAT whereas rally cars and rallying motorcycles are exempted from the VAT.

Anybody who can afford rally cars and motorcycles can afford to pay a little bit of tax. At the moment, the state of affairs in the country is such that people are extremely poor. The Government is going too far by taxing the only clothing which people can afford, that is the *mitumba* industry. At the moment, we are talking about poverty alleviation. If there is one industry which is helping alleviate poverty, it is the *mitumba* industry. Not only does it provide clothing, but it also provides a lot of work for very many people. My prayer is that the *mitumba* industry should be included under clause 37 as an item that should be exempted from VAT. In addition, I think the Minister should bring to this House an amendment reducing the VAT from 18 per cent to 14 or 15 per cent because the levels are far too high for the present economic circumstances in the country.

Mr. Temporary Deputy Speaker, Sir, my second point is that this Bill does not take into account the fact that more than 80 per cent of our population is rural-based and depends on farming. The time has come for the Government to bear in mind the welfare of the poor people. In this Bill, under clause 51, the Government is increasing the Resident Personal Relief for Income Tax. They are increasing this relief for Income Tax, from Kshs9,600 to Kshs11,520. However, in the same Bill, nothing is being done about Presumptive Tax which is being charged to poor farmers who sell milk, tea, coffee, wheat, and maize. In all fairness, and in the interest of equity, the Government should once again amend this Bill, to give exemptions from Presumptive Tax, to farmers whose annual income does not reach the level of Kshs11,520 so that all the citizens get the same treatment. As of now the farmers are subjected to Presumptive Tax and they are completely ignored in this Bill, particularly the small-scale farmers.

Let me refer to another item. The Bill has removed VAT on items used for horticulture and floriculture. They are removing taxes from items used by the rich. My plea is that we should move an amendment to remove taxes on all agricultural implements, machinery and inputs such as the herbicides, fertilizers and so on, so that the poor mwananchi farmer can benefit as the Government [Mr. Mwiraria] wants to do with floriculture and horticulture. I think it is only Kenya which gives shabby treatment to its farmers and does not take an interest in feeding its people. If we cared to feed our people, we would remove taxes on all these items I have mentioned. We would provide credit at affordable rates and more importantly, we would consider bringing back the Guaranteed Minimum Returns Scheme for essential food crops.

A further point regarding farming is that the current drought has brought untold suffering and famine to many people particularly in Eastern and Central Provinces of Kenya. The rains have in a small way started in this region. Unfortunately, most of the farmers do not have seeds to plant. Although the Minister for Agriculture promised to provide seeds to farmers, as of now, nothing has reached at least Meru District where I come from. There is no point in providing relief food unless we assist our farmers to grow food. In this instance, I am appealing once again to the Government to provide seeds to the people of Eastern, Central and parts of the Rift Valley Provinces where there are no seeds at the moment.

My final point is on farming. Kenya needs to protect its farmers from imports of very cheap agricultural products from other countries. Today, in Nairobi, you can buy South African eggs at a cheaper price than you will buy Kenyan eggs. It is also possible to buy garlic onions from China. They are even cheaper than the garlic onions we grow in Kenya. It is immoral for our Government to throw open the floodgates so that agricultural imports come from every country to flood our market. The Government is duty-bound to look after the welfare of the farmer. We have a very different category of farmers. There are those who live and work in settlement schemes and those who bought their land through the Settlement Fund Trustees and are repaying loans.

In Timau area, the Lands and Settlement Permanent Secretary sent letters, which were received on 20th last month, to farmers who had fallen behind in the repayment of their loans, demanding repayment by 1st November - that was by yesterday - failure to which he was going to sell those small-scale holdings of five acres each. In an area where we know that during the last five years it has been completely impossible to grow any crop that can sustain the farmers for food, leave alone repaying loans, I think we are being very unfair to the poor farmers. So, once again, I would like to request the Minister for Lands and Settlement to take into account the fact that these farmers have been forced by circumstances, for example, drought not to pay their loans. He should stop closing in on them as stipulated in the letters.

Now, let me address a subject of great interest to all of us, that is the subject of domestic debt. In the Minister's Budget Speech, he promised us that by the end of this financial year, he was going to reduce the domestic debt by Kshs5 billion. At the time the Budget was read, the domestic debt stood at Kshs160 billion. As at the end of

September, that debt had gone up to Kshs165 billion. This is a clear indication that the domestic debt is going up instead of coming down. The main reason why I have raised it here is that the domestic debt is responsible for the very high banking interest rates in the country. If one looks at other countries, like Japan, one will realise that it has a very high domestic debt, but the rate of interest does not exceed 2 per cent. So, the point I would like to make to the Minister is that time has come for the Government of Kenya to put an upper limit to the interest the Government will be willing to pay on Treasury Bills. After that, the Government could start with 6 per cent. I am sure that this is feasible because investment in Government Bonds and Treasury Bills is perhaps the safest investment anybody, including banks, can make. If the Minister agrees to do this, he will reduce substantially the expenditure on interest payment on the domestic debt. If I may just give an example, in 1998/99, the Government paid over Kshs43 billion in interest rates alone. At the present rates of interest - that is 10 per cent or there about - that interest rate will come down to about Kshs16 billion. That means a big reduction. It is for this reason that I would like to propose that the Minister puts a lid on the interest rates for domestic debts in order to reduce Government expenditure and interest rates and revive the economy.

I will deal with revenue collection in my last point. We have discussed in this House the services of a company we call SWIPCO. This company is supposed to supervise pre-shipment inspection companies, which inspect goods and check on prices before those goods leave their countries of origin. In recent months, this company has become a kind of a supervisor to the Kenya Revenue Authority (KRA) officials. They appear to supervise the Customs and Excise Department, and they are not operating within their terms and conditions set out in the agreement. The agreement authorises them to inspect only 10 per cent of the Customs entries at any given point. At the moment, in some places such as Eldoret International Airport, they are inspecting 100 per cent of all the Customs entries. What is worse is that they charge the Government for what they inspect. During the last six months, they have been collecting on average of Kshs27 million a month. The arrangement between SWIPCO and the Government of Kenya is very suspect. In fact, it is like another Goldenberg. I am [Mr. Mwiraria] saying this because SWIPCO are the people who submit their invoices, not through the Customs, whom they inspect, but directly to the Treasury. The Customs people who were inspected and who know what has been inspected do not know what the Treasury pays to SWIPCO. This is a situation which should not continue and be accepted. You have a small group of about ten officials who just inspect Customs documents which have been filed by Customs officers and that small team is earning Kshs27 million per month. To me, that is throwing away good money after bad money. I therefore, propose that the SWIPCO arrangement be terminated when the current agreement ends in December.

Mr. Temporary Deputy Speaker, Sir, let me conclude by saying that the Bill, as it is at the moment, needs of course several amendments. I have proposed that clause 37, which deals with exemption from the VAT be amended to include *mitumba*, agricultural inputs and machinery so that the small-scale farmers can also benefit from tax exemption, which is being given to the wealthy, who deal with horticulture and floriculture.

In addition, I appeal to the Government to provide seeds, as a matter of urgency, to farmers in Eastern, Central and parts of the Rift Valley provinces because they are suffering from the effects of the current drought.

With those few remarks, I beg to support.

The Assistant Minister, Office of the President (Mr. Haji): On a point of order, Mr. Temporary Deputy Speaker, Sir. Now that we have discussed this Bill extensively, would it be in order to propose that the Minister be now called upon to reply?

Mr. Gatabaki: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is a very important Bill involving expenditure of billions of shillings. My colleague just stands up without contributing and wants to finish the debate. I would request that we have another one hour to debate this important Bill, starting with my contribution!

QUORUM

Mr. Kibicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is there a quorum in the House?

The Temporary Deputy Speaker (Mr. Musila): No, we do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Members! We have a quorum now.

Mr. Gatabaki stood up on a point of order after hon. Haji had proposed that the Mover be called upon to reply. The relevant Standing Order No.80(1) says: "Unless Mr. Speaker is of the opinion that such a Motion is an abuse of the proceedings of the House, or an infringement of the rights of Members, the question "That, the Mover be now called upon to reply", shall be put forthwith---"

It is the opinion of the Chair that, indeed, the Bill has been debated sufficiently. By putting the question, it will not be

an abuse of the proceedings of the House or an infringement of the rights of Members.

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

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

Mr. N. Nyagah: On a point of order, Mr. Temporary Deputy Speaker, Sir. I appeal to the Chair to give me a hearing so that this House can move together. This is something that requires consensus of the whole House. When we sat in the House Business Committee, we agreed that the debate will go on uninterrupted until Tuesday. But today, we are running into a crisis. I appeal to the Front Bench---

The Temporary Deputy Speaker (Mr. Musila): Hon. N. Nyagah, you are an experienced Member of this House. I have already put the Question. The Question has been carried. Now, are you asking me to revert back? If that is what you are asking, my answer is, no.

Mr. N. Nyagah: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum in the House!

The Temporary Deputy Speaker (Mr. Musila): Order, hon. N. Nyagah! There is a quorum. Proceed, hon. Okemo!

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

While noting with appreciation contributions that hon. Members have made during the debate on the Finance Bill, 2000, it is important to be cognisant of the fact that we cannot agree on all matters of public policy, since nobody has a monopoly of knowledge. I would like to record and acknowledge constructive deliberations by hon. Members in general, and by Members of the Departmental Committee on Finance, Planning and Trade in particular. As I emphasised in my Budget Speech, the main focus of Government policy is to implement policies that are aimed at bringing about a reduction in poverty through sustainable economic [**The Minister for Finance**] growth. I do not intend to respond to all issues raised during the debate on the Bill. I will only comment on some of them. However, all contributions have been noted for full evaluation and consideration.

Mr. Temporary Deputy Speaker, Sir, I have noted the sentiments of the hon. Members with regard to usage of the Local Authorities Transfer Fund (LATF) funds. Suggestions have been made that a committee be established to ensure proper use of those funds. Already, there exists a LATF Advisory Committee that advises on allocations and disbursement of funds to local authorities. We also have a LATF Monitoring and Inspection Team that oversees LATF spending by local authorities.

Mr. Temporary Deputy Speaker, Sir, issues have been raised on the multiplicity of licences to Central Government and Local Authorities. I wish to assure hon. Members that the Central Government does not collect any fees from the trade licences any more. Only local authorities issue trading licences. Hon. Members will note that the licences payable by professionals to Central Government through their professional bodies are now being removed.

Mr. Temporary Deputy Speaker, Sir, hon. Members have expressed concern over the Presumptive Income Tax. This tax was re-introduced in the last financial year, at the request of the farmers. The Government has no problem with the removal of such tax if it will serve better, the interests of the farmers.

Mr. Temporary Deputy Speaker, Sir, hon. Members have raised concern of not being involved in the budgetary process. The budgetary process normally start early in February, when we receive submissions from the private sector, Government institutions, parastatals and individuals.

Mr. Murathe: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister to say that the Government has no problem with the removal of the Presumptive Income Tax, instead of making an unequivocal statement on whether the Government will remove the tax or not?

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Speaker, Sir, I think hon. Members know that we will be taking decisive action on each clause of the Finance Bill at the Committee Stage. So, at that stage, it will be made extremely clear because if there is any hon. Member who may wish to proposed an amendment at that stage, it will be taken positively.

Mr. Temporary Deputy Speaker, Sir, the Budgetary process starts early in February and submissions from the private sector, Government institutions, parastatals and individuals are made then. In fact, some hon. Members have made submissions in the past. Every hon. Member is free to make contribution on the Budget, in any area, at any stage. I expect that, come next year, we shall have received a lot of contributions from hon. Members. Furthermore, the consultative process for the preparation of the full Poverty Reduction Strategy Paper will be commencing some time next week and a wide spectrum of stakeholders, including Members of Parliament will be participating. Many hon. Members expressed interest on the need to improve the management of public finances, the control of expenditures and

the elimination of corruption. I share these sentiments and we will do our best to address these issues. Already, we are making some progress in dealing with the whole area, for those who have been identified. The Treasury has recently introduced a new unit called the Budget Monitoring Unit which is charged strictly with the function of following up Budget implementation by line Ministries. We will consider all economic issues as we continue to address the challenges, which we have identified in order to jump-start the economy.

The Finance Bill contains various proposals that we discussed in detail in the Budget Speech. The proposals will be supplemented by the on-going public sector reforms, which aim for a leaner and more effectively focused public sector. Generally, the measures seek to improve the investments environment by maintaining a stable macro-economic environment, upgrading and rehabilitating infrastructure, improving economic governance, restoring healthy relations with our development partners and enhancing regional integration.

Mr. Temporary Deputy Speaker, Sir, the objective of taxation measures proposed in the Bill is to lower the cost of doing business in Kenya while at the same time affording reasonable protection to consumers and producers. As hon. Members have noted, the Customs and Excise Act has been amended to reduce duty on basic raw materials for manufacturers and thus reduce costs to make our products more competitive. As we enter the free trade area within COMESA, we shall need strict enforcement of the COMESA rules of origin. I would like to reiterate our commitment to protecting our producers within the context of our international commitments. Other measures in the Customs and Excise Act include *inter alia* removal of suspended duties. As I mentioned in my moving notes of the second reading, a study is going to be commissioned soon to address the sectoral duty tariffs with a view to harmonising them. All duty anomalies will be addressed.

Under the Value Added Tax Act, tax rates have been increased from 15 per cent to 18 per cent, while the lower rates of hotels and restaurants have been raised from 13 per cent to 16 per cent. In doing so, we have taken measures to ensure that the tourism sector is fairly treated by combining VAT rates together with the catering and tourism department at 18 per cent. However, I need to assure hon. Members that the increased standard rates of tax from 15 per cent to 18 per cent does not affect the common man because the basic agricultural foodstuffs are exempted from tax. The foodstuffs that are currently taxable at 18 per cent are processed foods. These foodstuffs are mostly imported and consumed by the rich. No poor man will go for the processed foods. In any case, such packaged foodstuffs are taxable at all levels and registered traders are able to make claims under input tax. The increase of the lower rates of tax from 13 per cent to 16 per cent will not have adverse effects on the tourism industry.

Mr. Temporary Deputy Speaker, Sir, services provided by tour operators and travel agents to tourist centres are exempted under the Third Schedule to the VAT Act. In other words, tour packages for tourists are not charged VAT. To reduce charges levied by hotels and to ensure attraction of tourists into our hotels, such hotels are required to be kept to the highest international standards. To assist in this area, materials for construction or refurbishment of tourist hotels are zero-rated. In general, the effects of the increased VAT rates will eventually be cushioned by the combined effects of an increase in Personal Tax Relief by 20 per cent, widening the tax brackets by 5 per cent and the cancellation of Service Charge, effective from 1st January, 2001, and the reduction of duty raised on raw materials and intermediate goods.

With regard to Income Tax, the tax burden borne by individuals has been lowered by expanding the brackets and increasing the Income Tax Relief effective from 1st January, 2001. Besides reducing the tax burden, these measures will also harmonise income tax rates with those of our partners in the East African Co-operation. Overall, the taxation measures in the Finance Bill are aimed at reducing the tax burden on Kenyans while affording a measure of protection to local producers. These efforts will be implemented hand in hand with the standard health conditions and requirements to afford both producers and consumers protection.

On the expenditure side, the Government will focus on the key priority areas which include upgrading and rehabilitating of economic infrastructure, particularly the road network and power supply; improving provision of basic social services such as education, health, agriculture and rural development. As far as agriculture and rural development is concerned, about Kshs10.7 billion has been allocated. As hon. Members are aware, fertilizers and other chemicals specified for use in agriculture are duty-free, while in respect of health and education, Kshs13.8 billion and Kshs49.8 billion respectively have been allocated in the Budget. Improving security and administration of justice is another area of emphasis, implementing targeted poverty alleviation programmes is another. Obviously, given the current bad weather, special attention will be given to famine relief and power generation to assist our manufacturers and domestic users.

Mr. Temporary Deputy Speaker, Sir, the biggest challenge facing Kenya is to accelerate economic growth. While taxation and expenditure measures presented in the Finance Bill, 2000, can go a long way to strengthen the performance of the economy, they will also require a conducive socio-political environment. No matter how good and attractive we make the fiscal environment, both local and foreign investors cannot put their resources in a country where leaders, whether in the public or private sector continue to issue threats on a daily basis. As a country, we need

to have a national vision that forms the basis for collective and concerted efforts by all, especially hon. Members of this House and then we can extend the call to all Kenyans. As I have said before in this august House, we need to work together to establish an environment in which strong economic recovery and sustained growth can take place. Let us work together to improve the welfare of our people.

Mr. Temporary Deputy Speaker, I beg to move.

(Question put and agreed to)

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

The Temporary Deputy Speaker (Mr. Musila): Next Order!

Second Reading

THE CONSTITUTIONAL OFFICES
(REMUNERATION) (AMENDMENT) BILL

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Speaker, Sir, I wish to move that the Constitutional Offices (Remuneration) (Amendment) Bill be now read a second time.

The Constitutional Offices (Remuneration) (Amendment) Bill, 2000 seeks to amend the Constitutional Offices (Remuneration Act, Chapter 423 of the Laws of Kenya to effect the changes in the salary scales and job groups of the holders of the following offices: Office of the Attorney-General; Chief Justice; Judges of Appeal; Puisine Judges; Controller and Auditor-General; Chairman, Public Service Commission; Deputy Chairman, Public Service Commission; Members of the Public Service Commission; Chairman of Electoral Commission of Kenya; Vice-Chairman, Electoral Commission of Kenya and Members of the Electoral Commission. The Bill also seeks to validate the past increments made in salaries paid to the holders of the Constitutional Offices.

Mr. Temporary Deputy Speaker, Sir, the last time the amendment to the Act was carried out was in 1985. Since then, changes and revisions affecting the allowances and salaries of the holders of these offices have taken place, but due to an oversight, the changes were not given the necessary legal approval as required by the law.

Mr. Temporary Deputy Speaker, Sir, Clause 26 seeks to replace Sub-section 21 of the Act to reflect the revised schedule of salary scales and rates applicable to the holders of these offices and gives specific dates when those salary scales and rates are to apply. Clause 3 of the Bill further seeks to repeal Section 3 of the Act which deals with allowances of the Chairman and members of the Electoral Commission which under Sub-section 2.2 are to be determined by the President.

Mr. Temporary Deputy Speaker, Sir, Clause 4 introduces the new Section 6 to the Act which will be used to validate all increments of salaries---

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. You heard the Minister say that the Bill is seeking to validate payments that the Government has been making since 1985. The Minister is asking this House to validate what the Government has been doing illegally. Is it not that some form of apology is due from the Minister before he can ask this House to legalise what he has been doing illegally when he is moving the Bill?

The Temporary Deputy Speaker (Mr. Musila): Mr. Muite, I think you can make that contribution after I propose the question. So, could you leave the Minister to go on and move the Bill and then you get the opportunity to make those points which, I think, are important?

Mr. Muite: Yes, Mr. Temporary Deputy Speaker, Sir.

The Minister for Finance (Mr. Okemo): Thank you very much, Mr. Temporary Deputy Speaker, Sir.

As I was continuing to move this Bill, I was saying that Clause 3 of the Bill seeks to repeal Section 3 of the Act which deals with allowances of the Chairman and members of the Electoral Commission, which under Sub-section 2.2 are to be determined by the President.

Mr. Temporary Deputy Speaker, Sir, Clause 4 introduces a new section to the Act which will be used to validate all increments of salaries paid to the office holders since 1st July, 1985. The need to harmonise the salary scales and rates paid to the holders of these offices is in line with the recommendations made to the Government by the Kipkulei Commission. The additional expenditure occasioned by this enactment shall form a charge on the

Consolidated Fund.

With those few remarks, I beg to move.

The Vice-President (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I rise to second the Bill that has been moved by the Minister for Finance.

The main objective of this Bill is to amend the Constitutional Offices (Remuneration) Act so as to effect changes in the salary scales and Job Groups of persons holding certain constitutional offices. It is also stated here in the Memorandum of objects and reasons of this Bill that it seeks to validate the increases to the salaries paid to the holders of the constitutional offices from 1st July, 1985.

Mr. Temporary Deputy Speaker, Sir, I have the following comments to make: First of all, the Minister has come here to inform the House that there are payments which have been paid since 1985. These payments have all along been paid without the authority of this House. There is nothing wrong with that. However, if there was a mistake, it was an oversight. Indeed, what the Minister has come to do is to inform the House about these payments, but the constitutional obligations has to be met. The Constitutional obligation provides that if those funds were to be drawn from the Consolidated Fund, then there has to be an Act of Parliament or an Appropriations Act. That is very clear. But I also want to draw the attention of this House to the fact that payments can be made provided the Minister does later on come to this House to seek the approval of Parliament. I believe that is contained in the Exchequer and Audit Act. I want to give one example so that hon. Members do not think I am misleading the House. Why do we have Supplementary Estimates? If you look at it, traditionally, the Government brings a Supplementary Budget when it finds that there are shortfalls in the annual Budget and it cannot meet certain obligations which have arisen since the approval of the main budget. As a result it is forced to incur certain expenditure.

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Vice-President to mislead this House that payments can be made and then the Minister will later on come to this House to get an approval, and then he cites the Supplementary Estimates as the authority for that erroneous statement? What about Section 100 of the Kenyan Constitution that prohibits the Government from withdrawing even a Kshs1 from the Consolidated Fund without the authority of this House? In fact, the position is that the Government comes with a Supplementary Budget when they find that the amount allocated to them is not enough.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Muite! Your first point of order was valid, but you are now proceeding on to make it a point of argument. You made a point of order and instead of waiting for the Vice-President to reply, you continued to make an argument.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I will stop there. I am just asking whether it is in order for a person holding the second highest office in this country to mislead this House?

The Vice-President (Prof. Saitoti): Mr. Temporary Deputy Speaker, I declare clearly that at no time have I ever misled this House. However, I would like to refer the hon. Member to the Exchequer and Audit Act. Unfortunately, I do not have it here with me.

The hon. Member is a lawyer, but we are not turning this House into a court. However, the fact of the matter is that the Exchequer and Audit Act allows the Minister for Finance to come to this House and move a Motion on Supplementary Estimates. Once they are passed, an Appropriations Bill is also brought to this House to allow the Minister to withdraw funds from the Consolidated Fund. This is precisely the position. It is not my intention to turn this House into a court of law. Indeed, the interpretation is up to the courts and I am sure Messrs. Muite and Murungi can argue there. Fortunately, they will have all the monopoly to do so because we will not be there.

So, Mr. Temporary Deputy Speaker, Sir, what is actually being done here is a matter that has been deliberated thoroughly. The opinion of the Attorney-General has already been sought as far as this matter is concerned. As the Chief Legal Counsel to the Government, he has advised the Government and the Minister for Finance on this particular matter. We want to ensure that legality is confirmed in the payments which have been done. That will be proper.

Mr. Temporary Deputy Speaker, Sir, there are also amendments which are being sought for the salaries and allowances for the categories for these very important people. This has to do with a number of judges and holders of constitutional offices. We cannot emphasize much more than to say that our judges clearly need to be properly remunerated. This may very well not be enough as such, but when the funds become available, definitely, our own judges will require to be properly remunerated. This is the way we in Government see it.

However, when we are in a state of affairs where the economy has its difficulties as it is today, clearly some restraint is required. But I want to put it clear that our judges require to have attractive salaries and allowances which will enable them to discharge their duties properly and clearly without having any worries. We do not want to have a situation where our own judges have to worry as to where they are going to get money to pay school fees. We want them to be treated properly. I am sure the Minister for Finance will agree with me that when funds become available, the Government will ensure that the judges will be properly remunerated. We believe this is in keeping with the objectives of good governance.

By the same token, holders of other constitutional offices will also be properly paid as time proceeds and the economy comes back on track. We hope that they too will be properly paid. We are going to be serious in the future about strengthening the separation of powers and this issue will be dealt with in the constitutional review process.

Mr. Temporary Deputy Speaker, Sir, having said that, let me also say that if the economy was performing very well and we did not have the kind of problems that we are faced with today; or if we did not have the recession we are facing, we would wish that all Kenyans wherever they are working will be able to get better income, and not just holders of constitutional offices. But we should, as hon. Members, draw the attention to our own people namely; that we are going through very difficult scenarios. There are others who may want to say that, perhaps, we are in this kind of economic scenario because of mismanagement and all sorts of excuses which are being poured here. Let it be known that the Kenya economy depends largely on agriculture, and that agriculture is the greatest contributor to the GDP. Any time we do have a major drop in the agricultural sector, the GDP of the Kenyan economy goes down immediately.

We are now experiencing drought and for almost two years, this country has not enjoyed adequate rainfall. This is not the fault of the Government or the Minister for Finance. It is a situation of nature. There is no one who can manufacture rain. We have been waiting for rain for a long time, it has not yet come. It is only God who brings it. That is why we are having problems of water in our reservoirs and food. Also, we cannot realise sufficient foreign exchange from the sale of our own cash crops. Those are the fundamental problems facing us and hon. Members should not mislead Kenyans that we are having problems today because of mismanagement. That is politics.

As leaders of this country, we must state the truth, which is that the weather has hit us badly; this has happened at any time. I would like to remind this House that the current adverse weather conditions have not affected Kenya alone, but also our neighbouring countries. Ethiopia, too, has been hit by drought. What is happening there? That country's Gross Domestic Product (GDP) has gone down. The same has happened to many other countries, which have been victims of adverse weather conditions.

Mr. Temporary Deputy Speaker, Sir, in order for this country to improve economically, so that we can remunerate our constitutional offices holders and other public servants well, and in order for Kenyans to enjoy good life, we need a stable environment. I can see hon. Muite looking at me, and I want to also look straight into his face. I would like to say very clearly to hon. Members on the Opposition side of this House that if this country gets into problems, even their own brothers will face those problems. It is not only hon. Members on the Government side who will suffer if this country gets ruined. We must agree that this country belongs to all of us.

(Applause)

Therefore, when it comes to dealing with matters of importance to this country, we should always put our partisan views aside. Kenya is more important than our parties. We cannot afford to destroy this nation. If we destroy this nation, as some people would like, we shall suffer. I would like those people who want this country destroyed to have a look at the scenario in countries such as Somalia. Its people messed that country up. What happened to it then? Ten years down the line, there is still no Government in place, and people are having problems. We have got a lost generation in Somalia. You can also talk about Uganda. A problem happened there in the early 1960s; its people have gone through problems. Up to now, the people of Uganda are still struggling to put things right. That is the price you pay when you destroy a nation.

It is true that this country has many problems, but there are many ways of dealing with them. This country problems will be solved in the spirit of unity, patriotism and commitment. This way, I believe, we can always find solutions to our problems. However, if we go on telling potential investors how evil we are, they will not invest in this country. We are all going to be denied investment by foreigners. When there are problems, let people sobber up. When you have problems in your own house, you do not go round parading them for members of the public to see and then you start to tell them: "Please, come and see how dirty my house is". You try to solve the problem from within your own house. I believe that, that is what we should be doing.

Mr. Temporary Deputy Speaker, Sir, as leaders in this House, the line that we take, greatly, influences the thinking of the majority of Kenyans. At this particular stage, I would like to submit that what is crucial is not politicking. What is crucial is for us to get united and ensure that this country economy is brought back on track; that is the most important thing for us to do.

Mr. Murungi: On a point of order, Mr. Temporary Deputy Speaker, Sir. What the Vice-President is saying about politics of unity, among other things, is very good, but the business before the House right now is the Constitutional Offices (Remuneration) (Amendment) Bill. So, could he be asked to be relevant in his contribution?

The Vice-President (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I want to be relevant. The Government cannot be able to raise the funds even for constitutional offices holders, unless the economy is in place.

Where are you going to get the money from? Indeed, the constitutional offices holders deserve more than what they are getting now; it is only because of the state of the economy. It is important that we, hon. Members, understand the importance of ensuring that we do have the enabling environment for the economy to grow so that everybody can lead a good standard of living, because that is what we are trying to do here. We have a job in this House to create that enabling environment, and we must shift our emphasis from politicking back to economic development. That is what we need today.

Mr. Temporary Deputy Speaker, Sir, I beg to second the Bill.

(Question proposed)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I would like to plead with the Government to accept that to err is human. Therefore, where a mistake has been made, the Government should have the humility to come and apologise to this House, instead of being arrogant about a mistake.

If you look at this Bill, page 28, it says very clearly in the Memorandum of Objects and Reasons, that it also seeks to validate increments made in the salaries paid to the holders of the said constitutional offices, since 1st of July 1985. Chapter 423 of the Laws of Kenya, which is the Constitutional Officers (Remuneration) Act, fixes the salaries to be paid to the holders of constitutional offices. It was passed on 1st of July, 1985, fixing the salaries to be paid. So, the increments that were given without the authority of this House have since July 1985 been paid to the holders of these offices without any legal authority. Those payments have been illegal and unconstitutional, and section 100 of the Constitution is very clear that no payments can be made out of the Consolidated Fund without the authority of this House. The salaries of the constitutional offices holders are a direct charge from the Consolidated Fund.

So, in order to increase all salaries of the constitutional offices holders, the authority of this House must be sought so that we amend the Act of Parliament setting up those salary scales - so as to give authority for money to be drawn directly from the Consolidated Fund and paid to them. So, there cannot be any argument and doubt at all; that what the Minister for Finance is calling an oversight is a mistake that has resulted in illegal and unconstitutional payments to the holders of these offices since July, 1985. All I was asking is that this House is entitled to an apology from the Minister for Finance who should say: "I am sorry. I overlooked coming to this House to get its authority and I now apologise and ask this House to give me authority retrospectively." This is because what we shall be doing is to legalise the illegality that has been occurring since July, 1985. There is no need of showing arrogance by saying: "We have not made any mistake; we can always bring a supplementary estimates."

Mr. Temporary Deputy Speaker, Sir, if you look at section 100 of the Constitution of Kenya, it is very clear that if it becomes obvious to the Government that the money voted is not enough to continue with the operations of the Government, they are given authority in accordance with Section 100(2), to come to this House with a supplementary estimates, but there was no authority which was given for the constitutional offices holders. There is no authority. The hon. Vice-President was quoting vaguely from the Exchequer Act without saying what section he was talking about. There is no section of any Act of Parliament or anywhere in the Constitution where you will find authority being given to the Executive arm of the Government to spend money without the authority of this House.

The Vice-President touched on a very important point about the inadequacy of the salaries being paid to judges and magistrates, and I agree entirely. However, I do not agree with him where he says that we cannot pay these judges because we have no money. There are some judges being paid Kshs60,000, others Kshs80,000 and others Kshs100,000. There is a contradiction here. Take the case of KACA. The officers of KACA including the Director are earning salaries upwards of Kshs400,000 a month. Some, I believe, are being paid Kshs600,000 a month. The prosecutors are earning Kshs300,000 a month. There is a contradiction here and this is why I said the other day and I would like to repeat that we need some harmonisation. Look at the absurdity of the following: A magistrate who is earning Kshs20,000 a month resigns from his job and becomes a prosecutor with KACA and the following month he starts earning over Kshs300,000 a month. He was a magistrate and obviously it is more attractive to be a prosecutor with KACA and earn Kshs300,000 than Kshs20,000. The contradiction comes in when this magistrate who has resigned and has now become a prosecutor, earning Kshs300,000 a month, is expected to go and prosecute a case before a magistrate who is earning Kshs20,000.

If you think that in order for the prosecutor not to be corrupted, the correct salary is Kshs300,000, surely you must pay the magistrate before whom this prosecutor will prosecute in order for him also not to be corrupted. You must pay him even more than the prosecutor. We have got this contradiction and the Government has got to do something about it. Otherwise, it does not make any sense to me to pay the officials of KACA Kshs600,000, Kshs400,000 or Kshs300,000 and expect them to secure conviction before magistrates to whom we are paying peanuts. This needs re-examination. Where is the money which you are paying KACA coming from? If you have got enough money to pay them adequate salaries, get money to pay the magistrates and the judges adequately. It does not make any

sense to be paying other officials those high salaries without paying the same to their colleagues.

Every civil servant in this country wants an adequate salary. If it is said that a Permanent Secretary, a member of the "Dream Team", needs to be paid a salary of Kshs2 million in order not to be corrupted, then let us pay those salaries to all the Permanent Secretaries. Let us do it across the board. Let us go down the scale and pay even the ordinary police officer Kshs100,000 or Kshs200,000. If you pay the ordinary traffic police officer Kshs100,000, he will not have any need for corruption. He will be able to live within that salary. We need to harmonise these salaries, otherwise, this situation of paying special groups of people salaries that are way above what you are paying the others will only lead to frustrations.

The other point I would like to make is on the very anomalous position that is occupied by the Attorney-General in this country. In the new constitutional order, we need to re-examine this anomaly. The Attorney-General, in terms of our Constitution, is expected or supposed to be a civil servant. When you look at page 30, the schedule to Cap. 423, which the Minister is amending in this Bill, you will see that the top of the scale is the Attorney-General, whose Job Group will be "T". He is even above the Chief Justice. This schedule appears to indicate that when you follow the protocol, the Chief Justice is below the Attorney-General and, yet, sincerely speaking, he is himself an officer of the court. We have got a contradiction or anomalous situation where the Attorney-General of the Republic of Kenya is supposed to be both a politician and a civil servant, and he is supposed to enjoy security of tenure.

In fact, Section 26 of the Constitution of Kenya says that in the exercise of his powers, for example, whether to prosecute or not, the Attorney-General will not be subject to the directive of anybody; not even the President can direct the Attorney-General to prosecute or not to prosecute. The reasoning of the law behind Section 26 of the Kenya Constitution is to give the Attorney-General security of tenure in order for him to serve public good, not to indulge in politics or even when he is directed by the President that so and so should be prosecuted, he should say: "I have examined the evidence, I have considered this case and I will not prosecute." That is the way he is supposed to serve the law and the Kenyan public rather than serve the interest of one or two politicians, or take any political consideration into account when he is exercising his powers. However, for practical purposes, the Attorney-General in this country behaves like a politician and not as a civil servant. So, the time has come for us to have a new constitutional order to separate the functions of the Attorney-General. I do hope that when we have a new constitutional order, we will have a situation where the---

The Minister for Education, Science and Technology (Mr. Musyoka): On a point of order, Mr. Temporary Deputy Speaker, Sir. As much as I hate to interrupt my learned friend, is it in order for him to discuss the conduct of the Attorney-General, who is a Member of this House, without bringing a substantive Motion as provided for under the Standing Orders? This is because he has said that the Attorney-General is not performing as he should and that he is a politician and even the security of tenure as guaranteed under the Constitution stands abused by the Attorney-General.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I am not discussing the personal conduct of the Attorney-General. I am pointing out the constitutional contradictions. The hon. Minister for Education is a very brilliant lawyer and I do not know what has happened. I was going to say that there is a provision that enables the Attorney-General to act as a politician. I would like to see a constitutional order where the Government of the day can appoint its own Attorney-General and Minister for Justice, as a Cabinet Member and a politician, when the Government is voted out, the new Government comes in and appoints its Attorney-General and Minister for Constitutional Affairs because it is an important position. The Government of the day wants a Minister or an Attorney-General they can trust and do business with. Therefore, if we were to come up with a new constitutional order and recognise that the Attorney-General or the Minister for Constitutional Affairs is a politician we would then amend our constitution, so that we can have a Director of Public Prosecution who should be a civil servant and give him security of tenure just like the Controller and Auditor-General.

That is the person who should have power to decide who to prosecute or not. That is the person who should be given the security of tenure, so that he is not amenable to political manipulation. Let the Minister, who should also be the Attorney-General, go and play politics with the Government of the day. However, the power to prosecute or not should be insulated from political manipulation. That can only be done by removing those powers to prosecute or not, from a politician and pass the same powers to the Director of Public Prosecution. That is the point that I am making. When we have a situation where the Attorney-General is a civil servant, he is even senior to the Chief Justice. Those are the contradictions that we do not want to see in the new constitutional order.

While discussing that, I do not know why the salary scales have been renumbered. On page 27, the old letters have been removed. I do not know the logic in removing those numbers. They used to be Q, R, S and T. However, those have been removed and replaced with S, L and J3. Let us re-examine those matters in their totality. The salaries that we are passing here for the Chief Justice and judges are grossly inadequate. The judges are asking to be paid a lot more. I do submit that our Judiciary has got incompetent judges who should not be holding those offices. Let us ease them out and get people whom we have got confidence in. But we have to pay them adequately. We must get men

and women of integrity and pay them adequately. There is no logic in paying the officials of the Kenya Anti-Corruption Authority (KACA) more than the judges. There is no logic in paying the Members of the "Dream Team" salaries way above what we are paying the judges. If we are going to get men and women of integrity, we must remove the concept of one individual appointing the judges.

At present, it is the President alone who decides who will be the Chief Justice. When he decides that, the Chief Justice is the Chairman of the Judicial Service Commission. It is the Judicial Service Commission that recommends to the President who will be appointed as a judge. Obviously, if the President has appointed the Chairman of the Judicial Service Commission, he also decides who will be a judge indirectly.

So, in the new constitutional order, let us make it mandatory that any person who will hold the position of the Chief Justice or a judge should be subjected to a parliamentary approval. Let us have a parliamentary committee that will vet those appointments. That is when we will have men and women of integrity. The business of one individual appointing the judges is what has led to the present situation.

With those few remarks, I beg to support.

Mr. Murungi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Bill.

Mr. Temporary Deputy Speaker, Sir, at the very beginning, I would like to say that I am a member of the Administration of Justice and Legal Affairs Committee of this House and we have had an occasion to discuss this Bill with the Attorney-General. If I am not wrong, we reached a compromise with the Attorney-General that, the proviso to Clause 2 be deleted. What this means is that the provision that it is the President who determines the entry points into the various job categories of the holders of the Constitutional offices is very dangerous. It should be removed because it compromises the independence of the Judiciary, to have somebody in the Executive deciding at what point you enter the public service. We had a debate with the Attorney-General and I am happy that he saw our point and he has agreed that, that proviso should be removed and we expect it to be removed at the Committee Stage of this Bill.

Mr. Temporary Deputy Speaker, Sir, there is no use coming before this House to pretend about the obvious. What has happened is that, the Government has breached the Constitution and the law by increasing the salaries of judges and the Attorney-General of this country, and has illegally backdated the same to 1985 without this law being amended by Parliament.

Mr. Temporary Deputy Speaker, Sir, lawyers will tell you that, the purpose of a Validation Bill or the Bill we have before the House today is to legalise an illegality. The Government by publishing this Bill is admitting that it is has committed an illegal act by increasing and paying salaries without amendment of the Act which provides for those salaries. We hon. Members in this House have no objection to these salaries being validated. But at least, there should be some honesty. The Government should say that, "we are sorry, we did not come to Parliament to seek your approval in paying this amount of money. So, what we are against is this hypocrisy and pretence that it was a mere oversight and, in fact, with all the battery of lawyers in the Government, they did not spot this irregularity.

Mr. Temporary Deputy Speaker, Sir, there is something even more sinister about it. What the Government has been doing is to usurp the powers of Parliament. What we are dealing with is a usurpation of the power of Parliament by the Executive. The Executive has been paying salaries to judges without reference to Parliament. It is high time this Parliament put its foot down and stood up against an intruding Executive.

Mr. Temporary Deputy Speaker, Sir, Section 16 of the Constitution has been consistently violated by the Government despite the fact that we have pointed out this fact since 1992. Section 16 of the Constitution provides that it is Parliament which shall establish the number of Ministries and then the President will appoint the Ministers. But what happens is that, after every general elections, a Cabinet is appointed even before Parliament. So, Parliament has no opportunity to establish Ministries. This business of having three or four Ministers running one Ministry; we as Parliament---

An hon. Member: What has happened?

The Temporary Deputy Speaker (Mr. Musila): Order! Hon. Members, today being a Thursday, the Chair has no items under Members' Half-Hour Statements.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Musila): Consequently, it is time for the interruption of business. The House, therefore, stands adjourned until Tuesday, 7th November, 2000, at 2.30 p.m.

The House rose at 6.30 p.m.