

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 10th July, 1997

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.149

REGISTRATION OF PERSONS IN NYANZA PROVINCE

Dr. Otieno-Kopiyo asked the Minister of State, Office of the President:-

(a) if he is aware that the exercise of registration of persons, for example, the issuance of identity cards in Nyanza Province is in jeopardy due to lack of vehicles, allowances and accommodation for the officials involved in this exercise; and,

(b) what steps he would institute to facilitate the completion of the registration exercise.

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

(a) No, I am not aware.

(b) The Identity Card Production Centre has been operating on a twenty-four (24) hour basis during the week days and from 9.00 a.m. to 5.00 p.m. over the weekends to ensure that those who have applied for new cards are issued the same to enable them participate in the forthcoming General Elections while field officers have been instructed to intensify their registration programmes.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, is the Assistant Minister aware that in Nyanza Province almost 30 per cent of people who are qualified to register as voters have not been registered because of the reasons I have enumerated in part "a" of the Question? What is the Assistant Minister going to do to ensure that over one million people in Nyanza Province who have applied for identity cards (IDs) get them? Because, in spite of what he is saying, it is also a fact that many people applied for these cards over two years ago and have not got them.

Mr. Sunkuli: Mr. Speaker, Sir, the people who have not obtained identity cards in Nyanza Province have not failed to obtain them because of lack of vehicles. I personally visited many parts of Nyanza Province about five months ago and I got the impression that every part of Nyanza Province was well catered for in terms of personnel and vehicles. I have got a whole list of vehicles here and other facilities that have been given to Nyanza Province, and I can actually table this for the hon. Member to see. But I think the hon. Member should encourage people of Kasipul/Kabondo. I go to Oyugis very often and I think that it is because people have not been sensitised by their hon. Member of Parliament that they have not registered and it is not due to lack of vehicles and so on.

(Mr. Sunkuli laid the document on the Table)

Mr. Obwocha: Mr. Speaker, Sir, in view of the reply the Assistant Minister has given, could he give the figures for seven districts in Nyanza Province and how many people were expected to register?

Mr. Sunkuli: Mr. Speaker, Sir, if the hon. Member for Mugirango West can file another question, I will be able to table the whole list for Nyanza Province.

An hon. Member: Are you from Nyanza Province?

Mr. Kamuyu: Mr. Speaker, Sir, I may not be coming from Nyanza, but I have an interest! In order for the hon. Member for Kasipul/Kabondo to be more satisfied, can the Assistant Minister assure this House that all old generation identity cards will also be utilised during the forthcoming General Elections because it is quite obvious that time is against us and the new generation identity cards may not be issued in time? My own father applied for a new identity card five months ago in March and up to this day he has not received the new generation identity card. He is

worried because he is not going to participate in his son's election in November.

Mr. Sunkuli: Mr. Speaker, Sir, the Government will ensure that all those who have applied for the new generation identity cards will get them. I know the hon. Member's father is a very prominent landlord. I will ensure that he gets his new generation identity card very soon.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, from the Assistant Minister's own figures, 1,561,192 people in Nyanza Province have applied for the new generation identity cards, and out of that number 1,384,364 got their identity cards, which gives you a difference of over 200,000 people. From his own admission, our figures are different in that many people who applied for the new generation identity cards never received them for periods ranging from six months to one year. In fact, in my own case, I applied for my identity card in June last year and until I went to the Registrar of Persons here in Nairobi, I did not get my card until January this year.

This situation is prevalent. There are many cards which have actually been processed and are lying at different registration centres in the districts not only in Nyanza Province, but every where in Kenya, because the officers do not have transport to send these cards to the respective recipients. The Assistant Minister should take a serious view of this and do something about it.

Mr. Sunkuli: Mr. Speaker, Sir, I think the hon. Member's concern is quite genuine. Actually, there are so many new generation ID cards that are not lying here in Nairobi, but they are lying in different registration centres. I think it will also assist, if people went to their registration centres and took their IDs from there. Otherwise, the Office of the President will try to ensure that the ID cards are delivered to different locations. But it is going to be an extra cost. If the hon. Members can help to tell their fellow citizens to go to registration centres and collect the ID cards from there, it would assist because so many of them are ready.

Question No.410

ASSAULT BY POLICE OFFICERS

Mr. Ndzai, on behalf of **Mr. Kofa,** asked the Minister of State, Office of the President:-

- (a) if he is aware that on 3rd November, 1996, at Bangal Town of Tana River District, police officers, namely: Messrs. Ambani and Lutenyo from Bangal Police Post beat up Ms. Fatuma Kainani Hersi and Abdi Divo Garse unconscious without any justifiable cause; and,
 (b) if the answer to "a" above is in the affirmative, if he could inform the House what action he has taken against the said officers.

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

(a) I am aware that Fatuma Kainani Hersi and Abdi Divo were injured during a fight which broke out between rival groups during a food distribution exercise. The two police officers in question were among a contingent of police officers who were sent to quell the fracas.

(b) There is no evidence that the police officers assaulted the victims in question and hence, no action has been taken against them.

Mr. Ndilinge: Mr. Speaker, Sir, this is an issue concerning Kenyans who were beaten up by the police. Can the Assistant Minister tell the House whether he is aware that some of the police officers in the police force are tarnishing the good name of the Government by beating innocent wananchi?

Mr. Sunkuli: Mr. Speaker, Sir, whenever police officers assault wananchi in certain instances that are not justified, or commit certain wrongs against the people, they are properly disciplined and very often, they are taken to court.

Mr. Moiben: Mr. Speaker, Sir, can the Assistant Minister tell this House what steps he intends to take when some officers dip their hands in the famine relief food? The case of the women being beaten up arose from the fact that the relief food was picked by these officers. Can the Assistant Minister confirm that there was no further incident of senior officers putting their hands in the famine relief food?

Mr. Sunkuli: Mr. Speaker, Sir, the hon. Member knows that several officers have been prosecuted when they are caught tampering with the relief food.

Question No. 202

ATTACHMENT OF HOUSEHOLD GOODS BY CHIEF

Mr. Speaker: Is Mr. Ojode not here? We will leave his Question until the end. Next Question, hon.

Munyasia!

Question No. 450

ACTIVITIES OF THE ROAD SAFETY NETWORK

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

- (a) whether he is aware of the existence of a Non-Government Organisation (NGO) called the Road Safety Network;
- (b) when the said Road Safety Network was registered and who the officials of this NGO are; and,
- (c) what business it has been doing with two South Africans, Messrs. Lars Sivertsen and Soren Sivertsen and a Ugandan, a Mr. Joseph Mulondo.

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

(a) I am aware.

(b) The Road Safety Network was registered on 12th April, 1995. The top officials of the Road Safety Network are: Mr. Charles Ogutu Olunde who is the Chief Executive Officer, Mr. Joel E.N. Nyaseme who is the Chairman of the Board of Governors and Dr. Tom Mboya Okeyo, who is the Finance Director and Chairman of the Board of Trustees.

(c) I am not aware of any business dealings between the Road Safety Network and Messrs. Mulondo, Soren Sivertsen and Lars Sivertsen.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, first of all, I would like to correct the Minister. The correct name is Mr. Charles Ogutu Olwale and not Olunde. "Olunde" in the Luo language means something completely different and very terrible.

Is the Minister aware that this network has been misused by a lot of people in the country, particularly by the top officials of the Government who fleece money out of other NGOs meant for the Road Safety Network but does not reach the network? Is he aware that there is a major crisis between the officials of the Road Safety Network because of the misuse of funds meant for the network?

Mr. Koech: Mr. Speaker, Sir, I am not aware of that. However, there have been some misunderstanding between the officials of this NGO which ended in court. But the court case was dismissed with costs.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, arising from the Minister's reply to that supplementary question, can he explain to the House, what road safety this network has been doing ever since it was established in 1995? Why should it continue to exist under a name which is a misnomer?

Mr. Koech: Mr. Speaker, Sir, can he repeat the question?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the question is: Can the Minister explain to the House what work, in terms of real road safety, this network has been doing ever since it was established in 1995? If it has not been doing road safety work, is it still valid for this organisation to continue existing under that name, which has now become a misnomer?

Mr. Koech: Mr. Speaker, Sir, the NGOs work independently. It may appear that they might not have done a lot of work. But we are in the process of trying to see how much money the NGOs get. We need the support of the Opposition so that we can come to the crux of the matter with regard to the NGOs' performance. It is true that some NGOs have misused funds and some have even gone into politics, instead of concentrating on what they were supposed to do.

Dr. Kituyi: Mr. Speaker, Sir, arising from the last reply by the hon. Minister, to the effect that NGOs operate without Government interference, is he aware that he is contradicting the Head of this Government who purported the other day that he could deregister the NGOs' Council?

Mr. Koech: Mr. Speaker, Sir, the NGOs are established to perform certain functions. But some of the NGOs have failed and they have now gone into politics, instead.

Question No. 269

BANNING OF PAYMENT OF LEVIES
IN PUBLIC SCHOOLS

Dr. Kituyi asked the Minister for Education:-

- (a) whether he is aware that the recent directive banning payment of building funds and activity

fees in all public schools, without an alternative source of funds for those functions, has caused a lot of confusion and is virtually ignored in most schools;

(b) what the rationale behind the directive was; and,

(c) what plans the Ministry has to source alternative funds for those school activities.

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

(a) I am not aware that the recent directive banning building funds and activity fees from public schools has caused confusion and is virtually ignored by most schools. My Ministry gave adequate instructions after the directive, and the ban is being fully implemented by schools.

It is not true that there are no alternative sources of funds for creative activities and related functions because a number of District Education Boards have already identified Harambee meetings as one of the sources.

(b) The persistent drought experienced in 1996 created a lot of financial strains to most families, and they needed whatever funds they had to get food for their families. Therefore, we had to reduce any strain on these families.

(c) My Ministry has in the past few years been implementing the Government policy of cost-sharing in the financing of education in which funds have been raised, mainly through Harambee strategies. My Ministry will continue encouraging the same Harambee strategy to be adopted as an alternative source for school committees and education boards for this purpose. My Ministry has also established the Kenya Education Performing Arts Foundation, which will raise funds for this purpose.

Dr. Kituyi: Mr. Speaker, Sir, sometimes it is so absurd that it borders on ridiculous, for the government to hide the absence of policy behind long winding statements. If this Government does not know that there is a crisis in areas with talented athletes like in the Kalenjin country, in areas with talented musicians like in Luo country, because of the removal of activity funds, then this Government lives on the moon! But let it remain there!

My question is this: According to the Kenya Government, the cornerstone of cost-sharing is user charges; that those who benefit from the service pay some of the costs. That means that the activity fund is the most important and fair method of getting user charges as part of cost-sharing education. How can a Government explain that you can abolish a user charge and replace it with Harambee as a Government policy, without considering the fact that the Pokomos do not have the kind of money that the Marakwets or Tugens may have? Therefore, talent in areas where local leaders or political patrons do not have sufficient money cannot be assisted in the absence of the capacity to raise that money through the Harambee system.

Mr. Komora: Mr. Speaker, Sir, I have already stated that the District Education Boards have already adopted means of raising these funds through Harambee spirit. We have it on record that many poor areas have benefited from Harambee. The hon. Member mentioned the Pokomos who live in Tana River District. Last weekend, we were able to raise Kshs3.8 million for women from a district which is under famine relief. This was because of the determination of the people to help themselves and with assistance of friends from outside the district, they were able to raise that amount of money. Why can the rich people from the hon. Member's area not do the same?

Mr. Magwaga: Mr. Speaker, Sir, I think the Assistant Minister is misleading the House. He should tell the House why the same directive of banning payment of building funds and activity fees did not apply to secondary schools? Did the drought only affect primary schools and not secondary schools?

Mr. Komora: Mr. Speaker, Sir, we do not make a policy for one area only, but for the whole country.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, the Assistant Minister has said that last week they raised Kshs3.8 million for women in Pokomoland. That is alright, but is he aware that this money is required every year? How will a Harambee, just held once, meet the needs of these schools?

Mr. Komora: Mr. Speaker, Sir, money raised through a Harambee will do that if it is well budgeted.

Mr. Wamalwa: Mr. Speaker, Sir, I think the Assistant Minister has to admit that the removal of activity fee was an election gimmick, otherwise, he is telling this House that funding education through Harambee is not Government policy. Harambee depends on a number of variables. It depends on the willingness and the ability of the people to donate. What will happen in an area where the people are not able to donate anything especially after the drought, as the Assistant Minister has put it?

Mr. Komora: Mr. Speaker, Sir, indeed, if hon. Members will refer to history, education system in this country has grown about five-folds as a result of the willingness of the Kenyans to raise money through the Harambee spirit. We can rightly say that most of our education activities have been based on the Harambee spirit. The Government has had machinery all through to assist desperate pupils.

Dr. Kituyi: Mr. Speaker, Sir, in every maturing society, the mechanism for managing public affairs has to be institutionalized. You have a mechanism that is independent of given goodwill or ability of given generous individuals. It is outrageous to tell a country that due to drought in one year Government makes policy for many years

about a fund. Could this Assistant Minister, who totally fails to appreciate the crisis in areas with talent in athletics, music and drama, a crisis which is affecting the level of performance right now in those areas in the country, realise that the drought of 1996 is over and the bluff of trying to seduce voters is not getting anywhere? He should undertake that the Government re-introduces activity fee. After all, the only place where activity is going on is where they have ignored that directive. Could he stop the pretensions and announce that the policy was false and that now he has returned to reason?

Mr. Komora: Mr. Speaker, Sir, we have no reason to renounce what we have already pronounced and what we have instructed our school systems to do. In fact, now that the drought spell is over, it is much easier for the hon. Member to raise money through Harambee and boost the education system in their own areas.

Question No.430

ELIMINATION OF TYPHOID IN ORTUM

Mr. Rotino asked the Minister for Health:-

(a) how many cases of typhoid out-break were reported in Ortum Mission Hospital between January, 1996 and September, 1996; and,

(b) why there are so many cases, and what the Ministry is doing to eliminate typhoid in this area.

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

(a) Between January and September 1996, 98 cases of typhoid were reported in Ortum Mission Hospital.

(b) Typhoid cases were mostly prevalent between mid March and May, during the rainy season. However, these cases did not meet the need for a major campaign. Instead, they were controlled and managed at the hospital level. My Ministry has intensified mobile outreaches in the area for preventive and curative control.

Mr. Rotino: Mr. Speaker, Sir, knowing that typhoid is a waterborne disease and given that Ortum Mission Hospital is the only referral hospital that serves the entire constituency and the other part of the district, can the Assistant Minister consider supplying the hospital with drugs so as to fight this disease?

Mr. Criticos: Mr. Speaker, Sir, there is no objection to that, but I would like to inform the hon. Member that the Ministry did send enough drugs to Ortum Mission Hospital to control this disease.

Mr. Mbeo: Mr. Speaker, Sir, while the Member for Sigor was lodging in prison something else happened. An outbreak of malaria hit his constituency and more than 65 people died in that same area as a result of suffering from malaria. Could the Assistant Minister tell this House why this constituency is so prone to diseases and situations like this and what measures his Ministry has to help control malaria in that area?

Mr. Criticos: Mr. Speaker, Sir, we have noticed that there is an increase of high altitude malaria commonly known as "Highland Malaria". We have taken action on that--

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. Hon. Mbeo insinuated that the hon. Member for Sigor had been castrated by the KANU Government, and when he was taken to jail there was an outbreak of malaria. Is it in order for him to insinuate that? That is a deadly act by the KANU Government.

Mr. Criticos: Mr. Speaker, Sir, I said that an increase of "Highland Malaria" has been noticed, and in the various areas which have been affected, anti-malaria drugs have been supplied.

Mr. Shidie: Mr. Speaker, Sir, cases of typhoid have become nationalised and the drugs are very expensive. Could the Assistant Minister consider subsidising the purchase of these drugs? They are out of reach for the common man.

Mr. Criticos: Mr. Speaker, Sir, the drugs are supplied free of charge in our hospitals and also there have been campaigns to educate wananchi to boil water before consumption. Because typhoid is a water-borne disease and if water is boiled, there will not be an increase of typhoid.

Mr. Rotino: Mr. Speaker, Sir, the Assistant Minister has said that 98 cases of typhoid were reported and that does not warrant a campaign. How many cases therefore, warrant a campaign in that area? That is only one hospital where cases were reported and there are many other hospitals and dispensaries where many cases of typhoid were not reported. This is only one hospital. If all the cases were reported, would it warrant a campaign?

Mr. Criticos: Mr. Speaker, Sir, according to our information, for the whole of last year, the total number of cases we had were 107, which to our opinion does not warrant a campaign as such. What we consider is an outbreak of 500 or more typhoid cases in order to warrant a campaign.

Question No.089

DEFECTION OF COUNCILLOR TOYA

Prof. Mzee, on behalf of **Mr. Nyagah**, asked the Minister for Local Government:-

- (a) why Councillor John Toya, formerly elected on a DP ticket, continues being a councillor for Barani Ward within Malindi Constituency after having defected to KANU in February, 1995; and,
- (b) if he could assure the House that in future, all other defectors from the Opposition civic seats will have their seats declared vacant immediately upon defection.

The Minister for Local Government (Mr. F.P.L. Lotodo): Mr. Speaker, Sir, I beg to reply.

(a) Councillor John Toya has not officially communicated in writing to the Electoral Commission of Kenya, his defection from the Democratic Party of Kenya to the Kenya African National Union as provided for under election laws.

(b) Nullification has always been done as soon as a councillor has officially communicated his defection in writing.

Prof. Mzee: Mr. Speaker, Sir, I would like to draw the attention of the Minister to Section 40 of the Constitution which deals with the vacation of a seat upon resignation from party.

Mr. Speaker, Sir, this Section 40 is very clear. It states:-

"A member having stood at his election as an elected member with the support of, or as a supporter of a political party, or having accepted appointment as a nominated member as a supporter of a political party, either resigns from the party at a time when the party is a Parliamentary party...shall vacate his seat".

There is nothing in this section which mentions about notification to Commissioner, Speaker or anybody. These people stood in public and declared their defection. For example, hon. Mwaura, Mr. Oile and Mr. Toya. They stood in public and declared that they have defected. At that time, you should have taken the clue and removed these people from the office.

Mr. F.P.L. Lotodo: Mr. Speaker, Sir, I am saying that unless there is something in writing that he is defecting from that particular party to another one, there is very little I can do about that.

Mr. Wamae: Mr. Speaker, Sir, could the Minister tell us whether it does not matter when these people like hon. Mwaura go before the Head of State and announce their defection to KANU, and then continue being allowed to remain in the same party which nominated them to this House? Is that fair to the party or local authority concerned?

Mr. F.P.L. Lotodo: Mr. Speaker, Sir, the hon. Member wants me to go round and round the same thing. Unless there is an official communication from that Member, the Minister cannot do much.

Prof. Mzee: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to mislead this House and say: "Unless these people write"? Can he tell us under which law he is operating? Which regulation requires these people to write? Do you not respect your own President? If I stand before your own President and I say I have defected, is that not good enough? Which law are you referring to? Do not mislead this House.

Mr. F.P.L. Lotodo: Mr. Speaker, Sir, I need a letter from Councillor John Toya. I do not need a law. Go and tell him to write to me. There is nothing you can do. That Councillor is a Councillor up to now. You can talk the whole day.

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir. We believe that we are here under the rule of law and the Minister has just stated here that he does not need any law to do any one of his operations. Is he in order to state that?

Mr. F.P.L. Lotodo: Mr. Speaker, Sir, I have answered that question very well and honestly.

Mr. Mathenge: Mr. Speaker, Sir, I think the Minister for Local Government is fully aware that Members of Parliament and the Councils must be sponsored by political parties. Now if a political party which has sponsored an MP or a civic councillor sends you a letter to withdraw the sponsorship of defectors, will you act on the strength of that recommendation? This is particularly in reference to the case of six councillors in Nyeri.

Mr. F.P.L. Lotodo: Mr. Speaker, Sir, I shall require a letter from the councillor himself or the Member.

Mr. Speaker: Next Question, Mr. Ndicho!

Question No.399

RESEALING OF MAKUTANO-SAGANA-NYERI ROAD

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

- (a) whether he is aware that Makutano-Sagana-Nyeri Road is in a deplorable condition; and,
- (b) what urgent measures he is taking to reseal the numerous potholes on this road so as to reduce road accidents.

Mr. Mbeo: On a point of order, Mr. Speaker, Sir. Have you noticed that hon. Icharia is in the House after having been beaten up and bled in All Saints Cathedral, leaving all the blood that has not been cleansed and coming into this House without a tie?

Mr. Speaker: Mr. Icharia, are you having a problem with your neck?

Mr. Icharia: Mr. Speaker, Sir, I have been advised by my doctor not to wear a tie. In fact, I am wearing a muscular collar because the neck muscles were---

Mr. Speaker: Very well! Very well! Proceed, Mr. Ndicho!

The Assistant Minister for Public Works and Housing (Mr. Khalif): Mr. Speaker, Sir, to be fair to the hon. Ndicho, I think we shall need more time to give him a complete and satisfactory answer to this Question. So, if he can allow us to do this next week on Wednesday, I think that will be in his interest.

Mr. Michuki: On a point of order, Mr. Speaker, Sir. This is the fifth time that Questions on this road are being asked in this House. I have brought three Questions, hon. R.K. Mungai has brought a Question, and hon. Nthenge has also brought a Question here. In fact, six Questions in total. Is it in order that a Government that claims to be capable should treat this matter so shoddily, so that it looks like a laughing stock? Could the Minister be ordered to explain when he comes here as to why hon. Members of this House, on behalf of other people, continue to bring Questions here without any action being taken by the Government?

Mr. Speaker: Would you hold on until he is ready then?

The Assistant Minister for Public Works and Housing (Mr. Khalif): Mr. Speaker, Sir, the hon. Member asked the Question in order to get satisfactory and complete answers. I have asked my officers to do thorough investigations regarding this Question and, I am ready to answer the Question fully and satisfactorily on Wednesday next week. So, it is in the interest of the Questioner that he gives us more time so that we can give him a complete answer to his Question.

Mr. Speaker: Any reaction, Mr. Ndicho?

Mr. Ndicho: Mr. Speaker, Sir, I quite agree with the Assistant Minister on that. If you look at the written answer to this Question, it is going round and this is a very important road where the entire GEMA community and their friends, like the hon. Speaker, pass.

An hon. Member: GEMA?

Mr. Ndicho: Yes, and we are wondering why, as the hon. Michuki was saying--- So, I am in agreement that he should bring a comprehensive answer instead of this argument.

Mr. Speaker: Order, Mr. Ndicho! Question deferred.

(Question deferred)
Question No.169

EVICITION OF SHAURI YAKO RESIDENTS

Dr. Lwali-Oyondi asked the Minister for Lands and Settlement:-

- (a) if he could explain why the residents of Shauri Yako Village in Eldama Ravine, who have resided in this area since 1995, are being evicted without being given alternative settlement; and,
- (b) what steps he is taking to stop the eviction of the residents of Shauri Yako Village.

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that people of Shauri Yako Village in Eldama Ravine are being evicted. My officers visited the area last year, but they did not find any evidence of eviction.

(b) My Ministry is currently planning the area with a view to regularising the settlement of the people at that Village so that they can be issued with title deeds.

The Assistant Minister for Transport and Communications (Mr. Morogo): On a point of order, Mr. Speaker, Sir. Is the hon. Dr. Lwali-Oyondi in order to come back with a Question which was asked in this House and he was given a satisfactory answer? I know that the hon. Member's intention---

Mr. Speaker: Order, Mr. Morogo! You are in the same Government with the Assistant Minister answering the Question. You could have shared that information with the Assistant Minister before he came. You cannot stop a Member from asking a legitimate Question.

The Assistant Minister for Transport and Communications (Mr. Morogo): On a point of order, Mr. Speaker, Sir. I am not trying to stop him from answering that Question, but what I know is that the hon. Member is trying to create problems among the people who have lived peacefully in Eldama Ravine all these years. All we have done, so far, is that, we have been doing these things---

Mr. Speaker: Order! Mr. Morogo, are you suggesting that the Assistant Minister charged with the responsibility of answering this Question is incapable of answering? Will you sit down?

Continue, Mr. Sumbeiywo.

The Assistant Minister for Transport and Communications (Mr. Morogo): Mr. Speaker, the hon. Member wants to---

Mr. Speaker: Mr. Morogo, will you sit down now?

Mr. Sumbeiywo: Mr. Speaker, Sir, I have answered that Question and he was going to ask a supplementary question.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, as long as you live, you might see very strange human beings. If the Minister cannot ask questions then we shall ask the questions. The answer given by the Assistant Minister is quite misleading. He says that he is not aware. First, I have a letter here written by the same people of Shauri Yako Village, P.O. Box 7 Eldama Ravine, addressed to the Permanent Secretary, Ministry of Lands and Settlements; and which I am going to lay on the Table. I should read part of it and it says:-

"We took our request to the former District Commissioner, Mr. Ibrahim Maalim, who told us that the

Government was aware of our staying here and it was seriously thinking about---"

Mr. Sumbeiywo: On a point of order, Mr. Speaker, Sir. I do not think it is necessary for the hon. Member to ask that question. He can lay the paper here and we will go through it.

Hon. Members: No! No! Let him read it.

Mr. Speaker: Order! Dr. Lwali-Oyondi, could you put your question?

Dr. Lwali-Oyondi: First all, Mr. Speaker, Sir, he told me to read the letter and when I began reading it, he became jittery.

Mr. Speaker: Could you put the question?

Dr. Lwali-Oyondi: Here is a letter addressed to the Permanent Secretary of his Ministry; written by 3,000 people complaining about being evicted.

Secondly, another paper that I am going to lay on the Table of the House is from Kipkenei and Company Advocates who had been instructed by some of the grabbers to evict these people. I am also going to lay a letter on the Table of the House signed by the Chief of Eldama Ravine Location, Mr. Thomas Tuikong, having copied it to the District Commissioner, Eldama Ravine, ordering one of the residents who has been here since 1956, to quit and he was writing to somebody to vacate the plot.

I have also got a copy of the *Taifa Leo* dated 29th, June, 1995 where there was a demonstration by KANU people against this eviction. Here is a list of the grabbers. It is a complete evidence that these people are being evicted and that is why the Assistant Minister is jittery. I will lay all these papers on the Table of the House. All these letters have been copied to the District Commissioner Baringo and others to the DOs and so on. These are copied to:-

The DO Eldama Ravine; OCS Eldama Ravine and the clients. In view of this, is the Assistant Minister, therefore, in order to claim that he is not aware of the plight of these 3,000 people in this Shauri Yako Village?

(Dr. Lwali-Oyondi laid the papers on the Table)

Mr. Sumbeiywo: Mr. Speaker, Sir, I think the figure of 3,000 people is rather exaggerated. However, there is an unplanned slum by the name Shauri Yako Village in Eldama Ravine. In 1996, there were claims that the slum dwellers were being evicted and which prompted the Commissioner of Lands, in person, with two land officers and the two District Commissioners of Baringo and Koibatek Districts, to visit the area to establish the authenticity of the claims. There was no evidence of eviction as was alleged. The inspection revealed that the claims were unfounded and the District Physical Planning Officer was instructed by the Commissioner of Lands to plan the area to facilitate issuance of the title deeds to the residents. The development plan is still being awaited from the Physical Planning Department. Once the area is planned and surveyed, the settlement of squatters will be regularised for issuance of title deeds.

The Ministry has no eviction powers under the law. If there are any eviction at all, it may have been ordered by the Provincial Administration or on instructions of the courts. I would like to appeal to the hon. Members in this House and anybody else who is aware of any Swahili villages which are scattered all over the places; including Nyeri, Mombasa to bring them forward to the Ministry because the Ministry has put in place a plan to make sure that all the Swahili villages are planned so that those who are residing in those areas currently are issued with title deeds because they have lived there ever since they were born.

Mr. Speaker: Yes, what is it Mr. Morogo?

The Assistant Minister for Transport and Communications (Mr. Morogo): On a point of order, Mr.

Speaker, Sir. I insist that Dr. Lwali-Oyondi is misleading---

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

Mr. Speaker: Order, Mr. Maundu! There is another hon. Member on the Floor on a point of order.

The Assistant Minister for Transport and Communications (Mr. Morogo): Mr. Speaker, Sir, I insist that Dr. Lwali-Oyondi is totally misleading this House. You heard him say that 3,000 people have signed the letter, and the population of Eldama Ravine town is hardly 1,000 people. So, you can see that these hon. Members are trying to create problems in my constituency where I have been at pains to keep my people together. I warn them. "*Watafute, Watapata*".

Mr. Speaker: Dr. Lwali-Oyondi, are you sure you have a census of Shauri Yako which shows that it has 3,000 people?

Dr. Lwali-Oyondi: Mr. Speaker, Sir, I get facts as they are written there, and this village is outside Eldama Ravine, just next to the forest. It is written in that letter, and I am wondering whether the Assistant Minister wants to answer the Question.

Mr. Maundu: Mr. Speaker, Sir, now that the Assistant Minister is saying that there is going to be a physical planning for that particular area and that certain squatters have been introduced by the [**Mr. Maundu**] Questioner, would the Assistant Minister consider those people who the Questioner has put forward in the planning process so that they may be allocated land when the process is over?

Mr. Sumbeiywo: Mr. Speaker, Sir, I have said here clearly that those who have lived in that Shauri Yako village since 1959, will be considered when title deeds are issued because they are the legitimate residents of that area.

Mr. Speaker: Mr. Mak'Onyango's Question! What is it, Mr. Achieng-Oneko?

Mr. Achieng-Oneko: On a point of order, Mr. Speaker, Sir. Definitely, there is confusion on the Government side. This Question is being dealt with by two Assistant Ministers.

Hon. Members: No!

Mr. Achieng-Oneko: Mr. Speaker, Sir, please, correct me if I am wrong. For the first time, I have seen two Assistant Ministers dealing with the same subject at Question time.

Mr. Speaker: Order! The position is this: The Assistant Minister for Lands and Settlement, Mr. Sumbeiywo, was charged with the responsibility of answering that Question. I think the participation of Mr. Morogo was only by way of raising a point of order.

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

Mr. Speaker: Sorry, Mr. Ndicho.

Mr. Ndicho: Mr. Speaker, Sir, did you hear the statement? Are we safe?

An hon. Member: It was serious.

Mr. Speaker: What is it, Mr. Ndicho?

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. You are a very fair gentleman. I am sure you did not hear what hon. Morogo said as he concluded his statement. He said, and I quote: "*Watafute, watapata*." Are you satisfied that, that is not a threat which is being uttered on the Floor of the House? Are we safe? Please, let him withdraw that.

Mr. Speaker: Order! I can assure you we are totally safe here.

Mr. Achieng-Oneko: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Sorry, Mr. Achieng-Oneko.

Mr. Speaker: Next Question!

Question No.081

IMPLEMENTATION OF SIAYA WATER SUPPLY PROJECT

Mr. Mak'Onyango asked the Minister for Land Reclamation, Regional and Water Development:-

(a) whether he is aware of the acute water shortage in Siaya Municipality and its environs and the myriad of problems that go with this shortage; and,

(b) what urgent steps is he taking to speed up work on the long awaited Siaya Water Supply Project.

The Assistant Minister for Land Reclamation, Regional and Water Development (Mr. Ligale): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that there is a shortage of water in Siaya Municipality because the current demand is 3,500 m³ of water per day as opposed to a supply of only 850 m³ of water per day.

(b) Through the National Water Conservation and Pipeline Corporation, my Ministry is designing the

engineering works for rehabilitation and expansion of Siaya Water Supply in order to meet the current and future demand. The designs are very close to completion while simultaneously, my Ministry is negotiating with a possible donor on the funding arrangements for the implementation of the works. Implementation of the designed works will be undertaken as soon as the designs are ready and the funding arrangements have been completed.

Mr. Mak'Onyango: Mr. Speaker, Sir, the role of any Government is to protect life. Here, we have a situation in which thousands or hundreds of people are dying from water-borne diseases because of bad water brought about by lack of a proper water system in Siaya Municipality. The Assistant Minister speaks here of design works being completed. This reply has been given here a number of times. Could the Assistant Minister tell this House the time frame within which these designs will be completed and work started on the new Siaya Water Supply?

Mr. Ligale: Mr. Speaker, Sir, I do appreciate the sentiments of the hon. Member of Parliament for Alego-Usonga. The initial plan was completed and we have estimates which run to about Kshs200 million, but the detailed designs should be completed by the end of October this year. I am hoping that if negotiations with the World Bank are completed in time, we hope to be able start on the actual works early in 1998.

Prof. Ouma: Mr. Speaker, Sir, shortage of water is a perennial problem within virtually all the townships and Municipalities in Luoland Nyanza. Here is an attempt to solve the problem in one place. Could the Assistant Minister tell the House for what population size the new design will solve the problems and to what year? Is it designed for the next ten years or 20 years? How long will the people expect to stay without this problem, once this particular project is over?

Mr. Ligale: Mr. Speaker, Sir, I can supply that information on another day. I do not have that information ready here, but we have designed these particular works for not just the current requirements but for the next ten years. But I can supply the particular figures later on, there is no problem.

Pro. Ouma: On a point of order, Mr. Speaker, Sir. I appreciate the problem which the Assistant Minister has, that he does not have the answer now. Can he undertake to tell this House at a later stage what population size the plan is for and for what period? As a result, the people who are going to be helped will know by what time they will have new problems again.

Mr. Ligale: Mr. Speaker, Sir, I shall do that.

Prof. Mzee: Thank you, Mr. Speaker, Sir. I would like this Assistant Minister to tell us how much money he has asked for from this year's budget for the myriads of water projects we have in this country. I remember last time, he had stated that it costs about Kshs250 million to come up with the plan for the feasibility study for Mombasa Water Project, and that it will cost about Kshs2.5 billion to get that water.

[Mr. Speaker left the Chair]

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

Now, he is telling us that in Siaya, they will require Kshs200 million. How much money had he asked for in this year's budget to improve the water problems we are experiencing in this country?

Mr. Ligale: Mr. Temporary Deputy Speaker, Sir, if the hon. Member wants me to give figures for all the water projects in the whole country, I can supply that information later. For now I was dealing with a particular problem in Siaya District. When he asked about problems in Mombasa, I had all the figures with me.

Mr. Mak'Onyango: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister spoke of having this project undertaken as and when funds are acquired. Could he tell the House what emergency steps he is taking to acquire the funds? We are not going to allow people to just die because the Government has not acquired certain funds to undertake certain projects. What emergency measures is the Government prepared to take to, at least, save the people of Siaya from dying from waterborne diseases before all the money required is found? How much money is he looking for in this particular case?

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

[Mr. Speaker resumed the Chair]

Mr Ligale: Mr. Speaker, Sir, I have already answered that question. I did indicate that our initial cost estimate showed that we needed about Kshs200 million, and our negotiations with the donor are based on that figure.

We are talking of a lapse time of about three or four months, after which we should start the work. So, right now there should be no question of an emergency right now.

Question No.434

FINANCING OF YOUTH POLYTECHNICS

Mr. Gitau asked the Minister for Research, Technical Training and Technology:-

- (a) whether he is aware that youth polytechnics are facing imminent collapse due to lack of financial support;
- (b) whether he is further aware that instructors at youth polytechnics have not received their salaries since December, 1995; and,
- (c) if the answers to parts (a) and (b) above are in the affirmative, what plans he has to ensure that these polytechnics are financially supported and that the instructors are paid their salaries forthwith.

The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima): Mr. Speaker, Sir, I beg to reply.

- (a) I am not aware.
- (b) I am also not aware.
- (c) In view of the above two answers, part (c) does not arise.

Mr. Gitau: Mr. Speaker, Sir, I am surprised by the lack of transparency in this House, particularly on the part of the Government. The habit of Ministers depending on Government officials is very sad. I sympathise with this Assistant Minister, who should be sacked immediately. I have got an answer here which is different from the answer he has given. Why has he decided to tell an untruth when he is a Christian. Can I read out the answer I have for him?

Mr. Speaker: No, I am sorry. You will now sit down, Mr. Gitau.

Dr. Otieno-Kopiyo: On a point of order, Mr. Speaker, Sir. To me, the last bit of Mr. Gitau's statement sounds like a threat. He has got something up his sleeve against the Assistant Minister! Is the Chair satisfied that, that should go unchallenged?

Mr. Speaker: Well, I am very unhappy about what Mr. Gitau has said, but after four-and-half years, I know him well.

Proceed, please.

Mr. Kagwima: Mr. Speaker, Sir, I want to go by your ruling that Mr. Gitau does not really harbour any threat against me.

My Ministry was kind enough to provide a written answer to the hon. Member, which he still has. If he has a supplementary question he should have asked it and I would answer it. I want to take this opportunity to enlighten the hon. Member on the basis on which youth polytechnics are founded. They are projects by the communities where they are based. Some of the communities have come to the Ministry and requested for grants for instructors' salaries, and we have gone ahead and granted those requests. If the hon. Member has a specific case of a youth polytechnic which is about to collapse he should ask about it and we will see how to deal with that specific case. Otherwise, I am saying that I am not aware that all the youth polytechnics in the country are about to collapse.

Mr. Gatabaki: Mr. Speaker, Sir, this is a very important Question, particularly given the Government's commitment to make this country fully industrialised by the year 2020. To do that, we require capacity building through the training of middle and senior level manpower. I have said that because the other side of the House needs to be educated in basic economics. I come from a constituency which has three youth polytechnics, none of whose instructors have been paid their salaries. Youth polytechnics in Kiambu and Thika Districts do not work. In fact, throughout the country, these polytechnics do not work. The question Kenyans are asking is whether the Government has a policy on these polytechnics. If it does not have it, why not give the polytechnics to wananchi to run?

(Mr. Mulusya murmured something)

Mr. Kagwima: Mr. Speaker, Sir, I hope you heard what hon. Mulusya said. Mr. Mulusya has known me for a long time and I am sure he is not serious in saying that I did not understand that question. I would request that he withdraws his comment and apologises.

Mr. Speaker: Mr. Kagwima, you can ignore Mr. Mulusya totally.

Mr. Kagwima: Yes, Mr. Speaker, Sir, I wish to ignore him. He and I attended the same university, and if after all those years he can doubt me, that is very serious.

I want to start by agreeing with hon. Gatabaki that we should be concerned and working towards getting the country industrialised by the year 2020. It is a commitment of my Ministry to put in place the required manpower, especially middle level manpower, so that when we become industrialised, we will have the workforce to run our industries. I want to emphasize that, this is a Government policy and the Ministry trains many people at the level of national polytechnics, where we have Kenya Polytechnic, Mombasa and Eldoret Polytechnics. Even recently, the President launched another national polytechnic in Kisumu. This was done only last month and showed our commitment to put in place middle level manpower. As for the youth polytechnics, I want to say that and I have said this earlier, that they are the result of initiatives of the communities where they are based.

Nevertheless, the Government is encouraging those communities by trying to give grants for the salaries of the instructors. For us to pay those instructors, we have to get requests from the polytechnics concerned. As of now, 375 out of the 600 youth polytechnics in the country are being assisted.

Dr. Oburu: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to mislead this House that the polytechnics have to apply for grants in order to pay the instructors when he promised this House sometimes back that, the Government was going to absorb polytechnic instructors into the Government salary system, so that they would get normal benefits and increments like other employees in the Civil Service?

Mr. Kagwima: Mr. Speaker, Sir, what the hon. Member has said is not far from what I have said. This is because the two statements are correct. One, as of now, the youth polytechnics have to apply for those grants. Nevertheless, earlier on, while answering another question, I did say that we have already put in place a scheme of service for instructors in the national polytechnics and those in the technical training institutions and we are very busy doing so. That has already been done and it is with the Teachers Service Commission where it is being implemented. People are being paid under this scheme. We are putting in place another scheme for the instructors in the youth polytechnics, so that the same would be handed over to the Teachers Service Commission so that the same instructors in the youth polytechnics are paid according to the terms laid down and assessed by the Public Service Commission.

Mr. Speaker: Very well. Last question, hon. Kamuiru.

Mr. Gitau: Thank you, Mr. Speaker, Sir. The Assistant Minister has said that the instructors have been paid. Could the Assistant Minister confirm or deny that the Ministry has experienced problems in paying polytechnic instructors due to financial constraints and that they have been going for months without salaries?

Mr. Kagwima: Mr. Speaker, Sir, those in the payroll have been paid up to last month. But I would appreciate what he is saying, so that the Ministry should be given more money so that we can absorb instructors in the remaining polytechnics.

Mr. Speaker: Very well. The Question by Private Notice by Dr. Oburu is deferred to next week.

QUESTION BY PRIVATE NOTICE

MISMANAGEMENT OF BONDO TOWN COUNCIL

(Dr. Oburu) to ask the Minister for Local Government:-

- (a) Is the Minister aware that the Town Clerk of Bondo Town Council was recalled from leave by the District Officer, Bondo, vide letter E.9/Vol.I(12) of 12th June, 1997, without the knowledge/approval of the Provincial Local Government officer, Kisumu, in order to forestall the outcome of an investigation against him(Town Clerk)?
- (b) Is he further aware that the said Clerk, while still on leave, has suspended the Secretary of the Probe Committee, a Mr. F.S. Odongo, vide his letter Ref.BTC/FIN/PF/0054/VOL.1(10) of 16th June, 1997, on flimsy grounds, in order to cover up financial mismanagement in the Council?
- (c) If the answers to "a" and "b" above are in the affirmative, what urgent steps is he taking to streamline administration of Bondo Town Council in order to save it from financial mismanagement by the officers which has resulted in Council staff not being paid their salaries for two months?

(Question deferred)

ORAL ANSWERS TO QUESTIONS

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

Mr. Speaker: Order! Where were you in the first place?

Mr. Ojode: Mr. Speaker, Sir, I will apologise.

Mr. Speaker: Okay, apologise and ask your Question.

Mr. Ojode: Thank you, Mr. Speaker, Sir. I do apologise for coming late, and I wish to ask Question No.202.

Question No.202

ATTACHMENT OF HOUSEHOLD GOODS BY CHIEF

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

(a) under what law did the chief of North Kabuoch Location of Homa Bay District, attach household goods of:- Messrs Ombaye Oketch; Joseph Okong'o; Ogaga Ogana; Samuel Otieno; Joseph Amondo Ojwang' and Naftali Amoko and failed to contribute money towards Rarage Secondary School *Harambee* held on 29th June, 1996;

(b) whether he could order for the immediate release of all attached goods to the owners; and,

(c) what action is he taking to discipline this chief.

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

(a) There is no law that authorises a chief to attach any person's property. I am not aware of any property confiscated by the Chief of North Kabuoch Location towards Rarage school Harambee.

(b) Arising from "a" above, parts (b) and (c) of this Question therefore do not arise.

Mr. Ojode: Mr. Speaker, Sir, it is quite true that the household goods of these people were attached. It is after one month that the chief released the goods to the owners. Among the items which were attached included chairs, tables, stools and beds. What disciplinary action will the Assistant Minister take against this chief for having done something which is contrary to the law?

Mr. Sunkuli: Mr. Speaker, Sir, I am hearing this for the first time. This alleged confiscation has never been reported to the authorities.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, in view of the Assistant Minister's very good categorical statement and assurance that no chief should attach anyone's personal property for Harambee purposes, what punishment would be meted out to a chief or an administrative official who does that?

Mr. Sunkuli: Mr. Speaker, Sir, the laws of this country are very explicit. They protect the property of individuals adequately and our courts are quite efficient on that.

Mr. Ojode: Mr. Speaker, Sir, I have asked the Assistant Minister a very simple question which he should have answered immediately. The same chief was confronted before me at the Harambee venue while the hon. Achola and the hon. Onyango were present at Rarage Secondary School. I saved this chief from the wrath of these people. Could the Assistant Minister tell this House what disciplinary action, now that he is aware, he is going to take against this chief?

Mr. Sunkuli: Mr. Speaker, Sir, as I said, there have been no complaints.

Mr. Ojode: On a point of order, Mr. Speaker, Sir, I am the Member of Parliament for that constituency and I have the complainants' names here. I have even given their names, sub-locations and their locations and the Assistant Minister is still saying that he has not got the complainants' names.

Mr. Speaker: Mr. Sunkuli, have you heard his complaints?

Mr. Sunkuli: Mr. Speaker, Sir, he did cut me short actually. I was going to say that I understand the Chief has political problems with the hon. Member of Parliament. But I have not received any other complaint other than that from the hon. Member.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to insinuate that the Chief has problems with the hon. Member of Parliament and that is a piece of information that is not available to this House, when he knows fully well that the chief is a senior civil servant and this is a practice that is going on all over the country, so that he colludes with those chiefs in stealing chicken from the people?

Mr. Sunkuli: Mr. Speaker, Sir, I have a lot of respect for hon. Anyang'-Nyong'o especially for what he says here. However, when he speaks extempore he goes out of his temper. However, we do not collude to steal any chicken.

COMMUNICATION FROM THE CHAIR

LIMITATIONS OF PARLIAMENTARY IMMUNITY

Mr. Speaker: Very well. Order! I wish to give the following Communication from the Chair.

Hon. Members, on Wednesday July 2nd, 1997 during the afternoon sitting, the Member for Limuru was involved in an incident with the police along Uhuru Highway. Thereafter, the circumstances of the incident were raised on the Floor of the House by the Member for Ugenya under the provisions of Standing Order No.45 (i) raising a question of privilege. I seek your indulgence to delve into the whole issue of Parliamentary Privilege and the circumstances under which it is infrequently raised. A privilege in the legal sense is an exemption from some duty, burden, attendance or liability to which others are subject. Erskine May states and I quote:

"Parliamentary privilege is the sum of peculiar rights engaged by each House collectively and by Members of each House individually without wishing that they could not discharge their functions and which exceed those possessed by other bodies or individuals thus privileged. So part of the law of the land is to a certain extent an exemption from the ordinary law".

Hon. Members, in order to perform its function as a legislative body, a legislature requires absolutely certain privileges, rights or immunities. It cannot carry on unless it has them. It will be seen that a distinctive mark of a privilege is an auxiliary character of subordinate nature. It is a means to accomplish a purpose or fulfil a function. Individual privileges of Members of the House are the absolute immunity they require to perform their Parliamentary work, corporate privileges are a necessary means for each House to effectively discharge its functions.

The individual privileges as freedom of speech, freedom from arrest in civil process and the privilege relating to Members summoned as witnesses. Hon. Members, underlying the doctrine of Parliamentary Privilege, is the justification that privileges are necessary for the conduct of Legislature's business and to be effective, it must enjoy a certain autonomy from control by the Executive and the Judiciary. For practical purposes freedom of speech derives from a provision in the Bill of Rights of 1688. The ninth article of that Bill of Rights declares that:

"Freedom of speech and debate or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament."

The basic concept underlying this article is the need to ensure so far as possible, that a Member of the Legislature and witnesses before Committees of the House can speak freely without fear that, what they will say will later be held against them in courts. However, freedom of speech is not conferred for the personal benefit of any individual, even a Member of Parliament. It is conferred for the benefit of the Parliamentary system. On the other hand, criminal acts as opposed to speeches and Parliamentary actions committed within Parliament are subject to the jurisdiction of the courts. Parliament is not a sanctuary for criminals.

Hon. Members, the privilege of freedom from arrest applied to arrest in civil proceedings does not protect Members from arrest in criminal matters. The only privilege Members enjoy in criminal matters is that words used by them in proceedings in Parliament cannot be made the subject of criminal proceedings or be used to support a prosecution. A Member convicted of crime is in the same position as any other convicted person. In all cases which Members are arrested on criminal charges, the House must be informed of the cause of which they are detained from their service in Parliament. The committal of a Member for any criminal offence or in any civil matter, including contempt of court should similarly be notified to Mr. Speaker by the Committee in charge or the magistrate or some other competent authority.

Hon. Members, under the provisions of Section 10(4) of the National Assembly Powers and Privileges Act, it is stated as follows:

"The Committee of Privileges shall either of its own Motion or as a result of a complaint made by any person inquire into any alleged breach by any Member of the Assembly of the code of conduct issued under Section 9 or into any conduct of any Member of the Assembly within the precincts of the Assembly other than the Chamber which is alleged to have been intended or likely to reflect adversely on the dignity or integrity of the Assembly or the Member thereof or to be contrary to the best interests of the Assembly or the Member thereof."

Any Member may rise in the House at any time to speak upon a matter of privilege, suddenly arising. A Member, in raising and stating the matter of privilege or contempt may speak on the matter to the extent he or she considers necessary unless the Speaker intervenes. When a matter is raised by a Member, the Speaker may give an opinion immediately as to whether a *prima facie* case of breach of privilege exists or state that he will consider the matter and give an opinion later. This may be later in the same sitting or at a subsequent sitting. An opinion by the Speaker that a *prima facie* case has been made out does not imply a conclusion that a breach of privilege or a contempt has occurred or even that the matter should be investigated. It is the House which should determine whether or not a contempt or breach has been committed.

In conclusion therefore, hon. Members will have noticed that privilege being an exception to the general rule, touches only on those matters provided for by either the Powers and Privileges Act or derived from usage and custom in similar Parliamentary jurisdiction. I do not find either in written law or practice any authority for the proposition

that a Member is immune from arrest for criminal offence committed either without or within Parliament Buildings except for what is uttered either in the Chamber or in Committees of the House as earlier explained.

MINISTERIAL STATEMENT

LABOUR DISPUTE AT DELMONTE

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Speaker, Sir, last week, hon. Ndicho asked for a Ministerial Statement concerning the Del Monte Company in Thika. I have got the information with me here and I wish to provide it now.

Mr. Speaker, Sir, in April this year, the Delmonte Company informed the union that they wanted to declare 150 people redundant. Unfortunately, before the union met with them and officials from my Ministry, they went ahead and declared three people redundant in May this year. A dispute was declared and I appointed---

(Loud consultations)

Mr. Speaker: Order! Order, hon. Members. I am sure Mr. Ndicho is interested in hearing what the Minister has to say about his constituents at Delmonte. Can we have some order?

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Speaker, Sir, I was saying that in April this year, the Delmonte Company gave the intention of declaring 150 employees redundant before they met with the union and officers from my Ministry to discuss the issue, and they went ahead in May and retired three people. As a result of that, the union declared a dispute and I appointed a conciliator to look into the matter, so that they could look into the situation and settle the issues amicably. Unfortunately, last week on Wednesday, they went ahead and declared seven more people redundant. This of course, infuriated the workers and they went on strike. On Friday, officers from the Ministry tried to intervene and there was no agreement or settlement of the issue.

On Tuesday this week, my PS summoned the managing director and personnel director to his office to hear their side of the story, so that a compromise could be reached. Seemingly, the managing director and his personnel counter part were reluctant to discuss any issues with my officers. As a result, they decided to sack everybody on Wednesday and asked them to re-apply. In fact, they sacked 1,798 workers and now they have been asked to re-apply.

Mr. Speaker, Sir, as I have said, I had appointed the Provincial Labour Officer to reconcile, but this has not worked. This morning, I appointed an Assistant Labour Commissioner to go to the premises and see how they can come together with the union and come to an amicable conclusion. Up to this minute, I have not received any proceedings or report from the place where negotiations are taking place, if they are taking place at all.

However, I would like to take this opportunity to state that neither the union nor the employers have a right to take laws into their own hands. This country has its labour laws, procedures of settling disputes, and I would like to appeal to both sides to come to a negotiating table without any pre-planned or pre-conceived ideas or decisions already made so that they can speak freely and come to an amicable conclusion so that we can have peace in the firm.

Mr. Ndicho: Mr. Speaker, Sir, I wish most sincerely to thank the Minister for giving that comprehensive Ministerial Statement. I wish also to clarify and inform him on what he has said. The Ministry has summoned the Managing Director who has, in fact, flatly said in Thika Town that he does not recognise the Government of Kenya. This man is an Italian and there is also a South African who came to Del Monte late last year. These two people are very arrogant and ignorant of our laws. In today's paper, the *Daily Nation* all the jobs have been advertised and they have vowed that they are going to make sure that even if these workers re-apply they will not be considered. So, I ask the Government to take stern action against these expatriates who are not giving our country the respect it deserves while they derive billions of shillings from Del Monte.

Mr. Speaker, Sir, I thank the Minister and I am sure that he is going to take action and ensure that these workers are not going to be sacked because there are over 6,000 people depending on them. Thank you very much, Mr. Speaker.

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Speaker, Sir, I would like to assure the hon. Member and the House, that I will make sure that the laid down machinery and the law of land are followed.

PERSONAL STATEMENT

HON. KEAH'S MARITAL STATUS

The Assistant Minister for Finance (Mr. Keah): Mr. Speaker, Sir, I wish to make a personal statement under Standing Order No.69.

Yesterday, during his contribution to the Finance Bill, hon. Prof. Rashid Mzee, Member of Parliament for Kisauni, said:

"The Assistant Minister for Finance, Mr. Mathias Keah, had one legally married wife plus several others attached to him through traditional arrangements."

I shot up to protest and demanded substantiation. To add insult to injury, the hon. Prof. Mzee purported to name one Kadzo wa Mweni, and insisted I knew very well what he was saying. This was all reported with a caption on page 19 of the *Kenya Times* newspaper of today, 10th July, 1997.

I denied, and do deny, any knowledge of the said Kadzo wa Mweni, and neither do I have several other wives under traditional arrangements.

Yesterday, I asked Mr. Speaker, that the hon. Prof. Mzee withdraws and apologises. Prof. Mzee withdrew, but this fact has not been reported. This august House should not be used to abuse other hon. Members and, indeed, their innocent families. My wife, the only wife I have, and my family and friends have been really disturbed and embarrassed by Prof. Mzee's unfounded and abusive allegation. Indeed, they have been embarrassed by the *Kenya Times* report. I thus demand an unreserved apology from the hon. Prof. Mzee to me, my family and friends and, indeed, that *Kenya Times* newspaper publish boldly such apology. Thank you.

Mr. Speaker: Order! I wish to say one or two things about that.

It is quite right, hon. Members should not use the Floor of the House to tarnish the names of other hon. Members. Two, when a statement has been uttered in this House and an hon. Member is ordered to withdraw and he does withdraw, the legal effect is that, that word was never uttered in this House. If any newspaper, subsequently, publishes what has been taken away from the House, they do so at their own risk, as to legal consequence. It just follows as simple as that. Once withdrawn, the words cease to have been uttered in this House. So, it is a creation of the newspaper after that!

Can we proceed? Next Order!

(Applause)

BILL

Second Reading

THE FINANCE BILL

*(The Assistant Minister for Finance
(Mr. Keah) on 1.7.97)*

(Resumption of Debate interrupted on 9.7.97)

Mr. Speaker: Mr. Mulusya was contributing.

Mr. Mulusya: Mr. Speaker, Sir, I wish to continue with my contribution.

I will start with the revision of duty where the Minister for Finance reduced the rates on stamp duty payable on charge mortgages from 2.5 per cent to 2 per cent and 1 to 0.5 per cent for discharge. Our economy is at its lowest level. The Minister is unable to collect revenue on stamp duty payable on property transfer. For example, duty on the transfer of property in the municipalities is 4 per cent. It has remained at 4 per cent for a very long time while it is 2 per cent for those properties outside municipalities and agricultural property.

The Government has been losing immensely because these rates are very high. There is a tendency for property speculators to under-declare property's values when they are being transferred. In most cases, the idea comes with the buyers themselves. A buyer would decide that because of the high duty payable of 4 per cent, for example, if you are buying KICC from the Government, a building which belongs to the Government, but not KANU, you would pay 4 per cent of the total consideration. So, the tendency is for the buyer and seller to collude, and mostly with the connivance of the advocate, to declare a low consideration on the transfer document.

In that case, the Government has been losing immensely. It is high time that the Minister for Finance decided either to continue losing that much, or to lower the duty payable on transfers, at least by 50 per cent. Today, the level of borrowing is very low. There are very few banks which are lending because the interest rates are too high,

and secondly, what the banks are getting from the Central Bank in form of Treasury Bills is so attractive that the banks have no interest in the small borrowing. There is also the uncertainty of the economy. When most of the investors borrow money, they end up not being able to honour their loan terms. They cannot be able to remit their monthly repayments because of the uncertainty and the level of economic activity which is going on.

If you look at the industrial sector in general, virtually every industry is declaring redundancy of old employees and hiring casuals because their products are not getting ready buyers due to high un-affordable prices. If the Minister is interested in collecting revenue in the property market, he has no option but to consider lowering stamp duty from four per cent to either three per cent or two per cent. The duty on properties outside municipalities and agricultural land should be lowered to something in the range of one per cent. That way, we are going to lower the levels of under-declaration and the Minister will be able to collect much more.

With regard to the property market, it is completely saturated. The property values are going down every day. When the economy is at this level, the only way the Minister can afford to stimulate growth in the property development industry is to lower the cost of the inputs and the machinery used in the construction industry. He should also lower the duties payable on cement and other additives like steel. We find that there are comparatively low rates than what we had last year, but the effect is so negligible that they are unable to stimulate any sizeable growth in the construction industry. It is very important for the Minister to decide whether he wants the economy to remain on a downward trend, or he wants to reverse this trend. If you look at duties payable on capital equipments like lifts, compressors used in the mining industry and earth moving equipments generally used in the building industry, they are too high for the present level of economic growth.

Any country which is interested in reversing a downward trend in the economy has always to look at the key sectors which can afford to employ the largest number of the unemployed population, and initiate either direct capital, or give subsidies to the people who are directly or indirectly involved in such industries. This will enable us to get a positive effect.

The Minister does not seem to have priorities. He does not seem to know which areas of the economy are very vital. When we talk about the high demand for houses in this city and other urban centres, congestion in the housing sector especially in Nairobi, Mombasa, Kisumu, Eldoret and Nakuru, where you find families squeezing in very tiny rooms; all this is brought about by the high construction costs. How can it be reversed? It can be done by simply keeping the inputs at affordable prices. The Government can afford to lose over a period of six months, but expect to benefit in another six or 12 months. I do not see why the Government cannot take a radical action to reduce the duties payable on imported machinery in the construction industry. At this time, we need to zero rate all these equipments we are talking about. We cannot construct or repair our roads. We are given grants by the World Bank and the European Union to rehabilitate our roads. If we want to have these roads repaired with modern equipments and technology which have better, faster performance, thus ensuring that the roads have a longer lifespan, the Government should take a radical decision to make sure that we bring these equipments with no duty at all. If there is need to impose duty, then it should be five per cent. By doing this, we can have this work carried out within a short time, and we will be using these equipments for a long time.

When you look at duties imposed on paper, you will wonder as to why we import paper, when this country has a huge factory at Webuye. The Webuye Pan African Paper Mills is able to produce sufficient quantities of paper to sell in this country. The problem we are facing is that of duty which is levied on paper from Pan Paper Mills in Webuye. The duty levied on this paper is much higher than that levied on imported paper. When you compare the price of the locally produced paper with that of imported paper, you will see that the difference is big. Why is this industry there? It is there to manufacture paper for local consumption and export.

There is another problem being experienced in Webuye Panpaper Mills. Emissions from the factory are very harmful to these people living in the surrounding areas as well as the environment. The level of impotence in that factory is very high. Workers in this factory are not protected against risks at all. The Ministry of Labour and Manpower Development has actually carried out tests on those workers and found out that about 47 per cent of the male staff have something to complain about. These are not the days when men would refuse to disclose any signs of impotence in them. Days have changed and people explain their problems openly to doctors. The Ministry has qualified doctors who are carrying out tests on these workers. The Ministry of Labour and Manpower Development should take immediate action to make sure that working conditions of the staff are conducive. They should give them protective clothing. There are factories in the world whose working conditions are more hazardous, but you will never find any member of staff complaining because all the necessary precautions are taken to protect the workers from any risk---

Mr. Speaker: Mr. Mulusya, that is good enough of diversion. Can you now come back to the Bill?

Mr. Mulusya: Mr. Speaker, Sir, I am very much within the Bill.

The Minister has imposed duty to curb dumping of manufactured goods into this country. When you look at

the textile industry, you will find that the rate of duty on goods such as mitumba seems to vary, yet most of us have resorted to wearing mitumba. We are even wearing underpants from mitumba. This is because what we get in the open market is much more expensive than in the mitumba market because the duty imposed is also high. When you impose duty on items like mitumba, it should not be done on selective basis. Whether one is a son of the Head of State, a Minister, a Member of Parliament and so on, the duty should be standard. There is no way the Government will collect enough revenue if some people are exempted from paying duty on imported goods. You will find that sons of senior people in this country are either exempted from paying this duty or are made to pay less than the required duty. If you go to Gikomba today, where there is a wholesale market for mitumba clothes, you will find that some containers are more expensive than others. This is because of the duty which was collected at the point of entry. This is very bad and it is creating a very bad precedent and when eventually reforms are in place, those people who have been avoiding paying duty will have to pay it in arrears.

We have been importing foodstuffs when the local farmer is capable of sustaining local demand for food and for export. What happens is that we declare a state of emergency to enable us bring in famine relief, but you will find that the people who import this food end up selling it in the open market, yet they have not paid any duty on it. If we are to protect our industry, we must be able to establish our demands for the relief food so that it is done through Government agency. In this way, we will avoid losing revenue. The issue of famine relief needs to be looked into keenly. If you went to Machakos you would find that virtually every DO has got a reconditioned vehicle from Dubai. Every chief or sub-chief has started building a new house. This is happening because they have been selling relief food and the Government has not taken any action against them. We have made a lot of noise about this, yet nobody seems to take any action. At one point, hon. Maundu said it in KICC in a KANU Parliamentary Group Meeting, but he was told by the Head of State to report the people who were selling this food to the police. How can you report the DC to the police? That DC is the chief of the District Security committee in his district.

So, there are a lot of anomalies which must be ironed out. If an hon. Member reports that a DC is doing this and that, let action be taken. The only person we know who has authority to hire and fire is the Head of State, and we still expect him to take action on the DC for Makeni.

Mr. Speaker, Sir, I am getting to another area where there are items which are imported for use by the armed forces, the police and civil servants in Government offices. The Government imports items like tear gas which is highly poisonous, and which has been unleashed on Kenyans in the streets of Nairobi, Mombasa and elsewhere during the recent riots. Tests have been done and it has been proved that, that tear gas is poisonous. Why did the Government import poisonous tear gas to unleash on people whereas it is supposed to aid Government agencies in dispersing unruly crowds?

Mr. Speaker, Sir, I would like the Assistant Minister for Finance, hon. Keah to ask me what I mean, if he would like to know.

The Assistant Minister for Finance (Mr. Keah): Just say what you mean.

Mr. Mulusya: Mr. Speaker, Sir, I am a victim of that tear gas. That tear gas is poisonous and if you want to know its effects, call me in your office and I will tell you what my problems are. It is serious; very, very serious. Virtually, everybody who has inhaled that tear gas has suffered some inability somewhere.

Mr. Mutahi: On a point of order, Mr. Speaker, Sir. This is a matter that hon. Mulusya has raised in this House and there is no way he is now going to tell us that he is going to be accompanied by hon. Keah or myself to a secret place, to say how he feels and the effects of the tear gas. Could he tell us what he means? We want to be aware and make Kenyans aware.

Mr. Mulusya: Mr. Speaker, Sir, the Speaker's Gallery is full of school children and I do not want to mention my inabilities in front of children. It is understandable when I say: "Hon. Mulusya has been unable for the last few days".

Mr. Mutahi: On a point of order, Mr. Speaker, Sir. With all due respect, my friend hon. Mulusya, has now talked of "being unable" for the last two weeks. He must tell this House what he is unable to do.

Mr. Speaker: Mr. Mutahi, I think Mr. Mulusya knows what he is talking about.

Mr. Mutahi: But we want to know as a House!

Mr. Speaker: I think you can as well guess. Proceed!

Prof. Anyang'-Nyong'o: On a point of information, Mr. Speaker, Sir. It is not a very difficult thing to say, really. Hon. Mulusya has not been able to have a good glass of beer over the last five days.

Mr. Mulusya: Mr. Speaker, Sir, since the beginning of the year, I got converted and do not take beer. Maybe once in a while, I take one tot of whisky. That is on instructions from my doctor. But this is a recent problem that arose when hon. Makau was going out of the country.

Mr. Speaker: What clause is that?

Mr. Mulusya: Mr. Speaker, Sir, they should stop administering tear gas on us.

Mr. Speaker: Yes, what clause?

Mr. Mulusya: Mr. Speaker, Sir, this falls under the importation of equipment for use by the police.

Mr. Speaker: Which clause?

Mr. Mulusya: Mr. Speaker, Sir, I am getting to that.

Mr. Mutahi: Who can prove that you are not able?

Mr. Mulusya: My house telephone is working, just make a call to the head of the house.

Mr. Speaker: Mr. Mulusya, that is now enough!

Mr. Mulusya: Mr. Speaker, Sir, I would like to tell the Government that they should not use us as guinea pigs.

Mr. Speaker, Sir, the importation of petroleum products---

The Assistant Minister for Finance (Mr. Keah): Is the tear gas from petroleum?

Mr. Mulusya: Mr. Speaker, Sir, it is alleged that this tear gas was produced at the Eldoret Ammunition Factory, but it is imported to the place and then they sell it direct to the Government. It is not them who are producing it, but it is just stored there. When it got finished, it was airlifted by a charter plane on Monday and we have facts to support these claims.

Mr. Speaker, Sir, when you increase duty on petrol, you have increased the prices of virtually everything; from the manufacturing to the transport sector. Virtually every sector of the economy is affected. If the Government knows that it wants to break the cartel which is existing in the oil industry, and the same Government has been complaining through the Permanent Secretary that major oil distributing firms reduce their petroleum prices, then they are saying that, the offshore prices have gone down. Why then if they want these companies to reduce their prices, is the Minister increasing the levies on petrol every Budget Day?

Mr. Speaker, Sir, the bulk of money from the Road Maintenance Levy comes from petrol. Why can we not maintain the levies at a certain level? You should forget about increases and you should urge these companies whenever there is a reduction in offshore prices, to lower their prices so that it has the effect. We are looking for ways of stimulating the economic activities in this country. Why does the Minister not think along those lines? Why does the Minister want Kenyans to die of suffocation because of high prices everywhere? If you board a matatu, the lowest fare you can pay is Kshs10 in town here. If you want to go to Kangundo, you must pay Kshs80 and yet, Kangundo is so near. Those people who are operating the matatus have no option because the Minister has increased the prices of petrol. What do you want Kenyans to do? I am urging the Minister to at least see to it that this year the prices of petroleum keep going down instead of going up. Let him not touch the prices of petrol any more and then, we will agree that he has been doing something.

With those few remarks, I beg to support.

The Minister for Information and Broadcasting (Mr. Makau): Mr. Speaker, Sir, I would like to join my colleagues in this debate on the Finance Bill and I am happy to hear hon. Mulusya saying that he supports it. If that trend was there right from the start, then things would have been very welcome because the Budget is an extremely important event in any country, and every hon. Member should show its importance. A lot of people, both locally and internationally, regretted the action that was taken by some of the Opposition Members.

Mr. Speaker, Sir, I am extremely happy that the Bill that we are debating is to bring legality to the proposals that were put forward by the Minister for Finance and it is a Bill that is very important. These proposals will enable the Government to collect revenue that would enable it to render services to the general public.

As we approach the general elections, and as we are increasingly surrounded by countries that are not very stable, it is extremely important that enough revenue should be made available especially for the maintenance of law and order. These proposals that we want legalised, obviously, will enable the country to have enough revenue. It is extremely crucial that this country should stop depending on a lot of foreign aid because the trend today, is that Africa is becoming increasingly irrelevant to the western world or to donors. We should develop our taxation systems and modernise them so that we get enough revenue.

Mr. Speaker, Sir, one area that I feel is very crucial is that when we talk about these tax proposals and any other proposals that have been suggested to increase revenue in this country, one thing that is extremely important is that there should be an enabling environment for any tax collection to be done; for people to be able to earn or to create wealth so as to be able to pay tax. This cannot be done in countries that are in turmoil. We are very fortunate that the leadership of this country has brought about stability. This is one thing that all of us should support. I would like to appeal to and challenge the Opposition---

Mr. Mulusya: On a point of order, Mr. Speaker, Sir. Are you satisfied that the hon. Minister, who has been away for quite along time, is contributing to this Bill? He is talking about stability, and he was stable wherever

he was and the country is still stable.

An hon. Member: And he has come back very fresh!

Mr. Speaker: Mr. Makau, which clause are you referring to?

Mr. Mulusya: Yes, which one?

The Minister for Information and Broadcasting (Mr. Makau): Mr. Speaker, Sir, what I am referring to is the creation of an enabling environment; to enable the Government to collect tax and even the business people to invest. If there is no investment, there is no way you are going to tax anybody.

QUORUM

Mr. Munyasia: On a point of order, Mr. Speaker, Sir. There is no Quorum.

Mr. Speaker: What? There is no Quorum? Yes, there is no Quorum, you are right hon. Munyasia. Ring the Division Bell.

(The Division Bell was rung)

[Mr. Speaker left the Chair]

[The Temporary Deputy Speaker

(Mr. Maundu) took the Chair]

The Temporary Deputy Speaker (Mr. Maundu): Order! We have a quorum now. You may proceed, Mr. Makau.

The Minister for Information and Broadcasting (Mr. Makau): Mr. Temporary Deputy Speaker, Sir, before I was interrupted by lack of quorum, I was talking about the enabling environment that will enable taxation proposals to be implemented effectively. We have a lot of people in the countryside and all over the country whose income is so low that if they are not given relief, in the form of not being put in the bracket of those who are going to pay direct tax, they find it difficult even to pay school fees for their children. It is something that is welcome that the Minister for Finance increased that level of the 150,000 who are not within the bracket of not paying the direct taxes; although they still continue paying indirect taxes.

Mr. Temporary Deputy Speaker, Sir, before I was interrupted, I was saying that it is very important to have an enabling environment to enable any tax proposals to be effected. Even if we legalise them through this Bill, as long as the environment does not exist for the collection of those taxes, it becomes impossible. That is why I am saying that one of the enabling environments that is very conducive to effective collection of taxes is peace in any country. It is impossible to collect taxes in countries that are in turmoil. For example, in a country like Sierra Leone, even if you come with the most brilliant proposals or modernisation of the tax system, you cannot collect tax in such a country because of the current situation. That is why I stressed in the beginning that the creation of that environment is very important so as to get enough revenue in order to have money to finance and maintain law and order.

An hon. Member: No reforms, no environment!

The Minister for Information and Broadcasting (Mr. Makau): Mr. Temporary Deputy Speaker, Sir, the Government has stated very strongly that we are not opposed to reforms; it is only the timing. But I would like to appeal to the Opposition and others who are obviously agitating for reforms that let us ask ourselves one thing: What is the point of stagemanaging events?

I personally, believe that any Constitution of any country is organic, that it will have to change as times change, and Jesus himself said, that the law is made for man, but not man for the law. That means that even the reforms that the people of this country are asking for. The Government has said that they are willing to make sure the reforms are done. But those reforms will be done if they are going to be helpful to everybody in this country; not just reforms for the sake of somebody wanting to stagemanage things.

Mr. Mulusya: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it order for the hon. Minister to mislead this country that reforms and change anywhere in the country has organic, when, immediately after he was sacked from the Cabinet, prior to 1992, we used to meet with him agitating for reforms? He was in the frontline of saying that we must change now and we must make sure that Moi goes now. Why all the sudden change now? What transformation have you undergone?

The Minister for Information and Broadcasting (Mr. Makau): Mr. Temporary Deputy Speaker, Sir, I said "organic". When you talk about the Constitution, you are setting rules to be followed. If economic and political events

keep on changing, obviously, you have to look for reforms, and that is why I said that the Government is not opposed to reforms. With regard to the time that you refer to, I am very proud to have contributed to the change that created democracy in this country.

(Applause)

Mr. Mulusya: Contribute now!

The Temporary Deputy Speaker (Mr. Maundu): Order, Mr. Mulusya!

The Minister for Information and Broadcasting (Mr. Makau): I am just telling you that I will never regret that I was involved in the reform changes. You benefitted and that is why you are seated here.

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Maundu): Order, Dr. Lwali-Oyondi. I have not given you the Floor.

Dr. Lwali-Oyondi: Mr. Temporary Deputy Speaker, I am on a point of order.

The Temporary Deputy Speaker (Mr. Maundu): Let us not have discussion across the Table. If you have a point of order to raise, please, address the Chair and you will be given that opportunity.

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Mr. Makau, to state here that we in the Opposition benefitted from the changes that we brought, when we know very well that after joining the Opposition, he was paid and even induced with a Ministerial job? How does he allege that we benefitted when he is the beneficiary?

The Minister for Information and Broadcasting (Mr. Makau): Mr. Temporary Deputy Speaker, Sir, I am surprised that Dr. Lwali-Oyondi does not realise the fact that I said that I played a big role when multiparty was introduced in this country; that is what you were fighting for. During that time, and I would like to make it very clear to all of you and those who would understand what was happening, people were concerned more about the change to come out of one-party to a multiparty system which was done. By then, I felt that we achieved what we were agitating for. Therefore, we should now go for development rather than continue with stagemanaging things.

Prof. Mzee: On a point of order, Mr. Temporary Deputy Speaker, Sir. Have you noticed that Mr. Makau's contribution is irrelevant to what is on the Order Paper? He should stick to what is in the Finance Bill. He does not even have a copy of the Finance Bill for reference.

The Temporary Deputy Speaker (Mr. Maundu): Well, possibly he has summarised his points. He is still answering points of order raised by some of the hon. Members. Hon. Makau, please, now stick to the Finance Bill.

The Minister for Information and Broadcasting (Mr. Makau): Mr. Temporary Deputy Speaker, Sir, it is always good to have a Speaker who is a lawyer. I am answering their questions on the issue of reforms which they had raised here. I have said that the President has stated very strongly and clearly, that the Government is not opposed to any reforms. But as to the method of getting the reforms, that is where the Opposition is going wrong. You cannot ask for reforms and at the same time refuse to obey laws that have been enacted by this House.

Mr. Temporary Deputy Speaker, Sir, once I said something and I want to repeat it. In developed democracies like in Great Britain the Opposition is responsible. Today the Conservative Party in Britain, which is in the Opposition, appreciates what the current Government is doing. I am appealing for creation of an enabling environment.

(Mr. Mulusya murmured something)

The Temporary Deputy Speaker (Mr. Maundu): Order, Mr. Mulusya! I have said that if you have a point of order, raise it. The Chair is generous today and will allow you to raise it.

Continue, Mr. Minister, and stick to the Bill.

The Minister for Information and Broadcasting (Mr. Makau): Mr. Temporary Deputy Speaker, Sir, I am just appealing to the Opposition to be responsible. All of us should know that this country is ours. I want to say I believe that we, as leaders, should create a bright future for our children. There is no point of stage managing meetings to please outsiders. We should create an environment that will enable us to develop this country. Some of the incidents that have taken place in the country are very regrettable, and should not have occurred.

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister has been giving us a preamble for all this time, and we have been hoping that he would go back to the Bill. Would it not be in order for you to ask him to go back to the Bill?

The Minister for Information and Broadcasting (Mr. Makau): I have just stated that-- You should

know that I am not the type of a speaker who speaks for two minutes---

The Temporary Deputy Speaker (Mr. Maundu): Mr. Makau, address the Chair!

The Minister for Information and Broadcasting (Mr. Makau): Mr. Temporary Deputy Speaker, Sir, I said that the proposal to remove 152,000 people from the income tax bracket does not mean that they will not pay indirect taxes like VAT and others. But the fact that they have been excluded from payment of income tax shows that the Government is very concerned about the welfare of Kenyans. People whose income does not allow them to pay income tax have been excluded from payment of the same. We should support this Bill because it makes provisions which are appreciated by people in this country.

Following certain changes regarding the Kenya Revenue Authority (KRA), such as payment of good salaries, we are seeing a reduction in corruption. As long as the KRA has corrupt officers, it will be impossible for us to collect enough revenue. This is because many people will corrupt those officers in order to evade paying taxes. Now that KRA officers are being paid well, we should continue to see improvement in revenue collection. I am told by my colleague, hon. Keah, that revenue collection has improved so much that we have gone beyond our collection target. This is very commendable.

Mr. Temporary Deputy Speaker, Sir, I would like to end my contribution by appealing to all Kenyans and leaders, whether they are in the Opposition or in the Government, to realise that this country is ours and its future depends on us. We should ask ourselves whether we are creating an environment that will enable the country to continue being as stable as it is. All of us should be responsible. We should know that whenever a leader behaves irresponsibly, that contributes to a situation where we shall be unable to sit here and debate a Bill legalising tax proposals or anything else of benefit to this country.

Mr. Temporary Deputy Speaker, Sir, I appeal to all leaders to avoid the culture of violence. If there is anything wrong, we can sit down and discuss it for the benefit of all of us. Nobody will benefit from a situation where Kenyans are fighting one another. This is a challenge to the Opposition. They should stop stage-managing meetings and pretending that they are looking for reforms. This is because when reforms are introduced through Bills, they reject them. Sometimes, we wonder whether they are really asking for reforms or are adopting a Kamba saying about impotent people. I wish hon. Mulusya was here to bear me witness on the meaning of this saying. It says that when an impotent man fails to get a child - this is a very bad thing in Ukambani - he complains that his woman does not sleep properly. I am saying that the Opposition is becoming politically impotent.

Mr. Magwaga: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to discuss hon. Mulusya, even if he is impotent, without a substantive Motion?

The Minister for Information and Broadcasting (Mr. Makau): Mr. Temporary Deputy Speaker, Sir, I did not say that. In fact, hon. Mulusya was complaining that some tear gas has affected him and now he is finding it difficult to--- This is very bad for a Mkamba. I wish he was here.

Dr. Kituyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. With all due respect to the hon. Minister for propaganda, this is supposed to be a dignified House. Since we have school children in the Gallery, how can we go on with this level of obscenity and pretend that we are hon. Members contributing to the Finance Bill? This is what a Minister in the Moi Government is doing!

The Temporary Deputy Speaker (Mr. Maundu): I think that is a point of argument!

The Minister for Information and Broadcasting (Mr. Makau): Mr. Temporary Deputy Speaker, Sir, I was saying that the Opposition is politically impotent although they are calling for reforms. When any proposal for change is made, they still complain. That is what I am trying to say.

Mr. Achieng-Oneko: Mr. Temporary Deputy Speaker, Sir, could the Minister for misinformation and propaganda explain how the Opposition is impotent? If the Opposition was impotent, the Government would not have unleashed the police, GSU and almost the whole army on the innocent people who were only demonstrating or drawing the attention of the Government to the reforms that we need too badly and immediately.

The Temporary Deputy Speaker (Mr. Maundu): This business of impotence or no impotence is not part of the Finance Bill. I think, it should be discontinued. Let us stick to the Bill.

The Minister for Information and Broadcasting (Mr. Makau): Mr. Temporary Deputy Speaker, Sir, I think you are right. We have had enough of that. The point that I wanted to make is that the Opposition in this country has qualified people and experienced. But sometimes when you look at the things that they do, you start wondering. This is because due to their qualifications and experience, the Opposition should become more responsible. I said so because at that time, I did not see any use of the Opposition.

With those few remarks, I beg to support the Bill.

Dr. Kituyi: Thank you, Mr. Temporary Deputy Speaker, Sir. It is very sad and unfortunate that yesterday, we listened here to some presentation by the Assistant Minister for misinformation and propaganda, the hon. Shariff

Nassir---

The Temporary Deputy Speaker (Mr. Maundu): Order, Dr. Kituyi! I do not think we have a Ministry by such a name. We have the Ministry of Information and Broadcasting.

Can you proceed on that basis?

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, I will proceed, but I thought that, that was an affliction of the Assistant Minister. That is tragic. But when it afflicts his Minister as well, then that is catastrophic. You can now understand why this Ministry cannot protect the lives of Messrs Vitalis Musebe and Isaiya Kabira when they are being fired from State House for telling the country the truth about the brutality of the forces of repression. That is about as much as I will allow myself to talk about what the Minister who wants to remind us about his validity that he is talking about.

Mr. Temporary Deputy Speaker, Sir, I wish to just make a little statement about an environment for sustainable physical policy. The purposes for budgeting and the reason why we plan is that we assume there are certain major variables which are constant and that with those variables remaining constant as satiric variables, certain measures are going to yield certain anticipated results and that, certain taxation measures will yield certain returns to the Exchequer. When the critical macro-political environment is beset with major threats of collapse and pretensions, it is a delusion that good liberal or neo-liberal taxation measures will attain anticipated revenue results.

Mr. Temporary Deputy Speaker, Sir, we are pretending here very much. We are pretending that things are alright. We are pretending that certain people can be counting corpses while others are legitimising new taxes.

I find it very difficult to understand a Government whose main representatives in the National Assembly have no arguments to defend a policy position that they have taken except to keep their ears on State House so that as soon State House says they can go into dialogue, they will come and start thanking His Excellency for his magnanimity and for allowing dialogue. All persons resisting dialogue as a way of saving the nation are marking time, waiting for signals from hon. Biwott, hon. Kamotho and from State House and then, they will come here and say how much they have always loved dialogue. They will forget all their talks about why dialogue has to come after elections. To that extent, it becomes a futile cry to try to persuade those whose minds are made up by others or those who cannot rise beyond partisan interests and think of the national interests. They are the same people who cannot think of what it means to this country where if you look at newspapers today, you will see a woman student being stoned by a policeman and another policeman looking for a stone to stone her. How can you pretend that as gentlemen, we can now sit down and discuss the future of this country? How will you explain to the parents of those children that they have sacrificed their everything to get those kids into school and the result - taxpayers money is being used to pay policemen to beat them like wild animals which have invaded a farm?

Mr. Temporary Deputy Speaker, Sir, suffice it to say and this is all I would say on the critical burning question of the day: In my language we have a saying that goes: "When the time has come for a cow to give birth, the hands of 1,000 soldiers cannot stop it from giving birth. It takes much, much more than President Moi and much more than 1,000 Biwotts, Saitotis and Kamothos to stop and resist the will of change. You stand in its way and it will crush you. It will make you irrelevant to the history of this country, except as persons who presided over the most inept and incompetent management of public affairs.

The Minister for Information and Broadcasting (Mr. Makau): On a point of order, Mr. Temporary Deputy Speaker, Sir. I am surprised because when I was contributing to this Finance Bill, my friend was saying that I was irrelevant. How relevant is he now to the Finance Bill, when he starts moving again to the same irrelevancies?

The Temporary Deputy Speaker (Mr. Maundu): Mr. Makau, yes, I get the point. Dr. Kituyi, you have given sufficient background to your subject. Can you proceed on the Finance Bill.

Dr. Kituyi: Thank you, Mr. Temporary Deputy Speaker, Sir. I will now proceed to the substance of the Financial Bill.

Mr. Temporary Deputy Speaker, Sir there is a fallacy that has become part of the tradition of the budgetary process in this country, that the Government brings to Parliament Bills which apart from allowing new taxes, try to tax in retrospect. There is absolutely no justification for the Government to bring a Finance Bill to Parliament which includes provisions to tax people who imported things in an environment when they could not have anticipated such taxes. If you look at the preliminary section, which is always Section 31 about the applications which are contained in different parts of this Bill, you find that there are a lot of sections which are to be applied in retrospect *a posteriori*. If you look at the first provisions about Section 2 (b) which will come into effect on the 16th of June 1994 it is saying that the Government is introducing a 20 per cent duty on the imported second hand cars. How can we in 1997, be introducing duties on cars imported in 1994 when the pre-importers of those cars understood that at that time, it made sense because such a duty was not there? How do we punish those who might have had cars coming in before the current discussion of the Budget without anticipating that the Government was introducing a retroactive tax? It is incumbent upon the Government that it does a comprehensive job and when there is a statement about a taxation, it

applies only from the date when the deal becomes law.

Mr. Temporary Deputy Speaker, Sir, having said that, there are a few other things that I wish to mention. Today, the crisis of the collapse of the infrastructure in this country is such that, local authorities which have a demonstrated capacity to manage roads to utilise resources for maintaining local feeder and track roads are in much greater need of resources from Government or from tax than the Central Government. It is in the understanding of that principle being provided for in Clause 69 which has a target of a 50 percent sharing between the central Government and local authorities of the Road Maintenance Levy. But there is no justification for this sharing to be staggered the way it has been. The rational thing would have been that, starting immediately in the 1997/98 Financial Year, 60 per cent of the Road Maintenance Levy is surrendered to the local authorities. The exercise of keeping so much of that money at the centre, since in the light of what we exposed last year, that funds from the Road Maintenance Levy were being diverted into a scam, ostensibly to import equipment for fighting mosquitoes, worries many of us. In the absence of discipline in the management of fiscal policies and of what accrues to the Exchequer in this Government, there is no justification that the main component of money for road maintenance is not going to the local authorities which feel greater pressure than the central Government for the collapse of the transport infrastructure in the country.

Mr. Temporary Deputy Speaker, Sir, I now wish to turn to another matter which relates to customs. Yesterday, I did mention the case of a company which has been importing vehicles ostensibly as transit vehicles; unpacked trucks with trailers. They also import second-hand cars from Japan or they go and buy auctioned used cars from the Government and the only purpose of that importation or the buying of these old cars is in order to get registration plates which they then put on vehicles that have been imported as transit and re-introduce them to the domestic market. I mentioned these matters in relation to a company called. Today, I want to revisit the same company because it is one of the few companies which are fraudulently abusing the revenue generation measures of the Government, because their political god-fathers are easily bribed.

The next scandal which I want to refer to included the bribing of a senior officer of the Government who sits in this House, with a tanker to transport water to his flower plantation. This is a scandal. Usually, when one is buying a new vehicle from the manufacturer, there is an input VAT which you pay as part of the purchase, but you apply to the Kenyan Government for reimbursement. When one buys a truck from a company that manufactures trucks, the purchase price that you pay includes 18 per cent input VAT, which after you have acquired the vehicle, you can then apply to the Pay Master General for reimbursement through the VAT Department. The scandal which I want to demonstrate and I will lay these documents on the Table, is as follows---

(Loud consultation)

I think hon. Salat should stop consulting loudly and interrupting my contribution.

Mr. Temporary Deputy Speaker, Sir, usually a truck importer writes a proforma invoice to a truck manufacturer setting out his intention to purchase trucks and then, he erases the word "proforma" and submits the proforma invoice as invoice to the tax authority as a statement that he has bought those trucks. Using that proforma invoice as evidence, he applies for 18 per cent VAT reimbursement on trucks which he has never bought. In April, 1994, Interact transport company wrote to Bruce Trucks and Equipment 10 proforma invoices, stating that it was interested in purchasing 10 trucks with trailers; unpacked new trucks with trailers. After that application to Bruce Trucks---

The Temporary Deputy Speaker (Mr. Maundu): Order, hon. Salat! You are consulting too loudly.

Dr. Kituyi: Hon. Salat, the Temporary Deputy Speaker has said 'shut up'.

After applying for the reservation of 10 trucks at Bruce Trucks and Equipment, Interact got a proforma invoice from Bruce Trucks which sets out the engine numbers and chassis numbers of 10 trucks which they have applied to acquire from Bruce Motors. Then they erase the word "proforma" and retain the proforma invoice from Bruce Trucks, as if it is an invoice for the payment of 10 trucks. On the basis of that, they prepared a list of 10 payment vouchers and I am going to table before the House, the "proforma" invoices where the word proforma has been deleted by Interact, so that it appears as if it is an invoice for them to pay for the 10 trucks.

(Dr. Kituyi laid the document on the Table)

After that, they prepared full payment vouchers. I have samples of the payment vouchers that Interact prepared not for Bruce Motors, but for the VAT Department saying: "On the basis of the defaced proforma invoice, they have evidence that they have bought those trucks." I also we have here, an application letter for the claim of refund for input VAT by Interact dated 20th July, 1994. This is for Kshs7,996,031.10 being 18 per cent of the declared value of 5 trucks. They had set out as if they were to buy 10 trucks and when they received the proforma

invoices through their financing house, they purchased five trucks but then for the other five which they did not buy, they applied as if they directly bought them from Bruce Trucks and Equipment. I am tabling here a full list of the official Government claim forms filled to apply for reimbursement for the five trucks which they did not buy through their finance company. I also have a Government VAT Print-out dated 20th July, 1994 which reflects that the Government had surrendered Kshs7,996,031.10 as payment for a claim through Bruce Trucks for VAT reimbursement.

(Dr. Kituyi laid the document on the Table)

I also have other two important documents to table. One is a cheque of the Government from the Pay Master General for the reimbursement of deposit input VAT to Interact Limited Nairobi. After that, that cheque was being processed for an application which was done to VAT in June, 1994. I also have a letter from Bruce Trucks and Equipment dated 26th August, 1994. It is a letter written to Interact Limited and this letter is signed by Mr. Waiharo, the Financial Controller of Bruce Trucks. It says:

"We confirm that we are still holding the order of trucks pending the finalisation of financial arrangement. Accordingly, the vehicles which were initially reserved, whose engine numbers and chassis numbers appear below are still in our stock. "

They gave the chassis and engine numbers of trucks in August which are in the custody of Bruce Trucks and those chassis and engine numbers are in the computer print-out of the Government of VAT reimbursed in the month of June. This means that the Interact has cheated the Government and has been paid Kshs7,996,031.10 as reimbursement of deposit VAT on trucks which actually they never bought and have never bought.

Mr. Temporary Deputy Speaker, Sir, this is what is happening in this country.

Prof. Mzee: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not know whether you are following this, but this appears to be a scandal bigger than the Goldenberg scandal, with millions of shillings being schemed. Interact Company is totally meaningless to us. Can he tell us who are the directors of Interact Company who are "brewing" a scandal bigger than the Goldenberg, stealing money from the taxpayers?

Dr. Kituyi: Mr. Speaker, Sir, I agree with the hon. Prof. Rashid Mzee that Interact Company is a tip of the iceberg. It is with increasing care that only a certain clan of Asians are allowed into big time thieving and that has come from the glare of the world about certain scandals; Interact Company is doing this. How about truck companies which belong to the politically-correct?

If you want to know the reality of what is happening with trucks in this country, go to where there is traffic jam, check any truck of Signon, check the registration plates and go to the Nyayo House to check the registration of that car, you will find it is 1986 Nissan Saloon imported from Japan. You paid duty of Kshs60,000 to get, not the car, but to get the registration, a plate, road licence and you put it on a duty-free imported truck which you cheated the public that it was to be a transit good. I showed that about Interact Company, about six trucks. I have evidence of even a Catholic relief NGO which has also been involved in a similar falsification of documents about transit vehicles. That is not the end of it.

Mr. Temporary Deputy Speaker, Sir, those of us who come from Western Kenya have noticed a very interesting thing. We know that the amount of Government duty on the cheapest packet of cigarettes in this country is more than Kshs15. Now, in Western Kenya, we have a new brand of cigarettes; the *Lion Gold* and *Lion King*. On these cigarettes it is printed on that they are manufactured in Canada and they are distributed by a company based in USA. These cigarettes retail at Kshs13 a packet. I took a sample of this tobacco to the Kenya Bureau of Standards. I wanted the quality checked, unfortunately, they do not have equipment for carrying out a lab test on tobacco involved. But how can you explain that at a time when the cheapest domestically produced tobacco draws a tax of more Kshs15 that you have an imported brand of cigarettes which is retailing, including the cost of transportation, Government duty, at Kshs13? To me, this represents a fraud, a fraud of missed revenue, a fraud of dumping of equipment that cannot attract a market in the manufacturing country and a statement about Government porous tariff barrier; a statement about Government's inability to monitor what gets in and out of the country. How can you explain that *Crown Band* costs more than double the price of imported cigarettes and that cigarette is still available, you can buy it over the counter anywhere west of Nakuru in this country?

Mr. Speaker, Sir, the Government is asking us to give it the authority to raise taxes on the citizens of this country--- I actually wish to table a packet of 20 cigarettes *Lion Gold* and a packet of 20 cigarettes *Lion King*, and challenge the Minister responsible to find out how we are able to buy in Mhindi outlets in Eldoret, Webuye, Bungoma, these cigarettes at Kshs13 a packet.

(Dr. Kituyi laid packets of cigarettes on the Table)

What threats does this pose to the citizens who are smoking something whose nicotine quantity, obviously, is not under any control?

Mr. Temporary Deputy Speaker, Sir, before I leave the subject, there is a very strange thing about this. The Ministry of Health in this country insists that all cigarette packets are printed: Ministry of Health's Warning: "Cigarette smoking is harmful to your health." These packets have it, but it is a plastic exposure in position on the top of the plastic foil. This sticker is put on and reads the Government warning, but you can easily pull off the sticker without opening the plastic cover, and there is nowhere on this packet which warns about cigarette smoking being harmful which is contrary to the regulations that have been passed by this Government.

Mr. Temporary Deputy Speaker, Sir, we can understand under panic, this Government does not protect our lives on the streets from the police. But we cannot understand how it fails an obvious way of raising revenue for itself at the risk of harming the health of the Kenyan smokers.

I have to finish my contribution because I have to join Prof. Rashid Mzee to go and prepare the hon. Members and colleagues who will turn up at Jomo Kenyatta International Airport at 8.00 p.m. on Saturday evening to receive back in the country, Sheikh Balala who returns in spite of torments from this Government.

(Applause)

Mr. Temporary Deputy Speaker, Sir, I hope you will find it in your wisdom that it is necessary to come out and tell the world also that this dictatorship cannot deny Kenyans the right to come home, *wapende wasipende*, as hon. Nassir says.

Mr. Temporary Deputy Speaker, Sir, I want to finish with the following statement. A year ago, the police killed two students---

The Temporary Deputy Speaker (Mr. Maundu): Are you sticking to the Bill with all these extraneous statements?

Dr. Kituyi: Mr. Speaker, Sir, you understand my capacity for preamble, I am coming to the point.

The Temporary Deputy Speaker (Mr. Maundu): Dr. Kituyi, stick yourself to the Finance Bill. I have given you a lot of leeway to meander around and I believe when you are making your final statement, it should be authoritative.

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, the matter of those cigarettes, the matter of these cheques and payments to Interact, the matter of applying taxation *a priori* is substantially more content to the Financial Bill than the presentation of hon. Minister for Information and Broadcasting.

Mr. Temporary Deputy Speaker, Sir, I wanted to finish by saying the following: About a year ago, the Commissioner of Police in this country lost his job because police killed two university students. Even then at that time, Duncan Wachira was getting problems within the Police Force. When he was in Eastlands as police head, police officers burnt his car. When he was moved to Western Province as Provincial Police Officer, he had a crisis with the Police Force and he had to be moved to Nairobi. Eventually, he was debooted from the Police Force. The Government should find it in its wisdom, whether it genuinely believes that the blood of the Kenyans who have been killed over the past two days, are not as a consequence of a deliberate action by Government and in that cases, then it should read this as statement by a Police Force that is rejecting its Commissioner. If Kiruki went because of two university students, how do you justify Duncan Wachira remaining around driving in an air-conditioned Mercedes Benz with the blood of those Kenyans who have fallen because they stood up to be counted as they demanded the rights of citizens?

Mr. Mutahi: On a point of information, Mr. Temporary Deputy Speaker, Sir. My point of information to hon. Kituyi is that they had to send the Commissioner of Police, Mr. Duncan Wachira, to Italy before 7th July, 1997 because, last time, there were no killings like there were this time. So, he was to be sent out of the country.

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, I cannot tire to emphasise this: We want an enabling environment for proper taxation revenue generating machine.

Mr. Falana: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think what Dr. Kituyi is saying about the Police Commissioner, Mr. Duncan Wachira, and the point of information raised by hon. Mutahi are very contradictory. Dr. Kituyi is challenging the Commissioner's presence in office due to the damage the police caused, while hon. Mutahi is actually saying that the Commissioner of Police was not even in this country when these things happened. Which of these should the House follow?

Dr. Kituyi: When I am contributing, and somebody volunteers information to me, I can sense *a priori*, the kind of information I am about to receive.

Mr. Orengo: On a point of information, Mr. Temporary Deputy Speaker, Sir. I just wanted to inform Dr. Kituyi that, indeed, the Commissioner of Police, Mr. Wachira, has been in Israel throughout this period. In fact, it looks like it was not just a coincidence that he was away. It was by design to leave some of these sadists to take care of the police force.

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, I have abandoned the issue of the police and I would like to talk about the Finance Bill.

The Assistant Minister for Energy (Mr. Nang'ole): On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Orengo has made a categorical statement, or allegation rather, that we as the Government, knew that he was planning to cause the chaos he caused on Monday. We were not part and parcel of what happened. Can he substantiate that he was with the Government and planned the chaos?

Dr. Kituyi: I have not been asked about any statement I have made!

The Temporary Deputy Speaker (Mr. Maundu): Order, Dr. Kituyi. As far as the Chair is concerned, this matter is irrelevant to this debate. Can you restrict yourself to the debate? I thought you were making your final remarks!

Dr. Kituyi: I agree with you---

Mr. Falana: On a point of order, Mr. Temporary Deputy Speaker, Sir. In all fairness, let us be fair to this nation, and to the individuals who cannot appear on the Floor of this House to defend themselves. Is the Chair satisfied that the allegation made against the Commissioner of Police by Dr. Kituyi, that he does not deserve to drive around, or be in office because of the incidents that happened while he was away on duty out of this country, is a fair judgement of his position? He should withdraw and apologise to the Commissioner of Police.

Dr. Kituyi: About that issue, I made a statement and I would like to say the following: In management, the buck must stop somewhere. If President Moi is sitting at State House and he is not in Eastleigh when people are killed, he has the ultimate responsibility for those murders! To be the Commissioner of Police, you do not surrender that right when you are in Israel.

The Temporary Deputy Speaker (Mr. Maundu): Order, Dr. Kituyi! I have allowed you a lot of leeway to derail from the Finance Bill. Can you restrict yourself to the Bill? If you have no further contributions to make on the Bill, I think you should stop. I think you must respect the Chair.

Dr. Kituyi: I oblige and wish to say the following---

Dr. Otieno-Kopiyo: On a point of---

The Temporary Deputy Speaker (Mr. Maundu): I have not given any point of order to anybody!

Dr. Otieno-Kopiyo: No, this is a point of information!

The Temporary Deputy Speaker (Mr. Maundu): Not even information!

(Loud consultations)

Order! Order! Yes, Dr. Kopiyo!

Dr. Otieno-Kopiyo: Mr. Temporary Deputy Speaker, Sir, first of all, the Finance Bill is talking of providing money for various Government departments in order to operate. In that respect, the Police Department is relevant to come under the scrutiny of Parliament. If you want to know what I am talking about, after they had done their dirty job throughout the city on Monday, they were stranded at the Central Police Station. They were not able to get accommodation, they had no mattresses, blankets or food. That is about money and finance. They were recruits from the General Service Unit (GSU) and not ordinary policemen. There is a certain amount of sabotage because of the tug of war between Mr. Wachira and the other police officers. That is going on right now! In this respect, I think that the Commissioner of Police should resign!

The Temporary Deputy Speaker (Mr. Maundu): Dr. Kituyi, I am giving you the last warning! You must restrict yourself to the Finance Bill, otherwise, you will be stopped.

Dr. Kituyi: I cannot restrict hon. Falana on what he talks about. My response to this is: I wish the Chair could rule certain points of order irrelevant.

The Temporary Deputy Speaker (Mr. Maundu): Address yourself to what is relevant to the Finance Bill now!

Dr. Kituyi: I have been saying things that are relevant to the Finance Bill. I have, once in a while, touched on the issue of an enabling political environment for taxation policies to yield anticipated results. I have done that with the knowledge that this is an important consideration; that the continued stability of this country is too important to pretend it away in the context of giving the Government authority to raise taxes.

When the Mayor of the largest city in the country calls upon the residents of the city to stop paying their rates,

this is a statement about persons who see that they are frustrated because the revenue does not do the things that they anticipate as the condition for paying that revenue.

Similarly, at the national level, there has to be an anticipation that the government will carry out its component of the contract with the governed, before the governed, through their representatives, can mandate that government to tax those governed.

The Assistant Minister for Transport and Communications (Mr. Saina): On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the fact that this Finance Bill has been debated exhaustively, could I be in order to call upon the Mover to respond?

Dr. Kituyi: Those who have nothing to contribute will always try to find roadblocks for those who want to invite others to reason. So, the shortest route for them is to say; "exhaustively", because they do not understand what is to be discussed.

I was saying that I wish to round off with a clear statement that without repeating *ad nauseam*, our Government--

The Assistant Minister for Transport and Communications (Mr. Saina): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member on the Floor in order to turn and challenge that we have nothing to contribute, when he has also contributed a numerous of words with nothing in them? There is no substance at all!

Dr. Kituyi: Thank you. I think I can ignore that. But because there are so many other hon. Members on this side of the House, who also want to contribute to this important business, I end with repeating just one sentence. If we refuse the path of dialogue, the responsibility of leadership, and to open our eyes to the reality of the turbulent events of the moment, this very national legislature runs the risk of being rendered irrelevant to the course of the history of our country. Some of the modest gains made over the past three decades stand the risk of being wiped out, and posterity will never forgive us for that.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker Sir, I rise to speak on the Finance Bill and I want to say from the beginning that the Government should take note that it would help this House and the Republic of Kenya if the Estimates Committee of Parliament was sitting to discuss such Bills before they come to the House. This is a very technical Bill. It should first of all be discussed in a technical committee of Parliament like the Estimates Committee. The whole idea of the Finance Bill is that the Government is telling the nation, through the National Assembly, its sources of revenue and how it is going to collect them. The hon. Johstone Makau, in his contribution, said that there must be a proper environment for revenue collection because you cannot collect revenue if there are no productive economic activities going on in the economy. He did say that that kind of environment needs peace. I would not agree with him more, but his idea of peace is rather unfortunate because he would like peace to exist where there is no justice. I would like to remind this National Assembly that where there is no justice, there cannot be peace.

A poor man is prepared to obey laws provided those laws are fair and just. Once they are unjust, poverty cannot respect that kind of false peace. So, that kind of enabling environment that the hon. Makau was speaking about is a kind of false environment.

In this Finance Bill, the Government states that it is going to get revenue from four important sources which are; Customs and Excise, Value Added Tax, Income Tax and a group of revenue collecting mechanisms that this Bills calls miscellaneous sources of revenue. Only a few of these are included in the Bill and they are; Stamp Duty, Insurance Levy, Catering Levy and Road Maintenance Levy. What is not included here as part of the miscellaneous sources of revenue are, Tourism Development Levy and Standardization Levy. Such levies have come through activities like vehicle inspection units and all levies that reach the Government through statutory funds deductions. Now, I had a feeling that the Finance Bill is a little inadequate. It does not tell us how the Government is going to raise revenue through these other sources, especially when we discussed a Bill here where bodies like the National Social Security Fund are going to be grouped under a certain authority. If that Bill is in the pipeline, the Government should indicate here how much it is going to raise from such levies. That is missing from this Bill and I think it is a very important omission. The Government may find that it is going to collect revenue from those sources without proper authority from this Bill. That is a very important omission which I hope the Minister for Finance will take care of.

While talking about revenue collection, I want to submit to this House that there is a section of the Kenyan population which is heavily taxed and the extent to which they are taxed is never reflected in any official document. That section of the Kenyan population is the ordinary workers and peasants who contribute immensely to Government revenue through what I will call cost-sharing system and Harambee. The calculations we have done show that the ordinary peasant farmer in the countryside pays ten times more tax than a Permanent Secretary. If you take the level of their income earning, the ordinary peasant farmer pays ten times more tax than a Permanent Secretary, proportion to his income earnings. Why do I say so? Almost on a weekly basis, this ordinary peasant farmer is confronted by the assistant chief and the chief, who takes a coat from behind his back, raids his granary and so on, so as to collect money

for Harambee. Somehow, the Government does not think that this is revenue collection. It is an important source of revenue collection. The only difference between that type of revenue collection and what we are talking about here is that, that is forced collection whereas this is legalized collection. I would have thought that in order to evade this kind of forced generation of revenue for financing public projects, the Government would stop the so-called Harambee exercise and introduce a new levy called the Development Levy. If we can have the Catering Levy, the Tourism Development Levy and other levies, we can also have a Development Levy which will be more transparent, legalized, easier to document and easier to account than this system of corruption and forced contribution that we are now seeing in Kenya, for the last so many years as Harambee.

I submit that for the Government to be innovative in revenue collection, it is important that Harambee is abolished and Development Levy introduced and that people who pay that Development Levy in a graduated way can also at one point or the other claim tax remission. In as much as some people claim tax remission when they pay VAT in importing certain commodities, let us not discriminate against some of our citizens. Businessmen are allowed to claim tax remission whereas ordinary peasants who contribute so much for Harambee from their meagre income are not allowed into our tax collection system. They should be allowed to claim some tax remission because they have contributed so much towards public projects like building schools, hospitals, cattle dips and so on. You must remember that financing the public sector, especially in the social welfare, is the responsibility of the Government. Any Government in a modern democratic society must, indeed, cater for the health of its people, education, transport and security. If a Government specializes on security, and as hon. Mulusya was saying here, specializes in buying all kinds of tear gas and bullets to harass ordinary wananchi, it is not fair.

I also want to submit that a Minister who is also involved in business has nine in ten chances of evading taxation than an ordinary Kenyan who, maybe, has only one in ten chances of evading taxation. What I am trying to say is that tax evasion increases geometrically the higher you go up in the power hierarchy. Lower down, people who pay the Pay-As-You-Earn tax have very little chances of evading taxation, but those who are more powerful, rich and earn more, have more chances of evading taxation. That is one of the reasons why people who make big monies in this country do not invest wisely because that money comes too easily. If they do not invest wisely, it means that there is little chance for domestic savings and economic growth, and there are also little chances of eliminating poverty. Therefore, there are little chances that you will get more and more people in the income bracket who will then be taxed for the Government to raise revenue.

Mr. Temporary Deputy Speaker, Sir, poverty by itself is a hinderance to economic growth. Where you have gross inequalities of income distribution, there you have a perfect setting for a country that is going to be involved forever in a quagmire of under-development. So, it is in the interest of this Government to introduce measures of revenue collection that will narrow the wide income gaps in our society and bring more people into income earning brackets, who could then participate effectively in the economy and be a source of revenue collection by the Government. One of the things that this Bill should have done is to give Kenyans a good indication of how revenue collection is going to be an instrument of bridging the gap between the rich and the poor in this nation. Unfortunately as hon. Otieno observed yesterday in his discussion of the kind of relief that has been given to certain imported articles, that indeed, what this Bill is going to do, is to favour the mercantile class in this country; the mercantile bourgeoisie rather than the productive bourgeoisie. That speculative briefcase carrying import-exporter, and as Dr. Kituyi was showing, they do specialise in this easy way of getting money in importing vehicles and not paying duty on them. Recycling number plates and so on---

Mr. Temporary Deputy Speaker, Sir, one area in which this mercantile bourgeoisie ruins the ordinary trader in Kenya, is through what they call, the Vehicle Inspection Unit. These are the poor matatu owners who are just running one vehicle. If there is a member of the mercantile bourgeoisie who is just about to import all kinds of kombis from Dubai, he will collude with the Vehicle Inspection Unit to go on the rampage recalling all kinds of cars to be inspected and then declaring them not road worthy. Then the same people will be approached by some agents in town who are selling kombis at reduced prices, finances are arranged and so on. That fellow would then get rid of all these vehicles they have imported from Dubai and the matatu owners think that they have got brand-new vehicles whereas these vehicles must have been on the road for 10 years, they are just reconditioned. Those are the things which run recklessly on our roads and within two years they are not road worthy. And in collusion with the Vehicle Inspection Unit, the whole racket goes on.

Mr. Temporary Deputy Speaker, Sir, I therefore, want to submit to this House that, the Vehicle Inspection Unit should be abolished. The Vehicle Inspection Unit is a source of corruption in this country. It is no wonder that one of the gurus of the Vehicle Inspection Unit became an important political guru in Limuru area, harassing all kinds of people with his spanners and hammers. I think the Vehicle Inspection Unit is not doing this Government any good service. If we want our vehicles to be road worthy, we should encourage people to have good garages, good students trained in polytechnics who will find jobs in these garages and ensure that there is a good traffic inspection section of

the police force which is not corrupt. We should have traffic inspection or traffic points along the road where people can stop and get help when their vehicles are in trouble. We should have a modern system of running our Transport and Communications Ministry, to ensure that our roads are safe and that when people go to get road licences, they get them through their garages which should ensure that the vehicles that they service are properly maintained, and that, any time the police department come to inspect these things, they are in order. I am only saying that, what we have here as a Vehicle Inspection Unit, when you look at the whole racket of the importation of second-hand vehicles, it is really a Government way of institutionalising corruption.

Mr. Temporary Deputy Speaker, Sir, the other thing that I want to talk about concerns the Catering Levy. Recently, we saw the Government going on the rampage and destroying kiosks in this Town very haphazardly. A few days later, some of these kiosk owners cried and then the President said that he was going to reverse some his decisions. But harm had already been done. What the Government did not realise is that the mushrooming of these kiosks, especially where people eat, is a function of the economy.

If somebody is working in Madison House on the Hill, and he has a one hour lunch-break and the nearest restaurant is in City Square, this person will be expected to board a matatu to City Square to eat and go back. The cost of the lunch will have gone up by the money he uses to pay for transport downtown. Therefore, it does not make economic sense to put a restaurant too far from this person's place of work. If you want this person to drive his car and go home, that is also another expense not only for maintaining the roads, but also running the vehicles. Secondly, it is not going to do this person any good if you put a branch of the Hilton Hotel up there on the hill because the price of food in the Hilton Hotel is too high, and given his salary, he cannot afford it. So, the most logical thing is to have kiosks where this person can eat. What the Government should do, rather than throw away these kiosks, is to come out with proper policies of regulating the type of kiosks that are built, where they are placed and where the people who eat in those kiosks also pay the Catering Levy. Once the Government begins getting revenue from those kiosks, then it will appreciate the role of those kiosks in the economy. The destruction of kiosks occurred precisely because the Government has not standardised the functioning of these kiosks and has left the building of kiosks and the ownership of kiosks to be yet another source of corruption. What happens in Nairobi, is that the Mayor, the City Councillors and the Local Government Ministry and all kinds of individuals, are interested in this haphazard mushrooming of kiosks. So, somebody sees a drainage and says; "Let us put kiosks here". Of course he does not care about rain. Where there is a road reserve, they put kiosks there. So, kiosks become a whole mess in the City.

The point is that the kiosks themselves are not a mistake, they are a response to an economic need. What the Government should do is to play its responsible role of establishing a workable mechanism for ensuring that these kiosks provide the services that the people need and the Government in turn gets revenue from these kiosks; when they are properly registered, standardised and are hygienic and so on.

On thing that really worries me is that; you see all those kiosks mushrooming and the City Council which gives licences for them to mushroom, does not think of building toilets and washrooms. Surely, if somebody has gone to a kiosk to drink a soda and wants to go for a short call, it does not make sense if he leaves his food and goes back to the office where he was working to go for that short call and then comes back. These are some of the logistics that the Government should think about. I am just wondering whether the Minister for Local Government, the Ministry of Health, the Ministry of Transport and Communications and the Ministry of Public Works and Housing ever get down together and said; "We have a problem in this City called kiosks, let us find a way by which we can standardise it, run it properly and get revenue from it."

Mr. Temporary Deputy Speaker, Sir, I hope that we will not again see another unhappy episode in this Town whereby there is wanton destruction of kiosks because it is our workers who are going to suffer.

Let me now come to VAT collection. On page 512, of the Finance Bill--- I want to read it because it is very important and I want to tell the Minister that businessmen are crying. Section 13 of Cap.476, in the new Section 13 of the VAT is amended as follows:-

"(a) by deleting section 3 and inserting the following new subsection; notwithstanding the provisions of subsection 1 and 2 a registered person may defer payment of tax due to a date not later than the 20th day of the month succeeding that in which the tax became due. Provided that where the 20th day of the month falls on a public Holiday a Saturday or a Sunday, the return together with the payment of the tax due shall be submitted on the last working day prior to that Public Holiday, Saturday or Sunday."

Mr. Temporary Deputy Speaker, Sir, the Government thinks that this is very fair, but in actual business practice, it is not. Take a businessman who has sold his commodities on credit to somebody. For example, let us take people in the printing world, who print annual reports for banks, annual calendars for Government departments and so on. The Government gives them an order. The Kenya Commercial Bank may give Patel Press an order: "Print for us our annual report this year." Patel Press prints that report and delivers it to the Government. Supposing the report is

delivered on the 20th of January, then the Government does not pay its bill until the 20th of May; in the meantime, the records in the printing press show that so many annual reports have been printed for this particular Government Department, and so much is expected to be paid. The businessman is expected to give his returns monthly. He is only given 20 days after every month to settle the VAT. What I am saying is that, apart from giving this provision of 20 days, there should be another rider that; where a businessman is owed money, they should be allowed tax remission on paying VAT on that uncollected debt, because they are paying VAT ahead of the income they are going to earn. They have not earned that income yet. You find that a lot of business men are going to banks to borrow money to pay VAT precisely because they are owed a lot of money by other people, particularly the Government. The Government is the biggest debtor to all kinds of business persons in this country, and they are suffering. So, I am saying that this VAT is a very touchy issue, and I think that the Kenya Association of Manufacturers (KAM), the Kenya Chamber of Commerce and Industry and all kinds of business associations should discuss it very thoroughly with the Government and find out:

1. whether indeed, this 20 day remission is sufficient; and,
2. where somebody has to pay tax on revenue not yet collected, he should be given some compensation when he has lost revenue for four or five months on which he had earlier paid taxes.

I know that the technicalities of this are rather complicated, but the problem is there and it is for the Government to find a solution to it. All I am trying to say is that businessmen are suffering due to this particular provision.

Mr. Temporary Deputy Speaker, Sir, let me go to page 505 regarding dumping and subsidy. It is stated in repeal and replacement of Section 126 of Cap 472 as follows:

"The Customs and Excise Act is amended by including Section 126 and replacing it with the following new Section; Section 126 (1): For the purposes of Section 125, imported goods shall be regarded as having been dumped under the following conditions:

- (a) If the export price of the goods exported to Kenya is less than the comparable price in the ordinary course of trade for the products when destined for consumption in the exporting country,
- (b) If the importation of the goods causes injury or retardation of a Kenyan industry."

I like this: "If the importation of the goods causes injury or retardation of a Kenyan industry."

Mr. Temporary Deputy Speaker, Sir, I want to refer to two cases. One is the case of *mitumba*, this second hand clothes business.

Mr. Temporary Deputy Speaker, Sir, the other one is the case of sugar importation. In the sugar growing belts in Kenya, Western, Nyanza and Coast Provinces, farmers have suffered tremendously. This is because politically correct individuals--- One of them used to be the Chairman of the Kenya Ports Authority. Now he is a nominated Member of Parliament - I do not know whether he also masquerades as a Minister. He is one of the gurus responsible for importing sugar into this country without paying duty. These things are in public records. Were it not for the provision in our Standing Orders that bars us from mentioning hon. Members by name except on a substantive Motion, I would have mentioned him by name.

This is one of the individuals who have been, in cahoots with a few Asians, importing sugar and dumping it in this country. They fall squarely under this provision, which is against importation of goods that cause injury or retardation of a Kenyan industry. The importation of sugar has caused injury and retardation to sugar farming in this country, the health of sugar factories in this country and the overall growth of our economy. This provision should be visited on these particular gurus of sugar importation. If possible, since this sugar importation is tantamount to a criminal offence, this particular provision of the Finance Bill should be acted on retroactively.

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Anyang'-Nyong'o has made a serious allegation, that one of the Ministers is responsible for a certain scandal. He said that were it not for a Standing Order that bars him from mentioning names he would have mentioned the Minister. I do not know of any Standing Order that says that a Member of this House may not be mentioned: I only know of one that says that his conduct may not be discussed without a substantive Motion. Would it not be in order to ask hon. Anyang'-Nyong'o to mention the Minister and clear the others who are clean?

The Temporary Deputy Speaker (Mr. Maundu): If the mentioning of that hon. Member amounts to discussing his conduct, then that is not allowed by the Standing Orders. The mentioning of the name is going to show that particular hon. Member's conduct to be bad.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, documents on the importation and dumping in this country of both sugar and rice were tabled in this House sometime back as evidence. Those documents implicated hon. Sajjad in the importation and dumping of sugar into the country. Those documents exist in the archives of the National Assembly. So, maybe, this is not a question of discussing somebody's conduct, but just putting history straight. I think that dumping of sugar on our economy is one of the things being dealt with by this

Bill. I am glad that the Government has finally recognised this problem. I hope that these people will be dealt with effectively.

The other area of dumping is in the second hand clothes. This is a very tricky affair. Our wage-earners need to be clothed with clothes that they can afford. When new clothes are very expensive because our import substitution industries are high cost, and cannot produce clothes which are cheap enough for our workers to buy, then there is a tendency for us to rationalise the situation and say: "Let us import second hand clothes because they will be cheap enough for wage-earners to afford".

Mr. Temporary Deputy Speaker, Sir, that is a false argument because what we need to do - this has been done - is to make it very cheap for those in the textile industry to import the latest state-of-the-art technology in the making of textiles which will cheapen the production of textile products per unit. Here is where what the hon. Dalmas Otieno was saying is important; that if you are going to reduce duty on certain technologies or machinery which are going to go directly in the productive sector of the economy then, indeed, the remission of duty on that kind of machinery is warranted. This is because it is going to lead to accumulative benefits for the economy. In this regard, I think, the textile industry should be singled out particularly for the importation of the state-of-the-art technology so that we can be able to produce cost-effective textiles here not just for domestic consumption, but for export as well.

Mr. Temporary Deputy Speaker, Sir, I want to remind this House that sometime ago, Kenya was exporting T-shirts to the United States of America. These Kenyan T-shirts were competing very favourably in the American market. The American Government then said that Kenya had exhausted its quota so Kenya could no longer export T-shirts to the USA. But the way that the quota is calculated is very unfair to recent entrants in the textile trade. In this regard, I would like the Minister for Finance, the Minister for Commerce and Industry together with the Minister for Foreign Affairs and International Co-operation to pay particular attention to this aspect of the World Trade Organisation (WTO) where there are regulations on how to liberalise exports, particularly from newly-industrialising countries into the developed market. This is because there is no way that Kenya is going to make a stride in its textile industry unless we have access to external markets where we can export our textiles at prices that we know are already competitive, but that are being hampered by certain trade regulations that are still aligned under the WTO arrangements that are, indeed, unfair to newly-industrialised countries trying to enter into the export market, particularly on textiles. I now come to another aspect of this Finance Bill which is to do with raising a revenue on beers and allied products. Beer in this Bill is defined in Section 2 on page 498 as:

"Beer includes any quota and any other description of beer and any liquor including beer substitute which is produced as a result of the alcoholic fermentation of an extract derived from barley, malt, a cereal grain, starch or saccharine matter and hops or hop substitutes, importable water with other suitable ingredients and which contains more than two percentage of cheap spirits, but does not include

(a) traditional intoxication liquor as defined in the Traditional Liquor Act or

(b) any kind of beer which the Minister may by order in the gazette exclude from the provisions of this Act."

Mr. Temporary Deputy Speaker, Sir, I want to submit in this House that this section of the Finance Bill is unconstitutional. It is not only unconstitutional, but also, it is against the liberalisation spirit that the Government is trying to promote. You cannot define beer the way you have done here and then proceed to exclude the biggest sector of beer producers in this country - those brewing chang'aa, Njohi, Muratina, Busaa and so on.

Mr. Temporary Deputy Speaker, Sir, all we are saying is that the traditional liquor Act, which to me is a colonial Act, and one of those acts which should be abolished completely, should still not exist in our law books. I want to submit that the way beer is defined here, should include those beers that the majority of Kenyans consume and those beers from which the Government can collect very good revenue if they did what Uganda did in 1962/63 - when Uganda made arrangements for the industrial production of Konyagi. Today, there is an industrial production of Konyagi in both Tanzania and Uganda. The Ugandan and Tanzanian Governments are collecting substantial revenue from that beer. What Uganda did was that one could brew chang'aa at home but put it in a proper container, deliver it to a brewery and be paid your bit. That proper brewery will process the chang'aa into industrial alcohol, what is now called Konyagi. The Government of Uganda was then able to get revenue from this. But if we continue obeying colonial laws, by creating such exceptions, we cut ourselves as a Government from getting substantial revenue from producers and consumers. But I will submit to this House that, however many times you write this, you will never eliminate the brewing of chang'aa, busaa, Njohi or Muratina in this country. All that the Government could do by behaving like this is to refuse to recognise that there is a source of revenue---

Mr. Rotino: On a point of order, Mr. Temporary Deputy Speaker, Sir.

Hon. Members: No! No! Why a point of order? You have had your time. We have to discuss this Bill. We are not going to have that point of order!

The Temporary Deputy Speaker (Mr. Maundu): Order! Order, hon. Members! Prof. Anyang'-Nyong'o, continue.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, a Finance Bill is a very important Bill and I do not think it is fair to the people of Kenya that this House should be turned into a voting machine. This House is here to debate how the Government is going to raise revenue and we are here to suggest to the Government how that revenue can be raised in a better way. It is a great deal of shame that Members should troop to this House to stop a debate on a Finance Bill, when we are busy suggesting to the Government how best to get revenue. I feel offended that, when I am at a point of suggesting to the Government to encourage the production of traditional liquor into industrial liquor so that they get more revenue if the thing is done properly, so that people do not die in forests when this thing is done illegally, that the Government should move to close this Bill. This is criminal! This is absolutely criminal and the people of Kenya should see this Government for what it is. It is a Government of corrupt people who do not know what they are doing.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Maundu): Order, hon. Members! It is now time for the interruption of business. The House is therefore adjourned until Tuesday, 15th July, 1997, at 2.30 p.m.

The House rose at 6.30 p.m.