

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 7th June, 1995

The House met at 9.00 a.m.

*[Mr. Speaker in the Chair]*

## PRAYERS

## ORAL ANSWERS TO QUESTIONS

*Question No.071*

### REPAIRS TO NAIROBI ROADS

**Mr. Kamuyu** asked the Minister for Local Government:-

(a) how much money has been set aside for the improvement of roads within the jurisdiction of the Nairobi City Council; and,

(b) out of this amount, how much has been set aside for tarmacking Mutuini, Wanyee and Gando roads in Dagoretti Constituency since they are in a deplorable condition.

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

(a) The Nairobi City Council has budgeted Kshs60 million for the improvement of Nairobi City Council roads during the 1995/96 financial year. These monies have been budgeted from the service charge funds.

(b) Out of the above amount, none has been budgeted for tarmacking roads in Dagoretti Constituency. However, during the month of March, 1995, the Nairobi City Council did approve grading and murrarming of Kinyanjui, Kimeria and Wagaria roads during the current financial year.

**Mr. Kamuyu:** Mr. Speaker, Sir, I thank the Assistant Minister for that answer. You are aware that in 1950, Dagoretti was carved off from Kiambu, into Nairobi. As a result, we have neither been accepted in Nairobi nor received any help, whatsoever, from Kiambu. So, we are left in a kind of suspense situation. Now, we do cry and, indeed, request that, perhaps, we be taken back to Kiambu because we are receiving absolutely no assistance in Nairobi. The Assistant Minister has said that Kshs60 million has been set aside for the general improvement of roads in Nairobi.

Today, no money has been set aside for Dagoretti, yet there are no buses reaching any of the major centres in Dagoretti. There are no matatus and no means of communication at all. Some of the old pregnant women have to be carried on wheelbarrows or stretchers to be taken to the nearest bus stop, which is about three to five kilometres away, and that is a fact. So, we are suffering very much. Despite my barking here every year, "whooh! whooh!," like a dog, nothing has been done.

*(Laughter)*

**Mr. Shikuku:** On a point of order, Mr. Speaker, Sir. I think we are hon. Members, and we talk. Do we really bark? Is the hon. Member in order to say that he has been barking? I have always heard him talk; he has never barked.

**Mr. Speaker:** Well, I think he is out of order. Hon. Members speak. They do not bark, and they are not like dogs.

Proceed!

**Mr. Kamuyu:** Mr. Speaker, Sir, this was in a manner of speaking. I do repeat this same thing year after year, and you are my witness. I feel like I am barking because I am talking to stones. Can the Assistant Minister tell us, now that he says he is going to murrarm Kinyanjui, Kabiria and Wagaria Roads and others, how much money has been set aside in March, 1995, for murrarming these particular roads, out of the Kshs60 million?

**Dr. Wameyo:** Mr. Speaker, Sir, I have already said that we have set aside Kshs60 million for the roads in

Nairobi City Council. So far, that is the amount of money we can manage to raise as of now.

**Mr. Nthenge:** Mr. Speaker, Sir, can the Assistant Minister tell us when this work will start? Does he have a system that will check whether the actual money set aside goes towards the purpose for which it was set aside? This is because there is a lot of corruption and unless supervision is done, theoretically, we would have spent Kshs60 million on Nairobi roads but practically, maybe, only one-eighth might have been spent.

**Dr. Wameyo:** Mr. Speaker, Sir, I plead with the hon. Member to wait until the financial year has ended and if no tarmacking has been done, he will raise the Question.

**Mr. Nthenge:** On a point of order, Mr. Speaker, Sir. My question was: What machinery has been put in place to check this?

**Dr. Wameyo:** Mr. Speaker, Sir, there is the usual machinery through auditing.

**Mr. Gitonga:** Mr. Speaker, Sir, could the Assistant Minister tell this House how much money has been set aside for roads in Dagoretti Constituency in particular?

**Dr. Wameyo:** Mr. Speaker, Sir, as of now, I have said that out of the amount we have budgeted for tarmacking roads, none has been set aside for Dagoretti Constituency.

**Mr. Kamuyu:** On a point of order, Mr. Speaker, Sir. Hon. Gitonga did ask a very specific question. The Assistant Minister says that the Nairobi City Council did approve, in March, 1995--- "Approve" means that there is a budget because you do not approve nothing. How much was approved for the development of these particular roads which he has mentioned in this answer?

**Dr. Wameyo:** Mr. Speaker, Sir, I will plead with the hon. Member to repeat that question, mentioning the roads specifically.

**Mr. Kamuyu:** Mr. Speaker, Sir, I think I am as explicit as he is explicit. We are moving ahead; we are not static or moving backwards. I will now quote one sentence from his answer here:

"Nairobi City Council, in March, 1995, did approve grading and murrarming of Kinyanjui road, Kabiria road *et cetera*."

Mr. Speaker, Sir, as I understand 'approval' I do know that the meaning of the word "approval" is more or less like the word budget. I was at Makerere with him although he is slightly older than me. How much was approved in March, 1995? If he does not know, perhaps he can promise to bring the answer later.

**Dr. Wameyo:** Mr. Speaker, Sir, may I plead with the hon. Member to give me more time. I will find out and I will bring the figure this afternoon.

**Mr. Speaker:** Okay, you will bring that information tomorrow afternoon.

*Question No. 228*

#### EVICITION OF TENANTS

**Mr. Nthenge** asked the Minister for Local Government:-

(a) if he can confirm whether the head tenants in Shaurimoyo Estate, have the right to evict tenants who refuse to pay the inflated rent from KShs138 to KShs500; and,

(b) if the answer to part "a" above is in the negative, whether the unfairly evicted tenants can be given the option to return to their rooms.

**The Assistant Minister for Local Government (Dr. Wameyo):** Mr. Speaker, Sir, may I plead with the hon. Member to give me time to answer this Question tomorrow afternoon because the Question had been sent to the Ministry of Public Works and Housing, and it only reached my Ministry recently and the answer is not yet complete. But by tomorrow afternoon, it will be ready and I will give him the answer.

**Mr. Speaker:** What is your reaction, Mr. Nthenge?

**Mr. Nthenge:** Mr. Speaker, Sir, I have no objection.

**Mr. Speaker:** The Question is deferred

*(Question deferred)*

*Question No. 078*

#### PAYMENT OF NSSF DUES

**Mr. Obwocha** asked the Minister for Labour and Manpower Development when Mr. Omanwa Atera, National Social Security Fund (NSSF) No. 11-127-546, who was working for Kipkebe Estate Limited, will receive his retirement benefits from the Fund.

**Mr. Speaker:** Mr. Obwocha, where are you today?

**Mr. Obwocha:** Mr. Speaker, Sir, I am in the House.

*(Laughter)*

**Mr. Speaker:** Is anybody here from the Ministry of Labour and Manpower Development? We will leave that Question for a while.

*Question No. 031*

PHONE SERVICES IN NYANDO

**Mr. Karan** asked the Minister for Transport and Communications when the Ministry will provide telephone services to Alendu Secondary School, Nyamware Market, Migingo Girls Secondary School, Nyangande Market, Withur Secondary School, Kenesia Dispensary and Awasi Market.

**The Assistant Minister for Transport and Communications** (Mr. A.H. Ahmed): Mr. Speaker, Sir, I beg to reply.

(a) Migingo Girls Secondary School, Alendu Secondary School, Nyamware Market, Nyangande Market and Withur Secondary School will be served from the proposed Rabuob Exchange, subject to availability of land to build it.

(b) Awasi and Kenesia Dispensary will be served by the proposed Awasi Exchange subject to availability of land to build the Exchange.

**Mr. Karan:** Mr. Speaker, Sir, I wish to thank the Assistant Minister for that reply. He appears to know what is at the back of the mind of an African. But can he tell this House the size of land required and what amount of money has been set aside to acquire this land and put the Exchange for these two places?

**Mr. A.H. Ahmed:** Mr. Speaker, Sir, the size of the land required is normal size to accommodate the Exchange. Already, the application is with the local council and they know the size of the land that we require.

**Mr. Lwali-Oyondi:** Mr. Speaker, Sir, we know very well that an Exchange does not need a house more than half of this Chamber. I speak being fully aware that we have an Exchange in Butere which is contained in a container and it has STD. Could the Assistant Minister really tell us exactly what he wants because we can easily tell the hon. Member to donate one of the empty shops around that place where the Exchange can be put? Could he give us another answer instead of the one he has just given?

**Mr. A.H. Ahmed:** Mr. Speaker, Sir, we want land to build our own building to accommodate the Exchange. We do not want to rent a house. Therefore, let the hon. Member note that if he is ready to give us a portion of land, Kenya Posts and Telecommunications Corporation is ready to give him the Exchange. If he is ready even tomorrow to give us land, he will get the telephone services.

**Mr. Karan:** Mr. Speaker, Sir, can the Assistant Minister assure this House that if land is made available, he will provide the Exchange? Could he also honestly tell this House how much money has been set aside for this proposed Exchange?

**Mr. A.H. Ahmed:** Mr. Speaker, Sir, I will be honest. Obviously, I assure the House that if the land is made available, we will provide telephone services to the community living in this area. But I am sorry I do not have the exact figure of the amount of money involved here right now, but I can make it available later.

**Mr. Kamuyu:** Mr. Speaker, Sir, can the Assistant Minister tell us what plans his Ministry has to fully liberalise telephone services so that the quality of services can be enhanced throughout the country?

**Mr. A.H. Ahmed:** Mr. Speaker, Sir, though that is a different question, all the same I will answer it. We will bring to this House all the telephone services that we are going to liberalise.

*Question No. 206*

PRICES OF OIL PRODUCTS

**Mr. Arte**, on behalf of **Mr. Salat**, asked the Minister for Energy:-

- (a) if he is aware that retail prices of petroleum products have never been reduced despite the strength and stabilization of the Kenya Shilling; and,
- (b) what benefits has Kenyans derived from the liberalisation of the petroleum industry.

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

(a) It is not true that the retail prices of petroleum products have never been reduced despite the strength and stabilization of the Kenya Shilling as implied by the hon. Member since the prices were reduced by the Ministry on 21st October, 1994 solely due to this reason a week before the petroleum sector was liberalised on 28th October, 1994.

(b) So far, no tangible benefits have been derived from the liberalization of petroleum fuels. However, it is expected that in the long run, consumers will benefit from better services and lower prices through enhanced competition as new traders enter the domestic petroleum market. It should, however, be noted that prices are still generally below the level they were before reduction on 21st October, 1994.

**Mr. Arte:** Mr. Speaker, Sir, I thank the Assistant Minister for the answer that he has given. But is he aware that the price of petroleum products in Kenya are the highest compared to the prices in operation in all our neighbouring countries, including Uganda, Tanzania *et cetera*?

**Mr. Marita:** Mr. Speaker, Sir, may I inform the hon. Member that at the moment, the Ministry of Energy has no power to control the prices since liberalisation took place--

**Dr. Lwali-Oyondi:** On a point of order, Mr. Speaker, Sir. Hon. Arte asked a specific question. Is the Assistant Minister aware that the prices in Kenya of petroleum products are the highest in the sub-region?

**Mr. Marita:** Mr. Speaker, Sir, at the moment there is nothing we can do about this matter because the oil companies got the freedom to do as they want when the oil sector was liberalized.

**Mr. Kareng'e:** Mr. Speaker, Sir, the Assistant Minister said that the consumers will benefit from lower prices of petroleum products but he is aware that these oil companies are engaging in monopolistic practices. What policy measures is the Government taking to protect the consumers?

**An hon. Member:** Does he understand that?

**Mr. Marita:** Mr. Speaker, Sir, I have already answered that question. We have liberalized the oil sector and there is nothing we can do to control the price of petroleum products.

**Mr. Arte:** Mr. Speaker, Sir, is the Assistant Minister aware that the price of crude oil in the world market is low although the oil companies are selling the finished products at exorbitant prices? In fact, they are making a profit of over 50 per cent.

**Mr. Marita:** Mr. Speaker, Sir, I think I have also answered that question. What the hon. Member is saying may be true but the problem is that at the present moment we cannot impose controls on the price of petrol. These companies are now free to do whatever they want.

**Mr. Achola:** Mr. Speaker, Sir, could the Assistant Minister confirm or deny that the oil marketing firms in this country are actually acting as a cartel and, therefore, the liberalization process is not helping this country?

**Mr. Marita:** Mr. Speaker, Sir, I do not think I can go any further. I have stated that because of what is happening in the country now, it is difficult for us to control the price of petroleum products.

**Mr. Kamuyu:** Mr. Speaker, Sir, what would be the Assistant Minister's reaction if all the consumers of petroleum products in Kenya were to form some kind of union so that they are able to confront the producers? This is because the producers are enjoying a very huge profit margin and they are almost blackmailing us.

**Mr. Marita:** Mr. Speaker, Sir, the hon. Member is aware that the formation of societies and unions is allowed by the Government. If the consumers form a union, there will be no problem.

#### *Question No.56*

#### RURAL POWER PROGRAMME

**Mr. Mbui** asked the Minister for Energy:-

- (a) whether he is aware that various groups, schools and coffee societies have contributed thousands of shillings for rural electrification in Ndia; and,
- (b) when the work is expected to start.

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

(a) Yes, I am aware.

(b) Work will start as soon as detailed designs are completed and the consumers have settled the final invoices which will cater for the construction works.

**Mr. Mbui:** Mr. Speaker, Sir, I want the hon. Assistant Minister to be more serious. This is because some coffee societies, namely, Kibirigwi and Inoi, have paid their bills and the designs have been done. Similarly, I would like the hon. Assistant Minister to tell this House when his Ministry will complete the designs because that job has taken more than three years.

**Mr. Marita:** Mr. Speaker, Sir, the statement made by the hon. Member is quite true; that some of the groups might have paid some money. But a group can be asked to pay about 10 per cent of what is required. Sometimes delays in payment do occur and when that happens, the designs are late and other designs will have to be done. If the groups concerned can work seriously and do as expected, then the job will be done. Those who have made full payments will be supplied with electricity.

**Dr. Oburu:** Mr. Speaker, Sir, could the Assistant Minister assure this House that because of the strength of Kenya Shilling, the cost of transformers has gone down and, therefore, the people of Ndia will also enjoy these benefits when the eventual designs are ready?

**Mr. Marita:** Mr. Speaker, Sir, this issue touches on both the consumer and the producer. If the consumers have been told how much money they are expected to pay and they pay, then in that case--- Let us deal with the people who have applied to be supplied with electricity. The Kenya Power and Lighting Company can do that job to the satisfaction of the consumers.

**Dr. Oburu:** On a point of order, Mr. Speaker, Sir. Whatever estimate is given by the Kenya Power and Lighting Company (KPLC) to the customers is given as an estimate. It is not a final invoice for these people to pay. Therefore, the Assistant Minister appears to be avoiding answering the Question. Those estimates were based on the figures of the cost of transformers at that time, three years ago. Could the Minister now consider giving the benefit of the reduction of prices to these customers of KPLC when the final costing is done?

**Mr. Marita:** Mr. Speaker, Sir, I cannot, at the moment, answer that question as the hon. Member requires, but what I have said is that if there are any negotiations between the person who wants the power and the company concerned, things can be settled there between these two groups.

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

**Mr. Mbui:** On a point of order, Mr. Speaker, Sir. As I said before, this Question is serious and the Assistant Minister is trying to evade it. In fact, I will leave this House a dissatisfied person because it is the power people who went and misled our Ndia people that they will supply them with electricity early this year, and they have not done it. Can he go and discipline his Mr. Gichuru and Mr. Ndegwa of KANU?

*(Laughter)*

**Mr. Marita:** Mr. Speaker, Sir, let me let the hon. Member know that if there is any weakness somewhere in the company, I will check and then some work will be done.

**Mr. Speaker:** Mr. Ojode's Question now.

*Question No. 087*

AMBULANCE FOR HEALTH CENTRE

**Mr. Ojode** asked the Minister for Health what arrangements the Ministry has to provide an ambulance to serve Got-Kojowi Health Centre which is the only hospital in Nyarongi Division.

**Mr. Speaker:** Is there anybody from the Ministry of Health? We will leave that Question until the end then.

Next Question, Mr. Ndilinge.

*Question No. 090*

REPAIRS TO KILOME-KASIKEU ROAD

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

- (a) whether he is aware that the Kilome-Upete-Kasikeu Road is impassable; and,
- (b) when the Ministry will grade and repair this road.

**The Minister for Public Works and Housing** (Prof. Ng'eno): Mr. Speaker, Sir, I beg to reply.

- (a) I am not aware that the Kilome-Upete- Kasikeu Road is impassable.

(b) The road in question is 21-kilometres long, out of which 11 kilometres were graded in January, 1995. At present, Makueni District has one serviceable grader. The Ministry intends to repair the other grader, because the District has two. Once that grader is repaired, very early in the New Financial Year, we will complete the grading of the 21-kilometres road.

**Mr. Ndilinge:** Thank you, Mr. Speaker Sir. Arising from the answer given by the Minister, it shows very clearly that the Minister is not aware of what he is saying about the Question because he is talking about 11 kilometres having been graded. Can he agree or deny that the remaining 10 kilometres are impassable?

**Prof. Ng'eno:** Mr. Speaker, Sir, I said I was not aware that the road was impassable, but I am aware that the road requires regrading because we have to continue to maintain it. It is passable, but still requires grading and I am assuring the hon. Member, and the House, that as soon as we repair this other grader, we will complete the remaining 10 kilometres early in the new financial year, which is in July, 1995.

**Mr. Shikuku:** Mr. Speaker, Sir, arising from that reply, one of the graders is functioning and the other one is not functioning, which you are going to repair. What has happened to the one that is functioning? Why does it not continue to finish the 10 kilometres remaining? Has it also broken down?

**Prof. Ng'eno:** Mr. Speaker, Sir, one grader is overloaded with work. Makueni is a very big district. In fact, it requires more than two graders. It so happens that we can spare only two for the district. The one remaining is overloaded and if it was to be brought to complete this road, then other road repairs would suffer. So, the decision by the Ministry is that we rush and complete repairs. We have set aside Kshs3.4 million to complete the repair of this other grader, and the work should start early in July.

**Mr. Nthenge:** Mr. Speaker, Sir, when will the one under repair be ready to start work?

**Prof. Ng'eno:** In early July, Mr. Speaker, Sir.

**Mr. Kofa:** Thank you, Mr. Speaker, Sir. How often are roads supposed to be graded and who makes the decision?

**Prof. Ng'eno:** Mr. Speaker, Sir, we try to grade roads as often as possible, but in any case, at least once in five years.

*(Laughter)*

**Mr. G.I. Ndwiga:** Mr. Speaker, Sir, could the Minister agree or deny that when roads are graded after a period of five years, and with all the rains that we get in this country, all roads in our Republic are impassable? If they are impassable, what is he doing now other than resign?

**Prof. Ng'eno:** Mr. Speaker, Sir, I think I have to correct myself here. I was thinking about murrarming. We murram at least once in five years. The grading is a different matter altogether. Let me say that all the roads throughout the country fall under various categories. There are what you call bitumenized roads, which are 8,000 kilometres long. Then we have some 64,000 kilometres of classified roads which are murramed. Then we have another 80,000 kilometres of roads which are of earth standard. That is a tremendous amount of mileage in terms of the road network, and it is not possible to do all of them to the standards required because of lack of funds. Even with the Fuel Levy Fund that is now operational, it will not be possible to do all of them. But it would be our wish--- In fact, I want to say that it is because of that wish to do more that we are still going to be increasing the fuel levy in order to do a better service.

**Mr. Ndilinge:** Thank you, Mr. Speaker, Sir. Since the Minister has agreed that the grader which was posted to Makueni is grounded, can he tell the House whether he is sending another grader to grade all the roads in Makueni because they are impassable, and particularly in Wote and Kilome Divisions?

**Prof. Ng'eno:** Mr. Speaker, Sir, I have given the undertaking that we are repairing the second grader. We have already set aside Kshs3.4 million to do the repair, and I am assured that by early July, it will be ready to complete the works in the said road and also to grade other roads in Makueni District. I do not think I can do more than that. To give an undertaking that we will give another grader would be stretching the truth too far because we do not have enough graders. We would like to have more graders but, unfortunately, we do not have them. So, we are busy repairing the one that is out of order and it should start work in early July.

*Question No. 019*

#### REPAIRS TO FARMING AREAS ROADS

**Mr. Shikuku** asked the Minister for Public Works and Housing if he will ensure that all roads in farming areas are made all-weather to ensure

that agricultural goods reach the market in time.

**The Minister for Public Works and Housing** (Prof. Ng'eno): Mr. Speaker, Sir, I beg to reply.

Due to scarcity of funds, which I have just referred to, it will not be possible to make all roads in the farming areas all weather, but I can give an undertaking that routine maintenance will continue to be carried out regularly on classified roads in order to make them motorable.

**Mr. Shikuku:** Mr. Speaker, Sir, is the Minister really serious in his reply? For example, in settlement schemes, those roads were graded about 20 years ago and no grader has ever been on those roads thereafter. When you want to transport milk or maize to the market centres, you get stuck in the mud and the Minister is aware of that. Will the Minister give it top priority, so that all roads in the farming areas, just like they are doing with sugar roads, tea roads and so on, the same should also apply to the maize, cotton and all agricultural produce so that we can get the produce to the market centres?

**Prof. Ng'eno:** Mr. Speaker, Sir, I am in complete agreement with the hon. Member that we need to make all roads in the farming areas motorable, and we are doing, as a Ministry, everything possible. All I am pointing out is that finances are not sufficient enough to do the kind of job that we would like to do. But all the same, we will ensure that we do regular maintenance on all those roads, even though we may not be able to make them all-weather roads. But we will do whatever is necessary because we realise that farmers need to move their produce from their homes to the market places.

**Prof. Ouma:** Mr. Speaker, Sir, I wish the Minister takes this Question most seriously because farming is the backbone of this nation's development and existence. What new steps is he going to take to ensure that the so-called "regular grading" takes place? I take, as an example, South Nyanza roads as a whole. Go to Ndhiwa, Mbita, Rangwe and so on; the roads there were graded last ten years ago or even longer! Why? He is just telling us a story. This Parliament is made up of very enlightened and well-informed hon. Members, both ways. Let him tell us what new steps he is going to take to make sure that cotton farming, the oil seeds industry in South Nyanza and so on will not die. Let this enlightened Professor tell us that!

*(Applause)*

**Prof. Ng'eno:** Mr. Speaker, Sir, I have just said that we are as interested as anybody else to ensure that all roads are motorable, especially roads in all the farming areas. I do not know where the hon. Professor gets the idea that I am not serious enough. We are very serious! That is why, when introducing the Fuel Levy Fund Bill, I gave the precise reasons---

**Prof. Ouma:** On a point of order, Mr. Speaker, Sir. I am sure my colleague, Professor, understands English well! I have said, "Yes, you have been doing that in the past, but it has not succeeded". We want new insights into old problems. Cotton is "dead" in Nyanza and at the Coast. Oil seed is also a dead industry due to lack of transportation. What new steps is he going to take to ensure that old methods do not fail us again?

**Prof. Ng'eno:** Mr. Speaker, Sir, let me invite my good hon. colleague, Professor, to put our heads together to see the insight he has, since I have looked into this whole question. I have also brought a Bill here called the Fuel Levy Fund Bill and the intention is to ensure that all roads are maintained regularly. I have even removed the word "classified" and introduced the words "public roads", so that all roads, including earth roads which go to farming areas, are all taken care of.

**Mr. Kamuyu:** On a point of order, Mr. Speaker, Sir. The Fuel Levy Fund which the Minister has just mentioned--- He is really circumventing the whole question since he is unable to manage the fuel levy of Kshs1.5 billion properly. Could he hand it over to the Minister for Agriculture, Livestock Development and Marketing who has proved himself to be efficient?

*(Applause)*

**Prof. Ng'eno:** Mr. Speaker, Sir, I have to inform the hon. Member that though he has been in the House for a long time, he still has a lot to learn. That apportionment of responsibilities or giving of portfolio lies elsewhere; it does not lie with me.

**Mr. Polo:** Mr. Speaker, Sir, the Minister has just told us a little while ago, while answering another Question, that we have two graders in Makueni District. There are some districts in South Nyanza, say, Kuria and Migori, where they are sharing one grader. What is the policy of the Ministry with regard to the graders in every district?

**Prof. Ng'eno:** Mr. Speaker, Sir, I am very happy that my good friend who is looking after the portfolio of

public works in FORD(K) has raised that question. In fact, right now we are giving priority to those new districts, such as Kuria, Transmara, Bomet and so on. We have just given them at least one grader and two tippers, and we are continuing to give them that support in the new financial year when we are able to raise enough fuel levy funds. We shall purchase additional graders to supply to the new districts, but we shall continue to repair old graders and use them in the old districts.

**Mr. Polo:** On a point of order, Mr. Speaker, Sir. From the Minister's answer, I can see that he is referring to the "new KANU districts" which they are giving preference. What about non-KANU districts?

**Prof. Ng'eno:** Mr. Speaker, Sir, the hon. member is admitting openly in the eyes of the whole world that the FORD(K) districts are very few. I have not done the home work to see which districts are KANU and which ones are not because we are serving all districts equally. Now, I am happy to note that FORD(K) districts are so few---

**Mr. Ogur:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** What is it, Ogur?

**Mr. Ogur:** Mr Speaker, Sir, rural constituencies, not towns, are very large and that is why sometimes they are made up of districts; like Mbita District is a constituency. If my point---

**Hon. Members:** What is your point of order?

*(Hon. Members interjected)*

**Mr. Ogur:** I do not entertain interruptions of that nature.

Mr. Speaker, Sir, rural constituencies are very large, and one constituency, for example, Kuria, has now become a district. It should have a grader. Even those areas which have not yet been divided into districts but are about to be like Mbita, Karachuonyo and Nyatike should have graders. How do we share one grader between Kuria and Migori? Migori District covers Migori, Rongo and Nyatike Constituencies. Homa Bay District covers Karachuonyo, Kasipul-Kabondo, Rongo and Rangwe Constituencies. Is it in order for the Minister to assume that Transmara District is large enough to share a grader with another district, and Migori District too is large enough to share a grader with Kuria District?. Kuria and Migori Districts are different districts with very many constituencies.

**Mr. Speaker:** What is it?

**Prof. Ng'eno:** Mr. Speaker, Sir, that was not a supplementary question but a statement. My reply to that statement is that it is true that there are so many districts which are very large but only falling under one constituency. Mt. Elgon is one constituency, Kuria is one constituency and Transmara is another constituency. I have said that we are doing everything possible to provide more graders. In this respect, I must take this opportunity to thank the Japanese who recently gave us, 200 pieces of equipment which included tippers and graders and it is from that consignment that we are giving Kuria, Transmara and Migori districts and to all other districts the equipment; graders, tippers and lorries. I have said that in the new financial year, when the level of levy has been raised a little bit, we will continue to purchase new equipment to supply to those districts which do not as yet have it. So, we are serious and we want to make sure that all roads throughout the country are maintained.

**Pro. Mzee:** On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to divulge what is in the forthcoming Budget by telling us that when the Budget is read next week, he is going to raise the road levy?

**An hon. Member:** It is automatic!

**Prof. Ng'eno:** Mr. Speaker, Sir, the responsibility of raising the road levy is with the Minister for Public Works and Housing. I am simply saying it is my intention to raise it. I do not know what is in the docket of the Minister for Finance, but because the officers monitor these things, he may very well say something about the fuel levy, I do not know, but I will be consulting with him because I am required to consult with him. I am simply saying that there is a need to raise the level of fuel levy in order to do the kind of work we want to do. We cannot do it with Kshs1.5 billion because, it is far below the expected level. So it is not a secret that we are now in a liberalised society where we must lay things on the Table as we cannot keep things in secret, especially when they affect the farmers and so on. All I am saying is that we want to support the farmers, traders and every Kenyan that uses roads by maintaining them, and we will do everything possible to make sure we get the wares we require to do that.

**Mr. Speaker:** Final question, Mr. Mbui. Order! Order! We must get out of that Question.

**Mr. Mbui:** Mr. Speaker, Sir, the road problem is all over the country, probably apart from a few selected places. Farmers pay tax, and the only benefit they can get from that tax are good roads because there are no hospitals and schools. Can the Minister assure this House that there will be a fair allocation of funds to various districts because some districts have got graders but those graders are grounded because there is no diesel? Can he confirm that these districts which are allocated some little money will get equal allocation come the year 1995/96 without favour?

**Prof. Ng'eno:** That assurance is given.



**Mr. Speaker:** We will now go back to Question 078 for the second time.

**Mr. Obwocha:** For the second and final time, I wish to ask my Question.

*Question No. 078*

PAYMENT OF NSSF DUES

**Mr. Obwocha** asked the Minister for Labour and Manpower Development when Mr. Omanwa Atera, National Social Security Fund (NSSF), No. 11-127-546, who was working for Kipkebe Estate Limited will receive his retirement benefits from the Fund.

**Mr. Speaker:** Well, is there somebody from the Ministry of Labour and Manpower Development? There is nobody present. Hon. Komen, do you want to answer the Question?

**The Assistant Minister for Labour and Manpower Development** (Mr. Komen): Mr. Speaker, Sir, may I ask for time so that--

**Mr. Speaker:** Order! By the way I have been at this Question twice now. In fact, in this second time, I have called it out twice or three times and you are seated there.

**The Assistant Minister for Labour and Manpower Development** (Mr. Komen): Mr. Speaker, Sir, I wish to apologise for that. Could we be given time to reply?

**Mr. Speaker:** Yes, but as a matter of interest, you are an Assistant Minister for Labour and Manpower Development. Do you not really know that you were duty-bound to do that the very first time I called out the Question?

Anyway, the Question is deferred.

**Mr. Obwocha:** On a point of order, Mr. Speaker, Sir. I am very disappointed because the Assistant Minister for Labour and Manpower Development is in the House. They have given me a written reply and I do not know why he cannot even read it. This is very interesting. Can I give him the reply to read to me?

**Mr. Speaker:** Order! Mr. Komen, what is your response to that? Would you like to--

**The Assistant Minister for Labour and Manpower Development** (Mr. Komen): Mr. Speaker, Sir we have some alterations and we sent the Question back to be reframed and tomorrow he will get an answer.

**Mr. Speaker:** Very well then. My own observation is that we have to be serious on our business. Very well, that concludes Question Time.

*(Question deferred)*

Let us have Mr. Lotodo.

**Mr. Ojode:** What about my Question?

**Mr. Speaker:** Which one, Mr. Ojode?

**Mr. Ojode:** Mr. Speaker, Sir, I have Question No.087 which has not been answered.

**Mr. Speaker:** Oh yes. Well, I am sorry, Mr. Ojode, I had wrongly marked those answers but you are right. For the second time, Mr. Ojode's Question.

*Question No.087*

AMBULANCE FOR HEALTH CENTRE

**Mr. Ojode** asked the Minister for Health what arrangements the Ministry has to provide an ambulance to serve Got-Kojowi Health Centre, which is the only hospital in Nyarongi Division.

**Mr. Speaker:** Anybody from the Ministry of Health? There seems to be nobody and I shall defer this Question.

*(Question deferred)*

Let us have Mr. Lotodo.

**MINISTERIAL STATEMENT**

## PRISON DEATHS

**The Minister for Home Affairs and National Heritage** (Mr. Lotodo): Mr. Speaker, Sir, I wish to give a Ministerial Statement on the reported Prison deaths.

Following adverse media reports and serious concern over the death of prisoners, I wish to clarify as follows:-

(1) There is no epidemic in our prisons, contrary to press insinuations appearing in the *Sunday Standard* edition of 4th June, 1995, and *Daily Nation* of 6th June, 1995.

(2) Total prison population is 37,065, and as of 2nd June, 1995, the prisons were congested by about 30 per cent of their holding capacity.

(3) The breakdown is as follows:- There are 24,745 convicts and 12,321 inmates in remand awaiting trial. There are currently 42 prisoners admitted at Kenyatta National Hospital. Most of these have been referred from various districts and provincial hospitals for specialised treatment.

The breakdown of those admitted to Kenyatta National Hospital (KNH) from Nairobi penal institutions, as of yesterday, is as follows: Nairobi Remand Prison 20; Nairobi West Prison 2; Kamiti Medium Security Prison 1; Kamiti Main Prison 2; Langata Women Prison 1, and those admitted at the MP Shah are two.

Mr. Speaker, Sir, the handcuffing of prisoners is a standard international practice to prevent possible attempts of escape by prisoners when they are being treated. However, this is not to suggest that Kenyan prisoners are denied medical treatment when they are handcuffed. The handcuffing of prisoners solely depends on the gravity of the offences committed and the probability of escape. I would like to point out that the Kenya prison system does not chain prisoners at all---

**An hon. Member:** But you chain them to hospital beds!

**The Minister for Home Affairs and National Heritage** (Mr. Lotodo): Mr. Speaker, Sir, we do not chain but handcuff them! I think the hon. Member should distinguish the two English words. You can be handcuffed to the bed without being chained.

Kenyan prisons provide basic health care to inmates. This is manned by qualified health personnel who include nurses, clinical officers and public health officers. All major prisons have visiting or resident doctors. Deaths in prison cannot be attributed to negligence as is being suggested by media reports. Postmortem reports indicate that deaths could be from different causes. For example, from 20.5.95 to 30.5.95, eight prisoners died while undergoing treatment in KNH and Nairobi Prison Health Centre. The causes of death have been determined to be typhoid, tuberculosis, (custoderistics?), chronic bronchitis, labour pneumonia and dysentery.

It should be noted that the conditions prevailing in prisons are also affected by the environment in which the prison is situated. If there is shortage of drugs, water or an epidemic in the surrounding community, it will affect the prisoners in our institutions. For example, there has been acute shortage of water and reported cases of diarrhoea in Nairobi. This also affected persons in the penal institutions within Nairobi. That is why there have been cases of persons who have died while undergoing treatment in the KNH and health centres in Nairobi. There has been no discrimination of prisoners whenever they have been treated in dispensaries, health centres and hospitals. They receive equal treatment with all other Kenyans.

Mr. Speaker, Sir, in the Financial Year 1994/95, which is ending on 30.6.95, the Government has bought 40,700 additional blankets, which have been distributed to all prisons in Kenya. The Government has also bought 30,000 mattresses for prisoners and they have been distributed to various prisons in Kenya. The Government has also spent Kshs70 million to expand the Nairobi Remand Prison. This is to create more space at the Nairobi Remand Prison. Under the social dimensions development programme, the Government intends to extend the extra-mural penal employment as a means of decongesting our prisons.

Regarding prisoners in remand awaiting trial, we do not give them uniforms. I am asking hon. Members to tell their constituents who have people in remand to take clothes to them. We do not provide these people with uniforms because doing that would mean that we are assuming that they are already convicted prisoners.

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

**Mr. Speaker:** Order! First of all, hon. Members will know that a Ministerial Statement shall not be the basis of a debate. Nevertheless, I will give a chance to one hon. Member to seek clarification, if that is necessary. Yes, Mr. Shikuku.

**Mr. Shikuku:** Mr. Speaker, Sir, the Minister has told the House that our prisons are overloaded by 30 per cent. Could he consider getting rid of the small offenders? Why did he not release them during the last Madaraka Day so as to lessen congestion in our prisons?

**The Minister for Home Affairs and National Heritage** (Mr. Lotodo): Mr. Speaker, Sir, I would like to inform the hon. Shikuku that the Attorney-General is working on that issue so that we get rid of petty criminals and remain with the hardcore ones.

**Mr. Speaker:** Next Order.

### MOTIONS

#### ESTABLISHMENT OF A CONSTITUTIONAL REVIEW COMMISSION

THAT, in view of the necessity and urgency of Constitutional Reform as a *sine qua non* for multi-party democracy and economic recovery, this House urges the Government to establish a Constitutional Review Commission comprising the Judiciary, political parties, churches, professional organizations, trade unions, universities and civil society groups to review the Constitution, conduct public hearings and make recommendations to the Government and Parliament before the 1997 General Elections.

**Mr. Speaker:** Hon. Members, this Motion by hon. Anyona is deferred and we will move to the next Motion.

*(Motion deferred)*

#### REVIEW OF WILDLIFE ACT

**Prof. Mzee:** Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, since the beach areas and the adjacent ten square kilometres of the Indian Ocean water extending from Nyali, Bamburi, Shanzu and Mtwapa were declared by the Minister to be National Park on 9th December, 1986; and since the laws that control movement in these areas are the same as those spelt out in the Wildlife (Conservation and Management) Act and are inapplicable to beach and marine conservation; and since the local fishermen are unable to continue accruing income from fishing since they are prosecuted for trespassing into the National Park, this House urges the Government to review the Wildlife (Conservation and Management) Act, Cap. 376 to:-

- (a) make it more relevant to the environment and living conditions of the people within the marine park areas; and
- (b) make provisions which will allow fishermen in the areas affected to continue with their traditional fishing profession without impediment.

This Motion is interested in two things; first, to show that the parent law, the Wildlife (Conservation and Management) Act, Cap. 376, which was enacted in 1979 did not envisage creation of marine national parks. Therefore, most sections of the Act are irrelevant to marine national parks which were formed as a result of subsidiary legislation.

Mr. Speaker, Sir, Section 61 of the Wildlife (Conservation and Management) Act empowers the Minister to declare, through publication in the Kenya Gazette, any area a national park. By virtue of this power, the Minister declared, through the publication of Legal Notice No.315, dated 9th December, 1986, all the beach area and part of the sea, North-East of Mombasa Island, right to the border of Kilifi District, a marine park. Now, as a result of this delegated legislation, all the rules, regulations and by-laws made under the Wildlife (Conservation and Management) Act, Cap. 376, which was enacted in 1979 and which had game parks in mind, became applicable to the marine parks as well. The Mombasa Marine National Park is situated in a densely populated area. Most of the tourists beach hotels are situated alongside the marine park, and the only public beach in the entire Mombasa area, that is, the Jomo Kenyatta Public Beach, is situated within the marine park. The Wildlife Regulation Act, under Section 16, prohibits any person from entering a national park unless he has paid a fee or is permitted by an assistant warden or any officer within that Ministry who is above the position of an assistant warden. Now, all the tourists and residents using the beach area North-East of Mombasa without paying fees or without proper authorization from a warden are breaking the laws. Fortunately, to date, since 1986--

**Mr. P.N. Ndwiga:** Mr. Speaker, Sir, we have no quorum.

**Mr. Speaker:** Order! Mr. Ndwiga, first of all, you just do not stand in the House and address Mr. Speaker. Either you are on a point of order, or you are not. As of now, you are out of order.

### QUORUM

**Mr. P.N. Ndwiga:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Now you are in order. What is your point of order?

**Mr. P.N. Ndwiga:** Mr. Speaker, Sir, we have no quorum.

**Mr. Speaker:** I suppose, without even counting, that you are right. Obviously, we do not have a quorum. Please, ring the Division Bell.

*(The Division Bell was rung)*

**Mr. Speaker:** Order! We have a quorum now. Proceed, Prof. Mzee.

**Prof. Mzee:** As I was saying, as a result of this delegated legislation, most of the people using the beach areas are not doing so with authorization from the warden or after paying fees. Therefore, they are breaking the laws. Fortunately, no tourist has been arrested. Also, Kenyans using the public beach on weekends and public holidays are also not harassed or arrested. However, during weekdays and at night, Kenyans using the public beach are arrested and charged for trespassing. If a Kenyan is caught, he or she is charged. To date, a large number of Kenyans have been caught on the beach areas during the weekdays and at night and other times. If they are caught, they are charged for trespassing and a number of them have been imprisoned and fined. This affects the very life of the people in Mombasa. They no longer have a free access to the sea and the beaches. The Kenya---

**Prof. Ouma:** On a point of order, Mr. Speaker, Sir. Exactly what you have said is what I was---

*(Loud consultations)*

**Mr. Speaker:** Order! Order! I will expect hon. Members to obey the call for order by the Chair, and I will take it to be very unkind for any hon. Member to keep on speaking when order is called. What was it, Prof. Ouma?

**Prof. Ouma:** Mr. Speaker, Sir, what you have said is what I was going to say. We have got a very important non-partisan Motion on the management of resources of this country for the future. Could all of us kindly listen, and if we consult, do so in a manner that we can hear one speaker on the Floor and not ten?

**Mr. Speaker:** Very well.

**Prof. Mzee:** Thank you, Prof. Ouma.

Mr. Speaker, Sir, the Kenya Wildlife Service camp is based at the Jomo Kenyatta public beach and this is the only access left for the general public to get to the beach and the sea, the rest of the beaches having been grabbed by the rich and powerful citizens of this country.

Mr. Speaker, Sir, in my opinion, Legal Notice No. 315 is erroneous. I want to stress that it is erroneous and defective, and I pray through this Motion, that the Minister withdraws Legal Notice No. 315 and comes out with appropriate legislation through Parliament for the creation of marine parks in this country. Most of these marine parks are in urban areas such as Malindi, Watamu, Lamu, Shimoni and Mombasa. So, we cannot use the laws which are meant for land parks for marine parks situated right in the cities.

Mr. Speaker, Sir, the second objective of the Motion is to urge the Government to make provisions which will allow fishermen in the areas affected to continue with their traditional fishing profession without impediment. The fishermen from North-East Mombasa or, in other words, all the fishermen from my constituency, that is Kisauni Constituency, were prohibited since 1986 from fishing within the marine park areas. This has affected the livelihood of thousands of traditional fishermen. Fishing villages in Utange area of Kisauni have been reduced to slums because of this legislation.

The fishermen have petitioned, on many occasions, the Ministry of Tourism and Wildlife to look into their plight. I have personally discussed this matter with the Minister for Tourism and Wildlife and it is unfortunate that he is not here today. In response to these petitions from the fishermen from Mombasa, the then Permanent Secretary to the Ministry of Tourism and Wildlife wrote the following letter, which I got.

The letter has a reference number MTW/S 6/2/12 Vol.1(64) and is dated 8th May, 1992. It is from the Permanent Secretary, Ministry of Tourism and Wildlife. The then Permanent Secretary was Mr. Mwaisaka and it is signed by him. The letter states, and I quote:

"COMPLAINTS BY SMALL FISHERMEN AND BOATMEN

The fishermen and boatmen in Mombasa have once again raised the following complaints:

(1) Small fishermen: Since the marine park was extended some time ago, especially in the beach area extending from Nyali, Bamburi, Shanzu to Mtwapa, the small fishermen have been denied their source of livelihood by being stopped from fishing in the affected areas.

The policy of the Government is that these small fishermen should be encouraged to continue fishing in their small way without being interfered with because doing so will render them unemployed, a situation which is not acceptable at this time of great unemployment in the country.

Please, look into the matter, so that whatever measures are taken to protect the marine park, the same should be done with a human face and in this case, this means not interfering with the small fishermen. Please, review the matter and do the needful accordingly.

(2) Boatmen: The small boat owners do handle tourists who visit the marine parks. The complaints from them are that the fees they are being charged are too high. In connection with this, they say that when they handle the tourists, the following fees are paid: fees for the boats; fees for the tourists and fees for the boat owners. Contrary to what the boat owners used to pay before, the current fees are so exorbitant that the small boat owner is left with very little or nothing in his pocket after paying the fees.

The appeal by the boat owners is that the matter should also be reviewed as humanly as possible so that they may also be allowed to survive in their businesses.

Please, have the two issues looked into thoroughly and objectively, so that the complaints that have been there may be sorted out once and for all. Please, do the needful.

Yours,

Mwaisaka,

PERMANENT SECRETARY,  
MINISTRY OF TOURISM AND WILDLIFE."

Mr. Speaker, Sir, this letter was written and addressed to the Director to show what the Government policy is towards the fishermen and towards the marine parks established in Mombasa.

Mr. Speaker, Sir, in spite of this letter, which was written in 1992, no action has been taken to date by the Director of Kenya Wildlife Service, and I am sure that up and until the present time, the Ministry's policy for the fishermen in this area has not been changed because I talked with the Minister for Tourism and Wildlife and he assured me that the policy still remains the same.

Mr. Speaker, Sir, I would like now to talk about the problems of the fishermen in general at the Coast. Our local fishermen are getting very little assistance from our Government. We are endowed by the Almighty God with a long coastline with unlimited marine resources in this country. These resources still remain unexploited by Kenyans. The Government, to date, on the contrary, instead of making full use of these resources, hinders the efforts of the local fishermen to carry out their work. Our coastline is being exploited by foreign fishermen. As I speak now on this Floor, it is the Korean, the Spanish and the Russian trawlers which are doing most of the fishing in our waters. I have seen that the Koreans have a large fleet of fishing vessels, accompanied by a mother ship which is a fish factory in the high seas. They use fishing nets with very small diameters. These nets are giant size. I have seen one net measuring 150 metres by 200 metres by 50 metres long and these are being held by chains and they are dragged along the bottom of the ocean.

*[Mr. Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, these nets are dropped to the bottom of the ocean and they scoop everything. Besides catching fish, they also destroy plants under the ocean. Fishing is my hobby and I have seen these things done. The worst trawlers are those specialising in catching shrimps and prawns. I love shrimps and prawns. These trawlers use nets which have very small holes; half an inch in diameter. In the local language, we call them *kigumi*. Most of them catch up to 90 per cent of the catch. Most of the catch, which is non-shrimp and non-prawns is wasted. Our fishermen are prevented from going to fishing areas, but foreign fishermen are allowed to spoil the spawning areas where the fish lay their eggs. These areas have been destroyed by foreign fishermen in Kenyan waters. While the foreign fishermen are free to do as they please, the local fishermen are being restricted; they cannot pass through the marine park to get to the fishing areas in the high seas.

Mr. Temporary Deputy Speaker, Sir, during the months of June and July the tides and winds are so strong that the fishermen from Likoni and Msambweni cannot get access to the fishing territories in the high seas unless they pass through the marine park. Actually, what happens is that the fishermen start their journey around midnight from Likoni and from Mombasa Island. They pass through an area called the English Point, just beyond the Mombasa Island; that is where the marine park starts. They have to go through Shanzu right upto Mtwapa. From Mtwapa they find their to

the fishing territories in the high seas. The wardens stay in the marine park throughout the night because they know that, that is where the fishermen are going to pass. They wait for them and when they see them, they pounce on them. There is no other route they can take. This is because nature has already determined which route the fishermen should take. Delegated legislation through gazette notices should not change this. We have got to be realistic. A number of fishermen have been arrested. Currently, one fisherman from Kisauni, Mr. Salim Riziki, is serving a prison sentence for passing through the marine park on his way to the high seas to get some protein for Kenyans.

Mr. Temporary Deputy Speaker, Sir, while these wardens are busy arresting fishermen for trespassing, they never go to their rescue whenever they run into trouble in the high seas due to bad weather or vessels that break down. Our fishermen lose their lives occasionally in the high seas due to sudden changes in the weather, but these Wardens are not there to help our fishermen; they are there to prevent the fishermen from doing their work.

Mr. Temporary Deputy Speaker, Sir, fishermen from the Island of Pemba are receiving a lot of assistance from their government. Recently, we saw on television news about how Spanish fishermen were helped by the entire European Union to secure fishing rights in Canadian waters. What are we doing about our own fishermen? Nothing! Fishermen from Pemba and Zanzibar Islands are receiving a lot of help from their government, and as a result they are more equipped to exploit Kenyan waters than we are. They are exploiting Kenyan waters as we talk here, and we are absolutely no match for them. Fishermen in Pemba and Zanzibar receive double what our fishermen get from the Norwegian Government. These fishermen from Zanzibar exploit Msambweni waters where my friend, hon. Mwamzandi, comes from. They can even go to as far as the English Point which is in my constituency. They also spoil the spawning areas. I have seen the way they do fishing. They use long poles which we call *pondos*. They even come with huge nets which are held by ropes and they use these *pondos* to hit at the coral and they scoop everything; old and young fish. They cause a lot of destruction.

#### QUORUM

**Prof. Ouma:** On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum in the House.

**The Temporary Deputy Speaker** (Mr. Salat): Yes, there is no quorum. Ring the Division Bell.

*(The Division Bell was rung)*

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Salat): Order! Order! Since we have failed to get quorum, I will adjourn the House.

Hon. Members, the House now stands adjourned until this afternoon at 2.30 p.m.

The House rose at 10.43 a.m.