

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 2nd November, 1999

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.324

REHABILITATION OF ROADS
IN SUBA DISTRICT

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

Question No.391

REHABILITATION OF
KISII-AHERO ROAD

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

Question No.510

ALLOCATION OF VEHICLES
TO SAMBURU GAME RESERVE

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

Question No.366

COMPLETION OF SITATUNGA/
SINYERERE/SIBANGA WATER PROJECTS

Mr. Speaker: Is Mrs. Kittony not here? We will leave her Question until the end. Let us move on to the next Question.

Question No.545

REHABILITATION OF WEST
KARACHUONYO WATER PROJECT

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

Question No.407

MEASURES TO CURB ACCIDENTS
ON WAIYAKI WAY

Mr. Speaker: Is Prof. Anyang'-Nyong'o not here? We will leave his Question until the end. Let us move on to the next Question.

Question No.410

COMPLETION OF INQUEST No.2/97

Mr. Sifuna asked the Attorney-General:-

(a) whether he is aware that inquest file No.2/97 at Taveta Police Station has not been completed; and,

(b) when the inquest will be completed.

Mr. Speaker: Is the Attorney-General here? We will leave that Question until the end then. Let me now call the Questions for the second time.

Question No.324

REHABILITATION OF ROADS
IN SUBA DISTRICT

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

(Question dropped)

Question No.391

REHABILITATION OF KISII-AHERO ROAD

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

(Question dropped)

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

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- (a) whether he is aware that inquest file No.2/97 at Taveta Police Station has not been completed; and,
- (b) when the inquest will be completed.

Mr. Speaker: Is the Attorney-General still not here? We will defer the Question to a later date.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

MEASURES TO ELIMINATE
ROGUE HIPPOS IN BONDO

(Dr. Oburu) to ask a Minister of State, Office of the President:-

- (a) Is the Minister aware that marauding rogue hippos have killed 17 people in the beaches at Wagusu, Birongo and Liunda of Bondo Constituency in the last one month?
- (b) What urgent steps is the Ministry taking to eliminate those animals in order to enable wananchi to carry out their fishing business, which has stopped completely due to this menace?

Mr. Speaker: Is Dr. Oburu still not here?

(Question dropped)

Mr. Sungu: On a point of order, Mr. Speaker, Sir. I know that the "Daktari" is on his way---

Mr. Speaker: Order! Who is the "Daktari?"

Mr. Sungu: Dr. Oburu!

Mr. Speaker: Sorry! You cannot sit on his behalf.

OCCUPATION OF COFFEE

FACTORIES BY THUGS

(Mr. Mutahi) to ask a Minister of State, Office of the President:-

(a) Is the Minister aware that on 5th October, 1999, the Nyeri District Commissioner, Mr. Ali Korane, with his entire security team and 40 armed policemen, were stoned and chased away by armed thugs who had camped and had been training in Mutitu Factory?

(b) Is he further aware that the said thugs illegally occupied three coffee factories, namely Mutitu, Karundu and Kiawamururu, about two months ago with the full knowledge of the district security officers and that, on 20th July, 27th September, and 5th October, 1999, the thugs invaded villages and destroyed coffee plants, burnt houses and shops and held several people hostage, including the area chief?

(c) In view of the above, what action has the Minister taken to restore security in the area, and punish those behind the attacks?

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

(Question dropped)

DISAPPEARANCE OF MOI-SIRGOI
HIGH SCHOOL HEADMASTER

(Mr. Sambu) to ask the Minister for Education:-

(a) Is the Minister aware that the Headmaster of Moi-Sirgoi High School did not report to the school when the third term of 1999 started in early September, 1999?

(b) Is he further aware that before the said headmaster disappeared from the school, he withdrew an amount of Kshs920,000 only, being money collected by parents of the school for purchasing a school bus?

(c) What immediate steps is the Minister taking to apprehend the said headmaster and get back the school money he withdrew from the school's account?

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

(Question dropped)

SALE OF KASIGAU RANCH ASSETS

(Mr. Mwakiringo) to ask the Minister for Agriculture:-

(a) is the Minister aware that the Agricultural Finance Corporation (AFC), Mombasa Branch, had given notice to sell movable assets of Kasigau Ranch in Taita- Taveta District by 20th October, 1999?

(b) What is the Ministry doing to writeoff the loans given to various cattle ranches in Taita-Taveta District as per the Government's directive, in view of the long droughts and cattle rustling experienced in the area, thereby making it impossible for the said ranches to honour their loan repayments to the AFC?

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

(Question dropped)

POINTS OF ORDER

MINISTERIAL STATEMENT
ON MISSING STUDENT LEADER

Dr. Kituyi, what are you standing for?

Dr. Kituyi: On a point of order after Question Time, Mr. Speaker, Sir. About two weeks ago, I sought a Ministerial Statement from the Office of the President concerning the abduction of a student leader in Moi University. We were promised a statement from the Office of the President on Thursday last week. There had

even been a Question by Private Notice, which has since disappeared from the Order Paper.

Mr. Speaker: Order! By the way, I thought I had approved the Question. Is it Mr. John Matata you are talking about?

Dr. Kituyi: Yes! I raised the matter before the Question by Private Notice. It was on the Order Paper on Thursday, last week, but it has since disappeared from the Order Paper. But even before the Question came, an Assistant Minister in the Office of the President promised to give a comprehensive Ministerial Statement last Thursday.

Mr. Speaker: Order! Obviously, it is wrong for you to demand a Ministerial Statement on a matter that is already before the House by way of a Private Member's Question.

Dr. Kituyi: It was before!

Mr. Speaker: Order, Dr. Kituyi! You should not address the Chair like that! Now, as far as I am concerned, there is a Question approved by the Chair on the student leader. I think it was brought by hon. Kapten. It appeared on the Order Paper last week. He was not there, so, he asked it to be deferred. It is too early for you to say that today, being the very first day of the week, the Question has just disappeared from the Order Paper. We just began the Order Paper today. Have a little patience. In any case, while that Question is pending, I will not allow any Minister to pre-empt what he will say in response to the Question. It will be taking away from Mr. Kapten, his right to ask that Question. I will not allow that.

INVITATION TO ANTI-CORRUPTION
COMMITTEE TO VISIT GERMANY

The Minister of State, Office of the President (Mr. Sunkuli): On a point of order, Mr. Speaker, Sir. I wish to bring to the notice of the House that, while visiting the Speaker of the German Bundestag, His Excellency the President received an invitation to have Members of the Anti-Corruption Committee of Parliament visit Germany and meet the Speaker and Members of the German Bundestag.

Mr. Sungu: What about the Football Team?

Mr. Speaker: Order! That is very nice, Mr. Sunkuli, but courtesy also demands that you see your own Speaker! How do you come and communicate with the House with total exclusion of me?

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I apologise for that. I thought that Questions were going to take the usual time, and I thought I was going to communicate with you within that time.

Mr. Speaker: By the way, why is it that no hon. Member is complaining about Questions not being asked today?

An Hon. Member: Why do you want us to complain?

(Laughter)

MINISTERIAL STATEMENT SOUGHT:
CLASHES IN KISAUNI

Mr. Wamae: On a point of order, Mr. Speaker, Sir. Last week, hon. Dr. Ochuodho asked the Minister in charge of internal security to give a Ministerial Statement to the House on the clashes in Kisauni. Two of the people who died come from my constituency. I hope he is going to make that statement today because it is a very important matter.

Mr. Speaker: Maj. Madoka, you indicated to me that you had a statement to make, is that so?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I do not have the statement on the clashes at Kisauni. I have a different statement altogether.

Mr. Speaker: Even if it is a different one, can you give what you have to the House?

MINISTERIAL STATEMENT

RAID AT TOT HEALTH CENTRE

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I will give the

Ministerial Statement on the clashes at Kisauni tomorrow. But now, I have a Ministerial Statement arising from a request made by hon. Sambu in respect of the cattle rustling incident which took place at Tot in Marakwet District on 24th October, 1999.

Mr. Speaker, Sir, on 24th October, 1999, at about 11.40 a.m., a large number of cattle rustlers believed to be Pokot tribesmen made a three-pronged-attack at Tot Trading Centre. One group surrounded the General Service Unit (GSU) camp situated about one kilometre from the trading centre. Another group engaged security personnel at the trading centre while the third group went around the area stealing livestock. As the security personnel fought the bandits and began to repulse them, the rustlers passed through Tot Health Centre---

(Loud consultations)

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. This is an extremely grave matter to all of us. Could you request the hon. Members to allow those of us who would like to follow it to hear what the Minister is saying?

Mr. Speaker: Order, hon. Members! Those hon. Members who have never gone anywhere near cattle rustling can take leave from the House, so that those who are affected can hear the Minister. Proceed, Maj. Madoka.

The Minister of State, Office of the President (Maj. Madoka): As the security personnel fought the bandits and began to repulse them, the rustlers passed through Tot Health Centre, where they opened fire at patients, killing seven children and three female adults. As the rustlers retreated further, they attacked and killed an elderly man at Liter Trading Centre. During the exchange of fire with security personnel, a total of four cattle rustlers were killed.

Moreover, during the attack, the cattle rustlers made away with 470 head of cattle, 1778 goats and 459 sheep. Following the attack, a large contingent of security personnel, comprising of regular police, Administration Police, GSU, Anti-Stock Theft Unit and the Kenya Army was immediately sent to the area to assist in tracking down the cattle rustlers and the stolen livestock. So far, security forces have been able to arrest five suspects who are assisting the police with investigations. Also, 11 head of cattle, 78 goats and 15 sheep have been recovered. The recovery of the animals has been hindered by the fact that the rustlers immediately divided the stolen livestock into small groups of about ten animals each, thus making it difficult for them to be spotted. In addition to the security measures taken, three chiefs and three assistant chiefs have been suspended from duty pending further investigations into the roles they played in the incident.

Mr. Speaker, Sir, the Government views the recurrent cattle rustling incidents in parts of the country with very serious concern and will continue to take stern action against the masterminds and perpetrators of these heinous acts. In this connection, the operation in the area affected by the incident of 24th October is still going on and will continue until the animals are recovered, and the rustlers arrested and prosecuted. In addition to the security operations, the Government is spearheading efforts to educate the people concerned on the need to discard this out-dated practice that has helped to hinder development and create misery among peaceful wananchi.

Thank you.

Mr. Sambu: Mr. Speaker, Sir, I thank the Minister for that statement. The big problem here is that bandits can surround a GSU camp and render the officers there ineffective. The other day, the Minister said that there are no organised tribal armies in the Kerio Valley. These raiders have been able to kill people in Baringo, Keiyo, Marakwet, Trans Nzoia, Turkana, and Samburu districts. This is a very sad state of affairs. Do we have an army to protect the lives of wananchi? If we have one, then how come that bandits can go to a health centre and kill children who had gone for vaccination? Instead of the anti-polio vaccination, they got "bullet vaccination"! Let the Kenya Army be given the full mandate to act. As things are right now, they have not been given the full mandate to act decisively when such incidents occur. Let them go out there with the Air Force helicopters and get those bandits because they are known. The Minister has admitted that the raiders divided the cattle; therefore, they are known by the Government. Otherwise, if they are not known, how would he have known that they divided the animals into groups of ten? We want the Air Force helicopters to be used in dealing with these bandits, and that is how we can overcome them. Can the Minister give us that assurance?

Mr. Speaker: Very well, in other words, you are saying that cattle rustling is a misnomer and that the Minister must get a better name for it?

Mr. Sambu: That is correct, Mr. Speaker, Sir. He must get a better name for it because it has now degenerated into a full-scale war!

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, first of all, the hon. Member must fully understand the role of the Kenya Army. But before I say anything else, I would like to make a

correction here. I did not say that the Kenya Army was surrounded by the bandits. The army was not present in that area. At the moment, the Kenya Army is in that area carrying out a security operation. This morning, hon. Marrirmoi rang to tell me that the place is very peaceful.

Dr. Kituyi: Mr. Speaker, Sir, early this year, Pokot raiders went to a primary school near Tot Trading Centre and slaughtered primary school pupils in their classrooms, including all the prefects who were helping Standard 1 kids get out of the school. Before I ask my question, there are some problems with the answers given by the Minister. First, the Government helicopters went to Tot three days after the raid. What animals were they looking for, three days after the raid? Secondly, if he has been to Tot Centre, like I have, he will know that if you are running away from the centre towards the boundary with West Pokot, you do not pass through the health centre. So, the raiders could not have shot and killed children waiting for immunization in the health centre compound as they were retreating from the trading centre. That would be strange geography! But can the Minister explain under what circumstances other security personnel were in the market place while the GSU, who are supposed to be the backbone of security in a vulnerable area, were inside their camp and were surrounded by these people? Could the GSU officers not get out, after they had locked their gates, to repulse the Pokot raiders? What plan has the Government got to deal with this menace of Pokot raiders that has become a perennial problem in this country? This week, they have raided the Turkanas and a few weeks ago they stole 300 head of cattle from Mr. Shimechero in Kitale. Until when will the Government stand up and find these culprits, particularly now that it is known that one of the leaders of the raiding party is a brother to a former Member of Parliament in this House?

Maj. Madoka: Mr. Speaker, Sir, first all, our personnel do not necessarily get out of the camp. There are those on patrols and those that are necessarily in the camp waiting to respond to any other incident, and this is what happened. When the other GSU people were found within the camp, it is not that they were idle. It is also not true that there were no other security personnel in the area. There were security personnel in the area. As it has been said, the Government is, indeed, concerned about this outdated practice of cattle rustling. We will continue to carry out operations to try and ensure that we get rid of this terrible menace of cattle rustling.

Mr. Shidiye: Mr. Speaker, Sir, I stand on a point of order.

Mr. Speaker: Is it on this issue or a different one?

Mr. Shidiye: Mr. Speaker, Sir, it is almost similar to this one but it affects my constituency.

Mr. Speaker: If it is that, I will see you later on. Mr. Keynan!

Mr. Keynan: Mr. Speaker, Sir, the issue of insecurity in this country is something that touches on the lives of all Kenyans. Kenyans are losing their lives in their thousands every day. I want to start from Moyale, Marsabit, Wajir and Mandera. We are talking of an illicit militia group and yet you are talking about an army. We spend 20 per cent of the national Budget on this very army that has failed to deliver or do anything. For how long are we going to wait for external aggressors, when, today, we have more internal problems? For how long are we going to sustain this army that has done nothing? Why are they not being deployed in areas that have been hard-hit by this menace of insecurity? The Government must now come out clear because it is now up to the affected communities to arm themselves. Yesterday, over nine people were killed in Modogashe, and nothing has happened. Today, in some of the dailies, both the OCPD and the DC of Garissa say that they cannot move because they have no vehicle. You are encouraging Kenyans to arm themselves! This is bad for this country. Can we do something about this? Can we utilise this army so that they save the lives of Kenyans? This is what we want, and not just mere rhetoric in this House. We are fed up!

Thank you.

Mr. Speaker: Can we have one or two contributors? I will have Mr. Anyona, and then the last one on the other side will be Mr. Shidiye.

Mr. Anyona: Mr. Speaker, Sir, you have rightly pointed out that this cannot be the ordinary traditional cattle rustling that we know of, if for nothing else, but for the fact that the weaponry used is not traditional. So, you cannot deal with it in a traditional way. This kind of incident is costing this country dearly by damaging our image internationally. Now, the Minister said that the army was involved, then he later said that it was not involved. We do understand the role of the army, which is to deal with external aggression. But the army also has a role when there is internal breakdown of law and order, and if this is not breakdown of law and order in those areas, I do not know what it is. Can you explain to us clearly what the role of the army is here, when there is breakdown of law and order?

Mr. Speaker: Maybe, Mr. Minister, you can respond before I call upon Mr. Shidiye to raise his issue.

Maj. Madoka: Mr. Speaker, Sir, if the hon. Member listened, I said that after that incident, we did send the army and it is involved in the operations at the moment.

Mr. Speaker: Mr. Shidiye, the very last one on this one!

Mr. Shidiye: Mr. Speaker, Sir, as I stand here, the entire constituency of Lagdera is "bleeding". For the last two weeks, there has never been peace in my constituency. I have lost more than six people. Three are already critically injured. Livestock numbering 2,000 has disappeared and yet, nothing so far has been done. Modogashe centre has been attacked. Three people were killed there. The day before yesterday, that is on Sunday, three people were killed at Eldera centre and yet nothing so far has been done. I am unable to concentrate on my duties as the KANU party chief whip precisely because whenever I come here, I am told there is a problem there. Cattle rustling is a cancerous growth in this country. People are dying *en masse*. People have lost their livestock. People have been reduced to poverty as a result of cattle rustling. We do not have peace. We wonder where the Kenya Army is. What is the Kenya Police doing? Something must be done, otherwise, we will only tell our people to arm themselves since the presence of the Government is not felt on the ground. We are "bleeding!" I am crying for the sake of my people because they are being attacked every now and then, and nothing is being done about it. Could the Minister give an undertaking that either we will arm ourselves, or the Government will do something? There is no going back about it. This is a serious matter. We cannot be called a Government when our people are dying *en masse*. It is really affecting our people. We have nothing to resort to. Are we to lead or just to cry wolf? What are we? It is a shame! I am really affected. The Minister must do something, otherwise, we will tell our people that there is no Government on the ground and they will arm themselves.

Hon. Members: Defect!

(Applause)

Mr. Speaker: Order! I thought this was a grave matter, really. Those who are shouting "defect" are trivialising the matter. It is not a party issue; it is a question of life and death and property of Kenyans. I do not want to express an opinion but I think the Minister can feel the anger of the House. This thing, the so-called "cattle rustling," is a misnomer, in my view. I think you had better call it by its own name; that is, insurgency.

Very well. Mr. Minister, would you like to respond to hon. Shidiye?

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

Mr. Speaker: Order, all of you! Order! I think the only thing I can do on that issue now is to let the Minister, if he wants, to respond to Mr. Shidiye, because that is a new issue which he never responded to. Otherwise, I think you have ventilated on that issue and I will---

Mrs. Mugo: Our women are being killed!

Mr. Speaker: Order! Death has no sex. Proceed!

Maj. Madoka: Mr. Speaker, Sir, the sentiments of the House are certainly shared by all of us and as a Government, it is of great concern and we will continue to do our best. I would advise the hon. Member not to get his people to arm themselves because it will not help us in curbing the insecurity problem.

Mr. Speaker: Mr. Kamande, on a different one now.

POINT OF ORDER

MINISTERIAL STATEMENT SOUGHT: DEATH OF MARGARET WAMBOI WAINAINA

Mr. Kamande: Mr. Speaker, Sir, I stand to seek a Ministerial Statement from the Minister incharge of Medical Services regarding the death of Margaret Wamboi Wainaina which occurred at Makuyu Health Centrenafter she was denied access to the centre by a watchman. Makuyu people are very bitter as they demand for that Ministerial Statement as quickly as possible.

Mr. Speaker: Do you want to respond, Minister for Health?

The Minister for Public Health: (Prof. Onger): Thank you, Mr. Speaker, Sir.

Mr. Wanjala: Who is he now? But you are not the Minister incharge of Medical Services!

The Minister for Public Health: (Prof. Onger): Thank you, Mr. Speaker, Sir. For benefit of Members, anybody in that docket can answer that question. I have taken note of the death of this lady at Makuyu Health Centre and I will investigate and be able to make a Ministerial Statement.

REMOVAL OF HYACINTH

Dr. Ochuodho: Mr. Speaker, Sir, exactly four weeks ago, on 6th October, 1999, I sought a Ministerial Statement from the Ministry of Environment and Natural Resources on the hyacinth removal. On Friday last week, because of high density of hyacinth in Homa Bay Town, a small boat was trapped for three days and a woman had to give birth on-shore. All this is happening while we are waiting for an answer to come from the Minister for Environment and Natural Resources, to tell us the exact position of the hyacinth removal from Lake Victoria.

In December, last year, a child was actually born and died on the boat in the Lake. We hope that this is not going to be allowed. Could the Chair prevail upon the Minister, as a matter of urgency, to give a Ministerial Statement on hyacinth removal?

Mr. Speaker: Mr. Ngala, you wanted to make a Ministerial Statement? I can see you are sitting! You have to stand up!

The Minister for Home Affairs, Heritage and Sports (Mr. Ngala): Mr. Speaker, Sir, I must catch your eye first.

Mr. Speaker, Sir, I wish to make a Ministerial Statement---

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. This is an environmental issue. Could the Chair prevail upon the Minister for Environment and Natural Resources to give an answer?

Mr. Speaker: You are prevailing upon him on my behalf, and he has heard. Where is the Minister for Environment and Natural Resources? You see, I cannot prevail upon an absent Minister!

Dr. Ochuodho: Hon. Ng'eny is there, Mr. Speaker, Sir!

Mr. Speaker: Order! Order! I suppose the Minister has heard. He will be reminded that the House is still waiting for his promise. He must redeem his promise!

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. There are three Ministers in that Ministry. Could one of the three Ministers give that statement? I understand they are actually five now!

(Laughter)

Mr. Speaker: I really do not know.

MINISTERIAL STATEMENT

MR. GACHOKA'S HEALTH CONDITION

The Minister for Home Affairs, Heritage and Sports (Mr. Ngala): Mr. Speaker, Sir, I want to make a Ministerial Statement in connection with Mr. Muchiri's request. The hon. Member requested for a statement from the Ministry concerning the health condition of Mr. Anthony Gachoka.

Mr. Speaker, Sir, Mr. Anthony was sentenced on 20th August, 1999, by a panel of judges. He was committed in prison on 20th August, 1999, in good health. Following hon. Muchiri's request for a Ministerial Statement on the health of Mr. Anthony Gachoka, a thorough medical examination was carried out on 25th October, 1999, by Mr. John W. Burton, the Medical Officer in charge of Kamiti Prison.

Mr. Anthony Gachoka was found in good health, but he has been treated for minor ailments as follows:

(a) On 31st August, 1999, he complained of ear, nose and eye itchiness together with frontal headache. On being checked, he was found to have sinusitis, and allergic conjunctivitis. He was treated with agumentin 375mg, times three days and piriton tablets, and he got well.

(b) On 9th September, 1999, he complained of stomach irritation and lack of sleep because of thinking too much. He was put on diet, counselled and put on valium 5mg at night for 5/7 days.

(c) On 16th September, 1999, he had a running nose and he was given rinochot inhaler and he got well.

(d) On 25th October, 1999, he developed a recurrence of sinusitis with blocked nostrils and he has been put on medication with agumentin piriton brufen. He is still using it. The doctor in charge has been examining Mr. Gachoka regularly and has not seen any sign and symptoms of amnesia; that is, loss of memory. His mental health is good and he likes reading a lot, especially novels, and does a lot of exercises, such as jogging *et cetera*.

Mr. Gachoka is being closely monitored to ensure that his health is in good condition. I have the report of Dr. John W. Burton who has been looking after Mr. Gachoka from time to time, since he was imprisoned, to date.

Mr. Speaker: Mr. Muchiri, any reaction to that?

Mr. Muchiri: Thank you, Mr. Speaker, Sir. I would like to inform the Minister that the relatives of Mr. Anthony Gachoka are not satisfied with the medical facilities that are available in prison. Could the Government permit the relatives of Mr. Gachoka to bring their own doctors into prison to medically examine him?

The Minister for Home Affairs, Heritage and Sports (Mr. Ngala): Mr. Speaker, Sir, Anthony Gachoka has been receiving family members, his doctor and his advocate, Mr. Philip Murgor. When he requests, in accordance with the prison regulations, the prison authorities have no complaints against Mr. Gachoka, and he has been a well-behaved prisoner. So, if there is any need for the family members to take their doctor to prison, I am sure, as they visit him, they can suggest that to the prison authorities. I am sure that their request will be listened to.

(Mr. Maitha stood up in his place)

Mr. Speaker: Mr. Maitha, I hope you are not making it a question.

Mr. Maitha: Mr. Speaker, Sir, if I heard the Minister very well on the report he was reading, all those drugs which were administered on Mr. Gachoka are in the group of tranquilisers. Tranquilisers are a group of medicines which make you sleep always. If that is the proper report of that doctor, then Mr. Gachoka is made to sleep always. It is true that the Government is not giving proper medication to this patient. Could the Government allow the family members to take to him their own doctor because it has been proved that it is only tranquilisers which are administered on Mr. Gachoka?

An hon. Member: "Dr. Maitha!"

The Minister for Home Affairs, Heritage and Sports (Mr. Ngala): Mr. Speaker, Sir, I do not believe that the drugs given to Mr. Gachoka are all tranquilisers. The drugs given to Mr. Gachoka deal with different diseases that have been detected on---

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

Mr. Speaker: Order, Mr. Maitha! You must have the necessary skin to take an answer!

The Minister for Home Affairs, Heritage and Sports (Mr. Ngala): Mr. Speaker, Sir, I was saying that I believe they are not all tranquilisers. It is the medication which has been administered by the doctor, based on the problem that he has found Mr. Gachoka to be suffering from. So, I do not want to say that they are all tranquilisers, because they deal with different ailments of the patient.

(Several Members stood up in their places)

Mr. Speaker: Order! Order, Members! I think if you wanted to ask specific questions, you had better put them to the relevant Ministry. To the best of my knowledge, neither Mr. Maitha nor Mr. Ngala can give an authoritative answer to a medical problem.

Mrs. Mugo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Mrs. Mugo, we are out of that now!

POINTS OF ORDER

MINISTERIAL STATEMENT SOUGHT: SALE OF CITY COUNCIL HOUSES

Mrs. Mugo: Thank you, Mr. Speaker, Sir. I would like to seek a Ministerial Statement from the Minister for Local Government in connection with Woodley Joseph Kang'ethe Estate houses which allegedly were sold to outsiders other than the people who reside there. This matter has been the subject of Questions in this House several times, with different answers given. The last answer we were given is that the houses were not sold. Indeed, the Mayor himself, in 1995, assured the residents that the houses were not sold. Later, in 1997, His Excellency the President said that if the houses were to be sold, the tenants who have been residing there for over 30 years must be given priority. We were surprised that as soon as the new Minister, hon. Kamotho, took over, even before he read the files, the first statement he issued was that the councillors cannot nullify the sale of the houses because they had already been sold and titles issued. The councillors had, only a week before, told the tenants to pay rent for the houses to the City Council because they had nullified the sale. Can the Minister tell us under which minutes he based his answer when the councillors themselves had said that there had never been any

resolution whatsoever by a full council to sell the houses?

Mr. Speaker, Sir, I have a letter here which I will table, where the lawyers of the grabbers of these houses have threatened the tenants living in Woodley Estate, and they have asked that the rent be paid directly to them for the Woodley houses.

(Mrs. Mugo laid the letter on the Table)

Mr. Speaker: Very well. Yes, Mr. Sumbeiywo?

DISCONNECTION OF WATER IN
KISII DISTRICT HOSPITAL

The Assistant Minister for Home Affairs, Heritage and Sports (Mr. Sumbeiywo): Thank you, Mr. Speaker, Sir. I rise to clarify some point regarding a Question asked by hon. Magara, Member for South Mugirango, concerning the disconnection of water at Kisii District Hospital. Part "b" was answered, but the House was not satisfied with the answer. I was asked to carry out more investigation and this one has been done.

Mr. Speaker: Was the Question deferred?

The Assistant Minister for Home Affairs, Heritage and Sports (Mr. Sumbeiywo): Part "b" was deferred, Mr. Speaker, Sir.

Mr. Speaker: If it was deferred, you cannot answer until it comes to the Order Paper. Wait until it comes on the Order Paper.

The Assistant Minister for Home Affairs, Heritage and Sports (Mr. Sumbeiywo): It was not deferred, Mr. Speaker, Sir. I had promised to bring details regarding part "b".

Mr. Speaker: Very well. I understand you are right. Proceed.

The Assistant Minister for Home Affairs, Heritage and Sports (Mr. Sumbeiywo): Mr. Speaker, Sir, there were no prisoners who died as a result of the disconnection of water in Kisii Prison. But the following died outside the period when water was disconnected for different reasons as follows:- Kisii Ref.No.1230/1999-Remand; Benard Okumu Obuya died on 2nd October, 1999, and the postmortem established that the cause of death was due to tuberculosis. The second death was that of Nelson Ndambo, who died on 13th October, and the postmortem established the cause of death to be tuberculosis and pneumonia. The third one is Sally Nyakundi, who died on 17th October, and the postmortem established the cause of death to be gastroenteritis. The fourth one is Peter Change Okello, who died on 20th October, 1999, and the postmortem report established the cause of death to be tuberculosis effusion.

Mr. Speaker: Very well. Next Order.

BILL

Second Reading

THE FINANCE BILL

The Minister for Finance (Mr. Okemo): Mr. Speaker, Sir---

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I would like to seek the guidance of the Chair with regard to this matter in respect of Standing Order No.101A (2) and (3). Standing Order No.101A(3) does require that the Report of the Departmental Committee is tabled in the House and then, thereafter, the debate ensues. As far as I can remember, no report has yet been tabled. I do not know how we are going to proceed.

Mr. Speaker: Order! Order! It is very simple. Under the law, once a Bill has been tabled and referred to a Departmental Committee, that committee is bound by the rules to report to the House within seven days. As far as we are concerned, the relevant Departmental Committee has completely failed to obey the Standing Orders. Let me also inform this House that my office and that of the Clerk have prodded this Departmental Committee to file a report on their consideration on this Bill, but they have refused. So, the House cannot be held at ransom by a Departmental Committee that is not willing to work. Therefore, we will proceed because the law says, if they do not do that, we proceed. Proceed, Mr. Minister!

(Laughter)

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

Mr. Speaker: First of all, Mr. Obwocha, there is a matter pending between you and the Chair. Has it been sorted out?

Order! Order! Mr. Obwocha, you were ordered the other day by the Chair to come the following day, because you were on the Floor, to appear before the House to continue with your speech so that you can substantiate what the Chair asked you to. In total disregard, as you are wont to do; you always escape when you are asked to come and substantiate; you escaped from the House so that could not come and substantiate what you were asked to do. Until you do that, Mr. Obwocha, the Chair will not see you. So, I am not seeing you; I am only seeing darkness!

Proceed, Mr. Minister.

(Laughter)

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. We have solved the matter concerning Mr. Obwocha and the other party outside the House.

Mr. Speaker: Order! Order! Last time, I did say that in all my stay in this Parliament, I have never heard so parochial politics from any other district in Kenya than Kisii!

Order! Order! You are trying to bring it again even on my face. Last time, I advised Mr. Obwocha and all Kisii Members of Parliament that this House was not built for parochial Kisii politics. Keep them out of this House from now on.

Next Order.

The Minister for Finance (Mr. Okemo): Mr. Speaker, Sir---

Mr. Obwocha: On a point of order, Mr. Speaker, Sir. I think it is unfair for the Chair to condemn me without hearing me. On Thursday, I was unwell and I have the records where I was hospitalised. You have not even asked me to explain why I was not in the House, and you said that I absconded as if I was well. You cannot condemn me without giving me a hearing.

Mr. Speaker: Order! Order! By the way, Mr. Obwocha, it will be very nice if this was the first time, but the record speaks for itself. If that was the first time, maybe, yes. But why this coincidence? If you insist, I will compile that record and lay it on the Table. If you understood what Mr. Angwenyi said, please, take his position and keep parochial politics out of this House.

Proceed, Mr. Minister.

The Minister for Finance (Mr. Okemo): Mr. Speaker, Sir, I beg to move that the Finance Bill, 1999, be now read a Second Time. I have noted the lively contributions the hon. Members have made during the debate on the Financial Statement. I have also had very fruitful discussions with the Departmental Committee on Finance, Planning and Trade. All these contributions, together with those made during the debate on this important Bill, will be taken into consideration when considering possible amendments to the Bill.

Mr. Speaker, Sir, as discussed in the Budget Speech, the Finance Bill contains various proposals announced in the 1999/2000 Budget Speech relating to changes in liability and collection of taxes, miscellaneous fees and charges---

Mr. Sungu: On a point of order, Mr. Speaker, Sir. The loud consultation does not allow us to hear what the Minister is saying.

Mr. Speaker: Order! Order! All those hon. Members satisfied with the Finance Bill may take leave.

Proceed, Mr. Okemo.

The Minister for Finance (Mr. Okemo): Mr. Speaker, Sir, I am saying that, as discussed in the Budget Speech, the Finance Bill contains various proposals announced in the 1999/2000 Budget Speech relating to changes in liability and collection of taxes, miscellaneous fees and charges, matters incidental to Fiscal Policy, and matters relating to the financial sector.

(Loud consultation)

Mr. Speaker: Order, hon. Members! This is a matter of taxation of your own constituents. The first duty of Parliament is to impose taxation. You should not complain next time, like you did last time when you reduced your own salary, by not reading the Bill. So, whatever happens now, do not complain.

Proceed, Mr. Okemo.

The Minister for Finance (Mr. Okemo): Mr. Speaker, Sir, these measures aim to build on improvements of the previous reforms, while seeking to address key issues necessary for revitalising the economy.

Mr. Speaker, Sir, as indicated in the Budget Speech and other fora, economic growth is estimated to have slowed down to 1.8 per cent during the Fiscal Year 1998/99. To raise the rate of growth to a level consistent with our aspirations, several complementary measures have been proposed and will need to be implemented in the course of this fiscal year. The major thrust of these proposals includes fiscal adjustments, especially on the expenditure side, in order to channel financial resources to more productive areas. They also aim to rationalise duties and taxes, to make them more equitable, while lowering cost of doing business in Kenya.

Mr. Speaker, Sir, as hon. Members will appreciate, the major challenge facing the country is how to alleviate the growing poverty and unemployment. To create jobs and effectively address these twin problems, requires us to improve the investor environment and attract investments, which is necessary to raise economic growth to a rate which is higher than that of our population growth rate. To achieve a high level of investment requires that we restore investors' confidence through maintenance of a stable macro-economic environment, rehabilitate the economic infrastructure, improve security and relations with development partners, in order to encourage inflow of direct foreign investment.

Mr. Speaker, Sir, to speed up economic recovery, it is necessary to increase productivity in the public sector, to enhance its capacity to facilitate efficient operation of the private sector. Towards this end, the Government has embarked on a programme to restructure and rationalise the public service. This exercise will involve re-examining the size and functions of the service and to refocus allocation of public resources to core functions. It will also entail a reduction in the share of resources going to the public sector, so that more resources can be availed to the private sector, which is the engine of growth. In the short medium term, the Government aims to reduce the public expenditure to balance the Budget and, ultimately, generate surpluses that will enable us to repay part of the short-term domestic debt. Consequently, expenditure control and fiscal discipline will play an important role in our effort to rebuild the economy and generate growth, the two crucial factors in our fight against poverty and unemployment.

Mr. Speaker, Sir, it is in this context that the Government Ministries have been reduced to 15. Already, an exercise to scrutinise the structure and functions of these Ministries is in progress. The objective is to follow this with Ministerial rationalisation, with right-sizing the Civil Service, to have a leaner, but more focused public sector. This will make it easier to co-ordinate operations of the public sector, remove duplications and save costs. In addition, several other measures have been taken to improve economic governance, together with operational efficiency in the public sector.

These measures also aim to improve transparency and accountability in the delivery of the public services, particularly in the area of procurement. Towards this end, we have carried out modification of tendering procedures, to bring in private sector representations in the public tender board. We have also introduced an appeals board to further strengthen transparency, accountability and to improve equity in the system. We have also carried out greater scrutiny of work done by contractors, in order to make sure that the contractors who do shoddy work will be excluded from future tenders for Government work.

To improve performance within the local authorities, the Local Authority Transfer Fund, which will start flowing to the local authorities effective 1st January, 2000, has been designed to encourage performance and delivery of services by these authorities. Consequently, these funds will be allocated on the basis of predetermined criteria, which have ready been published in regulations. Once the funds start to flow, future allocations will be tied to improved service delivery, mobilisation of local resources together with preparation and audit of accounts.

As part of our efforts to focus economic recovery, priority will first be given to rehabilitation of physical infrastructure. It is for this reason that funding for road rehabilitation and maintenance has been increased, and the implementations of the *El Nino* Emergency Programme speeded up. For road maintenance, funding is going to be increased from Kshs6.2 billion in the 1998/99 Budget Year, to Kshs7.7 billion during the current fiscal year. Other projects include improvement of rural access roads and rural electrification. While the efforts to increase funding are necessary to generate growth and raise rural income, I cannot over-emphasise the need to ensure proper and efficiency utilisation of these funds.

I, therefore, call upon all those involved in implementation of these projects, especially committees of this House, to ensure Kenyans get value for money, and that money is spent in the most productive manner and in the most needy areas.

Mr. Speaker, Sir, turning to specific measures in the Finance Bill, proposals made under the Customs and Excise Act seek to improve the operating environment, reduce compliance cost, seal avenues for revenue leakages, and enhance competitiveness of our goods and services. No doubt, the current difficult domestic economic

conditions, coupled with the difficult international environment, have exposed Kenyan business to severe import competition. Though the recent movement in exchange rates will help, much more effort is required. For this reason, proposed changes to the import duty tariffs are modest, mainly to protect local producers. We also propose to provide a legal mechanism to respond to our trading partners, who may resort to using restrictive and unfair trading practices against the Kenyan exports.

Mr. Speaker, Sir, therefore, I challenge all Kenya exporters to report any incident of unfair restriction and give us the supporting evidence to enable us to respond appropriately. In addition, duty on residual fuel oil has been lowered by 60 cents per litre to assist major industrial users in particular the energy intensive manufactures, during this very difficult time. Agriculture is the mainstay of our economy. To assist this sector, duties have been raised on processed agricultural produce to give the sector added support. Duty on cold storage equipment and vehicles has been reduced to five per cent. To curb the problem of diversion of transit goods into the domestic market, tight controls that include provision of security on transit shade operators has been put in place. These efforts will be supported by intensive collaborative efforts of the revenue authorities of the three East African Co-operation member states.

In our efforts to encourage local production, we have proposed suspended duties on all categories of fully-based imported commercial vehicles. We are also examining imports from the COMESA countries to ensure that there is fair and equitable trade with our partners in the common market. Of special interest, is the need to ensure that goods from member countries meet all the necessary conditions and bench-mark as specified in the agreement. Hon. Members will appreciate that, good as these measures may be, they may not be effective enough to deal with the problem of used goods such as vehicles, clothes, and others. This is because, the majority of such goods are exported after being discarded in the countries of their first use. Besides, some of these goods carry additional health and environmental risks. These include *mitumba*, vehicles and refrigerators. For this reason, other regulatory agencies such as the Ministry of Health and the Kenya Bureau of Standards (KBS) must step in and do their part to protect local consumers from harmful effects. Hon. Members have also noted that the Finance Bill contains comprehensive provisions on valuation of imports for Customs Duty purposes. These are in accordance with the World Trade Organisations (WTO) rules, which require customs authorities to adopt transaction value, or General Agreement on Trade and Tariffs (GATT), valuation basis. The provisions in the Bill have been lifted from the WTO protocol, which all member countries are required to implement according to the agreed schedule. However, to safeguard local producers, the Kenya Revenue Authority (KRA) is building up evaluation data base which will help to detect incidents of under-valuation. Obviously, the WTO rules neither protect those who manipulate import values deliberately to evade import duties and taxes nor those who enjoy fiscal subsidies. Consequently, import management will be tightened and improved to deal with these matters once the Bill before the House is enacted into law.

Mr. Speaker, Sir, in order to curb revenue leakages and improve equity, import duty exemptions on donations to charitable organisations and NGOs will be very strictly controlled. To curb the abuse of exemption facility and protect public revenue and local producers, the Government plans to gradually phase out duty waivers, especially on vehicles, altogether. Already, the KRA is required to vet all applications for duty and Value Added Tax (VAT) waivers before they are submitted to the Minister for consideration and approval. However, this is proving a difficult and expensive area as more and more NGOs and charitable organisations get registered. Besides, we would like to encourage those who wish to donate goods for charity to do so on a duty-paid basis. They should not seek to tie their donations to Government participation through duty and tax exemption.

Mr. Speaker, Sir, under the Value Added Tax Act, it is proposed that the standard VAT rates be lowered from 16 to 15 per cent in order to reduce the tax burden. Furthermore, to reduce compliance costs for businesses, the 12 per cent rate has been raised to 15 per cent. This means that only one VAT rate will apply. Therefore, taxable persons will only maintain one VAT account. However, special attention has been given to assist the tourism sector, which has experienced serious difficulties in the recent past. Consequently, the combined VAT and Tourism Levy has been reduced from 18 per cent to 15 per cent, while the 12 per cent lower rate has been combined with the Tourism Levy to make the total payment by this important industry 15 per cent, as in all other sectors.

Hon. Members will have noted that under the Income Tax Act, several measures have been taken to reduce the tax burden during this difficult period. These include increasing the personal reliefs and tax bracket adjustments by 10 per cent. In addition, the top rate for both corporations and individuals has been lowered to 30 per cent. Besides, pension contribution limits will be increased by Kshs30,000 from Kshs150,000 to Kshs180,000 per annum. Investment allowance will be extended to even workshop machinery. These are major changes which will leave more financial resources in the private sector to boost investment and create jobs. Under the Banking

Act, amendments have been proposed to increase core capital, improve corporate governance and credit administration, and restrict inside lending. These measures are necessary to restore the health of our banking system, which experienced stress in 1998.

Similar amendments have been proposed to the Insurance Act as well as the Building Societies Act. These changes are key to building a stable financial sector that promotes long-term savings and channels investment to productive sectors of the economy. Hon. Members should also note the proposed amendments to the Pensions Act, which seek to make the public pension system more equitable and flexible. The proposed amendments will also support the on-going Civil Service Reform Programme. Under the Government Lands Act, the proposed amendments will facilitate resolution of many cases currently pending in the Ministry of Lands and Settlement. As has been stated before, to attract additional investments, it is necessary to make our disputes settlement system quicker and more transparent. This is particularly necessary in case of land, which is an important factor of production. It is for this reason that proposals have been made to establish Land Arbitration Tribunals (LATs).

Mr. Speaker, Sir, in conclusion, let me once again appeal to all hon. Members to put the national interests first. The destiny of our country is in our hands. The recovery of our economy is a challenge to us all, and needs to be addressed with concerted efforts. Therefore, we, the leaders, must have a duty and responsibility, individually and collectively, to turn this country's economy around. We can, and must, do it. We simply cannot afford to fail. I therefore appeal to hon. Members to support these measures and work together, to re-start and sustain economic growth.

Mr. Speaker, Sir, I beg to move.

The Vice-President (Prof. Saitoti): Mr. Speaker, Sir, I rise to second the debate on the Finance Bill. I am sure that it will be recalled by this House that the Finance Bill is basically the instrument that executes whatever is usually contained in the Financial Statement that the Minister for Finance presented to this House in June.

In addition, it is the Finance Bill once executed which will generate the revenue which is supposed to finance the expenditure programme. I would like to add that it is only on Thursday last week that this House voted the Motion of Guillotine, in essence, passing the expenditure of certain sums of money by the Government. That expenditure programme has got to be financed by the revenues which are generated by the taxation measures that are embodied in the Finance Bill.

Mr. Speaker, Sir, I only want to highlight a number of things. In this Bill, there are several taxation measures which fall into several categories. We do have the Customs and Excise Duty, Value Added Tax (VAT) and the Personal Tax, including the Corporate Tax. I am delighted that in the Finance Bill, a great deal of effort was made under Customs to reduce the rates of a number of goods to a level that will ensure that, at least, manufacturing will be much cheaper. I refer here to the fact that - this is visible under Schedule II - the Customs Duty was reduced by about five per cent in respect of intermediate goods and raw materials. That in effect is supposed to give a competitive edge of the manufactured goods which come from these countries.

In the same category, one is also delighted to note that - again this does appear in Schedule III - there are suspended duties on a range of items, especially those in the textile industry and agricultural sector. I think the House will appreciate the fact that, indeed, our agricultural industry has gone through a great deal of battering through the dumping of goods into our economy because of what we call liberalisation and globalisation.

We have seen our textile industry, in many cases, almost get wiped out. This has, of course, resulted in the loss of a number of jobs. Therefore, it is good to know that the Minister for Finance did bring or slap in suspended duties. In the agricultural sector, we have also seen the appearance of a number of agricultural goods that have come into the market. We have indeed seen eggs, meat, lambs from New Zealand and chicken from South Africa coming to this country. There can be no doubt that if, indeed, beef is being marketed in this country at a much cheaper price than the beef or lambs which are locally produced, then we shall have to make a conclusion that some of these agricultural goods come here, because there is over-subsidy by those countries. This is what is called "dumping!"

We have to take a very strong stand here because the backbone of this country is agriculture. Indeed, this is where the bulk of our people live and depend on. Agriculture is the one that provides food and employment opportunities. I am not criticising this Bill, lest the hon. Members in the Opposition think otherwise. I am reinforcing the Government policy, and I am sure that when the Minister will come with amendments, he will really "bite hard". The "biting hard" will be that we will take firm measures to ensure that Kenya will not be the "supermarket" of other countries which thrive on over-subsidy on their products. We will not accept that. We will ensure that our agricultural sector is protected to ensure that there is food security in this country and we do not become a food subsidy. We have got the means, favourable climate when it rains and hard working farmers to ensure that we become self-sufficient in food production. We will ensure that our farmers do receive the

appropriate incentives. I am sure that when the Minister for Finance will come with the amendments in the Committee Stage, he will precisely do that to ensure that our farmers continue to produce enough food rather than depending on eggs. So, we are really sending strong warnings to those countries who have come to believe---

Dr. Oburu: On a point of order, Mr. Speaker, Sir. Is it in order for the Vice-President to start suggesting amendments when we have not even started debating the Bill? He is pre-empting that there will be amendments.

Mr. Speaker: Order! The Vice-President informally seconding the Bill has the right to express his views. The only reservation is that, of course, being in the Government, he should know what he and his brother, the Minister for Finance, are thinking. But he might just be giving you a hint of what the Government wants to do. Proceed, Prof. Saitoti!

(Laughter)

The Vice-President (Prof. Saitoti): I do thank you very much, Mr. Speaker, Sir, for your protection. I think I will also inform the Minister that I am also in the Government and I am giving the hon. Member a feeling of what the Government's policy is about on this matter. He should thank me for that. This is clear. Unassumably, we would like to assure our farmers that we will ensure that they will be taken care of so that we do not become a dumping market which will resort to this county having a food deficit. Therefore, apart from the suspended duties which have been put in place, the anti-dumping measures will come in.

I would like to go further and say that when it comes to the industry, indeed, this country did invest, and we have taken into consideration this fact. We have invested heavily in the establishment of the local industry. Whereas we do not want to go to the extent of over-protection of the industry, because that can lead to inefficiency, we will also ensure that our industries produce quality goods and can export their products. We have to make sure that they do not become victims of over-dumping. When one takes all these into account, then he must take into account that right now, Kenya like many other countries in this continent, is very much involved in negotiation with other countries for the purpose of getting on track regional integration economic bodies.

Talking about the East African Co-operation, we are negotiating with Uganda and Tanzania with a view of forming a common market. We hope that the treaty will be signed in the not too distant future. We are also a strong member of COMESA and there will be certain tariff reductions. Again, we have got to ensure that goods which come from the rest of the COMESA countries at a certain lower duty should not come and mess up our own goods here. That means looking at our raw materials and ensuring that there is no dumping of goods by other countries. I am saying this because it is important for all of us to know that we have much more to gain by being members of regional economic groups, but of course, there are certain aspects that we will look into in as far as the Customs Duty is concerned.

Mr. Speaker, Sir, the next important thing which I should really highlight is the VAT. It does tax consumption of goods and services rather than being directed to the source; it is taxed as we spend. That is the attractiveness of the VAT. Now, there have been several rates over a number of years and in quite a number of them, these categories were reduced to very few. What the Finance Bill does and, indeed, that can be looked at, is to assemble a number of rates of the VAT. They have now been assembled and we do have one common rate, which is 15 per cent. Well, people may say: How come that some of the rates have gone up and the highest rate of 16 per cent has come down to 15 per cent? For easy collection of revenue, we need one standard rate. But also, for both traders and manufacturers, it is much better if they have only one rate to deal with. So, that in itself is a simplification of that particular tax.

Mr. Speaker, Sir, in the case of Personal Tax, it is heartening to know that the Minister for Finance did also take into account that we are in extremely difficult times and the wananchi and the consumers have major problems. Therefore, for that particular aspect, as far as the Personal Tax is concerned, two very important measures have been taken. One, it will give more relief to personal taxation so that the taxpayers pay much less. In addition to that, the brackets have also been broadened. In effect, it means that those who are in the lowest income bracket, over 100 of them will be kicked out of the taxation, while many others will pay much less. That is an important relief during these extremely difficult times.

Mr. Speaker, Sir, it will also be remembered that in the years that have passed, including early this year, this country did face problems in the banking sector. There are quite a number of weak banks which did collapse. And unfortunately, a number of those banks did go down with depositors' money, because they were weak and, perhaps, there was much weaker supervision. The Banking Act is, therefore, going to be amended to ensure that, one, there is going to be much stronger prudential supervision of the commercial banks. Much more important, there is also provision to ensure that in the case of

the banks, the capital is going up; the minimum will be Kshs500 million. In the case of NABI(?) it is also going to be raised up to a minimum of Kshs365 million. We believe by also increasing the various governance aspects of the banking sector, then, we are going to have a sound banking system. It is important to have a strong financial sector.

Mr. Speaker, Sir, before I conclude my remarks, let me say that the Budget is predicated on the fact that we do need to kick-start the economy, because we are going through a major recession; it is not just in Kenya, but also on the various fronts. Several measures have also been presented by the Minister. One of them has to do with ensuring that we have a sound micro-economic policy, because there is no way any economy is going to recover unless it has a very strong micro-economic policy. A strong micro-economic policy does stand on two important pillars; the financial and fiscal pillars. In the case of the fiscal policy, the Minister for Finance made it very clear; that various steps are being taken, especially on the expenditures, and much more specifically on the procurement procedures. That is to ensure that the procurement procedures are being tightened up, including as the Minister has already said, to ensure that the Central Tender Board (CTB) is broadened. And it has already been done so by bringing in even members of the private sector. Indeed, the Chairman of the CTB is from the private sector, and it goes all the way down. Indeed, certain appeals have also, as a procedure, been built-in. That is to ensure that the money is used for what it is intended for.

Mr. Speaker, Sir, maybe, let me also say the following: That, in the case of the Kenya Anti-Corruption Authority (KACA), the Minister himself has already provided the necessary funding to ensure its start-up. Indeed, we have already read in the newspapers that work has already started. That in itself means that on the fiscal side things are going to be in place.

May I also say here that the most important thing that we need to be able to kick-start the economy, apart from the governance issue which is being speeded up, is the infrastructure. We all know that as a result of the *El Nino* weather phenomenon, funding is being provided to ensure that, at least, the infrastructure is repaired just as much as security is important for the kick-starting the economy. There again, resources will be provided in the area of security. I want to say here that at the very end of the day, we also want to create an enabling environment; an environment in which we can be able to attract investments from abroad. That can be done, but as I said, once we have a sound micro-economic policy, security and transparency are in place, that will happen.

Mr. Speaker, Sir, with those few remarks, it is now my very great pleasure to second the Bill.

(Question proposed)

Mr. Mwiraria: Thank you, Mr. Speaker, Sir. I rise to make a few observations on the Finance Bill. I would like to start off by specifically referring to agriculture. The Mover and the Secunder of the Motion have both stated how important agriculture is to this country. In his Budget Speech, the Minister for Finance, and even in the Bill, there is a provision of raising Import Duty on agricultural commodities, particularly horticultural products, from 15 per cent to 25 per cent. Increases on seeds are already in force. In fact, they were put in operation on the 1st of July, 1999. Very little, if anything, has changed, showing that the present Finance Bill does not go far enough in protecting the mainstay of our economy, which is agriculture.

Mr. Speaker, Sir, as we sit here, our supermarkets are full of agricultural products, like fruits of all kinds like oranges and eggs from countries such as Israel, Ireland, Australia, New Zealand and South Africa. I find it impossible to understand how those agricultural commodities from those countries, if they were subjected to the duty stipulated in the Bill, can compete so effectively, because when you go to the supermarkets, they are cheaper than the Kenyan goods.

Mr. Speaker, Sir, the Minister in the present Bill has introduced Section 118(a) in the Customs and Excise Act, which is called "retaliatory imposition of duty". He has proposed that:

"The Minister may by notice in the *Gazette* impose on any goods imported into Kenya such conditions or rates of duty as he may deem necessary to protect Kenya's interest where the country of importation practices unfair or restrictive trade practices".

There is no question that some of the countries around us are practising those unfair practices. I would like to quote Egypt, for instance, the country from which this new soap called "Arial" came from, which was selling at 50 per cent the cost of Omo and other local soaps. There is no doubt in my mind that, that soap was being dumped into this country. I can say the same of eggs from South Africa and oranges and apples from Israel and South Africa. What will the Minister do, if, as has been proved, the Import Duty he has imposed prove inadequate? We need to think of an Import Duty, at least, three or four times higher than what has been proposed here.

The Minister talked of the need to revamp the economy and he gave various conditions. One of the biggest problems facing the Kenyan economy today is the poor infrastructure, particularly the roads. I come from a

district where agricultural products are produced, but they cannot reach the market because there are no roads at all. In this House, we have approved the fuel levy which during the last three years has collected over Kshs20 billion, but the Ministry has nothing to show for it. The main reason for this is that the fuel levy is not being used to develop roads. The money is certainly not being put to good use. A recent article in the *Daily Nation* newspaper showed that in the last three months, contracts offered to contractors by the Kenyan Government on construction of new roads vary in cost per kilometre from Kshs9 million to Kshs99 million.

[Mr. Speaker left the Chair]

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

It is my considered opinion that if this country will make any budgetary savings, then we had better get into grips with the expenditure in such key Ministries as the Ministry of Roads and Public Works. A starting point should be determining what should be the average cost of building a new kilometre of road: Should it be around Kshs9 million or should it be Kshs99 million? Clearly, if some contractors can do it for Kshs9 million, then we should bring down the cost to about that level. I was horrified to find that Langata Road, which is only six kilometres long, will cost Kshs99 million per kilometre. We really need to give value for money. I am sure most of the Kenyan road users who are paying the fuel levy and the Transport Licensing Board (TLB) levy are saying that there should be no taxation without services being rendered. In fact, if we could move Kenyans to stop paying the fuel levy until we get those services, we would do it. Quite honestly, we are not getting value for our money. The reason is that there is a lot of wastage of these Government funds.

Mr. Temporary Deputy Speaker, Sir, I must, as a representative of a farming community, once again, object very strongly to the re-imposition of presumptive tax. This tax only penalises the poor. A poor farmer who can only deliver a few kilograms of milk daily has got to give up a certain percentage of that revenue, although the total earnings do not add up to the Income Tax bracket. How fair can we say the system is? I would urge the Minister to consider other ways of taxing the well-to-do farmers who can do their accounts and present income tax forms. He should leave alone the peasant farmers who grow a little coffee, tea or keep a few milk cows and who are being today taxed through the presumptive tax. This is something which the Minister can easily get apt at. His people should do a little more exercise and make sure that they can reach the richer farmers and tax them rather than impose again the presumptive tax.

As a Kenyan, I must say that I was horrified when I heard that we were waiving altogether visa fees in Kenyan Embassies abroad, so that everybody coming to Kenya can come here without paying a penny. Kenyans pay dearly to go to any outside country. We have to pay visa fees. What surprises me is that nearly 90 per cent of the expenditure of the Ministry of Foreign Affairs and International Co-operation was Appropriations-in-Aid from visa fees. All that revenue has been thrown away. I think our Government sometimes takes the easy option. The Government must have thought that by waiving the visa fees, foreigners will come into Kenya in greater numbers than they have been coming. Surely, any Kenyan is aware of the reasons why tourism has gone down. The reasons are not far to look for. This has been due to lack of security, poor infrastructure, the clashes which took place at the Coast at the beginning of a tourist peak season, and the adverse publicity we have got abroad because of poor Governance in Kenya. Instead of the addressing these key issues, the Government rushes to waive the visa fees. I hope the Minister will re-examine this issue and re-introduce the visa fee as soon as possible. Any tourist who intends to visit a country like Kenya can surely afford to pay an additional Kshs2,000 or Kshs3,000 for his visa. In any case, visas look beautiful in passports. I am sure any visitor would want to have a visa to show that he has actually been to Kenya.

Mr. Temporary Deputy Speaker, Sir, the Minister mentioned the much talked about rationalisation of the Government. It has been carried out. We have reduced 27 Ministries to 15, but we have not saved one cent. What is rationalisation intended to achieve if not saving? I am absolutely sure that the intention of rationalising is to reduce expenditure and, therefore, have more funds to provide services to our taxpayers. In the event, what has happened is something laughable and has not happened in any other country. All the 27 Ministers are still in their posts. Although the Permanent Secretaries were removed, they are still on the Government payroll. Where is the saving?

May I, with humility, say that you cannot rationalise politically. If you want to rationalise you have got to be cold-blooded and say: "We are cutting these numbers down"; close your eyes and reduce the numbers. There are no two ways about it. Otherwise, if from what we have seen, the first rationalisation is expected to lead to the

reduction or retrenchment of staff, then surely we will expect nothing. I would, therefore, urge the Minister and the Government as a whole to take this matter seriously. The Kenyan economy is perhaps as low as it has ever been. It needs to be pulled up by its boot straps. It cannot be pulled up by its boot straps through half measures. We need to be bold.

I can well understand the position of somebody who does not want to lose political friends and, therefore, must have three Ministers in one office. For how long can this keep going on? For how long can we retain---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Musila): Order, Hon. Members at the corner! Hon. Gumo, please consult quietly. Proceed.

Mr. Mwiraria: Mr. Temporary Deputy Speaker, Sir, I was briefly referring to the rationalisation of the Government. I said that the intentions are good, but the execution falls far short of every Kenyan's expectations.

Let me now turn to another subject. In Kenya, water shortage is one of our biggest problems. Today I want to address purely the destruction of catchment areas around the country, but particularly in the Mt. Kenya area. In my constituency, the lower Imenti Forest has been totally destroyed with the encouragement of Government officials; the DC, District Forestry Officer and District Security Officer. They are the people who have protected saw millers who have gone into the forest and cut literally everything. Today we run the risk of having very poor supply of water from Tana River as a result of all that is happening around Mt. Kenya.

If the Government is really serious, let them start off by protecting our forest. They have done it in the past and they can do it now. I think we have reached a position where the administrative officers no longer have the will to do their work, that is arresting wrongdoers. If they arrest the wrongdoers and they are ready to give them *kitu kidogo*, they let them go away scot-free. This is what is destroying this economy. May I urge the Government to take very tough action. We are being told that the Kenya Anti-Corruption Authority (KACA) is up and kicking. Let us get a few people in the courts and in jail. This will perhaps act as a deterrent measure against those who are bent on spoiling everything for other Kenyans.

In this Bill, the Minister has brought up several amendments to the Banking Act. There is one question I would like to raise in connection with Section 90 where minimum capital requirements for new banks are spelt out. These are being imposed with effect from 31st December, 1999, 2000, 2001 and 2002. When the coffee farmers went to the Central Bank of Kenya to apply for a licence to operate a bank, they were being charged what the Minister intends to be the minimum requirement from 31st December, 2002. Is that a fair action?

All over the world, the banking industry is taken as an essential part of the development of any nation. It is for this reason that most countries do not allow foreign banks to operate locally. In Kenya we have killed all our local institutions. In fact, most of the foreign banks which operate locally are creaming off the cash from our economy and taking out the dividends abroad. Even in the case of banks which have been incorporated locally like the Barclays Bank and Standard Chartered Bank, we do not own majority shares. The wananchi who buy shares in Barclays Bank are a very small minority. When is the Minister going to bring an amendment to the Banking Act to require that for any bank to operate locally here they must have majority shareholding of Kenyans? They must be local banks.

Mr. Temporary Deputy Speaker, Sir, the second point I would like to make regarding banking is that, in recent years, many Kenyan banks have been forced into liquidation by the Government of Kenya through the Central Bank of Kenya. We must be patriotic enough to protect our own banks. We must, in fact, nurse whatever we may have, left, and encourage new ones. The problem with what has been happening, even recently, when Asian banks started collapsing was that, it was too late to save more sources. What was the Central Bank of Kenya doing? Do they not have a surveillance mechanism which enables them to assess what is happening in these individual banks, so that they can stop the rot before it goes too far? I would humbly suggest that the Minister gives priority to local banks, encourages the development of local banking industries and work out a mechanism to protect them. The activities which have led to the near collapse of the National Bank of Kenya and Kenya Commercial Bank should be avoided from now on. There is no other country where somebody's title; the position he or she holds in Government is sufficient to serve as collateral for getting a loan from the banks. I think, it is only in Kenya where that is done. For example, I can be given Kshs700 million because I am a hon. Member of Parliament for North Imenti. We cannot afford to run our banking industry that way any more. The mistakes have been done, but let it be stopped. Let us have the mechanism to protect the banking industry from such abuse in future.

Mr. Temporary Deputy Speaker, Sir, still on banking, I would like to say that, we as a nation; Kenya, appear to have done away with all the exchange controls, which is a very wonderful, excellent thing. But surely,

we must have residual powers. We must give the Governor of the Central Bank of Kenya residual powers. In the event we find that the open flood gates are being used to completely take off all the foreign exchange, we can act and stop complete looting of the foreign exchange. If an amendment to the Banking Act is required, it is to ensure that the Minister has that residual power.

Mr. Temporary Deputy Speaker, Sir, my last point on banking is that, I think it is good to have a floating exchange rate, but I believe that we cannot completely leave everything to chance. Our Minister for Finance is responsible for repaying national debts, and particularly debts denominated in foreign currency. During the last four months, the Kenyan Shilling has been devalued by about 25 per cent. That effectively means that we have to find as a nation, 25 per cent more shillings to repay old debts, and yet the economy is expected to grow at 1.8 per cent. When we completely leave the exchange rates to what you call market rates, what does to our economy is to impoverish the ordinary Kenyan. This is reducing the amount of money available from the taxpayers' kitty for use for services, because it has got to go to service debts. I do not think there is anything wrong with that. The Minister should not be ashamed if the Governor of the Central Bank of Kenya were to intervene and save the Kenya Shilling from further devaluation. In fact, I am recommending that a time has come for the Governor of the Central Bank to take remedial measures to make sure that the Shilling does not continue its downward trend. If it does, we become worse off, because everything we import from foreign countries becomes more expensive whereas our salaries or earnings are not increasing. I do not understand the rationale behind what we are doing. If we are doing it to please the Bretton Woods Institutions; the IMF and the IBRD, then I am afraid, we are backing the wrong horse. I think, we have got to be Kenyans, stand on our two feet and protect our economy where protection is required, particularly in agriculture and banking.

Mr. Temporary Deputy Speaker, Sir, I think, I will perhaps make one more point and conclude my remarks. I would like to congratulate the Minister for having changed the tendering procedure. There is one aspect of tendering I think we need to change immediately. In the past, Government jobs and tender advertisements have always been done in the *Kenya Times* newspaper. We know that *Kenya Times* has got the lowest circulation in this nation. Are we trying to reach a maximum number of Kenyan nationals or to enrich a Government newspaper? Surely, as a taxpayer, I would like to get value for money. The advertisements should go into newspapers where many people are most likely to see it. For example, the *Daily Nation* newspaper or the *East African Standard*. In any case, what is wrong in advertising in all newspapers? The amount of money that would be spent, would not correspond to what is being stolen through "import of air". People claim they have supplied items to the Government Printer and yet nothing has been supplied, and money has been paid. Would it not be much better to pay the *Daily Nation*, the *East African Standard*, *The People* and the *Kenya Times* to advertise for Government goods and pay them for it so that all Kenyans get to see what is happening?

Mr. Temporary Deputy Speaker, Sir, I have made those few observations, and wish to conclude by saying that, irrespective of what we do, we must sit back and ask ourselves: "Where have we gone wrong? Why are our industries collapsing?" The case of the textile industry is well-known. The case of the leather industry is equally well known. Today, Kenyans export leather to India and China, and get back shoes. Why do we not protect our local people? We can make Jua Kali shoes! The majority of Kenyans cannot afford anything else anyway! But we really need to start forgetting the cliché market forces. If we are going to industrialise, industrialisation must be guided, supported and protected by the Government.

With those few remarks, I beg to support.

Mr. Mkalla: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion.

On behalf of the Members of the Departmental Committee on Finance, Planning and Trade, and in pursuant to provisions of Order 1013, I present to the House the Report and Recommendations of the Committee, on the Finance Bill, 1999.

However, I would like to make some specific comments on certain issues, which were not agreed upon by the Members of the Committee, because the Minister was either not available, or he had travelled overseas on some other business. The two issues that we had not agreed upon with the Minister are:-

(i) The issue of the re-introduction of the---

Dr. Kituyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am very glad to learn that the hon. Chairman of the Departmental Committee on Finance is making a contribution. But is he in order to purport to be presenting a Report of the Committee, when it is supposed to be in our custody? We are supposed to have scrutinised it before we look at the Finance Bill?

The Temporary Deputy Speaker (Mr. Musila): I believe that matter was raised earlier on a point of order. It was stated that the Report has not been submitted. It was decided that we proceed

on. The Chair decided that, we should proceed with debate. So, Mr. Mkalla, as the Chairman, you are not presenting any Report now. It should have been brought earlier anyway! So, could you please, contribute to the Motion?

Mr. Mkalla: Thank you very much, Mr. Temporary Deputy Speaker. I was giving the reasons why the Report had not been tabled. One of them was the question of the Presumptive Tax. The Members of the Committee had requested for specific information, so that we could discuss on the issue. This took us not less than two months, and there has been no response. The second point was the question of the increase of tax on paraffin. The Committee discussed this with the Minister, and as late as last week, we had wanted to get certain inputs. Some inputs were not forthcoming and hence, the reason for this particular delay.

However, I would like to say that, there is need for the Ministry of Finance and Planning, to bring further regulations to stop dumping of products into this country, such as petroleum products. This has caused a lot of problems to our country. We have been told that Kenya is an agricultural country and, indeed, it has been like that throughout. We could produce quite a lot of food in this country, and eradicate the poverty that is inflicting our people. However, most parts of this country do not have water. On the question of water, the Government should have a deliberate plan to either provide dams in all the constituencies and divisions in the country, or provide piped water. Such water could be used by Kenyans living in dry areas to produce crops. But this has not happened to the satisfaction of all the communities in this country. We could easily do irrigation in Kenya, if water is availed to all the areas. Israel, which is more drier than Kenya, is doing very good irrigation. There is no reason why Kenya cannot do irrigation, and become self-sufficient in terms of food production.

The question of infrastructure is very important. If we have to improve this place, we require to improve our infrastructure; like roads. The road from Mombasa to Nairobi up to the border with Uganda need to be improved. We should not only improve the major roads, but even the small feeder roads, which are everywhere in this country. They have been neglected for a very long time. Sometimes they are neglected for a year or two without being graded. You cannot expect the communities to do any business in those areas because of the poor state of the roads.

If you look at the railway line, there are delays in transportation of commodities from Mombasa to Nairobi, and other areas. We are about to lose business because it takes shorter time for goods to be transported from Durban to Kampala. It takes longer time for goods to be transported from Mombasa to Kampala, because of the poor infrastructure. We need to do something about the infrastructure, if we have to improve our productivity in this country.

The issue of power, which we discussed a few days back, when we were looking at the Ministry of Energy, must be addressed seriously. We need to do something about power in this country. This is because even our agriculture is dependent on power. Places with cold storage plants, where perishable food is kept, do not have enough power. In milk-producing areas, if there is no power, the milk become sour. So, this is an area which is very important. We should do something quickly enough to avoid any messes in this country.

There is the question of the drop of tourism in this country. This is due to several factors. The question of availability of water, infrastructure and security need to be addressed vigorously. When tourists come into this country, they bring a lot of foreign currency. They must stay comfortably. We should be able to provide basic things like water and a good communication system within our country.

Mr. Temporary Deputy Speaker, Sir, I support one speaker who talked about the visa fees, which have been re-introduced. This measure is not conducive to more tourists coming to our country. I think it should be good if the fees are removed, so that we could have more tourists coming in. This will create more foreign exchange and reduce the economic problems that we have.

I would like to comment specifically on the issue of cost-reduction by the Government. Last time, when the Budget was presented by the previous Minister, we were told that there will be a reduction of vehicles within the Government Ministries. We were told that there will be a reduction of mobile telephones of some people. We were told that there will be no unnecessary office accommodation for teachers and what-have-you. That is not the way things are happening today! There is still very many vehicles being driven around. The mobile telephones are still there. There is multiplication of offices. I am saying that there are controllable expenditures which can easily be done away with. If we can reduce such expenditures, we can have a lot of money to help the current state of our economy.

Mr. Temporary Deputy Speaker, Sir, during the previous Budget, we were told that the Government was going to appoint accounting managers in the Ministries. But it is about two years since then and that has not been done. What stopped us from appointing these accounting managers who could assist in making sure that there are better financial controls within the Ministries? What are we still waiting for? Is it a deliberate delay by the Government or what? I would request the Government to make sure that the appointment of the accounting

managers be done as soon as possible to avoid any further misappropriation of funds within the various Ministries.

Mr. Temporary Deputy Speaker, Sir, on the capital requirement for the opening of new banks, there is a new regulation. For anybody to start a new bank, one will be required to have Kshs500 million; and Kshs375 million to operate a financial institution, come November, 1999. My feeling and that of my colleagues is that it is not the question of deposit that has been a cause of concern in this country, but the question of the monitoring unit of the Central Bank of Kenya which has not been vigilant enough in terms of supervising these banks. We are, therefore, requesting that the Central Bank of Kenya ensures that its monitoring unit does more supervision and becomes more vigilant than it has been before. It should also ensure that professional ethics, integrity and strictness are observed within the banking sector so that the banking industry can improve.

On the issue of Foreign Exchange Control, it is true that we did liberalise our foreign exchange so that we can get more business. But I think it is not right to leave our doors open for everybody because some bad people can come into this country. We do require some minimum controls and regulations which will make sure that when things go out of hand, at least the Ministry of Finance can control them. The standards of development are different in each country. We have got the developed countries and the developing countries, and we should not just do things for the sake of doing them. We should do things which are within our own conditions in this country. The question of liberalising the foreign exchange has made us to have less foreign exchange reserve in this country. You will find that there are some people who are not bringing money to the country in terms of foreign exchange, but instead, they are exporting it and in the end, we may end up with serious problems, if we are not careful.

Mr. Temporary Deputy Speaker, Sir, I would also like to comment on interest rates and inflation in this country. In 1998, the interest rates came down drastically. After that, they started going up again. Even today, they are still going up and the inflation rate is still going up because the shilling cannot buy what it used to buy before. The issue of high interest rates has come about because of the heavy borrowing by the Government through Treasury Bills. There is so much borrowing by the Government such that there is no money within the public which the private sector could use to improve its productivity. If we do not reduce the rate at which we are borrowing right now through Treasury Bills, the interest rates will go up and we will reach a situation where the private sector will not be having funds because it will not be able to borrow and do some business and in so doing, there will be no productivity in our country. That will in effect lead us to a very dangerous situation.

Mr. Temporary Deputy Speaker, Sir, there are certain issues which need to be addressed to urgently. The situation where things are done without the approval of Parliament should cease. We had a situation where the National Bank of Kenya was given Kshs4.5 billion without the authority of this House.

Mr. Temporary Deputy Speaker, Sir, I find that to be an abnormal state of affairs. There is no reason and meaning in doing such a thing. If there is a problem affecting a major sector of this economy, this House is there for 365 days in a year. Even if we go on recess, the Committees of the House are there to address any burning issue. Why is it that the relevant Ministry did not bring such a request to this House for us to approve or direct on how the problem could be solved? I am appealing to the relevant Ministry to make sure that if there is anything like that in the future, then the authority of the House is sought in advance, so that things can be done in the normal manner.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to talk about the Kenya National Assurance Company. This company has been having problems for a very long time. I think a decision has been made by now so that those people who were affected by the collapse of that company can get their money back. These people are miserable, they cannot buy food for their children and they do not know what is happening while their money is stuck somewhere. A decision must be made very quickly, so that those people can enjoy the little money which they had saved with the Kenya National Assurance Company.

Mr. Temporary Deputy Speaker, Sir, the issue of the exigence of the Customs Duties, is a very serious issue in this country. We have been losing a lot of money in terms of exemptions on duties, be it on maize or sugar importation, which affect major sectors of agriculture in this country. We have sugar companies in this country which have gone stale and yet we are giving authority for sugar to be brought into this country with duty exemption. Ramisi Sugar Company in Kwale---

Mr. Odoyo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member of Parliament to mislead the House? The law does not allow exemptions and those who have been bringing sugar to this country have been doing so through illegal means of---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Odoyo! You are now debating. Can you put your point of order?

Mr. Odoyo: Is it in order for the hon. Member to tell us that there are exemptions which are being

granted whereas it is a case of straightforward theft by people who bring sugar into this country?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Odoyo! Mr. Mkalla, you can ignore that point of order.

Mr. Mkalla: Mr. Temporary Deputy Speaker, Sir, I will ignore it as you have advised me. Whether we call it exemption or diversion, all I am saying is that we could make a lot of money in this country if we avoided the unnecessary exemptions we grant to people who import goods into this country. So, all I am saying is that we should avoid unnecessary exemptions for all those who evade the payment of duties for maize and sugar; and allow the law to take its cause.

Mr. Temporary Deputy Speaker, Sir, there are some other areas where I would like to make a special appeal. There are some NGOs who bring vehicles to assist certain organisations in this country, and we have stated in our Budget that such vehicles will not get any exemption. Such cases are not so many in this country. There may be one or two. If the exemption of duty is granted to a women group or any other social group, it will assist them a great deal. We cannot expect those women to pay the duty on that particular vehicle and yet they do not even have money to buy the vehicle. I think that will have a negative effect on what is happening in this country. I would like to make a special appeal to the Ministry of Finance to make sure that whenever there is a donation to women groups or some other poor groups within our country, they should be exempted from paying duty so that they can enjoy that facility. If they are made to pay duty on that vehicle they will never own a vehicle.

Mr. Temporary Deputy Speaker, Sir, I would like to appreciate the efforts made by the Minister for Finance on the reduction of the VAT from 16 per cent to 15 per cent. I think that is a commendable thing. This is a tax which is affecting every Kenyan. I am being informed that although it is at 15 per cent, we would even be happier if it went further down. The increment on the tax on paraffin has caused a lot of problems and difficulties to Kenyans. Most of the people who use paraffin are ordinary Kenyans who do not even have a bicycle. The school-going children of these people do not even use a lantern lamp in the evening for lighting but they use *koroboi*. We also want the children of these people to succeed in their examinations! Their children use paraffin in the night as a form of lighting to be able to study. I think it is good for taxes on paraffin to be removed to enable our poor citizens in this country who cannot afford luxuries to have fuel for cooking, for their children to study and, maybe, avoid wanton destruction of forests in this country. This is because the longer we impose tax on paraffin, these people will be forced to go to the forest. If they go to the forest, they will cut all the wood that is available and, consequently, we will create a situation we have no rains at all. So, we will be compounding a problem which could have been solved.

Mr. Temporary Deputy Speaker, Sir, I wish to stop there and support this Bill by the Ministry of Finance. Otherwise, we expect whatever we have said to be taken into account. Thank you.

Mr. Odoyo: Thank you, Mr. Temporary Deputy Speaker, Sir. As a member of the Finance Committee, I would like to express my disappointment that we have not given the Members of this House the benefit of our deliberations through a formal report. Even though the previous speaker has mentioned a few points, there are many issues that are contained in that report that would have assisted Members of Parliament to debate the Finance Bill accordingly.

Mr. Temporary Deputy Speaker, Sir, the Minister has once again given us very good words on financial discipline, transparency, improvement in collection of revenue and the Civil Service Reform Programme. I find those policies once again very commendable but the heart of the problem is their implementation. These are very good words, excellent ideas but when it comes to implementation, they fall flat on their face. This, together with corruption, is at the heart of our problem with the external donors. It is at the heart of the reasons why the IMF cannot lend any money to this country. That when it comes to implementation, what we say with the left hand is not implemented by the right hand.

Mr. Temporary Deputy Speaker, Sir, the big challenge facing the Minister today is to ensure that the revenue base is expanded and the costs come down. The ideas he has discussed on the revenue base in terms of fiscal collections at Customs and Excise, VAT and Income Tax departments are good, but it is about time he also took steps to encourage the people of this country to pay tax. The taxman is forever being considered as a hostile policeman out to beat and exploit the *wananchi*. How did we come to this position? We came to this position because we have been paying taxes, but we do not get any services, and this vicious cycle is continuing. Fewer and fewer people have been trying to pay tax. This is because when they pay the tax, the money gets looted? They say: "Why should I, therefore, pay tax because the money gets looted". Because we do not pay tax, then, of course, the Government has no money to repair our roads, *et cetera*. It is a vicious cycle which the Minister has to break at some point

either by providing services or encouraging *wananchi* to pay tax. Why, for example, is the Kenya Revenue Authority (KRA) not advertising and undertaking taxpayer educational programmes so that the people can become

friendly to the taxman and pay more tax? Nobody does so. The taxman is forever wielding a big stick. It is about time Mr. Minister started thinking about a "carrot in reserves." That is by saying: "Give me Kshs10 and I give you Kshs9 of service and Kshs1 goes to savings".

Mr. Temporary Deputy Speaker, Sir, the Finance Bill shows the resources and application of funds that the Government is going to implement this year. Though the Minister may promise us that he will balance the budget, once again, the Ministry will have a very large deficit because the IMF is not giving us any money and because the Government expenditure seems to be running out of control. While we have got a recovery team in place, there are but less than five people. We have a huge Civil Service bureaucracy; the mentality of that bureaucracy has not changed to give what is called a businessman's view, that is, to give a service commensurate with the effort, image and the resources that the Government puts in, even by paying the total salaries of the civil servants. The bulk of the revenue of this Government goes in paying salaries and the other half goes into the pockets of these senior civil servants who are "chewing" money through blatant corruption of the highest order. I am not surprised that Kenya has been listed as the third most corrupt country in Africa. Reasons are to be found in the Ministry of Finance which controls the Government expenditure and revenue and the district accountants who perpetuate corruption in the rural areas and the districts of this country.

Mr. Temporary Deputy Speaker, Sir, I will, maybe, comment on a few sectors because, in general, I agree with what has been said by the previous speaker on the Opposition side, and also our chairman of the Finance Committee. Our biggest resource in agriculture is land. Land is the biggest resource in agriculture and in Kenya, only about 30 per cent of land is what I may call arable. The rest of it is desert or arid and semi-arid. Therefore, it is of great concern that a lot of this land is being held for speculative purposes. People own thousands and thousands of acres in Kitale, Magarini and other settlement schemes. They grow no crop on these huge pieces of land. They hold this land for speculative purposes. Why is it that if you have a plot in the town centre and you do not develop it within a certain period, it is taken back by the council? Why does the Government not put in place similar laws for those who own land in highly-arable districts like Uasin Gishu, Kitale, Kisii, Magarini settlement schemes and other areas? There should be a law which states that if that land lies fallow you have to pay some tax. My colleague, Professor Anyang'-Nyong'o has mentioned this. Other civic leaders have mentioned it. I have been harping about land laws for the past two years.

It is about time the Minister started considering that those people who own thousands and thousands of land which they are not farming should pay tax. Why should senior civil servants and politicians whose land is equivalent to the towns of Nairobi, Mombasa, Nakuru, Eldoret and Kisumu put together lie there for speculative purposes? They are not farming it. They are wasting it. They say that: "When I retire from the Civil Service at 55 and 60 years, then I will sell that land." In the meanwhile, opportunity costs in terms of the value of crops and other uses which this land could have been utilized for are rising. For those 20 years while he is holding that land, this country is losing. It is a big loss if these civil servants keep 5,000 acres of arable land lying fallow for 20 years, while professional farmers - people who have the heart - will and the need to farm are denied land. Of course, the big issue is that they got this land, most probably, free of charge.

Mr. Temporary Deputy Speaker, Sir, of course it is about time taxation was moved towards the production sector of this country, so that those who deny the country the opportunity to grow food and cash crops are taxed. It is about time that the Minister started thinking about drawing up a schedule of areas where you cannot afford to keep land lying fallow.

With regard to investment, the investment sector is a growth area but it is being hampered by two things; one, that there is no long-term capital for this sector because the Central Bank of Kenya, in its own unfortunate wisdom, has decided that all banks in this country must be commercial banks. We cannot have long-term venture capital banks or long-term investment banks in this country. A commercial bank cannot lend you money for more than 36 months. A large industrial unit will take not less than 60 months before it starts to pay back. So, what is happening today in this country is that, there is no money to be used in putting up industries because the commercial bank simply tells you that, for 36 months, you have to pay 30 per cent interest; you take it or you leave it. Which African businessman can afford to pay such interest? We are running into a situation where there will be no industry controlled by wananchi. Mr. Macharia is down with Madhupaper! Which African is now controlling industries in this country? Kuguru Foods Limited is going down! Why does the Central Bank of Kenya impose rules that are archaic and completely irrelevant to the economy of this country, whereby we are looking for long-term investments so that we can prosper, when we are being told that, we cannot get money for longer than 36 months? That will not be in line with the capital base that the Minister is requesting for.

Mr. Temporary Deputy Speaker, Sir, I would like to say that, for you to operate a bank, you need Kshs500 million. Very good! An excellent and a very good intention! But this is like saying; without capital, you cannot

start a business. It is not true! Maybe, in certain cases, but not always. It is not true in this case. It is not true that banks have been collapsing due to low capital base. No! Banks are collapsing because of straightforward corruption and theft!

An hon. Member: Straightforward theft!

Mr. Odoyo: Thank you! That is theft that is being abetted by senior and well established people in this country or directors who have no heart or no intention to develop a bank. These are people whose only aim is to take money from the public and run away to Canada and other countries. Here, I am referring to the Trade Bank and other related banks.

Mr. Temporary Deputy Speaker, Sir, how many Kenyans of African origin will be able to afford the capital base of Kshs500 million? It is true that the banking sector, in the next few years, will be fully in the hands of foreigners and the rest of it in the hands of non-indigenous Kenyans. We must ask the Minister this: Why is it that, the important sector, like the banking sector, is being taken away from Africans? Why is it that we do not have banks in rural areas which can meet the needs of the small rural farmer or the small women groups who, maybe, are getting about Kshs5,000 or Kshs10,000 a month? The capacities, the policies and instruments that the Minister brings to this House should reflect the realities that face our people, not the wishes of foreign puppet masters for whom, maybe, we are playing too much to! I am referring to Graman Bank which was very successful in Pakistan *et cetera*.

Mr. Temporary Deputy Speaker, Sir, finally, I will refer to the revenue collection departments; the Customs, VAT, Income Tax and Excise Tax. Many things have been said about the poor collection capacity of customs and a lot has been said about the inability of the Customs Department to collect tax that is due to this country. A lot has been said about the incessant capacity of Asian traders to bring into this country sugar and agricultural commodities without paying tax. They do pay tax, but it is only that, that tax ends up in the pockets of a few individuals, who are enriching themselves and calling themselves millionaires and they are now becoming billionaires, at the expense of my poor peasant farmers in Nyakach Constituency, who up to this time are been exploited. These people exploit the common mwananchi! There should be a policy about this! It is about time that the Minister considers; in conjunction with the Attorney-General to make the white-collar crime treasonable by shooting the criminals. They should be shot! A person who steals Kshs18 billion is walking around the streets of Nairobi and Parliament can do nothing, the Judiciary cannot do a thing and even the Executive arm cannot do a thing! Who will do something then, if Parliament cannot do anything? It is about time that those who perpetrate economic crimes in this country are able to be lined up against a wall and be read the final rites of Jesus Christ so that we can shoot them!

An hon. Member: By the gun until they are dead!

Mr. Odoyo: Thank you. I congratulate the Minister for bringing VAT down to 15 per cent, but that was not low enough and I have confirmed that the Minister knows that, no price has come down; they continued staying where they were and they are rising even further. Therefore, that level of 15 per cent was not high enough. It needed at least, two to three per cent to have an impact on the economy so that the economy can rejuvenate through lower prices and have the industry reactivated. He may wish to look at that particular level of VAT in his Budget next year, since no prices are coming down because of high exchange rates. The dollar is now going for Kshs80 and Kshs130 to the Sterling Pound. At those levels, it is not possible that we shall be able to keep prices down.

I support the view expressed by my colleagues that, the Central Bank of Kenya needs to consider lowering interest rates. We have got international financial criminals who are going round trying to make sure that they distort the economies of the less developed countries. This is happening in Malaysia. It is all "George Soros".

Mr. Temporary Deputy Speaker, Sir, on Income Tax, the taxation base has been widened and this is good. However, once again, the collection of Income Tax is being impeded by continued corruption in those departments. Corruption is not perpetuated by farmers who are out there, but by these businessmen. They are there on River Road. They are there in Kisumu or Bombay of Kenya, Mombasa and other towns. These are the people ambao wametumaliza na high level corruption.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Odoyo! Once you start in English, you should continue speaking in English. So, will you make your contribution in English?

Mr. Odoyo: Thank you, Mr. Temporary Deputy Speaker, Sir. I will proceed in the chosen language of English. I regret that you have denied me the opportunity to contribute in Dholuo!

Mr. Temporary Deputy Speaker, Sir, I wish to thank the Minister for Finance. It is good that we have a great Minister. I regret that he did not say anything about the IMF in Washington, but I hope when he talks to the Finance, Planning and Trade Committee, this and many others will be a subject of discussion.

With those few remarks, I beg to support.

Mr. Michuki: Thank you, Mr. Temporary Deputy Speaker, Sir, for granting me the opportunity to contribute to this debate arising out of the Bill by the Minister for Finance, that the Finance Bill be now read for a Second Time.

Mr. Temporary Deputy Speaker, Sir, I am a member of the Finance, Planning and Trade Committee and I regret that the Report was not submitted to Mr. Speaker although the Bill was discussed exhaustively. However, I must also point out that the Minister for Finance has not been available on several occasions when we expected to meet him. I would like to warn that this is not just an ordinary meeting; this is a meeting with a Committee of this House. I hope that the meetings as arranged will in future materialise because these Committees have a lot of arsenal in their sleeves which they can use, some of which can be highly embarrassing.

Mr. Temporary Deputy Speaker, Sir, in the Finance, Planning and Trade Committee, we looked at the Finance Bill and we were horrified by two things. The first was the incidence of additional tax on kerosene, which is the only civilised method of providing light to the poor of this country. It is the only remaining civilised method of providing light to hundreds of thousands of children who continue to sweat for their examinations in the rural areas where this Government, despite provision of a lot of aid from outside, has been unable to provide modern electricity to the houses and the villages. We could quote many.

Mr. Temporary Deputy Speaker, Sir, as you know Kshs6.5 billion that was provided by the European Union has been lying in two banks here for the last seven years. This money was meant to improve electricity and roads in the coffee growing areas and for whatever reason, this money has remained idle. So, the ordinary person in the rural area has no alternative because there are no forests now to provide firewood. Indeed, we should not be using firewood at this stage of Kenya's Independence of over 30 years. People claim to be independent when they are slaves under their own Government. Therefore, it was our unanimous feeling, although the Report was not submitted to Mr. Speaker, that this increase on kerosene must be removed by this House. We cannot afford to see our children who are studying under very difficult circumstances fail to study and, consequently, fail to meet the requirements of the 8-4-4 which is very taxing. In addition, by introducing this tax, the Ministry will remove the only means which these children can use at night to study, that is, kerosene.

I have done a little bit of research and I was mentioning to the Minister a few minutes ago that, in my own constituency only 20 per cent of the population that was buying kerosene can now afford it. For every 100 people, only 20 per cent can afford the current price of kerosene and invariably, those will be older people who may not have children at school. It is the lower income earners or the poor who are going to be hurt. I would, therefore, urge the Minister and this Parliament to remove that additional tax on kerosene.

Mr. Temporary Deputy Speaker, Sir, we also considered the issue of Presumptive Tax. When you introduce a tax like this, you ignore all the general principles that are accepted in a civilised world that knows what taxation means. There is certain guidance which the authorities who impose taxes must follow. One of this is that, if you are going to impose tax, it must be a tax on ascertainable income. Therefore, to presume tax is the lowest primitive aspects of taxation. These kind of taxes are normally imposed by dictatorial regimes where even discussions on the general principles are not accepted. Even if the Government wants to dictate matters on the general population, at least, they ought to have taken into account the fact that this Tax is going to be paid by the same people about whom the Government has written so much as to how their poverty is going to be eliminated. To impose tax is, in fact, contrary to the declared policy of this Government to eliminate poverty because it is the poor people, as it has been stated here; the smaller tea, coffee and rice growers who are going to pay this Presumptive Tax. Therefore, we must decide whether we want to be primitive in our taxation, or we want to follow the principles that are used in civilised countries where income must be ascertained before the incidence of taxation. That is what is universally accepted unless we want to make ourselves exceptional, in which case, we are putting ourselves back to the period of middle ages when people just thought that the world was their world. There can never be any reason in the imposition of Presumptive Tax. You presume that I have money. You are like a robber in River Road who think just because I am smartly dressed, attacks me when I have nothing in my pocket.

Mr. Temporary Deputy Speaker, Sir, this Government is like a robber who will attack me, when I have nothing in my pockets. The robber will assume that I have some money because I am well dressed. In fact, this might be the contrary. As I speak here, that is how I am; I have no money in my pockets. Most people may think that I have money in my pockets. This is my wallet. There is no money in it. I am saying this: You cannot presume that---

An. hon. Member: Table your wallet!

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, I am being challenged to table my wallet. However, there is nothing in it. The money I have in this wallet is not more than Kshs1,000. If you assume that, because

Mr. Michuki is well dressed, he must have some money in his pockets and, therefore, you decide to rob him at gun point, you will be making a big mistake, because I do not have some money in my pockets. Similarly, when the Government presumes that a citizen has the income, that is robbery. You are going to rob somebody who has nothing. So, you must make sure that there is income for you to tax, before you come to this House to say you know the income that Mr. Michuki has in his pocket is at the level of Kshs1,000. Let us base it on that. If you assume that I have money or citizens have money, that is robbery.

Mr. Temporary Deputy Speaker, Sir, what the small tea or coffee farmers get from the sale of their crops, is not even enough to pay members of the family who contribute labour. Yet, when you go to the House of Manji, the cost of labour is deductible before tax is imposed. So, why is it that you are imposing tax, when you do not even take into account the cost of labour that produces that small income? You must be a robber. You must be like a person in River Road who assumes that, the Minister for Finance must have money in his pockets. He tries to shoot him when actually, the Minister has no money in his pockets. This is what I am saying about the presumptive tax. It is a primitive tax, imposed by tyranny or the regimes that want to control people and regimes which think that their word is the law. This tax must be removed from our statutes, if we are to behave like civilised people. Just like the century is coming to an end, I think, we must remove this tax from our statutes. Since we have more than 100 years of civilisation in this country, we cannot continue to behave in that most uncivilised manner of primitive taxation.

Mr. Temporary Deputy Speaker, Sir, the Minister talked about reduction of Value Added Tax (VAT), to assist tourism in this country. Yes, there is that small assistance. But let me tell the Minister this in all honesty, this is an area where research has not been completed. This is because the kind of assistance he is giving to tourism, can hardly help at a time when tourism is down and the cost of the overdrafts is rising. Consequently, only debts are accumulating in hotels. If there is any seriousness to assist tourism industry in this country, the rate of VAT should not have exceeded 10 per cent. In that way, you might help the tourism industry. But with this kind of help which is neither here nor there; it is not tangible--- I want to urge the Minister to reconsider that matter, if this Government is really serious in helping tourism industry in this country. In most cases, in many developed countries, people get huge subventions in tourism. Tourism is not only a foreign exchanger earner, but it also plays part in foreign policy. Consequently, it promotes trade and enhances good relations. It should be a area which requires most assistance at this time in our history. Let us be practical and give proper assistance, to areas which we think are not really capable of lifting themselves. Tourism is one of this.

Mr. Temporary Deputy Speaker, Sir, I highly sympathise with the Minister for Finance, in relation to the Budget on which this Finance Bill was prepared. His predecessor in his Budget Speech said that he expected the economy to grow by between 2.5 and 3 per cent. He then takes the GDP and inflates it by those percentages. The end result is the slice of which he picks, to form the basis of his taxation. It is a well known fact that, when an assumption is wrong in any argument, the conclusion based on it, must also be wrong. I am saying that in all probability and what we see on the ground, it is most unlikely that the economy will grow, let alone by 2.5 or 3 per cent. I doubt whether the growth rate of our economy will exceed one per cent. Therefore, the Minister has to revise his estimates. He has to revise his assumption because the conclusion he reaches into in order to produce this Bill is incorrect. It is not in keeping with his assumptions. Consequently, the principle of balanced Budget is very much in doubt. Perhaps, the Minister might wish to address that issue, in order to assure this House that he is on the right course, according to the Budget.

Mr. Temporary Deputy Speaker, Sir, the fiscal policy must also be related to the monetary policy of a country. This is because these two are opposite faces of the same coin.

Mr. Temporary Deputy Speaker, Sir, I think it would be promoting transparency to admit that this country does not have sound monetary policies in place. The free market operations are not a monetary policy; it is a policy where factors other than policies influence the end results of money movement and the consequent incomes and everything else that come with it. The Central Bank of Kenya (CBK) and the Treasury are so much imbued with the need to control inflation, allegedly, in order to stabilise prices of goods. However, a look at the monthly Economic Report issued by the CBK shows that other than reporting on what takes place in the financial sector, no monetary policy is highlighted.

What price stabilisation, would efforts to control inflation, bring about when all the factors that cause price changes are not taken into account? The prices of inputs are very important in terms of trying to control inflation. On the other hand, the price of money, which is an input in production, is not part of the cost that influence prices. So, what kind of monetary policy is this, that takes no account of all the factors that affect prices? Yet this policy states that it is controlling inflation in order to stabilise prices. I think this is self-deceit. In any case, the control of inflation is not an end in itself.

The general policy all over the world is that countries going into economic depression - as is the case in

Kenya - should reduce interest rates in order to promote demand. This is the opposite of what is happening in Great Britain and the United States of America (USA), where the demand is so strong that they fear that they might deflate the economy as a whole. So, those countries raise their interest rates in order to control deflation. So, we need to re-activate this country's economy. Consequently, we should have some monetary policies in place, which will bring the interest rates down, unless we want our country to move further into the current economic depression and recession. On that note, I propose that the Minister considers bringing to this House for debate, some measures that will re-activate the country's dying economy. There is no point in us continuing to pretend that this country's economy will improve without re-activating it.

I know some people do not like what I am saying, and have been agitating for limitation of my contribution, but I am about to finish. I would like to comment on the issue of rising bank interest rates, which have been brought about by the Government's failure to control the demand for money. The demand for money has remained high because the Government has been unable to balance the Budget and stop public borrowing through Treasury Bills (TBs), which have become the bail for this country. Other than the rise in bank interest rates they cause, TBs attract very high interest rates. The current local debt of Kshs150 billion takes 75 per cent of the country's total annual debt repayments, while foreign debt repayments take only 25 per cent. So, you can see how costly engagement in TBs is. It is costly to businesses and taxpayers. It is a cause for worry for the Government, and must be contained.

Mr. Temporary Deputy Speaker, Sir, I know from experience that my suggestions will be rejected not because my colleagues on the Government side have brighter ideas, but because I am an Opposition hon. Member. The country's economy will continue to be in a recession because of the Government's refusal to adopt workable propositions. I think the sooner the full recession comes the better, so that everyone can drink from his own cup.

Mr. Temporary Deputy Speaker, Sir, therefore, this Bill seeks to impose tax on Kenyans in order to generate revenue, so that the Government can continue providing services to the public. However, we have learnt from the Public Accounts Committee Report that for the last six years, the Government has failed to account for Kshs550 billion of taxpayers money. We have stood here every year, talking of the same thing.

The Assistant Minister for Finance and Planning (Mr. Arap-Kirui): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member on the Floor is seriously misleading this House. The figure of Kshs580 billion was outlawed in this House because it did not---

Mr. Michuki: That is not a point of order, Mr. Temporary Deputy Speaker, Sir.

The Assistant Minister for Finance and Planning (Mr. Arap-Kirui): Mr. Temporary Deputy Speaker, Sir, it is a point of order, because the hon. Member is misleading the House. That figure has nothing to do with losses incurred by the Government.

The Temporary Deputy Speaker (Mr. Musila): Mr. Arap-Kirui, let the hon. Member contribute to the Motion before the House.

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, I said earlier on that ideas by Opposition hon. Members will always be rejected in this House. It has not taken even five minutes for that to happen.

Mr. Temporary Deputy Speaker, Sir, I was talking about the Kshs550 billion. For the last six years, we have stood here saying: "Could misuse of public funds be stopped? Could those who are responsible take care of public money?" We are now here about to pass a Bill that seeks to raise taxes without assurance from this terrible Government that our money will not be misused as usual.

Therefore, I would like to appeal to the Minister through the Chair to ensure that we do not come again next year to argue about misuse of public funds, theft of money, lack of collection and orders by the roadside on how money should be spent. The money should be spent in accordance with the Budget we provide.

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

Mr. Angwenyi: Thank you, Mr. Temporary Deputy Speaker, Sir. The Bill before us is very important. It is a Bill which taxes the people of Kenya so that they can get the services that they deserve. We collect from the people of Kenya more than Kshs180 billion. In the previous year, we taxed them more than Kshs160 billion. I would like to say that this taxation is meant for the provision of services and goods that are public to the people of Kenya. What do we have to show for the previous taxation that we have levied our people? What can we show for what we collected last year? Which roads have been done out of the money that we levied last year? What employment has been provided to the 10,000 graduates from public universities; 10,000 from private universities and 20,000 from overseas universities?

Mr. Temporary Deputy Speaker, Sir, it is the Government's responsibility to manage effectively the resources that it levies from the people it governs. When we do not have roads and any facility--- There was an announcement this morning of a woman who died at the gates of a health centre simply because she could not be

allowed in to deliver another Kenyan. This is because they did not have gloves in that health facility. You can imagine that the gloves which are used in hospitals cost between five and six shillings, and yet, we cannot afford to provide them in our health facilities despite the prevalence of AIDs in Kenya. The doctors and the health workers in that dispensary were not willing to take in this lady because they feared for their health. But such a cheap thing that should have been provided--- When the Government taxes our people, it must take the responsibility of providing services with the money it has collected.

Our economy is now expected to grow at 1.4 per cent, but from my rudimentary economics it will grow negatively by 0.8 per cent.

Mr. Obwocha: Then is not growing!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, the economy will decline by 0.8 per cent this year. That is why we are unable to create a few jobs for our people and provide good infrastructure that is required in the country. I did not hear the Minister telling us the number of jobs he will create this year for our people. I also did not hear him say the road projects that have been allocated the Kshs7.7 billion. They are hiding under camouflage where they do not specify what they will do. If you look at our Budget, you will find that it lumps together all the figures under one headquarters. They do not indicate the number of roads that will be done, for example, in Kisii, Makueni or Garissa districts. This is because they want to cover up the misuse of that money.

To revitalise the economy, you need to do a very simple thing. First of all, accept like the former Minister for Finance did last year, that our country is in the "Intensive Care Unit". Secondly, accept the premise that we must liaise with the IMF to open up the gates for donor aid. We must not say that they will come next month or the year after and three years after, we visit the capital cities of the donor countries with overstretched hands for hand-outs. For how long will we manage our country by going out for hand-outs? Those people will not give us any money until and unless we are capable of managing the resources that we create locally.

(Applause)

There is this contentious figure of Kshs580 billion. Nobody is saying that, that amount of money is for one year, but it is for several years. But for that one year, we squandered or plundered Kshs67 billion. That amount of money could have done all the roads and electrification that we need in this country. It could have also raised the wages for our civil servants by 200 per cent. We are claiming that we want to turn round the economy and yet when we were given money by the World Bank to repair roads which were damaged by *El-Nino* induced rains, we used the money in the areas which are not productive. Instead of using the money to repair roads in Kisii, Siaya, Kakamega, Narok, Kiambu and Nyeri districts where we will get a return, we are using the money to repair roads in unproductive areas. I do not know the kind of economists we have at the Ministry of Finance and Planning. I do not know where those people were trained. It is simple economics that you invest where you get a return.

The Assistant Minister for Finance and Planning (Mr. Arap-Kirui): On a point of information, Mr. Temporary Deputy Speaker, Sir.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, let the Assistant Minister collect the Kshs580 billion before he raises a point of information.

The Temporary Deputy Speaker (Mr. Musila): Mr. Angwenyi, it is a point of information, do you want it?

Mr. Angwenyi: I do not want any information, Mr. Temporary Deputy Speaker, Sir. I happen to have been in my constituency last week, and a single annual production in that constituency, if it is well utilised or marketed can sustain three northern Kenya districts for 10 years. But do you know what happens down there? Do you know what happens in Kisii and Bomet Districts? What is happening there is that we let the foreign exchange earning capacity to rot. If you visit these districts you will see tea leaves rotting in tea buying centres simply because there are no good roads to transport the crop to the factory, and yet, we keep on going to foreign streets to look for foreign exchange when we can get it from Marani Division. If we facilitate those people to produce more, we would earn more foreign exchange. In fact, the hon. Nyachae effect on the shilling would be reversed. That is the only way you can conquer hon. Nyachae's effect. Earn more foreign exchange and the shilling will appreciate. But now, we are not doing that, instead we are going out for hand-outs. The *El-Nino* funds, and I wonder what the World Bank is thinking, should have been invested in Kericho, Nandi, Kakamega, Kisii, Kiambu and Murang'a districts and we could have had a much far effect.

The Assistant Minister for Health (Mr. Koskei): On a point of order, Mr. Temporary Deputy Speaker, Sir. I have been sitting here and I do not really want to interrupt hon. Angwenyi in his contribution.

The Temporary Deputy Speaker (Mr. Musila): Order! What is your point of order, Mr. Koskei?

The Assistant Minister for Health (Mr. Koskei): Mr. Temporary Deputy Speaker, Sir, what has shocked me is hon. Nyachae's effect on the shilling. Is he in order to allude that?

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, to answer him through rudimentary economics, as hon. Nyachae departed from the Treasury, the shilling depreciated by 32 per cent against the US Dollar. It has depreciated from Kshs59 to Kshs80 today against the US Dollar. You cannot say that we will earn more money for our farmers. We are net importers. That is another rudimentary principle in economics. If you are a net importer, you do not depreciate your currency, because you pay more. Right now, instead of externalising our internal debts so that money can be made available locally for investment, we are internalising the external debts. We are borrowing locally to buy dollars to pay external debts. That is another principle in the elementary economics.

Mr. Temporary Deputy Speaker, Sir, in the economic situation that we are in, you never ever play deficit economics, because if you do that, the value of your currency depreciates more and you end up being bankrupt. This is because you would not be able to raise money locally, even to internalise the external debt. We must be responsible. Actually, sometimes, I pity the Head of State. I do not know what the people he chooses to manage the affairs of this country do. After they have been sworn in, they do things that are unexpected of them. But I do not sympathise with him sometimes, because he can fire them if he does not want them. And we are telling him that many of those people are not performing. They are now intending to retrench the civil servants. You tell a policeman at Kabete, or at Wote, that he or she must be efficient when a report is made to him or her and run quickly to the scene of crime so that the crime is arrested. But, that policeman does not even have a vehicle! If the vehicle is available, there is no fuel. How can he or she be efficient if the scene of crime is 30 miles away and there is no vehicle? That is expecting an impossible thing to happen. How do you expect a doctor at the Murang'a Dispensary to be efficient when he or she does not have even gloves? How do you expect a teacher to be efficient when he or she does not have reference books? How do you expect those professionals to be efficient? And yet, instead of retrenching the Front Bench, you want to retrench that office messenger who does not even have a kettle to prepare tea so that he or she is efficient?

Mr. Temporary Deputy Speaker, Sir, retrenchment in Kenya is becoming a trench where we bury our people. Even we should tell the World Bank that it is the responsibility of the Government to provide employment opportunities and, therefore, you cannot retrench people and throw them onto the streets. The Government is saying that it will give them golden-shake so that they go and do business. How are they going to be successful in their textile business when the giant Eldoret Rivatex is falling? This is wrong time to start business. If they are seriously seeking about improving efficiency in the Civil Service, may be, they should send 70 per cent of the civil servants on leave for two years, pay them half-salaries and, thereby, they would save about Kshs100 billion in two years. Then, manage that money properly, bring them back to the Service and award them an increase in their salaries if we think clearly about the welfare of our people. The Government must be concerned about the welfare of the people of Kenya. So, you do not say: "Oh, we will throw you out onto the streets and the mistake is not of our own."

Mr. Temporary Deputy Speaker, Sir, we have been told here of Kshs6.5 billion advanced to Kenya and which should have been used in tea and coffee growing areas. It looks that sometimes this Government wants to hold back the people who want to develop faster as if the others who have not developed adequately would catch up with them. Why do you deny the people of Kiambu, Nyeri, Bomet, Kisii and Marani, where I come from, that facility? And, then, you go out there seeking for hand-outs. Hand-outs for what? You are holding other people back so that others, probably, can catch up with them. I do not know whether it is to catch up in poverty, or what? I am saying that Ministers must implement all those programmes meant for this country.

Mr. Temporary Deputy Speaker, Sir, we have heard of the Privatisation Programme. But have we ever been told what benefits Kenyans got from the Programme? How much tax has been reduced on Kenyans as a result of privatising the Kenya Power and Lighting Company Ltd, the Kenya Posts and Telecommunications Corporation, the Kenya Commercial Bank and the National Bank of Kenya? Where does that money go to? Of what benefit were they to Kenyans? Privatisation has been carried out in other countries and people have seen and received benefits of the programme. But in Kenya, the beneficiaries are a few well-connected individuals, but not all those in the Front Bench. But Kenyans will one day say: "No! We cannot privatise our State Corporations unless we see the benefits."

Mr. Temporary Deputy Speaker, Sir, we should promote agriculture, which is the backbone of our economy. The way to promote agriculture is very simple. To promote maize production, give the farmers a price guarantee at the beginning of the year. They would cultivate their fields, plant their maize and sell, because they know that they have got a market. Thereby, the Government would have avoided famine in the country, and

reduce using the scarce foreign exchange to import food, and created employment opportunities in the country. You can promote agriculture - tea and coffee growing - by providing infrastructure in those areas so that a peasant farmer who has got two acres of land and has devoted a one acre to coffee or tea growing could benefit from that.

Mr. Temporary Deputy Speaker, Sir, when you construct grandiose road structures in some parts of this country where you do not earn anything, then, you are not promoting agriculture. You can promote agriculture by subsidising farm inputs, such as fertilisers. We have read in the newspapers that we have been given a grant of fertilizers worth so-much money by Japan, USA and Germany. But does the benefit of that grant ever get to the farmers? The price of fertilizers in Kenya is very high. So, somebody, or a group of individuals must be benefiting from that. When you view on the TV the suffering of our people in Ukambani, Turkana and Garissa, you feel like crying. Our people are suffering, 36 years after the attainment of our Independence. And we are not making any attempts to alleviate that situation. When you see a Minister rejoicing in dishing out one kilo of maize to a family-

Dr. Ali: Or money!

Mr. Angwenyi: You can see the joy in his face! And that one kilo is to be used for one month in the whole family and, often, such families are large. Is that what our Government wants to do in this country? Is that what we are being taxed for? I would have been happy if I saw attempts being made to get water for irrigation in Ukambani and cattle rearing in Mandera. Then, I would know that those people are being removed from the famine-prone environment, to areas where they can support themselves.

Mr. Temporary Deputy Speaker, Sir, if I could see that the Minister is serious and affected when dishing out that one kilogram of maize. I could be happier. This is the wrong thing to be done to our people, but some of us rejoice in it. When I was the Assistant Minister, Office of the President, I used to rejoice in distributing the relief food so that I could be seen on the television screen. We should move away from that.

The plunder of the natural resources is enormous. In fact, there are a few people in the Government who have got enormous capacity to plunder. They will never be satisfied. One will plunder Kshs1 billion today and tomorrow he will plunder about Kshs10 million. I do not know where they take this money to. When a corporation gives a cheque of Kshs200 million and it bounces, the Chief Executive in that corporation should be made to account for that. He is stealing from the Government. Instead of this man being put in, he gets a promotion. That is the type of people who are managing our resources.

Mr. Temporary Deputy Speaker, Sir, we took liberalisation quite literally. There is no country on this earth that has taken liberalisation the way we have taken it. For example, if you were told to remove your clothes before going to swim, you do not remove all your clothes. When you remove your suit, you must remain with something on your body. In our case, we have removed everything and we are naked. That is why brasiers, nickers, old shoes and old hats are dumped in Kenya. Then we keep on crying that we do not have jobs for our people. Ministers are telling us that they are naked and they have no way of stopping that dumping. Sugar is dumped in this country and 10,000 to 15,000 people may lose their jobs in Nzoia, Mumias, Chemilil and Sony sugar factories and we have no recourse. This has been done in the guise of liberalisation. When the Government imposes a tariff of 25 per cent, does it take into consideration the loss of jobs, the creation of social misfits, thugs and the loss to our farmers?

Mr. Temporary Deputy Speaker, Sir, Japan is a country which has got very little arable land for growing rice, which is their main food. They have guarded that crop with all their energy. India is a country which could import wheat from elsewhere, but they have guarded their wheat production to the extreme. We know that liberalisation means that one has to open up, but open up guardedly. I do not think that the World Bank would come and tell us to open up completely because we will ask them: "Where do we take out people?". We must look at the negative impact of liberalisation. We have become a supermarket for even the neighbouring countries. We must discuss in this Parliament before we liberalise anything in our economy so that this House is seen to be responsible to the people of Kenya. The Government does not want to be responsible to the people of Kenya, therefore, this House should take up every simple aspect of liberalisation. We must discuss this issue in this House and save our country.

We have this dream idea that we will be industrialised by the year 2020. How can we industrialise when we have killed the textile, packaging, cotton and sugar industries? We are now destroying the tea and coffee industry by withholding resources. We are also destroying the horticulture and tourism industries. We are destroying tourism through insecurity. I was surprised when a Minister stood up and said that the Government would restore security in such and such areas. That Minister should have resigned. How do we let our country have insecurity problems from one corner to the other? The other day we had an insecurity problem in Mombasa, the other week in Isiolo and now we have insecurity problems in West Pokot. The Pokots have decided to defend themselves because the Government has not provided them with what they need. The Government should provide

them with water and a market for their beef and they will be occupied. When a Minister says that the Government will send security forces to the affected areas, we wonder where this country is heading to. We must improve on our security before we can engage in business. The Vote set aside for defence and security matters in this country is in excess of K£40 billion. How can the Government account for this money when our people are being killed from left, right and centre? When people move from Ethiopia and Uganda and massacre our people? What is it that we are voting for? What are we voting for when one cannot walk in the streets of Nairobi peacefully? Two women were raped last week in the streets of Nairobi at 2.00 in the afternoon. Banks are being robbed day in, day out and yet, we have got a lot of policemen in town. Kenyans cannot go to Gikomba and buy tomatoes at a cheap price to feed their families so that they can do well in schools because of insecurity there.

We must embark first on providing security totally in this country. Secondly, we must provide infrastructure and thirdly, we must manage our resources adequately. Those people who blunder our resources - somebody said that they should be shot dead - but I am a Christian and I would not want them to be shot dead. I want them to be jailed. If President Moi tomorrow jailed two or three Ministers and Permanent Secretaries, who are corrupt here, there will be no corruption in this country. If he did so, we could even ask for the extension of his term in office. He should lock up the plunderers.

Mr. Temporary Deputy Speaker, Sir, we may get to a point where we can say that without services and provision of goods, we should not pay taxes. In fact, we may even block roads and hospitals so that we can die, as long as the Government continues to squander our money and does not use it properly.

With those few remarks, I beg to support.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I would like to contribute to the Finance Bill, 1999, seeking to raise taxes to finance Government operations. I was just wondering when hon. Angwenyi is swimming naked and comes out of the water what we shall see? That is just a by-the-way.

The Kenyan Government has been rated to be one of the Governments in Africa which has a very effective revenue collection capability. In fact, the IMF says that it is one of the highest revenue collectors to date. The problem with our economy is that whereas we are very effective in collecting revenue, we are very wasteful in spending it. I will give you an example in terms of revenue collection. In the city of Nairobi, a system has been established whereby the askaris now issue you with a receipt when you pay Kshs50 for parking in the city. On the face of it, this looks very good. It is labour intensive and the City Council presumes that since human beings are there to ensure that people do not avoid putting money into parking metres, this money will reach the city Treasury.

These askaris who collect money end up not being paid their salaries for three months in which case, they print receipts, collect the money and put it in their pockets. A lot of revenue is, indeed, collected by these city askaris, but it ends up financing other things, other than the public expenditure. That example can be writ large to extend to districts, county councils and municipal councils elsewhere. If you are a consumer of utilities in Nairobi, Kisumu, Mombasa or Machakos you will know that people do not pay for their water metres because the system is not working. When they pay, the people in these municipal councils also have their receipts; one for themselves and another for the municipal councils. Very little revenue reaches the treasuries of these local authorities.

Here is a Government which is scoring very high in the collection of revenue, but extremely poorly in putting this revenue to effective use in terms of financing public expenditure and development. I could give you another example. In this Bill, Section 59, page 429, it is proposed that land rent and land rates be changed and that if you do not pay your land rent and land rates, there is a surcharge of 2 per cent to be levied on you as provided for in the Bill. You will know that our local authorities and the Ministry of Lands are extremely poor in notifying rates and rent payers when their rates are due. These notices usually come three or four years later. In which case, this Bill when it becomes an Act, is going to be very punitive on land owners particularly, in urban areas.

If the system of notifying people when the rates are due is not efficient then, indeed, we are going to find a situation whereby people are surcharged, not of their own mistakes, but precisely because notification of when the rates are due is not there. The reason for this is that the law, as it continues to be changed year in year out by this Bills is very rarely known by the ordinary Kenyan and what his obligation is to the Government. I could give you yet another example of how we are very effective in collecting revenue, but very poor in putting it to use. This is evident in the area of pension funds. Again in this Bill in Section 56, page 424, amendment is proposed with effect to the collection of pension and payment of pension funds. It is said here that it does not matter what age you retire, you can only collect your pension after you reach the age of 50.

In spite of the establishment of the Retirement Benefits Authority which has been a very important step in trying to regulate and manage pension funds in this country, we know that the management of pension funds today

in this country has been horrible. I would have thought that in revisiting the Pensions Act, the Government could also propose how pensioners can lay claim to their pensions which have not been paid due to the mismanagement of these funds, especially by parastatals. I will give you an example. The Kenya Posts and Telecommunications Corporation misinvested pension funds of postal workers and more or less lost money amounting to between Kshs7 billion and Kshs14 billion, if you compute interest. In other words, Kenya Posts and Telecommunications Corporation workers who have retired or been retrenched cannot lay claim to their pension dues precisely because KPTC so badly mismanaged that pension fund that it is no longer there. There was even no insurance scheme to safeguard this pension fund. If the Government is going to amend the law to make it more effective to collect revenue, in other words to keep pension funds by delaying their collection so that it can use them as a source of savings and capital formation, it should have amended the same Act to ensure that it pays those from whom it had collected pension contributions from like the KPTC employees. These people have a right to be paid, even retroactively.

It is extremely painful to understand that KPTC misinvested Kshs7 billion to Kshs14 billion in malfunctioning and mismanaged financial institutions. The list reads as who is who in Kenya. A lot of these politically correct persons either had banks, insurance firms or financial institutions to which they coerced parastatals to invest funds, which then sunk. The story is very clear. If you look at any financial institution that went under in this country, you will find that it has an insurance company connected to it. When these people realised that their financial institutions were collapsing they removed the funds they had misappropriated to the insurance firms.

You will find that owners of financial institutions in this country are now sitting very comfortably as managers of their own insurance firms. I have always proposed that we should pass a Bill in this House called the Rationalisation of Properties Act which will seek to rationalise property in this country. People have taken other Kenyan citizens to the cleaners. They have cheated other Kenyan citizens by taking their funds, pretending that they are running financial institutions, loaning themselves the money and not paying it back. Some even requested the Central Bank of Kenya to manage their financial institutions. I am sure when hon. Mudavadi was the Minister for Finance, he must have had that experience where owners of financial institutions were more or less begging the Central Bank of Kenya to put their financial institutions under its management because they knew what they were doing.

When we bring a Bill like this, we should also be sensitive to the interests and needs of Kenyans who have suffered this far. The law should be modelled and reframed to address social and economic wrongs in this country. That is why I feel so strongly about the amendments to the Pensions Act here. It is not addressing one fundamental issue; that workers are suffering as a result of the State and parastatals mismanaging their pension funds. I think the Government should think very seriously about it. Hon. Angwenyi raised an issue that we need to revisit. It is the issue of the capacity and capability of the Government to absorb revenue. We have seen here that the Kenya Government has been rated very high in terms of revenue collection. However, to what extent does our Government have the absorption capacity to use this revenue effectively?

Mr. Temporary Deputy Speaker, Sir, quite often when we are talking of the absorption capacity, we should not lay so much emphasis on aid. We should lay emphasis on our own ability to absorb and use revenue raised locally. One reason why the absorption capacity is undermined due to corruption. Unless we address the issue of corruption in Government and the private sector effectively, the absorption capacity of our Government to use revenue effectively will not be there. This is an issue of governance. This issue of governance can only partly be addressed by putting in a technocratic team in the State and reforming the Civil Service. That is the technocratic aspect of it. But it has to be addressed in terms of the political aspects; in terms of the political culture of this nation. Those technocrats are not going to be effective, unless the political wing of Government is also concerned and reforms, so as to be capable of running the State effectively.

Mr. Temporary Deputy Speaker, Sir, there has been tremendous institutional decay in this country. The Civil Service and Local Authorities do not work. There are certain local authorities, like Nakuru and Kisumu, where the municipal councils' books of accounts have not been audited for 11 years. They do not even have internal audit systems. I understand from the World Bank, that they are now looking for ways and means of channelling their resources to Local Authorities. You cannot channel resources to bodies which cannot, even, internally audit themselves. How are they going to use that money? You are channelling funds to district treasuries which are run by DCs as if those are their fiefdoms. To run revenues, you must be accountable to the people, and you cannot be accountable to the people unless you are elected. Since District Commissioners are civil servants, it is an anomaly that they should be the people with the top authority in the spending of resources at the district level. This is a terrible anomaly, and this is why district treasuries have been run down. This is also why they cannot develop the capacity to use revenue effectively.

Mr. Temporary Deputy Speaker, Sir, we also know that one of the reasons why we have low absorption capacity for the revenues that we raise, is because we have an inflated bureaucracy, beginning with the Cabinet itself. Here, it is extremely unfortunate, that, in reality, if you look at the political economy of this country, we can only afford 14 Cabinet Ministers and no more. A country with very low savings and very high consumption, both private and public, cannot afford more than 14 Cabinet Ministers, if indeed, the bureaucracy is going to be lean and effective enough to develop efficiency and appropriate capacity for revenues. At the moment, we have 15 Ministries and I think, 28 Ministers. This is because, the Cabinet is, in reality, illegal.

Mr. Temporary Deputy Speaker, Sir, under the Constitution of the Republic of Kenya, it is this Parliament which should establish Ministries and then give the President the power to appoint Ministers and Assistant Ministers. Ever since I came to this House in 1993, I have never seen any Bill presented to this Parliament, where this Parliament establishes certain Ministries to make the Government legal. Ministries have been established and abolished by the President illegally and unconstitutionally. Hence, it is even illegal for this Parliament to be debating the Finance Bill, 1999, to be used by a Cabinet which is illegally constituted. This is unconstitutional. Further, even the Attorney-General sits in the Cabinet illegally. The Attorney-General is a civil servant, and this Parliament has never given the President the power, under the Constitution, to appoint the Attorney-General to the Cabinet. So, first the chief law maker and law advisor of on land is sitting in the Cabinet illegally and the Cabinet itself has been constituted by the President illegally, hence, when it is swollen to 28 Cabinet Ministers, and it forms the first basis of bloated bureaucracy in this country, that is a very serious matter. This is why, those who would like to invest in this country do not take us seriously. We do not take our law and Constitution seriously. So, if indeed, we are not obeying law, and capitalists like predictability and adherence to the law, definitely, we are not going to attract revenues in terms of the aid that we are talking about. One of the things that we should do from the beginning, is to start doing things legally. This Parliament has the power to amend the Constitution, to make things legal. This Parliament is the highest law making institution on this land. So, if the responsibility of this Parliament is being abused by the Government, it is incumbent upon this Parliament to remind the Government of its duties.

The Vice-President (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member is misleading the House. He has said that the President has set up the current Cabinet illegally as opposed to the Constitution. This matter has come here before, on a number of occasions, and, indeed, if you went back to the ruling, it has been confirmed that the appointment of the Ministers and indeed, the Government, by the President is constitutional. Is the hon. Member in order to mislead this House on that matter?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, if you are appointed illegally to the Cabinet, you will of course proceed to mislead this House in your points of order.

Mr. Temporary Deputy Speaker, Sir, Section 16 of the Constitution of the Republic of Kenya, Part II, regarding Ministers and the Cabinet reads as follows:-

"There shall be such offices of Ministers of the Government of Kenya as may be established by Parliament or subject to any provisions made by Parliament, by the President".

I am on record as having said, that as far as I remember, there have not been any provisions made by this House, giving the President the powers to establish Ministries. I am not going to engage in an argument with Prof. Saitoti.

The Vice-President (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. It had been ruled by Mr. Speaker, that this House is not a court of law. Indeed, this procedure which has been used for the appointment of Ministers has been carried out all along. This House is not a court of law.

The Temporary Deputy Speaker (Mr. Musila): Order, Prof. Anyang'-Nyong'o, if as Prof. Saitoti says, that the Chair had made a ruling, that matter could be referred to Mr. Speaker later on. Could you proceed!

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I referred to the Kenyan Constitution which is a fundamental law of the land. It precedes any standing orders or any ruling by Mr. Speaker, and I stand to be corrected. I think, I am in order, and no amount of argument by Prof. Saitoti will alter the facts of law, as by this Constitution established.

Mr. Temporary Deputy Speaker, Sir, having said that, I would like this Parliament to rise to its responsibility and ensure that this Parliament is not rail-road by the Vice-President.

The Vice-President (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to continue pursuing this point when there is already a ruling by Mr. Speaker, and when you have said that, you would wish to revisit the issue on the basis of what has been stated on this matter? The hon. Member is misleading the House and the public to claim that the Government is illegally constituted. He even knows that he is misleading the House.

The Temporary Deputy Speaker (Mr. Musila): Prof. Anyang'-Nyong'o, I think you should stay clear of

that matter until clarification is received from Mr. Speaker, on the previous ruling. Because, I am not aware of that. So, please continue, but stay clear of that matter.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, you can understand how people become itchy on this issue, because, pushed to the extent, the Government will definitely lose power. That is what we intend to do when we move the Motion of No Confidence in this Government. We have an arsenal of arguments and facts that will make them irrelevant and inconsequential to the defence of their case.

Mr. Temporary Deputy Speaker, Sir, it is important that when we are talking about revenue collection, we obey the law. The point I am trying to underscore, is that, we are not obeying or law systematically observing, to the letter, the fundamental law of the land. One of the problems for developing countries, is that, when these issues are pointed out, a defence mechanism is taken up by Government, and they become impervious to reason and the ability to reform and change. When you are so rigid, indeed, the people, who should be the reason for which governments exist, have a right and an obligation to rebel against such governments. The people of Kenya are not going to stand the Government perfecting itself in terms of revenue collection, of which it is rated one of the best, but also scoring very high in terms of misuse of public revenue.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Musila): Hon. Members, it is now time for the interruption of business. The House, is therefore, adjourned until tomorrow, 3rd November, at 9.00 a.m.

The House rose at 6.30 p.m.