

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 7th November, 2000

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

The Report of the Controller and Auditor-General, together with the Appropriation Accounts, other Public Accounts and the Accounts of the Funds for the year 1997/98.

*(By the Assistant Minister for
Finance and Planning (Mr. Arap-Kirui)
on behalf of the Minister for Finance)*

ORAL ANSWERS TO QUESTIONS

Question No.613

ATTACK ON MESSRS. GEDOW AND CHICHANA

Mr. Speaker: Dr. Ali not here? We will come back to this Question later.
Next Question, Mr. Ndicho!

Question No.673

IMPLEMENTATION OF NATIONAL MUSEUMS
PROBE TEAM'S RECOMMENDATIONS

Mr. Speaker: Mr. Ndicho not here? We will come back to the Question later.
Next Question, Mr. Kihoro!

Question No. 624

SALE OF ADC FARMS

Mr. Kihoro asked the Minister for Agriculture:-

- (a) whether he could table the list of all the Agricultural Development Corporation (ADC) farms which have been sold indicating the size of each farm and what proceeds have been realised from the sale of land, livestock and farm assets respectively;
- (b) whether he could list the names of the allottees of the sold farms, the size allotted to each and the premiums paid; and,
- (c) whether he could avail a list of the remaining ADC farms, indicating their respective sizes and those earmarked for sale.

The Assistant Minister for Agriculture, Livestock and Rural Development (Mr. Sumbeiywo): Mr. Speaker, Sir, I beg to reply.

(a) Mr. Speaker, Sir, I have availed a list of all ADC farms which have been sold, indicating the size of each farm and what proceeds have been realised from the sale of land, livestock and farm assets respectively.

(b) Mr. Speaker, Sir, I have also availed a list of all the allottees of the sold farms, the size allocated to each and the premiums paid.

(c) Mr. Speaker, Sir, I have also availed a list of the remaining ADC farms indicating their respective sizes and indicated those earmarked for sale.

(Mr. Sumbeiywo laid the document on the Table)

Mr. Kihoro: On a point of order, Mr. Speaker. The answer I have been given is devoid of all the lists he has made reference to. That list should have been made available to me earlier, to enable me to ask supplementary questions. I only have a sheet of paper containing an answer of about 30 words!

Mr. Sumbeiywo: Mr. Speaker, Sir, that is not true! The list was submitted last week to the hon. Member. I am very sorry if he has not received it. A list was attached to the answer he has.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. This Question is now the property of the House. Due to the gravity of this matter, I would like to request the Chair to defer the Question so that hon. Members can have an opportunity to go through the list in order to do justice to this Question.

Mr. Speaker: Mr. Sumbeiywo, what is your reaction to that proposal?

Mr. Sumbeiywo: Mr. Speaker, Sir, we have no problem with that. But the hon. Member had asked for the list of the allottees of the farms which we have provided.

Mr. Speaker: Mr. Kihoro, the Assistant Minister has actually complied with the requirements of the Question. Was there a specific name which you were looking for?

Mr. Kihoro: Mr. Speaker, Sir, I would like to look at that list. I suspect that many hon. Members from the KANU side might be in that list. That is why they did not want me to look at it in good time. I would like to have time to look at that list so that I can ask informed supplementary questions.

Mr. Speaker: Will tomorrow afternoon be okay with you, Mr. Sumbeiywo?

Mr. Sumbeiywo: Mr. Speaker, Sir, it will take us another one week to prepare another answer. But we have provided what the Questioner asked for.

Mr. Speaker: Mr. Sumbeiywo, what you have done is right. What Mr. Kihoro wants is time to go through that list but not any further information.

Mr. Sumbeiywo: That is not agreeable to the Ministry because we have already provided the list which the hon. Member required.

Mr. Speaker: I will defer it to tomorrow morning, so that those of you who usually come late will have to come early.

(Question deferred)

Question No.610

DISBURSEMENT OF BURSARIES IN KISUMU

Mr. Ayoki asked the Minister for Education:-

(a) whether he could inform the House on the criteria used in awarding bursaries to schools in Kisumu District; and,

(b) whether he could table the list detailing the amount given to each school in the district in 1999.

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

(a) The criteria used by the Ministry to award bursaries to schools, including those in Kisumu District, is standardised to ensure transparency, fairness and accountability in the administration of the funds. The bursaries are, therefore, disbursed to the District Education Board using the following formula: Total bursary allocation, multiplied by the number of students in every district, divided by the national number of students. One cheque is, therefore, drawn for all public secondary schools in a district. Each District Education Board calculates the amount of bursary for each public secondary school, depending on the school's total enrolment, relative to the total enrolment in the district and the total amount of bursary money received by the district. Kisumu District, therefore, received its share of bursary as per the total student enrolment in the District.

(b) I beg to table a list detailing the amount of bursary given to each school in Kisumu District in 1999.

(Mr. Karauri laid the list on the Table)

Mr. Ayoki: Mr. Speaker, Sir, arising from the answer given by the Assistant Minister, could he tell the House how many students in Kisumu District received bursaries in 1999?

Mr. Karauri: Mr. Speaker, Sir, all public schools in Kisumu District got bursaries but the amount varied according to the number of students in a particular school.

Mr. Nooru: Mr. Speaker, Sir, could the Assistant Minister consider giving bursaries according to the needs of students in every district? The present criteria does not help the students as required!

Mr. Karauri: Mr. Speaker, Sir, there are needy students in every school. When money is disbursed to a school, the needy students are allocated bursaries by the Board of Governors in that school.

Mr. Nooru: On a point of order, Mr. Speaker, Sir. I did not ask the Assistant Minister to delve into the criteria used in the distribution of bursaries. I wanted to know what criteria the Ministry uses to allocate money to every district and whether the present criteria of the total number of students per school is absolute?

Mr. Karauri: Mr. Speaker, Sir, the criteria we use presently is adequate. It is assumed that all districts have a large number of students who require bursaries.

Mr. Sungu: Mr. Speaker, the treatment meted out to the students from Kisumu District is unfair. Students in Nairobi schools, whose rural homes are in Kisumu District, are told to go and [Mr. Sungu] obtain bursaries from there instead of Nairobi. Is he aware that this is happening? If so, what steps is he taking to rectify the situation?

Mr. Karauri: Mr. Speaker, Sir, I am not aware of that because bursaries are given in the schools where students are studying. They are not supposed to go back to their districts.

Mr. Ayoki: Mr. Speaker, Sir, could the Assistant Minister tell us how they ascertain that the money distributed by these schools reaches the needy students?

Mr. Karauri: Mr. Speaker, Sir, we expect Members of Parliament to assist us in this matter because they are Members of the Boards of Governors of schools in their constituencies as well as being Members of the District Education Boards.

Question No.293

MEASURES TO CURB CHILD LABOUR
IN MAGARINI

Mr. Speaker: Mr. Kombe's Question will be deferred to Thursday.

(Question deferred)

Question No.549

RECONSTRUCTION OF AGIDO BRIDGE

Dr. Ochuodho asked the Minister for Roads and Public Works:-

(a) whether he is aware that Agido Bridge in Koder-Karabach Location, Rachuonyo District, was recently swept away by heavy downpour rendering Road C13, that traverses Rangwe Constituency, impassable; and,

(b) what immediate action he is taking to restore the bridge.

The Assistant Minister for Roads and Public Works (Eng. Rotich): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Agido pipe culvert, on Road C18 and not Road C13, was recently swept away by heavy downpour.

(b) A reinforced concrete box culvert will be constructed in that bridge during the current financial year.

Mr. Speaker: Dr. Ochuodho, you are becoming very nomadic!

Dr. Ochuodho: I wanted to get closer to you!

Mr. Speaker, Sir, this bridge is on a major road and the Assistant Minister says that it will be repaired within the current financial year.

For those who know the grading of roads, roads labelled "A", "B" and "C", are major tarmac roads. This road

is supposed to have been tarmacked but the money was apparently "eaten". What does the Assistant Minister expect the residents to do in the meantime and when exactly is this bridge going to be repaired?

Eng. Rotich: Mr. Speaker, Sir, we expect to complete the job by June, 2001.

Mr. Otula: Mr. Speaker, Sir, as has been said by the Questioner, this is a major road, joining Homa Bay and Oyugis. When it rains, passengers cannot travel because there is no through road, since the bridge was swept away. How much money has the Ministry set aside to reconstruct that bridge?

Eng. Rotich: Mr. Speaker, Sir, we have not set aside money for this bridge, but it will be done under a contract which is on-going; by Misori Construction Company on the Rodi-Kopany-Oyugis Road.

Dr. Ochuodho: Mr. Speaker, Sir, the information from the Assistant Minister is misleading. This bridge was not part of the contract. Even the work by Misori Construction Company has stopped. The Assistant Minister can bear witness if he can be sincere as he has always been. Could the Assistant Minister tell the House why the Government cannot consider a crash programme for the construction, because I could not even reach home when I was released from prison because one has to wade through the water?

Eng. Rotich: Mr. Speaker, Sir, within the next two weeks, there will be a deviation which will be constructed to enable people to cross while awaiting construction of the box culvert.

Question No.682

REHABILITATION OF KISIAN-
YALA-KISIAN-USENGE ROAD

Mr. Sungu asked the Minister for Roads and Public Works:-

(a) whether he is aware that tender number 16/98-99, in respect of routine maintenance of roads B1 Kisian/Yala and C27 Kisian/Usenge, was advertised in February 1999, but no work has been carried out to date;

(b) what happened to the Kshs400 million obtained from the Fuel Levy Fund for the purposes of improving these roads; and,

(c) when these roads will be rehabilitated.

The Assistant Minister for Roads and Public Works (Eng. Rotich): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that tender No.16/98-99 was advertised by the Kisumu District Tender Board for repair of roads in Nyanza Province, but no work has been carried out up-to-date. However, tenders were cancelled due to non-availability of funds.

(b) The Ministry did not obtain Kshs400 million from the Fuel Levy Fund for improvement of Kisian-Yala, Road B1 and Kisian-Usenge Road C27.

(c) Rehabilitation and improvement of Road B1 was awarded by the Central Tender Board on 29th June, 2000 and the contractor has been given the order to commence. Work is expected to commence by the end of November, 2000.

Mr. Sungu: Mr. Speaker, Sir, the Assistant Minister is perhaps aware that the two roads in question are of immense economic importance to the people of Nyanza and Kenya as a whole. One of these roads leads to Uganda directly. It is used by the transit cargo trucks. Some of these roads have been repaired by putting murrum on tarmac, like repairing a piece of cloth with paper, and they are currently not usable. What immediate action is the Assistant Minister going to take, maybe by way of patching up, because the Usenge Road is in tatters?

Eng. Rotich: Mr. Speaker, Sir, we expect the contractor to be on site now, because he has been given the go ahead. I do not understand what the contractor is still waiting for.

Mr. Donde: Mr. Speaker, Sir, could the Assistant Minister give us a guideline as to how much money will be used? To tarmack a kilometre of road, it is estimated at Kshs13 million which is rather on the higher side. Could the Assistant Minister explain why it is costing that kind of money?

Eng. Rotich: Mr. Speaker, Sir, I am not able to say whether that is true or not, but I can give you the contract sum, which is Kshs322,175,490, for a distance of 42 kilometres.

Mr. Kajwang: Mr. Speaker, Sir, could the Assistant Minister explain why he said that a tender had been given by the District Tender Board, and that the tender was later on not executed because there was no money? Why does the Ministry advertise a tender when the Government has no money?

Eng. Rotich: Mr. Speaker, Sir, we anticipated that we would get that money. But due to certain problems, we were not able to get that amount of money, and that is the fact of the matter.

Mr. Sungu: Mr. Speaker, Sir, in his answer, the Assistant Minister indicated that works on those roads will

commence in November. We are already in November and yet, there is no sign of any contractor on the site. My wife happens to come from Usenge and the other day while travelling to her place, my vehicle was damaged on that road. Could he assure this House that he will take immediate action to make sure that those roads are repaired immediately?

An hon. Member: Why are you always going there?

(Laughter)

Eng. Rotich: Mr. Speaker, Sir, I appreciate the problems Mr. Sungu has been facing. The contractor has been instructed to move to the site by the end of this November. He is going to gravel one road and reseal the other one.

Question No.601

USE OF MERU COUNTY COUNCIL VEHICLE

Mr. Murungi asked the Minister for Local Government:-

(a) whether he is aware that the District Commissioner, Meru, has instructed the Clerk to the Meru County Council not to permit the Chairman of the Council to use the official vehicle, Registration No. KWE 226; and,

(b) what urgent steps he is taking to ensure that the use of the said motor vehicle is immediately restored to the Chairman of the Council and that the District Commissioner stops interfering with the running of the council forthwith.

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

(a) I am aware.

(b) The District Commissioner, Meru Central District, had expressed his concern to the Council Clerk that vehicle Registration No. KWE 226, belonging to the Council, was being misused by the Chairman. However, the matter was resolved and the vehicle is now at the disposal of the Chairman, whenever he needs it for official functions.

Mr. Murungi: Mr. Speaker, Sir, this DC has been a big headache and a burden to the people of Meru for a long time. The councillors are so unhappy with him that, in fact, we have been restraining them from physically removing the DC from his office. Could the Assistant Minister tell the House, this DC being one of the councillors, what legal powers he has to repossess a vehicle from the Chairman of Meru County Council?

Mr. Hashim: Mr. Speaker, Sir, the DC was just expressing his concern over the misuse of the vehicle. However, the provision governing the use of local authority vehicles is contained in the Ministry Circular Ref.105511/92 of 27th February 1998, which clearly stipulates that elected local authority leaders should use the official transport whenever they are travelling on official duties.

Mr. Raila: Mr. Speaker, Sir, the DC is an officer of the Central Government. Under what section of the Local Government Act, Cap.265, was the District Commissioner acting when instructing the Clerk to the County Council to stop the Chairman from using the vehicle of the County Council?

Mr. Hashim: Mr. Speaker, Sir, as a civil servant, the District Commissioner was just expressing his concern over the misuse of the vehicle. However, the matter was resolved and the Chairman is in full use of the vehicle.

Mr. Parpai: Mr. Speaker, Sir, could the Assistant Minister table the police check unit report indicating that, that Chairman was misusing the vehicle? How did the DC, not being a police officer know that, that vehicle was being misused?

Mr. Hashim: Mr. Speaker, Sir, as I said, the matter was resolved and the Chairman is in full control of the vehicle.

Mr. Murungi: Mr. Speaker, Sir, the question is not whether the matter was resolved or not. Under what law did the DC repossess the vehicle? Could the Ministry of Local Government, under which the County Council falls, warn the DC not to interfere with local authorities in Meru from now onwards, whether he is happy or unhappy with them?

Mr. Hashim: Mr. Speaker, Sir, we will ensure that laws governing the local authorities are always adhered to and if the DC interferes in matters which the Ministry is not happy with, we will intervene fully.

Mr. Kihoro: On a point of order, Mr. Speaker, Sir. Mr. Hashim is an Assistant Minister for Local Government, and the DC operates under the office of the President. The Assistant Minister has assured this House that he is going to make an intervention. Under what provisions is he going to do so in his Ministry?

Mr. Speaker: Order! That is an argument! Do not misuse points of order.

*Question No.626*REMITTANCE OF PREMIUMS TO
PIONEER ASSURANCE COMPANY

Mr. Sifuna asked the Minister for Local Government:-

(a) whether he is aware that the Nairobi City Council deducted insurance premiums from its employees during the 1997/98 Financial Year, but did not remit the amount to Pioneer Assurance Company Limited;

(b) whether he is further aware that the following amounts and cheques were issued in favour of Pioneer Assurance Company Limited, but have not been released to date?

Amount	Cheque No.	Date
183,497.70	011113	24/02/98
185,946.80	7672	20/01/98
162,003.00	015568	19/06/98
175,034.85	015824	23/06/98
182,109.65	019905	06/10/98
172,967.80	019766	29/09/98
345,266.50	022676	21/12/98

(c) when the Council will pay the Company the outstanding amount.

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

(a) I am aware that the Nairobi City Council deducted insurance premiums from its employees during the given period but did not remit the same to Pioneer Insurance Company.

(b) I am also aware that the cheques stated were issued in favour of Pioneer Assurance Company Limited but have not been released up-to-date.

(c) Out of the cheques listed above, one cheque which is referred to erroneously by the Questioner as "7672" was paid to Pioneer Assurance Company on 5th February 1998. All the other cheques were cancelled after termination of the agency arrangement and the amounts have since been refunded to the contributors.

Mr. Speaker: By the way, although I approved this Question, it does look to me that we are turning Parliament into a debt collection forum. What will the courts be doing? I think, in all fairness, in future, Members should not bring commercial disputes between individuals or companies to the House for resolution. I think the correct place to go by an aggrieved contractual party is to the Milimani Commercial Law Courts.

Mr. Sifuna: Mr. Speaker, Sir, the reason why this Question was brought here is because the employees of Nairobi City Council have been going to Pioneer Insurance Company looking for services which they are denied. That company insists that they have not received money from Nairobi City Council. The amount in question refers to the period before the contract was terminated. Some employees have retired from Nairobi City Council and they are paying directly to the company.

Mr. Speaker, Sir, could the Assistant Minister direct Nairobi City Council to remit the premiums collected from those employees to the company so that they can continue getting insurance services?

Mr. Speaker: I think that is the only question I will allow on this.

Mr. Kiangoi: Mr. Speaker, Sir, the Council was acting as an agent of the employees. But the employees gave instructions that the money be paid to their accounts. These instructions were carried out. They can continue with their contractual obligations, if any, with Pioneer Insurance Company.

Mr. Sifuna: On a point of order, Mr. Speaker, Sir. I am not satisfied with the answer given by the Assistant Minister because those employees have been denied services from Pioneer Insurance Company. The contract with Nairobi City Council employees was terminated on November 1998. But the period in question is before the termination of the contract. Those employees are not getting insurance services from that company.

Mr. Speaker, Sir, that is why I want the Assistant Minister to assure this House that Nairobi City Council will remit the same amount of money which was deducted from the employees before the contract was terminated.

Mr. Speaker: How would that benefit the employees if the contract has already been terminated? This is a contractual Question, let it go to court. I will not allow further questions on this.

Dr. Ali's Question for the second time.

Question No.613

ATTACK ON MESSRS. GEDOW AND CHICHANA

Mr. Speaker: Dr. Ali still not here? The Question is dropped.

(Question dropped)

Mr. Speaker: Mr. Ndicho's Question for the second time.

Question No.673

IMPLEMENTATION OF NATIONAL MUSEUMS
PROBE TEAM'S RECOMMENDATIONS

Mr. Speaker: Mr. Ndicho still not here? The Question is dropped.

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

POLICE ATTACK ON HON. OCHUODHO

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

(a) Is the Minister aware that policemen assaulted Hon. Dr. Ochuodho in Kisumu Court cells while re-arresting him on 18th October, 2000?

(b) What immediate action is the Minister taking to ensure that the officers involved are prosecuted?

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

(a) I am not aware.

(b) Since I am not aware, no action has been taken.

Mr. Kiunjuri: Mr. Speaker, Sir, the reason why Dr. Ochuodho was beaten was because KANU and NDP were frustrated by the decision of the judge to set aside the case. This is a very serious Question in that hon. Members are not safe especially those who are seen to be critics of the Government. Now that it is alleged that the Government is eliminating or intends to eliminate its critics---

Mr. Speaker: Order! Mr. Kiunjuri, I would advise you to read Standing Order No.35 on the contents of a question. You do not make your own allegations as if they are facts and then expect the Minister to reply. Put the question to him and then he will either agree or disagree. But you do not come up with an allegation on the premise that it is true. So, put a question to him. What was your question?

Mr. Kiunjuri: Mr. Speaker, Sir, how could the Minister have been aware if he did not ask Dr. Ochuodho about what happened? He is always available and the police can get him any time. Why did the Minister not investigate, from Dr. Ochuodho himself, whether he was assaulted or not?

Maj. Madoka: Mr. Speaker, Sir, the complainant never made any report about the assault and, therefore, we did not take any action.

Mr. Achola: On a point of order, Mr. Speaker, Sir. Is Mr. Kiunjuri in order to ask this Question when he was, in fact, not in Kisumu that day to witness the occasion?

Mr. Speaker: Order! I am tempted to give Dr. Ochuodho a chance, but if I were him and I am the subject, I would not attempt to speak. But the choice is yours!

(Laughter)

Dr. Ochuodho: Mr. Speaker, Sir, I had hoped that hon. Kiunjuri would table me as evidence, but he has not done so. I reported five times to the police and they have the reports. When my brother was killed, when my first car was burnt, when my second car was burnt, when my brother's eye was gouged out and when I was beaten and left for dead, no action was taken. Under those circumstances, I did not have any reason to report again.

But could the Minister tell us---

Mr. Speaker: Order! Under Standing Order No.35, you are using your Question as a pretext for debate. What have your previous beatings got to do with this Question?

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir, could I put my question? I beg you, Mr. Speaker, Sir!

Mr. Speaker: No, just sit down!

Mr. Wamae: Mr. Speaker, Sir, could the hon. Minister confirm to this House that if hon. Ochuodho went now and made a formal complaint, he will have these policemen arrested and prosecuted?

Maj. Madoka: Mr. Speaker, Sir, if he makes a formal complaint we will investigate before we arrest anybody. If there is sufficient evidence to arrest, then we will do so.

Mr. Gatabaki: Mr. Speaker, Sir, is the Minister aware of the many times hon. Members, including hon. Minister Ogeri, have been assaulted by policemen and nothing has been done to get the policemen to account for the evil acts against the law-makers?

Mr. Speaker: Order! It is not my duty to answer for the Minister because he will answer in his own good time. But I would advise the House that, please, do not trivialise matters involving yourselves. Be a little more serious than that. I think, if we are not serious about ourselves, then nobody will be serious about us. Let us not trivialise serious issues. Maj. Madoka, will you answer that Question in a serious manner?

Maj. Madoka: Mr. Speaker, Sir, if there are any such cases, we will deal with each case on its merit.

Dr. Ochuodho: Mr. Speaker, Sir, in the case of Prof. Ogeri, the Government took action before he reported formally. However, Dr. Khalwale, the Muungano wa Mageuzi Co-ordinator in Kakamega, was injured the same day I was being beaten by the police. He took a P3 form and reported to the police. Why has the Minister not taken action?

Maj. Madoka: Mr. Speaker, Sir, I am not aware of that particular incident.

Mr. Raila: On a point of order, Mr. Speaker, Sir. The issue of molesting hon. Members is a serious one and the police should act immediately. Last Friday, an hon. Member of this House, Prof. Ogeri, was molested by thugs hired by some hon. Members in this House. At the moment, he is lying at the Nairobi Hospital undergoing pain. It is said that police officers were present but they did nothing to avert this situation.

What action will the Minister take against those hon. Members of this House who organised thugs to beat another hon. Member?

Maj. Madoka: Mr. Speaker, Sir, if we have any evidence that hon. Members are organising thugs, we will then deal with them.

Mr. Kathangu: Jambo la nidhamu, Bw. Spika. Ningalitaka kujua kama ni haki kwa mhe. Raila kuuliza swali hilo ilhali tunajua kwamba wakati wa mkutano wa Kamukunji, yeye mwenyewe aliwaleta vijana hapa kuwapiga Waheshimiwa Wabunge?

Mr. Speaker: Order! Order!

Mr. Katuku: He is the Chairman of thugs!

Mr. Speaker: Mr. Katuku, you are trying to do exactly that in the House.

Hon. Members, you are raising a very important issue that affects your own lives, the dignity of this House and the security of the country. It does appear to me that there is internal recrimination; meaning, therefore, that you know you do it amongst yourselves. Please, keep violence out of each other and out of Kenya. That is the best security for everybody, including hon. Members, non-members and children.

Mr. Katuku: On a point of order, Mr. Speaker, Sir. Hon. Raila has made a serious allegation in this House against an unknown hon. Member. Could he name that hon. Member because we do not want to be lumped together?

Mr. Speaker: Order! Order, hon. Members! First of all, if I were to give him indulgence, I would be abetting and aiding him in breaching the Standing Orders, which forbid him or you from discussing the conduct of another Member without a substantive Motion. This is why I have always been steadfast in asking you not to attack one another. I think I have already made a very clear appeal to Members to keep violence from one another, from Kenyans and children. That is the best I can do.

Mr. Ndilinge: On a point of order, Mr. Speaker, Sir. Would I be in order to tell my colleagues from both sides of the House, that we are travelling in one plane and if it crashes, we shall all be affected?

Mr. Speaker: You are totally out of order because you are not the Speaker!

Mr. Raila: On a point of order, Mr. Speaker, Sir. An allegation has been made that I organised thugs at

Kamukunji, I was in the USA at the time the Kamukunji meeting was taking place. Two wrongs do not make a right. We are going to bring a Motion of censure to discuss the conduct of those hon. Members who organised thugs to beat up Prof. Ongeru.

Mr. Speaker, Sir, I would like hon. Kathangu to withdraw because I was not in the country.

Mr. Speaker: Order! Order! If we sustain this, it may just prove the point in a very bad way. So, I will not allow any further questions on this because there are going to be recriminations and counter-accusations. God knows what will follow after that.

Next Question, Mr. Parpai?

DUTY ON MAIZE IMPORTS

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

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

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

(Loud consultations)

Mr. Speaker: Order! Order! Be in order or I will make sure that you do not cause disorder in this House. So, please, be orderly.

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

(a) Prior to 13th June, 2000, the duty rate on maize was 25 per cent or Kshs2.50 per kilo plus Suspended Duty of 50 per cent, making a total potential duty of 75 per cent. Due to the drought ravaging the country at the time, the Ministry of Agriculture and Rural Development requested---

(Loud consultations)

Mr. Speaker: Order there! Order! Mr. Achola, I have given you the last chance!

An hon. Member: Yellow card!

Mr. Speaker: You may get out earlier than him!

The Assistant Minister for Finance and Planning (Mr. Arap-Kirui): Mr. Speaker, Sir, due to the drought currently ravaging the country, at the time, the Ministry of Agriculture and Rural Development requested the removal of the Suspended Duty. His Excellency the President, at the same time, was appealing for food relief to assist famine victims and the Suspended Duty was removed.

Mr. Michuki: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to confuse this House by saying that the Suspended Duty was removed? It remains suspended until it is unsuspending! He is misleading the House!

Mr. Speaker: Mr. Michuki, you are a very old Member of this House. You know that is not a point of order. You are trying to teach him what to say. Please, when you get the chance, tell him. I will give you a chance.

The Assistant Minister for Finance and Planning (Mr. Arap-Kirui): Thank you very much, Mr. Speaker, Sir. I was laying the background as to why certain events took place. May I advise the hon. Member that Suspended Duty means that the duty can be applied any time. By removing the Suspended Duty, it means it cannot be applied at all.

Mr. Sifuna: On a point of order, Mr. Speaker, Sir. There is too much noise from the hecklers behind here! Could you tell them to keep quiet or go out?

Mr. Achola: There are no hecklers here!

Mr. Speaker: Order! Order! Hon. Members, I think we are losing dignity.

Mr. Sifuna, if I were you and I wanted to be on the safe side, I would leave that Bench because very soon, I am tempted to just order the whole lot out. So, if you do not want to be ordered out, because I do not know who is and who is not disorderly, please, come to the right side and leave them alone there.

Mr. Sifuna: On a point of order, Mr. Speaker, Sir. This has been my place for a very long time. Could you order them to go away?

Mr. Speaker: Order! Order! Then in that case, Mr. Sifuna, bring to my attention and to the attention of this House, the individual hon. Members who are causing disorder.

But by the way, hon. Members, please, let us get a little serious for what we are here for; that is, to discuss matters. Messrs. Kiunjuri and Achola, I have ordered you not to utter a word for the balance of this Sitting.

(Laughter)

The Assistant Minister for Finance and Planning (Mr. Arap-Kirui): Mr. Speaker, Sir, the suspended duty of 50 per cent was removed through Legal Notice No.65 of 13th June, 2000. So, the duty on maize remains at 25 per cent, or Kshs2.50 per kilogramme. However, during the printing of the Finance Bill, 2000, the duty rate on maize was erroneously indicated as 35 per cent. The intention of the Government was not to increase the duty to 35 per cent. Consequently, Legal Notice No.80, of 21st June, 2000, was issued under the provisions of Section 119 of the Customs and Excise Act, to reduce duty on maize to the correct intended rate of 25 per cent.

(b) During the Budget, for the current fiscal year, Legal Notice No.70 was issued, granting COMESA tariffs on a reciprocal basis. Maize and other agricultural items were, however, excluded from enjoying PTA or COMESA, duty rates. This was intended to protect maize farmers from cheaper imports from the COMESA region. However, as of 1st November, 2000, Kenya joined the COMESA Free Trade Area and, subsequently, removed tariffs on all products imported from the COMESA region. The Government has, therefore, already taken the necessary action to reduce the tariffs on maize to conform with PTA rates; a Legal Notice is being issued to that effect.

Mr. Parpai: Mr. Speaker, Sir, it is evident that the confusion was created by the same Ministry. Now that the Government is prepared to conform with PTA rates, could the Minister instruct revenue officers at all border posts to stop collecting duty on maize and maize products?

Mr. Arap-Kirui: Mr. Speaker, Sir, the Ministry issued those instructions on 1st November, 2000; we have communicated to revenue officers that we are not charging any duty on goods from other COMESA countries. However, hon. Members should bear in mind that Tanzania is not a member of the COMESA. So, if hon. Parpai has in mind goods from Tanzania, I would like him informed that goods from that country will attract import duty at normal rates.

Mr. Mutahi: Mr. Speaker, Sir, could the Assistant Minister tell this House how he intends to protect local farmers from the COMESA Free Trade Area arrangement? Some farmers in this country survive on the production of tomatoes, dairy products and fruits. Currently, this country imports plenty of fruits from other African countries. Is the Assistant Minister doing anything to ensure that such products are not imported into this country?

Mr. Arap-Kirui: Mr. Speaker, Sir, we are not talking about every country in Africa. The Free Trade arrangement applies only to COMESA countries. In this respect, there are on-going discussions regarding specific products although there is a general free trade arrangement within the COMESA region. Products from countries which are not COMESA members will attract duty and other taxes as usual.

SAFETY OF KENYANS IN COTE D'IVOIRE

Mr. Nyauchi: Mr. Speaker, Sir, I beg to ask the Minister for Foreign Affairs and International Co-operation the following Question by Private Notice.

What steps has the Government taken to ensure that Kenyans living in Cote d'Ivoire are not in any danger, in view of the current political upheaval in that country?

The Minister for Foreign Affairs and International Co-operation (Dr. Godana): Mr. Speaker, Sir, I beg to reply.

The Kenya Government has only one diplomatic mission in West Africa, based in Lagos, Nigeria. On the principle of multiple accreditation, the High Commission in Lagos takes care of Kenya's interests in the Republics of Cote d'Ivoire, Togo, Ghana, Liberia, Benin and Sierra Leone. The Kenya High Commission in Lagos has been monitoring the situation in Cote d'Ivoire, and has kept the Ministry informed on the developments there. So far, no Kenyan nationals have been harmed despite the political upheaval which took a violent turn recently. Latest reports, however, indicate that the situation has now returned to normal and that calm has prevailed in that country.

Kenya citizens resident abroad are always advised to register, at the earliest opportunity, at the nearest Kenyan consulate or mission. Where there is no Kenyan diplomatic representation, there is an arrangement for United Kingdom representation to provide assistance. This information is, in fact, contained at the back page of every Kenyan passport, and has served as a means of ensuring that help is extended to citizens at the time of need anywhere. In the case of Cote d'Ivoire, there is an association of Kenyans in that country, consisting of about 40 members and their families. The association provides, on a daily basis, information about the movement and whereabouts of its members. It keeps close touch with the Kenya Mission in Lagos. It will be recalled that, that association rendered invaluable

assistance to families and relatives of the Kenya Airways aircraft crash victims earlier this year. Through that association, the Kenya High Commission in Lagos has ascertained that no Kenyans have been harmed or lost their property during the current crisis in Cote d'Ivoire.

Mr. Nyauchi: Mr. Speaker, Sir, that was a long and winding reply that is lacking in substance. The Minister purports to say they are monitoring the situation. My Question is very specific: I sought to know what the Kenya Government is doing to ensure that Kenyans who are living in Cote d'Ivoire are not in danger, knowing very well that, in the recent past, about 200 people have died in that country. Is it good enough for the Minister to just say that the Government is monitoring the situation?

Dr. Godana: Mr. Speaker, Sir, I thought I gave a very detailed and elaborate answer to the Question. I am surprised that the hon. Member thinks that the reply is long and winding. I thought I also answered the hon. Member's Question very precisely. I said that a Kenyan association of 40 members, and their families in Cote d'Ivoire, has been in touch with our Mission in Lagos, and that the Mission has established that no Kenyan has suffered any injury in person or property. I added that nearly all the Kenyans in Cote d'Ivoire are employees of international organisations, principally, the African Development Bank.

Mr. Speaker, Sir, the organisations for which Kenyans work in that country have elaborate arrangements to deal with a crisis such as that which took place in Cote d'Ivoire. These arrangements include flying out their employees and members of their families. However, as I said, the situation in that country has returned to normal. Thank God, no Kenyan has suffered any injury. Kenyans in that country are quite happy to live there. They are, however, keeping a close touch with our Mission in Lagos. I think we have done our best.

Mr. Wamalwa: Mr. Speaker, Sir, in that particular case, the Minister has dwelt at length on the arrangements made by the Kenyan community in Ivory Coast. He has also vested his faith on those who employ Kenyans in the Ivory Coast, but I think the Question covers much more ground than that. What about in countries where Kenyans are not necessarily employed by international organisations and so forth? What steps, in readiness, does this Government have to evacuate Kenyan nationals in case of an emergency in countries of that nature?

Dr. Godana: Mr. Speaker, Sir, that is a hypothetical question, but, I think, again, I did cover it in my answer. I said that, indeed, at the back of every Kenyan passport, there is some advice written: "Please, register with the nearest Kenyan diplomatic mission, or where there is no Kenyan diplomatic mission, such as an embassy, high commission or consulate, seek assistance from the nearest British diplomatic mission." The reason why we chose Britain, apart from the historical relation between the two countries, is that it is one country which has diplomatic presence in virtually every country in the world. We have presence in about 36 countries out of nearly 183 sovereign states in the world. I think where we do not have our own mission, or association of Kenyans, and there may be very few Kenyans present, so long as they follow that advice, certainly, their interests will be taken into account. The British missions where Kenyans report about their presence in the particular country concerned also do communicate to the nearest Kenyan mission, about the presence of those Kenyans. So, we do keep track of them.

CAUSE OF TYRE BURST ON KQ PLANE

Eng. Muriuki: Mr. "Chairman", Sir, I beg to ask the Minister for Information, Transport and Communications, the following Question by Private Notice.

(a) What was the cause of the tyre burst on Kenya Airways aircraft at Jomo Kenyatta International Airport recently?

(b) What urgent measures is the Minister taking to ensure that similar incidents do not occur?

Mr. Murungi: On a point of order, Mr. Speaker, Sir. Did you hear the hon. Member addressing you as "Mr. Chairman?"

Mr. Speaker: Eng. Muriuki?

Eng. Muriuki: A lot of apologies, Mr. Speaker, Sir!

Mr. Speaker: Order! Eng. Muriuki, who authorised you to demote the Chair? Will you prostrate and beg for pardon?

Eng. Muriuki: Apologies, Mr. Speaker, Sir! **The Minister for Information, Transport and Communications** (Mr. Mudavadi): Mr. Speaker, Sir, I beg to reply.

(a) The cause of the tyre burst is still being investigated by my Ministry. The investigations will cover all possible causes of tyre bursts which include the following: The quality of the tyres; maintenance practices; foreign object damage and operational practices.

Initial investigations by the Kenya Airways, have pointed to the possibility of foreign object damage. My Ministry, through the Directorate of Civil Aviation, is following up the investigations in conjunction with the tyre

manufacturer and the Kenya Airways. When tests are completed, it may be possible to determine precisely the cause of the tyre burst.

Foreign object damage can be by sharp objects or particles in any of the areas of movement of the aircraft, right from the parking areas to the taxiways, and it can be at any of the airports of operation.

(b) Since most of the tyres affected were re-mould tyres, My Ministry, in concurrence with Kenya Airways, have agreed, as an interim safety measure, and until the investigations are completed, to use only new tyres on their aircraft. It should be noted that regular inspections of taxiways, and the parking area, together with the runways by the Directorate of Civil Aviation (DCO) and the Kenya Airports Authority personnel, are being carried out to the International Civil Aviation Organisation standards. Further, the remains and debris from the tyres have been collected and taken overseas for laboratory tests, which should give a lead to the possible causes of the tyre burst.

Eng. Muriuki: Mr. Speaker, Sir, we are discussing a fairly serious situation where a plane-load of Kenyans, and other nationals, is put into serious danger by tyre bursts. From the Minister's answer, I would wish him to respond to a number of pertinent issues. First of all, we are discussing a number of tyres bursting at the same time on the same plane. Then, the same thing happens after a few weeks. So, the Minister should be telling us whether or not these tests were done by the suppliers because they would certainly be interested in them.

Mr. Speaker, Sir, could he tell us whether there were any foreign objects collected from the runways, and if so, were they on the tyres? Were they taken to the manufacturers so that they can determine the cause?

Mr. Mudavadi: Mr. Speaker, Sir, I have said in my reply that the debris of the tyres have been collected and taken for laboratory tests. I have also said that it is possible that there could have been fragments that pierced the tyres, apart from other possible causes, like flaws in the maintenance. I have indicated that in any the reply, and we hope that the outcome of the laboratory tests will give us a very specific answer, as to what caused the tyre bursts.

Mrs. Mugo: Mr. Speaker, Sir, could the Minister confirm or deny that the Kenya Airways planes are being kept in very poor repair conditions? That is why even the President has recently taken to flying on British Airways instead of our national airline.

Mr. Mudavadi: Mr. Speaker, Sir, I can confirm that Kenya Airways is maintaining its planes very effectively and we are investigating the specific causes of that particular problem. But in terms of the security and safety of the passengers, I want to say that, so far, the DCA is ensuring that proper maintenance is undertaken.

Mr. Speaker: Who is in charge of transport, from the Opposition side? Prof. Anyang'-Nyong'o?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, could the Minister explain to the House what led to the tyre burst of Sabena Airlines tyre following the one of Kenya Airways? Is it the same fragments on the runway that keep on piercing and bursting them? Are the Aerodromes officials contented to see that? Is it that the manufacturers of these tyres are the ones to be held responsible? This is because we are rather worried about the answers given; because Sabena Airlines also suffered the same problem, soon after the Kenya Airways one.

Mr. Mudavadi: Mr. Speaker, Sir, we are looking at all possible causes. In my answer, I gave about four possible causes which are: The element of quality of tyres, maintenance practices, both within the planes and also at the runway itself, foreign objects damages and operational practices for both the Kenya Airports Authority and the Kenya Airways. So, we are looking at all possible causes so that we can rectify the situation.

Mr. Raila: Mr. Speaker, Sir, the Kisumu Airport runway has potholes, and I think a human being can be buried there. Since the condition of the runways is no doubt the main contributing factor in these tyre bursts, and since the Kenya Airports Authority falls under the Office of the President, rather than under the Ministry of Information, Transport and Communications docket, does the Minister feel that he is competent to answer this Question? Or, does he think that it is a matter which should have been referred to the Office of the President? Does he not think that it is time the DCA and the KAA were brought under one umbrella?

Mr. Mudavadi: As things stand now, I just want to state that both the Directorate of Civil Aviation and the Kenya Airports Authority are working in collaboration. It is important that we look at both aspects. The runway in Kisumu, indeed, is a clear example of a runway that is not well maintained and it is important that, that repair is undertaken.

Mr. Speaker, Sir, on the second aspect, at the moment, I am not responsible for the rationalisation of Ministries and so I am not competent to answer that question.

Mr. Mwenje: Mr. Speaker, Sir, I always see those runways at the airport as I travel within my constituency and I notice that they are not in good shape. The Kenya Airports Authority is spending Kshs2.2 billion to refurbish the Airport. Could the Minister inform us whether part of this money will be used to repair these runways which are not in good shape?

Mr. Mudavadi: Mr. Speaker, Sir, I would like to say that it would be appropriate if the hon. Member could

bring a specific Question on the scope of work that is being undertaken by the Kenya Airports Authority at this point in time.

Mr. Speaker: Order! We have been in matters other than business for the last ten minutes, in my view, illegally. It should be one hour. That illegality is enough.

Next Order!

POINTS OF ORDER

DISCUSSION ON THE MBOGUA REPORT

Mr. Mwenje: On a point of order, Mr. Speaker, Sir. Having seen you and having talked to you earlier on, I beg to move a Motion of Adjournment under Standing Order No.20 on a matter of urgent national importance to discuss the Mbogua Report which is about the Nairobi City Council. The matters raised have now been released in piecemeal and the whole of this City is anxious to know precisely---

Mr. Speaker: Order, Mr. Mwenje! Where is your approved Motion in accordance with Standing Order No.20?

Mr. Mwenje: Mr. Speaker, Sir, it was approved this morning by the Deputy Speaker.

Mr. Speaker: Where is it? Do you have a copy?

Mr. Mwenje: The copy was taken to the--- The original is here!

Mr. Speaker: Order! Mr. Mwenje, you take the House for granted! The House does not just do what you want! The House does things in accordance with regulations and procedures. If you have not followed those procedures, and you do not have the time to have your Motion amended, I am sorry. The last time you were told the same by the Deputy Speaker and now you are taking us in circles.

I have a mind to refuse the next time you bring it because you have been taking us in circles. You are not serious! You had better be serious. If you have a Motion, bring it, let it be approved in accordance with the rules of the House and then come and make your application when you already have the legs to stand on. Now you do not have legs any to stand on, so what are you standing on when you have no legs?

Mr. Mwenje: Mr. Speaker, Sir, it follows that you approved it earlier on.

Mr. Speaker: No, I have not approved---

Mr. Mwenje: It was---

Mr. Speaker: Order! We must not have an argument about that! You have not had---

Mr. Mwenje: To be honest---

Mr. Speaker: Order! By the way, when the Speaker is there all matters must be approved by the Speaker. I am here, look at me!

(Laughter)

Very well. The short and long of it is that you do not have anything legally approved. So, you have no legs, my friend. So, relax.

Mr. Ekirapa!

MISREPORTING BY THE *DAILY NATION*

The Assistant Minister for Tourism, Trade and Industry (Mr. Ekirapa): Mr. Speaker, Sir, last Thursday, I was answering Question No.630 consequent upon the question raised by hon. Dr. Kituyi on the African Growth and Opportunities Act. I went to great lengths to explain that this was an opportunity for Kenya to benefit from this arrangement. I appealed to hon. Members to take this opportunity to advise all their constituents about this opportunity. I was surprised to see a copy of Friday's issue of the *Daily Nation* stating that the US wants COTU links with the State severed. The quotation in that paper which was sent through the internet, throughout the world, is not what I said. I wish to ask the newspapers to appreciate the importance of this Act to Kenya and to report correctly. I wish to request that they be asked to correct that wrong impression.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well. Next Order!

UNSATISFACTORY REPLY

TO QUESTION NO. 362

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. Last Thursday I did give notice of my intention to move a Motion for the Adjournment of the House, to the Deputy Speaker, and he did confirm to me that he would give me an opportunity today to move it. I saw the Deputy Speaker this morning and he did confirm the same.

Mr. Speaker, Sir, could I go ahead and move the Motion for the Adjournment under Standing Order No.18?

Mr. Speaker: Order! I think that there is something emerging, which is wrong, and I ask hon. Members to be very honest with the Chair and the House. Hon. Gatabaki, what you have just stated is untrue because, to the best of my knowledge, I know your application for a Motion of Adjournment under Standing Order No.18, on a Question that was asked hopefully, on your behalf by hon. Murathe, was brought to my desk this morning which I proceeded to reject. So, you have nothing to proceed on.

Next Order!

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

Mr. Speaker: Order! Mr. Murathe, it is very good that you have raised that issue. The only thing that worried me about that Question is that, the hon. Member wants to follow up on the to Question which he says he was not given a satisfactory answer. First of all it was his Question, yet he was not in the House when it was asked. It was asked by hon. Murathe whom I think did a very sterling job. I refuse the application because hon. Murathe put all the efforts necessary and got all the necessary answers from the Minister. I was satisfied that the Question was properly dealt with. I am, in fact, commending you for a job well done.

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. I think a Member of Parliament deserves a bit of dignity from the Speaker!

Mr. Speaker: Order! Will you come and see me in my office.

Mr. Gatabaki: Mr. Speaker, Sir, I saw you before the commencement of the House and you did tell me to see you after Question Time. I have made all the necessary arrangements to prepare for this Motion. I have followed every avenue. I did come on Thursday, in the middle of the Question, and it was unanimously agreed in this House that the answer was unsatisfactory. That is why I did whatever is required under Standing Order---

Mr. Speaker: Order, Mr. Gatabaki! The tragedy about all this is that when hon. Members want to consult the Chair, some of them only deem it fit to do so when it is Question Time. I have only ears to hear the Question. In fact, my job is to listen to the proceedings of the House at this time! Consultation should be done in the Chambers and not when I am here. I am called upon by hon. Members to rule on matters which go on in the House and I must, therefore, pay special attention. It is true that you wanted to consult me here, but I did not know what you wanted to consult me about. I told you to see me after Question Time, but you have not. Well, you have seen me from where you are seated, but you have not consulted me. I did not know what it was all about. Please, do not put the Chair in a difficult situation; walk into the Speaker's office, bring your documents and discuss whatever you feel like discussing with him. After all, the office is open to all hon. Members. Please, do that. Let us now give the House its time.

Mr. Murathe: On a point of order, Mr. Speaker, Sir. I think we need to clear this matter. It was the Deputy Speaker who ruled that in the event that we are not satisfied with the answer, we can apply to your office, under Standing Order No.18 to raise a substantive Motion. This morning we saw the Deputy Speaker who, in lieu of hon. Mwenje's Motion, advised that if it is not possible to have his Motion of Adjournment, we can go ahead with this Motion, because the information which was given by the Minister, in his reply of about Kshs16 billion, contradicted the Kshs8 billion which had been given by the Leader of Government Business.

Mr. Speaker: Order! Now, we will not have a Motion that has not been approved. Let us move on to the next Order.

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

Mr. Speaker: Order! You are out of order! There should be no more points of order! Mr. Gatabaki, will you give the House a chance to proceed with its business.

Mr. Gatabaki: On a point of order, "Mr. Order!"

(Laughter)

Mr. Speaker: Proceed, Mr. Gatabaki, now that you have called me "Mr. Order".

Mr. Gatabaki: Mr. Speaker, Sir, sometimes we feel a bit oppressed and sometimes you create a lot of fear in us. We look confused because you are "overwhelmingly powerful!" We keep wondering because we have a mission to come to this House to represent the people who sent us here. Is it my understanding that the orders given by your deputy are unacceptable to you; that the rules given by your deputy cannot be acceptable to the House?

Mr. Speaker: Order! Mr. Gatabaki, one thing you will not succeed in doing is to bring warfare between the Speaker and his deputy. You can forget that; there will be no warfare. Instead, there will be total harmony between the Speaker and the Deputy Speaker. But if you really want to come and convince me, as you have said, please, come to the Chamber and I will listen. By the way, I was not here and you have not brought the HANSARD to me to look at it. So, how do you think I will somehow know what transpired when I was out of the House. Indeed, it is your duty to bring all those facts to the Chair for consideration. I did tell you to come and see me. Please, come and see me because the door is still open.

Finally, I am happy that I am really "very powerful!"

(Laughter)

Mr. Gatabaki: Mr. Speaker, Sir, I oblige.

BILLS

First Reading

THE APPROPRIATION BILL

*(Order for First Reading - Read the First
Time - Ordered to be read the Second
Time today)*

Second Reading

THE APPROPRIATION BILL

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

His Excellency the President has signified his consent to this Bill. The Appropriation Bill 2000 (Bill No.18), seeks the statutory approval by Parliament of the Estimates of Recurrent and Development Expenditure of the Government of Kenya for the year ending 30th June, 2001.

Mr. Michuki: On a point of order, Mr. Speaker, Sir. I seek guidance from the Chair on the procedure; whether it is in order--- This is because I am not convinced that it is in order that we should proceed this way. I do not want to anticipate debate regarding the Third Reading, which is on the Order Paper. Is it in order that the Minister should begin debating on how to appropriate what is not there? This is because what will make that money to be available is the Finance Bill, which should be passed in the first instance.

Mr. Speaker: Order, Mr. Michuki! When an hon. Member stands on a point of order to attempt to curtail the debate on a Bill, he or she must rise not on logic but on legal principles. Which rules of procedure have been breached? Which section of the Constitution or the Finance Bill has been breached?

Mr. Michuki: Mr. Speaker, while raising the point of order, I am at the same time seeking your guidance, because there must be money to be appropriated. We have not dealt with the Finance Bill to appropriate money to impose taxation so that we can appropriate. This is my problem. Although we have the Provisional Collection Order, we cannot pass the Appropriation Bill on the strength of a provisional collection order, otherwise, there should not have been any necessity of having the Finance Bill.

Mr. Speaker: Order! Since you have really not shown me the law that has been breached--- You have asked what we will appropriate before we collect. What will we appropriate before we collect? First of all, even without passing the Appropriation Act, the Minister somehow through the resolution of this House has got some money he is already appropriating, including to this House and other departments of the Government. Somehow, there is some money, but the Appropriation Bill does not create money, in my view. What it does is to allow the legal mechanism for the use or appropriation of funds collected legally. So, we avail an avenue for appropriation of legally collected funds. Once we have given that avenue, it is up to the Minister to urge this House to give him further "weapons" to open all the "bolts" and "nuts" to allow the money to be present legally, so that he can appropriate it legally. So, we are giving the mechanism and it is not illegal to do so. We will come to the Finance Bill which will give the Minister the mechanism upon which he will collect money. In the meantime, if we pass this Bill, and he has no money, he cannot appropriate what he does not have. We do not allow him to appropriate what he has not collected legally. We only allow him through this Bill to appropriate so much funds he has obtained legally. That is my guidance. I am sorry, we could have done a better discourse with it. That is the best I can do. Thank you.

Eng. Muriuki: On a point of order, Mr. Speaker, Sir. I would like to seek further guidance. Why is there hurry to move to the Appropriation Bill, if all we need is to complete the debate on the Finance Bill?

Mr. Speaker: I have been in this Chair for the last seven years! In the last seven years, the Appropriation Bill has always come before the Finance Bill. So, that is enough experience and precedence!

The Minister for Finance (Mr. Okemo): Thank you very much, Mr. Speaker, Sir. As I was saying, the Appropriation Bill seeks the statutory approval by Parliament of the Estimates of Recurrent and Development Expenditure of the Government of Kenya, for the year ending 30th June, 2001, which was officially laid in this House on the 13th of June, 2000. During the allotted time, six Votes were debated and approved by the House. They were: Vote 01, Office of the President; Vote 10, Ministry of Agriculture and Rural Development; Vote 11, Ministry of Health; Vote 13, Ministry of Roads and Public Works; Vote 30, Ministry of Energy and Vote 31, Ministry of Education, Science and Technology. The rest of the Votes fell under the guillotine procedure in accordance with the provisions of Standing Order No.142 Section 7.

Mr. Speaker, Sir, the Appropriation Bill, 2000, contains the details of the provisions for each Vote, including the Appropriations-in-Aid (A-in-A). Clause 2 of the Appropriations Bill, 2000, seeks statutory authority for the withdrawal of a sum of Kshs149,947,326,220, out of the Consolidated Fund, and to appropriate those sums to the various services and purposes during the year ending 30th June, 2001, as detailed in the Bill. That sum includes the amount authorised by Parliament on 22nd June, 2000, by the Vote on Account under Section 101 of the Constitution of Kenya. Clause 3 of the Bill makes provision for the A-in-A of those services and purposes. The total sum to be applied as the A-in-A is Kshs39,865,972,762.

Mr. Speaker, Sir, having appraised hon. Members of the Memorandum of Object and Reasons for the Bill, I now urge them to pass it to enable me to release from the Consolidated Fund, funds which are necessary to meet expenditure as contained in the Estimates of the Recurrent and Development Expenditure for the financial year 2000/2001.

With those few remarks, I beg to move.

The Minister for Information, Transport and Communications (Mr. Mudavadi): Mr. Speaker, Sir, I stand to second the Bill and reiterate

the position that the House had the opportunity to discuss the specific Ministerial Votes earlier on. At the same time, within the context of the Finance Bill, some of the issues that were discussed will have a bearing on what the Minister is seeking. So, I would like to urge the House since this is a straightforward Bill, which specifies in detail the Recurrent and Development expenditures that the Minister wants to appropriate to each Ministry or Department, we should give him the necessary support, bearing in mind that we had the opportunity to discuss the Votes earlier on.

The other thing that I would urge the Ministry to do is: While seeking Parliamentary support for the Bill, it will be useful and important that the process of disbursement of the resources to meet the services is done expeditiously. Some of the Ministries identify priority Vote Heads, but end up waiting for too long before the resources are disbursed. Therefore, the Ministries fail to provide the services on a timely basis. Sometimes, at the end of the year, some of those resources are returned to the Exchequer without having been utilised in the course of the financial year. I would like to urge the Ministry to ensure that the process of disbursement is done on time, to enable the various Ministries and Departments to perform their duties. That will avoid Questions being brought to this House, accusing the Ministries of not having performed certain things, and we give the answer that such things will be done when funds become available. I would urge that the process of disbursement be made a matter of priority by the Ministry.

With those few remarks, I beg to second.

(Question proposed)

Mr. Speaker: Let us hear hon. Matere Keriri as the Official Responder!

Mr. Keriri: Thank you, Mr. Speaker, Sir. I know that we discussed all those Votes during the discussion on various Votes, and even during the brief discussion on the Finance Bill. So, we do not want to talk much about this Bill. But one would like to raise a few points, even if it means re-emphasising what we have already said.

Mr. Speaker, Sir, the appropriations that we are allowing today do not have any proper priorities. We have said that before. If you look at the separate Votes, Ministries like Agriculture and Health which, in my view, are very important for our development, have not been prioritised. The Ministry of Agriculture is the mainstay of our economy. The Ministry of Health keeps people healthy so that they can participate in the economic development of our country. If you look at the amount of money provided for the two Ministries, and also the amount of money provided to the Ministry of Water Development which keep people going, it is very little compared to the Office of the President. More than Kshs32 billion is given to the Office of the President, if you take the several departments which fall under it, including the Directorate of Personnel Management, State House, Police and so on. More than Kshs32 billion will be appropriated to that particular office. There is only just over Kshs10 billion for both Development and Recurrent Expenditure for the Ministry of Agriculture. There is only about Kshs14 billion for the Ministry of Health. The Office

of the President has been made too cumbersome! There are too many departments in that office, which should belong elsewhere! They should be put in the relevant Ministries, so that the Ministers could look after them and advise the President! All Ministers are supposed to be the President's assistants. So, when you put every department in the Office of the President, you deny the Ministers the chance of advising the Head of State and Government. You deny the President the time available to him to do the most important matters of State.

Mr. Speaker, Sir, we have no drugs in the Ministry of Health; the Government hospitals are in a terrible mess and even the mortuaries. In any Government hospital, we have less than a third the number of doctors required. I think the Government should care about such places and make sure that more money is allocated to that Ministry so that the Minister for Public Health can implement Government policy in the health sector.

With regard to the Ministry of Agriculture and Rural Development, it has been completely ignored. In every statement made in any Government Paper, the Ministry of Agriculture and Rural Development is treated as unimportant. The farmer is treated like someone who does not matter. At times, a fraction of the money given by donors for the Ministry of Agriculture and Rural Development is used elsewhere or not used at all.

Recently, we raised a point about STABEX funds from the European Union. The Ministers concerned have not told us where Kshs6 billion disappeared to. We have been trying to investigate this matter and we have not known where the money went to. The last disbursement was supposed to be from 1990 to 1993. Seven years later, we do not know how that money was spent to assist agriculture in order to stabilise the export of coffee and tea. The production of coffee has gone down by more than 50 per cent from what it was a few years ago. The price of coffee has dropped to the lowest point ever known in this country. The coffee farmer has no money to buy fertilizer and sprays in order to increase coffee production. Coffee is no longer an important crop in the Kenyan economy as it used to be. This is too serious! We are repeating this point severally because we feel very sad and concerned about the way the farmer is being treated in the country, especially in the Budget. I think something has to be done.

Mr. Speaker, Sir, we all come from villages which depend on agriculture and I do not know why we are ignoring agriculture so much. Farmers are not getting money from their crops, they cannot get money to enable them be attended to in private hospitals. Government hospitals are not treating people because they have no drugs. So, it is a vicious circle where people are dying of hunger, they cannot be treated in Government hospitals because of lack of medicine. We are giving the Office President's Department of Defence Kshs14 billion for purposes of defence. We have no war in this country and we are not threatened by anyone! It is only us who are threatening ourselves. So, why ignore agriculture?

Mr. Michuki: It is psychological!

Mr. Keriri: Mr. Speaker, Sir, hon. Michuki who has been with me in these matters of finance for so long has told me that this is psychological. I agree with him because I think it is a psychological feeling that someone is going to attack you when he is not.

Mr. Speaker, Sir, let us treat the agricultural sector as the mainstay of this economy. Let us not hide behind liberalisation. There is something wrong in the Government's thinking that, liberalisation means running away from assisting the farmer. It does not mean that! It means reducing and avoiding unnecessary interference with the farmer and his business, but giving him the maximum support. The Government is hiding behind liberalisation and telling us everyday: "We have now got away from the coffee, tea, milk and sugar management." The question is: Why has the Government got away from the production of these crops? The Government is supposed to assist farmers improve on the production of these crops! The Government is supposed to create an environment that will facilitate the production of food crops so that this country can have enough food to eat and a surplus for export in order to develop the economy. This is the point! I think we should forget about liberalisation in order to go further and subsidize agriculture. This is because all nations in the European Community and America are telling us to liberalise, but they do subsidize their agricultural activities. Why are they telling us not to assist our agricultural sector? I think we should do it.

Mr. Speaker, Sir, the other point is about what the Minister for Information, Transport and Communications has just said. It seems as if there is too much money in Kenya. We are poor and we want every single cent to be spent properly. Why does money go back to the Treasury at the end of the financial year? We appropriate money here to be spent and we want it spent, not to be returned to the Treasury the following year. Therefore, it means that money must be disbursed in time. We are currently suffering from what we should not be suffering.

We passed a Bill in this House which became an Act of Parliament and created the Kenya Roads Board. There was set aside a figure on how much money was to be disbursed to Kenya Roads Board so that the Board could disburse the money to District Roads Committees (DRCs), the Kenya Wildlife Service (KWS) and the Ministry itself. No single cent has so far been disbursed and we are now in November, 2000. We have gone through the months of July, August, September and October, before we could discuss on how to make our roads passable and the rains are coming. We are praying God for the rains to come and we hope they are coming. But when the rains come, the roads

will be impassable. You cannot start repairing the roads when the rains are falling. We should have done it during this dry period. We have not done it. Whose fault is it?

Mr. Speaker, Sir, someone is telling me that, it is because the Fuel Levy Fund Act has not been amended to allow money to be allocated to the Kenya Roads Board (KRB) instead of going to the DDCs. Why have we not amended that Act? I am hoping that the Minister for Finance or someone in the Finance Committee is going to bring an amendment in the Finance Bill so that we can have a quick disbursement of money for our roads. Why are we waiting for too long? There is someone somewhere who is planning to delay this money so that, at the end of the day, it will be disbursed to the DDCs and then they will go through the usual format of misappropriating this money. I really hope that it will not be done like that.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Now, I am happy that the Minister is listening to this particular part. Please, if he does not listen, let him be told by whoever is listening that we want this matter sorted out very quickly in the next one week, so that we can have the roads money disbursed quickly. We are not repairing our roads and the Minister moves all the way to Busia and yet, the Busia roads are very bad. They are even worse than the roads in Kirinyaga. How does he expect those roads to be repaired if the money is not being released? You have collected fuel levy and you have the money. Why is that money being kept somewhere? Now, I hope the Minister is going to do something but I have not said that he is not doing anything.

Mr. Deputy Speaker, Sir, if you talk about roads and you remember the *El Nino* phenomenon, then we can afford to repeat these issues several times because we are concerned. With regard to the roads in Central Province, who said that Central Province was not affected by the *El Nino*? What was so special with Central Province that the *El Nino* phenomenon just affected everywhere else in Kenya and left Central Province? We must be very lucky in that province that *El Nino* did not go there. However, Mr. Minister, let me tell you that *El Nino* came to Central Province in a big way. You cannot get to Nyeri Town today because roads were destroyed and they are now being repaired. However, we are spending 10 times the amount of money we would have spent if those roads were repaired in time. Let us repair our roads in time. Let us patch them when they have cracks, so that those cracks do not absorb water and then form potholes. I think we should do things at the correct time. We skip too long. On Friday while going to Kisii, I passed through Narok and I saw a beautiful road being built there. Only recently, another section on the same road was constructed, but now it is all full of potholes. This is because in the first instance, it was done mainly by crooked contractors. Secondly, even though that was the case, why does the Minister for Roads and Public Works not send someone to repair and patch cracks before they become potholes and yet money is available? Let us do it and consider every place of this country as equal to the others. Do not deny Central Province money just because of its name.

Mr. Deputy Speaker, Sir, I am sure the Minister will need money when we pass this Appropriation Bill. He surely will need revenue. I must commend the Kenya Revenue Authority. I think they are doing a good job. This is an indication that if the Government stops poking its nose everywhere and allows people to do their job, then things can go right. That the Authority is doing a good job. I was happy to read the latest report that they exceeded the estimates in collection. Now, that is a well-done job. However, let us ask the Minister that when we commend them, he should tell them to keep up. Let us hope that someone is not going to find out that more money is being collected than was estimated and then somebody asks: "Why should we not siphon some to somewhere else?" Let us hope that will not happen and then we collect more funds so that when we improve the lot of our people, there is money to do it. However, let us disburse that money quickly. That is what is intended and that is to channel that money where it should go in time and not to stay with it until the last minute and then we come and complain next year that money was not spent because we had no capacity. I am sure the Government has enough capacity now. They even have the "Dream Team" which is on top of the capacity that the Government ought to have. I hope the "Dream Team" is improving the ability of capacity we had before it came.

With those few remarks, I beg to support.

Mr. Muite: Mr. Deputy Speaker, Sir, I have a few issues I would like to raise when contributing to this Bill. The first issue is to ask for a clarification from the Minister. We are being asked in this House to authorise a sum of money to be taken from the Consolidated Fund for running the Ministry of the Vice-President and Ministry of Home Affairs, Heritage and Sports. When you look at the arrangement of the various Votes here, you will find that each Ministry is allocated a Vote. I would like a clarification if there is, indeed, a Ministry called the Ministry of the Vice-President and Home Affairs, Heritage and Sports?

Mr. Deputy Speaker: On which page is it?

Mr. Muite: Mr. Deputy Speaker, Sir, it is on page 1252, Vote R05. The clarification I am seeking is that I thought we have the Office of the Vice-President and we have got another Ministry. This is because all these Votes are according to Ministries but I see that Vote R05 is for the Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports. Is there a Ministry like that one? Does, the Ministry of Home Affairs, Heritage and Sports, in fact, come under the Office of the Vice-President? This is the clarification that I am seeking.

Mr. Deputy Speaker: Mr. Muite, I think you should let Members finish contributing to the debate on the Appropriation Bill and then, during debate in Committee Stage, take the Minister to task to give you detailed explanations.

Mr. Muite: Mr. Deputy Speaker, Sir, I see. At least, now he has got an advanced notice because I thought that we have got the Office of the Vice-President, but he does not handle all these other matters that we are giving him under this Vote. So, we would like a clarification.

Mr. Deputy Speaker, Sir, the other issue that I would like to give notice of wanting to seek clarification is on Page 1255, R25. That is the amount required in the year ending 30th June, 2000 for the salaries and expenses of the Office of the Attorney-General, including general administration and planning and legal services. Of course, we would like as a House, to have a clarification. First of all, confirmation that this is for payment of salaries of the staff in the Attorney-General's Chambers without including the Attorney-General. When we are voting money for the Office of the Attorney-General who is the Chief Legal Adviser to this Government, we would like to know precisely what are we paying the Attorney-General. Are we paying him in terms of the Constitutional Offices Remuneration Act as a civil servant or are we paying him as a Cabinet Minister?

Mr. Deputy Speaker, Sir, we are now dealing with money and it has to be justified. I have gone very carefully through the Constitution and the Cabinet is set up under Section 17 of the Kenya Constitution. It says very clearly that the Cabinet will be responsible to this House and it further states who is a Member of the Cabinet; that is the Ministers, the President and the Vice-President. The Office of the Attorney-General is created under Section 26 of the Kenya Constitution. Section 36 of the Kenya Constitution specifically makes the Attorney-General an *ex-officio* Member of the National Assembly. However, if you went through the entire Constitution, you would not find any constitutional authorisation for the Attorney-General to sit as a member of the Cabinet because the Cabinet is under Section 17. So, under what legal or constitutional validity and authorisation has the Attorney-General been sitting as a member of the Cabinet in violation of Section 17 of the Kenya Constitution? Secondly, is he getting paid a salary and allowances as a Cabinet Minister? If so, where is the authorisation? These are pertinent issues which I hope the Minister for Finance will be able to answer when he rises to support this Bill.

With those few remarks, I shall wait for the Committee Stage.

Mr. Michuki: Mr. Deputy Speaker, Sir, now that this Bill has been discussed exhaustively, would I be in order to call upon the Mover to reply?

Mr. Deputy Speaker: No! Mr. Odoyo, do you want to contribute?.

Mr. Odoyo: Mr. Deputy Speaker, Sir, I would like to make a few comments even though we discussed this Bill exhaustively in the Finance, Planning and Trade Committee. The bone of contention has been how the Government has been spending money in the past decade. We should find ways of fighting corruption that has taken place in the Government circles over the last past 30 years. It is high time that some of the excesses by the Government were put to rest through a policy. For example, Mr. Kamlesh Pattni wants the Goldenberg case dismissed because of a policy statement made by the Assistant Minister in this House. It appears that we have a conflict of policy. The Government is admitting on one hand that it earned some foreign income from gold and diamond exports. But on the other hand, it wants Mr. Kamlesh Pattni to be prosecuted because of corruption, fraud and malpractices in the Goldenberg saga. Since we are discussing the Appropriation Bill, perhaps, the Minister should give a personal statement on a sensitive matter like the Goldenberg saga rather than creating a conflict which sends wrong signals to our people.

Mr. Deputy Speaker, Sir, we are very lucky to have with us Messrs. Arap-Kirui and Okemo. These are very good friends who work together very well. Therefore, the Minister should clear the air over the Goldenberg case because Mr. Pattni wants the case dismissed due to a policy statement made in this House.

Mr. Deputy Speaker, Sir, the Appropriation Bill controls what is appropriated and sometimes not what is reflected in the Government policy. The Government talked about poverty eradication, but the Appropriation Bill is talking about something else. If you look into ways on how money has been disbursed in this Bill, you would be tempted to ask the Minister to put his figures where his mouth is instead of issuing conflicting policy statements. It is time that the hon. Minister who is well known for his meticulous planning and ability to understand policy, reflected those policies in the Bill that he presents to this House.

Mr. Deputy Speaker, Sir, it is time for us to put some development money in our books. If you look at the Appropriation Bill, about 80 per cent will go to the recurrent account. We are only left with 20 per cent for development expenditure. We have left all our development projects to donors. Whenever they say there is no money,

we are very much worried. For example, there is no single cent that has been allocated to Pap-Onditi District Hospital. It is sad that we have a district hospital without a medical store, a mortuary, a theatre and a laboratory, among other things. When the Government is talking about social policy and poverty eradication, it should not forget the new districts like Nyando District. Why should we create districts if the Government cannot meet their needs? We must put the Minister to task because he has forgotten the new districts in the Bill. Perhaps, through the backdoor, they want to scrap Nyando District. I would also through the same door request for Nyakach District.

Mr. Deputy Speaker, Sir, on the issue of roads, many hon. Members are on record saying that we should not pass the Appropriation Bill because the District Roads Committees have no money. Why should the Minister allow the Government to accede to certain financial proposals and when it comes to implementation, it back-pedals? I happen to be privy to the statement made by hon. Okemo at the Kenya School of Monetary Studies, Ruaraka. He indicated clearly that it was time for us to revise our estimates. It is sad that this Appropriation Bill is already irrelevant and its value is minimum. We should revise our estimates. These are questions I am posing to the Minister in all due honesty. I realise this is the time for us to say what is devastating our economy. In fact, it is the interest rates of Central Bank which are hampering the growth of the economy. It is time to ask ourselves what we should do about interest rates. In this Bill, the Minister has not created a conducive environment for businessmen to enter into the COMESA market. What we have here are good words, but little money. Under the Vote of the Ministry of Trade, Industry and Tourism, how much money is set aside for COMESA business? It is very minimal. Yet, the opportunity for business within COMESA region is substantial. Again, I feel it is time the Minister put his money where his mouth is. His mouth should speak great policies that match the estimates.

Mr. Deputy Speaker, Sir, some people claim that Nyakach Water Project has plastic pipes which burst in the morning due to sunshine. The estimates of that project were done when the hon. Deputy Speaker was the Permanent Secretary, Ministry of Water Development, and they planned to use metal pipes. Where did they take Kshs150 million budgeted for Nyakach Water Project? Where is money for our roads? Our roads are in a poor state. Nyakach Constituency is among many other constituencies that do not have a single *El Nino* project. It is time that financial management of *El Nino* projects was decentralised, so that some of the projects can be undertaken by the District Roads Boards and local county councils. As it is now, the *El Nino* project is but "a lame duck" stuck somewhere in this House and in bureaucracy whereas our people are suffering in the rural areas because of poor roads.

I wish to urge the Minister to continue with the good work he is doing in the Ministry. Since the interest rates are hurting our people, I believe the Minister is doing something to arrest this situation. The "Dream Team" is earning Kshs12 millions per month. This means they are earning about Kshs150 million per year, not to mention other allowances. Over the three-year contract, they will earn about Kshs500 million! That is a lot of money. I do not know whether what they are earning is justifiable or not. I will not make the judgement. But what will please us is the performance of the "Dream Team". In the very near future, we will ask the Minister to account for their performance. He should tell us why the "Dream Team" should earn Kshs500 million over a period of three years. This is taxpayers' money and it is a lot of money. I know that it has only been surpassed by the Goldenberg scandal, but Kshs500 million is a lot of money. Perhaps, the Minister will make sure that they will not repeat this in the future. We want an appraisal report tabled in this august House to reassure wananchi that Kshs500 million is being spent properly.

Mr. Deputy Speaker, Sir, I have no problem with the Kshs140 million set aside for the Poverty Eradication Plan. But the sum of Kshs140 million was scaled down from Kshs500 million requested by the Minister for mobilisation fees. The question is performance.

I have no further contribution and I wish to sit down.

(Applause)

Mr. Angwenyi: Thank you, Mr. Deputy Speaker, Sir. We are now going to give authority to appropriate that which has been taxed upon the people of Kenya. The guiding principle should be that the appropriation and expenditure of the taxes should be done with prudence, transparency and accountability. Every year, we do appropriate funds for various projects and services in the country, but at the end of the year, we never get to see how those funds have been used. We wait for the PAC reports which come five or six years later. I will request the Minister for Finance to be giving us comparative results, either at the beginning or at the end of every year, so that we can see how the amount which we appropriated the previous year has been spent and where else we should appropriate funds for services and goods for our people.

Mr. Deputy Speaker, Sir, I am particularly concerned with the Department of Defence (DoD). We are appropriating a lot of money for this Department, but I do know that our people who work in the Armed Forces; that is, the privates and the lower cadre officers are not getting proper remuneration. I understand that officers from the rank of Warrant Officers and below do get house allowance of Kshs5,000 and a salary of Kshs5,000 to Kshs6,000 per month.

They have got to live on that salary and this forces them to leave the congested quarters in the barracks to hire rooms in the slums for their families. It also forces them to sneak out at night to join their families. Since there is no organised transport, they have got to come back by hiking a lift in *matatus* and buses. If they get late, they are reprimanded. If they are reprimanded thrice, they are sacked. I would like this Government to take serious interest in the welfare of our people in the Armed Forces and the Police Force. There is nothing gainsaid when we talk about the police. Our police officers are working under deplorable conditions. No wonder they harass us; no wonder they do not offer security at major functions like when we were laying to rest our departed colleague, Mr. Magara. They do not want to come there because they are living under deplorable conditions. These conditions are beyond imagination. When the Minister is seeking appropriation of funds, he must look at how these funds are applied.

Mr. Deputy Speaker, Sir, I would like to touch on the Ministry of Education. We want this Government to be credible. When it enters into a commitment, it must make sure that commitment is executed. Three years ago, the Government agreed with the KNUT that the wages and salaries of teachers be increased in three phases. They only granted one phase and upto now, four years later, they have not gone back to implement the other two phases that were agreed on. Teachers have given a warning that they might go on strike because the Government has not proved to be credible. You cannot be sure that if you enter into an agreement with this Government, it will fulfil the terms of the agreement. Since we have restored good relations with our development partners, I would like to urge the Minister to look for funds to implement those aspects of the agreement between the Government and the KNUT which have not been fulfilled to date. We want to create a good learning atmosphere in the country. We want our teachers to be committed to their work so that we can give knowledge to the youth. These are the future leaders although in Kenya, a future leader means somebody who might have to live upto 100 years before he becomes a leader. Since the Ministry of Finance has been charged with the responsibility of managing the resources of this country, it must make sure that what we appropriate for a particular purpose is actually used for that function.

Mr. Deputy Speaker, Sir, the country is going through a crisis because of the drought. This crisis has killed a lot of our livestock. It has also brought about power and water rationing. I would have thought that this Ministry would have allocated more funds to those areas that will mitigate the suffering of our people. I would have thought, for example that in the 41 ASAL districts, that we would have appropriated funds to construct, at least, five dams and boreholes in every constituency. Then, we would help our people live with some comfort. Over the weekend, I went to Mutito Andei in Kitui District. I drove for over 70 kilometres, passing through where there used to be water streams. I passed through 14 rivers but there was no water in any one of those rivers. I wonder how those people get water for their domestic and livestock use. I cannot see any allocations in the Ministry of Water for these special areas that are suffering today. I cannot see any amount allocated for Ukambani which has been dry for the last three years or for other areas, including Turkana.

I cannot even see funds allocated for this purpose for the area where our beloved President comes from. People in those areas, including those in the district where our beloved President comes from, trek a distance of between 30 kilometres and 40 kilometres to fetch water. By the time they reach home, they will have drunk and finished the water that they went to fetch. Could the Minister, therefore, allocate some funds for water development in Baringo, Samburu, Narok and Kajiado districts as well as Ukambani? Could he create a special fund for that purpose? He should convince his masters - the World Bank and the IMF - that we must serve our people better rather than listen to the dictates of Washington DC. We must help our people.

Mr. Deputy Speaker, Sir, I would now like to touch on the issue of health. When the founding fathers of this nation, Mzee Jomo Kenyatta, Oginga Odinga, President Moi, Ronald Ngala, amongst others, fought for this country's Independence, they vowed to provide health care services to our people, among other things. But what is happening today? The Government has introduced the so-called "cost-sharing programme" in public health institutions. Cost-sharing is not practised anywhere in the developed world. The countries whose people can afford to cost-share medical expenses with their governments are not practising that policy. However, Kenyans who cannot afford medical care, have been told to cost-share medical services with the Government. You must have learnt through the Media that a lady and her baby died at Pumwani Maternity Hospital recently simply because she could not raise the maternity fee of Kshs1,200. Is that what this country's freedom fighters fought for?

Prof. Anyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir. I would hate to interrupt my friend, hon. Angwenyi, but is he in order to say that hon. Daniel Toroitich arap Moi, while serving as a Nominated Member of the Legislative Council, supported this country's struggle for Independence, when it is on record that in 1952 and 1956, he rose in the Old Chamber and opposed Africans in Kenya getting Independence?

(Applause)

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I am a Christian, and we believe that even if you sin today, you can confess tomorrow and get converted. I, therefore, assume that if President Moi did what the hon. Member has alluded to, he was converted later to join the struggle for the liberation of this country. So, since hon. Moi was converted, following which he joined the liberation struggle for this country's---

Hon. Members: When was he "converted?"

Mr. Angwenyi: Mr. Deputy Speaker, Sir, Mr. Daniel arap Moi must have been converted by the time he accompanied other leaders to the Lancaster House Conference to chart or negotiate for this country's Independence with our former colonialists. This was before he defected from the defunct KADU to KANU. He must have been convinced by other leaders to support this country's cause for Independence.

Mr. Deputy Speaker, Sir, before I was interrupted, I was about to say that we should ask the Ministers for Finance and Health to bring their heads together, so that, we do away with the cost-sharing programme in public health institutions, in the next financial year. I am saying this because 73 per cent of this country's population is living below the poverty line. Those people cannot access health care services. So, it is incumbent upon the KANU Government, which I voted for, to look for ways and means of enabling Kenyans to access health care service.

Mr. Odoyo: But, he is a KANU man!

Mr. Angwenyi: Mr. Deputy Speaker, I know that some NDP hon. Members here want to prove to be more of KANU supporters than I am. But I am, indeed, a KANU man. We really tax our people in this country. Even if you buy a sweet today, you pay tax through it; if you pay fare in a *matatu*, you pay tax on it. We are taxed and re-taxed. By the time you bought the suit you are in now - and I know that you like good suits - you had been taxed, maybe, 10 times. But why can we not provide services equivalent to the 10 times that we tax our people? Why can we not even provide services equivalent to twice the tax we charge them?

The crux of the matter is that this country taxes its people heavily, but it does not provide them with the services that they deserve. Instead, we accept very harsh conditions imposed on us by the IMF and World Bank for resumption of aid to this country. It is as if we are a wife of the IMF, and this country's leadership and Parliament accommodates that. Parliament must rise up and say "no" to both the IMF and the World Bank. Let them go to hell. After all, our grand and great grandparents lived without having to deal with the World Bank and the IMF; they even led better lives than we are doing today.

The other aspect I would like to talk about is in the area of foreign affairs.

Mr. Odoyo: On a point of order, Mr. Deputy Speaker, Sir. Is my honourable colleague, who is also a Member of this House's Committee on Finance and Planning in order to mislead this House by implying that we can run a modern state without borrowing? While the money lent to this country by the IMF is little, the impact our relationship with the IMF has on this country's capacity to borrow from other bilateral lenders is enormous. So, maybe, the hon. Member my wish to re-visit that particular statement.

Mr. Deputy Speaker: Order! Mr. Odoyo, what you have raised is not a point of order. If you wish to engage in that kind of debate, please, do so when we go into Committee.

Mr. Angwenyi: Thank you for your protection, Mr. Deputy Speaker, Sir.

This country has missions all over the world. I would like to say that we must give those missions performance targets. They must bring business to this country. We must tell our respective heads of missions: "As long as you are in that country, we must do business to this level with that country." Otherwise, we must close non-performing missions. What is the use of having missions in countries which we do not do business with? The rate of return on investment in foreign missions should be the amount of business that this country conducts with the countries in which it is represented. When business in a particular country is not in our favour, we can as well close down that particular mission. Why should we continue incurring expenditure on such missions?

What I am saying is that we should not open diplomatic missions all over the world. Missions are not like the village elders that the Government appoints through sub-chiefs in every village countrywide for the purposes of gathering information. Our missions abroad must have a commercial and economic orientation. Otherwise, we should close them down. It is better to close down 10, 15, or 20 missions abroad and reinstate 10,000 retrenched civil servants in their jobs. Therefore, the existence of this country's diplomatic missions abroad must be justified.

I would now like to speak on the area of verification of administrative units. Administrative units are being created haphazardly these days. If the Minister in charge of Provincial Administration visits an area and happens to be given a gift, say, in form of a cow or a goat, he grants a new administrative unit; or, if he comes to Gusiiland and we give him a nice-looking and hard-working young lady, he will give us either a district or a division.

(Laughter)

The existence of administrative units in this country must be justifiable. You have seen what happened in

Ijara. People there have been forced to have a district that they do not want. They have been asked: "Could you define the boundary of the new district?" They replied: "We do not want to define a boundary, because we do not want another district". Why are those people being forced to have a district? I am an economist. To run a fully-fledged district will cost between Kshs10 million and Kshs15 million per month. Why does the Government want to spend Kshs15 million when it can save that money and use it to reinstate some of the retrenched civil servants back into the Civil Service? Why does that happen? We are saying that we should be told about the criteria of establishing an administrative unit. For example, if it is a district, it should have four or more constituencies. If it is a division, maybe, it should have one constituency. If it is a location, maybe it should have 30,000 to 40,000 people.

Mr. Deputy Speaker, Sir, I am talking about that from experience. I come from a lineage that ruled Kitutu for 100 years, and we had one chief covering the current six divisions, and he was effective. He is the late Chief Zakayo Angwenyi. He could run today's six divisions alone. So, why are we creating all these units?

Mr. Deputy Speaker, Sir, the other aspect that I wanted to touch on, as we debate the Appropriation Bill, is the one dealing with the Ministry of Local Government. It has become a den of corruption and looting. I want to know: When the Minister is taxing us in relation to the LATF and service charge funds, does he ever ask how the accruing money is applied? Why should I pay the service charge, and yet I do not get water, garbage is not collected from my estate and there is no street lighting? Is that not one way of looting money from Kenyans in broad daylight? When will the service charge be stopped? Social services were stopped long time ago and we have now devised a new source of funds in the name of LATF for looters? The Government dishes out money to the municipalities and county councils, but they never find out how that money has been used. Nobody talks about it, but they complain about hon. Members being chairpersons and members of the District Roads Board and the Constituency HIV/AIDS Control Committees because they know that they will be serious with the money. If you want to know how the money will be spent--- But the funds being spent by the county and municipal councils are not being supervised.

Recently, some Kshs35 million was given to the Kisii County Council, and it was dished out among a few councillors. No work has been done using that money, and nobody wants to talk about it. I would like the Minister for Finance, since we have given him the responsibility of taking care of our revenue, to tell us how LATF and the service charge funds have been used in the entire country, and when these projects will be stopped. I am asking about that because I know that successive Ministers for Local Government have been involved in looting, corruption and land grabbing, but the current Minister for Finance is relatively "clean." So, I know that if he puts his foot down, he can tell this House how that money has been spent - that is the money given to the Ministry of Local Government. Otherwise, this Parliament must stop forthwith allowing taxation in the form of the service charge and the LATF.

Finally, I would like to comment on serious matters that pertain to the Office of the President. I would like to ask them to advise the President - very clearly - on how the funds we are voting for them should be spent. They should give him up-to-date information, so that he does not go out there and make pronouncements, some of which may make the people who are in the know think that he is lying. So, he should be advised adequately on the matter of the two committees formed recently in the districts.

The HIV/AIDS is a major disaster in this country.

Mr. Michuki: On a point of order, Mr. Deputy Speaker, Sir. Is hon. Angwenyi in order to use the word "lie" in this House? Is that not unparliamentary?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I am talking about HIV/AIDS. There was one time - ten years ago - when I was a university don, and HIV/AIDS was discovered in Kenya. One doctor by the name Dr. Mulindi brought the matter of HIV/AIDS to the Nairobi University Senate. He said: "This is a disaster." Yet the Government is going round saying that they have discovered a cure for it in the name KEMRON. Dr. Mulindi is still alive, and I think he is a member of the National AIDS Council. He said: "KEMRON is not a cure, and if we advertised it, we will cause a disaster in this country." He was then the acting chairman of the department of medicine at the University of Nairobi. He was removed from being the chairman of that panel, and the Government spent resources contending that KEMRON is a cure for HIV/AIDS. Kenyans believed that because it came from the highest level of this country. You can see what has happened and nobody can challenge me on that because I have lost relatives to HIV/AIDS, because of the mistake we made at that time. If we had listened to Dr. Mulindi, today we would not have a disaster as we have today.

The same thing is happening now. People have seen money coming from donors to help wananchi, but they do not want to spend it on them. They want to keep it for themselves - maybe loot it. So, they are saying: "MPs will squander the money." I have not even bought a shirt from the salary that I earn from Parliament - even from the enhanced salary that I got recently. We are saying that we are partners in the development of this country and solving her problems. Somebody should take responsibility for all problems of this country. We are all elected leaders, and let us be respected. If there is a change in policy, we must be advised adequately, because I speak for people who have elected me. The Minister for Health and the Minister for Finance must make sure that hon. Members take part in those

committees because they assist our people.

Mr. Deputy Speaker, Sir, since the Minister for Finance is a clean man and I know that he cannot easily be contaminated and corrupted, can he heed what I have said today?

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

COMMUNICATION FROM THE CHAIR

CELL PHONES PROHIBITED IN THE HOUSE

Mr. Deputy Speaker: Hon. Members, let me dispose of something that occurred while hon. Angwenyi was on the Floor, and I did not feel inclined to disturb him. All hon. Members know that cell phones are prohibited in the House. Hon. Parpai had one in the House and it made the grave mistake of ringing while he was in the Chamber. And as if that was not bad enough, hon. Parpai in trying to solve that particular embarrassment, "bolted" into the ante-Chamber without paying due regard to Standing Order No.84, which requires him to bow to the Chair both when going out and when coming in.

Hon. Parpai, everybody today is in a very good mood, including the Chair---

Mr. Shitanda: He is a Maasai!

Mr. Deputy Speaker: Order, Mr. Shitanda! Mr. Shitanda, hon. Parpai is an hon. Member of this House, no less and no more. I will leave this matter at that, but next time round, hon. Parpai, you may be running somewhere else and not in the Chamber.

(Debate on Appropriation Bill resumed)

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I would like to contribute to the Appropriation Bill which seeks to give the Government the authority to withdraw the sum of Kshs149,947,326,210 only from the Consolidated Fund. In the Government seeking authority of this House to withdraw this kind of money from the Consolidated Fund for purposes of application of the services of the Government by 30th June, 2001, the Government must assure this House that the money will be used accountably and appropriately. Unfortunately, we do have the information that even before the Government begins using this money, a lot of it has already been committed to very inappropriate expenditures. I want to draw your attention to Vote R10 on page 1253 in which the Government is seeking a supply of over Kshs5 billion and Appropriations-in-Aid of about Kshs457 million towards expenses in the Ministry of Agriculture and Rural Development and other parastatals among which is Ewaso Ng'iro North and South Development Authorities as well as the Cotton, Lint and Seed Marketing Board. The Government must explain where the Cotton, Lint and Seed Marketing Board is when it is the understanding of this House that this parastatal had gone under a long time ago. Secondly, the Government has to assure this House that Ewaso Ng'iro North and South Development Authorities are not engaged in a bottomless pit of spending public money whose results cannot be seen. The Ewaso Ng'iro Development Project which was started in 1989 has been involved in a series of feasibility studies which end in no development at all. Recently, in the British House of Commons, a question was raised regarding expenditure of public money for feasibility studies for Ewaso Ng'iro Hydro-Electric Project which was started in 1989. This money had been spent by a consultancy firm called Knight Pisdold which has offices here in Kenya. The World Bank has raised questions about the money that Knight Pisdold has been paid by this Government towards consultancy projects which have not added an iota to the development of this country. If anything, at this point in time there is a proposal by the Government to finance an irrigation project on the Ewaso Ng'iro Basin. This irrigation project is not going to be any better than the Bura Irrigation Scheme in which the Government sank Kshs12 billion to irrigate the area and grow top cotton. As we stand here today, there is not a single cotton plant in the Bura Irrigation Scheme. If the Government is planning to spend more money to irrigate the Ewaso Ng'iro River Basin when there is evidence that Kshs12 billion has already been sunk in the Bura Irrigation Scheme without anything to show for it, and the same Government is saying that the Cotton, Lint and Seed Marketing Board, which should have been marketing the cotton grown in the Bura Scheme is still being given money by this House, you realise that we are involved in a great irrationality. Hence, the Vote being sought here of Kshs4 billion and an Appropriations-in-Aid of over Kshs457 million should not be authorised by this House.

Mr. Deputy Speaker, Sir, I have seen volumes of feasibility studies put together by Knight Pisdold regarding the possibility of irrigating the Ewaso Ng'iro Hydro-Electric Project. I would like the Minister for Finance to table all these documents in this House for us to peruse and satisfy ourselves. We would like to know; how much money the Government has given to Knight Pisdold since 1989; to what extent these feasibility studies have ended since 1989 in any worthwhile projects in Ewaso Ng'iro River Basin, and whether there is any possibility whatsoever in this day and

time of irrigating the Ewaso Ng'iro River Basin when a much more potentially successful project in Bura which was started in 1978 has collapsed? The Kenyans who were taken there as settlers are now living way below poverty line when this Government has misappropriated Kshs12 million in their names. I beg to request this House to refuse to grant the Government the money requested in Vote R10 until it answers those questions. I would also like to draw the attention of the House to the fact that the Government has already started in the same vein of funding feasibility studies and seminars, the so-called Poverty Eradication Project. This Government has already spent a whopping Kshs149 million for sheer seminars to eradicate poverty. I do not understand how we spend so much money on just talking when we need to put all that money in projects for building dispensaries, providing food and supporting orphans. This is a very poor Government which is only asking for Kshs149 billion. Already one per cent of that Kshs149 billion is being spent purely on seminars to study how to eradicate poverty in this country. I think we are involved in a very excessive and inappropriate way of spending public resources.

I would also like to draw the attention of the Government to what I call "opaqueness." The Government is being extremely opaque in the Appropriation Bill 2000 by not coming upfront and telling the National Assembly how much money is being voted for the retrenchment exercise. If there is anything which is concerning Kenyans today, and I am sure the hon. Minister for Finance has personally been touched by this, it is retrenchment. The Government should vote money upfront for retrenchment.

I want to give you an example. The Kenya Commercial Bank and the National Bank of Kenya are at the moment involved in retrenching their staff. The argument being used by the National Bank of Kenya is that they need to retrench in order to have sufficient resources to run a bank that will be viable. Out of about 100 persons being retrenched at the moment, a formula is being used which is purely illegal of giving people the so-called "Settlement Separation Fund" where an employee is given money for one month for every year left before they retire. We know that according to the laws of this country, an individual working in a parastatal or in the Government can voluntarily retire after the age of 45 or has to retire when he reaches the tender age of 55. In-between this, the National Assembly has never passed a law regulating how people should retire. Retirement is regulated by the contracts individuals sign with their employers, be they the Government, parastatals or the private sector. If an employer, whether a bank, parastatal or the Government, decides arbitrarily to impose on employees terms of separation, that is illegal. It is extremely unjust to tell somebody who has worked for a company or parastatal for 20 or 23 years, when they are 50 years old that: "All we will give you is one month's salary for the five years left when you are supposed to be working with us, as a way of terminating your contract." That kind of regulation has not been passed by this House nor is it a tripartite agreement between employers, employees and unions. It is a unilateral decision reached by employers.

I was in high school in 1964, and the late Thomas Joseph Mboya was then the Minister for Labour, when the Government of Kenya decided to have an employment policy which would force employers to increase the number of people they were employing by 10 per cent. That policy was not carried out until there was a tripartite agreement between employers, labour organisations and the Government. Now, we have an experience in Kenya where all sheds and descriptions of employers decide arbitrarily to impose retrenchment policies which have no legal basis. If the Government wants to remain lean and trim, it is important to heed hon. Ojode's Motion which simply asked it to bring to this House a Sessional Paper, laying down the legal basis for retrenching Kenyans. We cannot allow employers, be they parastatals or Government departments to arbitrarily decide on how they are going to dismiss Kenyans from their work. This is unconstitutional, unjust and unfair. So, in a Bill like this, it should have been important for the Government to put an item indicating: "This is the amount of money being set aside to be used to reduce the number of employees that the Kenyan Government has." The Kenyan Government, is itself a culprit in punishing its citizens by setting a bad example to the private sector and the parastatals.

The other issue I wanted to raise today is that in this Appropriation Bill, I can see money being voted under Vote D13 to the Ministry of Roads and Public Works for capital expenditure. That item also includes housing services and loans to the National Housing Corporation (NHC). The NHC is an extremely important public enterprise in this country. Again, I remember that the NHC was established when I was in high school, under the captainship of people like Mr. Samuel Ayany who was then its boss. This parastatal did a lot of service to Kenyans. Many young men and women who graduated from college or high school and started working with the Government or the private sector, obtained affordable housing loans under the schemes established by the NHC.

The NHC also had a Rural Housing Scheme of which I was a beneficiary, in 1977, when I first owned my rural house through a loan of Kshs26,000 which I was given by the NHC. Today, even an hon. Member of Parliament cannot afford a loan to put up for him or herself an affordable house. Many developing countries such as Korea, Singapore, Malaysia, Mexico to Botswana have boosted their economies by having very progressive housing development schemes. This is because when you have a massive housing development scheme, you put many people for example, architects, surveyors, quantity surveyors, lawyers, electrical engineers, masons and carpenters to work. There is no better way of kick-starting the economy other than by injecting

massive investments in the Ministry of Roads and Public Works. If you look at this budget, you will find that the Government is asking for over Kshs1 billion for this important Ministry. I would have thought that were the Ministry of Finance and Planning to do their job, and in this regard it is the Minister for Planning who is the most important person, because the Minister for Finance is nothing other than an accountant for the Government--- This is because all he does is to come, ask for money and spend it. The Minister, who should plan and put before the Cabinet plans for kick-starting this economy is the Minister for Planning. If there is anything that can kick-start this economy, then it is massive investments in the Ministry of Roads and Public Works. I am afraid, by asking a paltry sum of Kshs1 billion or just about Kshs2 billion, in a budget of over Kshs150 billion, this Government does not know what it is doing. That is why all the time, this Government has to go out with a bowl in hand begging the International Monetary Fund (IMF) and the World Bank to rescue it. There is a way to create wealth, but they do not use it.

Today, the NHC is on its knees because of corruption and mismanagement. Were we to have the kind of civil servants who championed economic growth in this country, and I am proud to say that the gentleman in the Chair was one of them when he was the Permanent Secretary in the post-Independence Government or if we were we to have those kind of civil servants who had a vision for this country to develop massive public housing, like Onyonka and Otiende Estates and so on, today, we could be having Prof. Saitoti and Okemo Estates and so on, but these estates are not there because the gentlemen who are seated opposite me have raided the Government kitty and taken away all the funds that are necessary for development. These people have no imagination whatsoever of even requesting money from this House for massive public works that can help this country. I would like to ask this Government to go back to the drawing board. We do not even have Biwott Estate and yet, hon. Biwott has been a Minister for so long. What will he be remembered for in this country? Will he be remembered for the hydro-electric project in Turkwel which never led this country to anywhere, Ewaso Nyiro Project which is as dead as a dodo as we talk today or Bura Irrigation Scheme which is also dead as a dodo? Will we name these irrigation schemes after hon. Biwott in memory of him instead of him starting public housing projects to the benefit of wananchi? We need some kind of social imagination on the part of the Government before they come here asking for permission to draw money from the Consolidated Fund to spend in the interest of the Kenyan people.

I would also like to draw the attention of the Chair to the amount of money being voted for the Ministry of Health. If there is any other important Ministry, apart from the Ministry of Roads and Public Works and the Ministry of Information, Transport and Communications, then it is the Ministry of Health. I am not saying this because of the HIV/AIDS pandemic, but I am saying this because of the need to develop human resources in this country. You cannot put money in a vital Ministry, like that one and then ask wananchi to pay for such an essential service. As I speak here, Nairobi Hospital has closed down one of its wards. This hospital has done this because we do not have patients going there in big numbers. People do not go to Nairobi Hospital because they are not sick, but they are not going there because they cannot afford. They cannot afford it because they do not have money, or because they have money which is not backed by a proper insurance scheme in this country. As we talk here today, we have handed over our public health insurance initiatives to international finance capital run by people who do not know anything about health; people who are called "Health Fund Managers", who are accountants, speculators, robbers and actually, in the final analysis murderers. This is because the biggest debate today, as the Americans went to the polls in the United States of America (USA) is about public health and social welfare. The argument between Al Gore and Bush is: "Who is going to put enough money in the public health system in the USA?" The USA is a very rich nation. If in a nation like the USA, people are concerned about public health, what about a nation like Kenya, where we are so poor?

Mr. Deputy Speaker, Sir, in the early 70s and 80s, the National Hospital Insurance Fund (NHIF) worked properly. If you had a NHIF card and went to a hospital, it meant something. I am talking from experience because our first baby was sired in the Nairobi Hospital. I was a university lecturer and the card paid for the bills. Today, the same card is useless at the Nairobi Hospital. That is why the Nairobi Hospital has closed one ward. The Government is sitting tight because it is privatising the health insurance scheme and giving it to the African Air Rescue (AAR), MediPlus and other companies to manage it. That is not right. Those kind of health schemes, even in the United States of America, are for the very rich. In this country, except for five or ten families, we do not have the very rich. All the people you see sitting here are very poor. They are only rich in assets. They may have a house somewhere or a company, but all the companies and houses are mortgaged. If they fall sick, they will not turn around and sell their houses in Runda in order to go to a hospital. They will need liquid money to go to the hospital. Even when they are Ministers, they will call us to conduct Harambees for them. The nation cannot afford that. We need to put enough money in the public health system to ensure that, every born Kenyan, when he or she is sick, can get medical attention at the best hospital possible in this country!

Mr. Deputy Speaker, Sir, in the Republic of Cuba, the best hospital is a public hospital. It was originally built to serve as the Bank of America. However, President Fidel Castro nationalised it. Instead of making it the Bank of America, it became the Cuban National Hospital. It is one of the best run hospitals in the world. Any Cuban, with the

equivalent of a NHIF card, can go to that hospital and get treatment, whether it is heart or brain surgery. That is what proves that you are independent. The independence whereby Nairobi Hospital can close a ward, and we boast of having two Ministers of Health--- One is for medical services. I do not know what the other one is for! What does those two Ministers do in running one Ministry! Is that Ministry their "thingira?" It is a complete travesty to this nation. One of them is looking at me! We need to realise that a Ministry of Health without a proper public health system is of no use! The only litmus test for having a Ministry of Health is if it runs a viable public health system, with a viable public health insurance. I would like to request the Ministry of Health to call a round-table conference outside the precincts of this House, where rules and procedures may prevent us from saying a lot of things. We will discuss why the health insurance policy in this country is being taken to MediPlus, AAR and other companies! We are sitting on a time bomb. Very soon, hospitals like Mater, MP Shah and the Aga Khan will close down their wards. The Government is proud that not many people go to the Kenyatta National Hospital (KNH) these days. That is not because Kenyans are not sick. However, Kenyans cannot even afford to go to the KNH! That is the truth.

So, Mr. Deputy Speaker, Sir, when it comes to health, I request the Government to ask for much more money than it is asking for here! The Kshs9 billion meant to revitalise the health system in this country is not enough. The National Bank of Kenya alone requires Kshs7 billion to be put on its feet! The Government knows that. It is sending away people without proper insurance cover through retrenchment. If the Government cannot get enough money to put in the public health system, it should not retrench people who will fall sick with no salaries. We will have a very high death rate in this nation. I beg to draw the attention of the Minister for Finance and request him to look at the Appropriation Bill. I know that he cannot do anything right now but, next year, let us have something much more imaginative and realistic in order to help Kenyans.

Finally, Mr. Deputy Speaker, Sir, we have spoken about cost-sharing in education and health in this House before. Every Kenyan, like hon. Angwenyi said, pays tax. You pay Income Tax and Value Added Tax (VAT) among other taxes. The VAT was increased in the country, so that the Government could widen its tax base. All Kenyans, who engage in economic activities either as consumers or producers; employers or employees, must pay tax. Once every Kenyan pays tax, he expects requisite services from the Government. The Government cannot go around again, and tax you when you need Government services! That is what is called double-taxation. Let us call cost-sharing in the most realistic language. Cost-sharing is not cost-sharing; it is double-taxation. You have already given the Government what it requires in VAT. When you go to receive the service that you expect, you are taxed again! No wonder, Kenyans are voting with their feet by saying: "Let us die at home rather than go to be double-taxed by an irresponsible Government at the KNH, New Nyanza General Hospital and Yala Hospital".

It becomes even worse when it comes to education. We pay taxes so that our children can go to school from Kindergarten to the university. It has become even more difficult to have an open system at the university. Then, the Government says: "We will give you a loan and charge an interest on it". Even that loan is not made equitably available to all students. A student could get a loan in the first year and then it is withdrawn in the second year, and he or she does not know what to do. Last week, three students came to my office and said: "We were given loans last year, but we are now in second year and we do not have any loans". What kind of economics is that? What could a loan in one year over a three year university education do to a student? The Government introduced those loans in the name of the so-called cost-sharing programme. Cost-sharing is a misnomer. I would like all Members of Parliament to educate Kenyans that, that is one of the sources of double-taxation in this country, which must be fought and eliminated.

In the Appropriation Bill, the Government has not indicated how much money it will make out of cost-sharing, to boost what we are giving it. When I started speaking, I said that this is one of the most opaque Bills that has been brought to this Parliament. A lot of things are hidden. The taxpayer will give more money to the Government through cost-sharing than we can tell from the Appropriation Bill. Members of Parliament who have discussed the Bill for over six or seven years know that, one of the things that we would like to do to give the Government the money to spend, is to ensure that Kenyans have money in their pockets to spend. It is very bad economics to get money from people through taxation, but not to find ways and means through which you can put money in their pockets, so that they can spend the money to stimulate growth. Hon. Okemo will agree with me that, one of the reasons why Kenya is not growing is because people do not have money to spend. So, businesses are collapsing and people are being retrenched from the private sector. When you are retrenched, you do not have any money to spend. So, it becomes a vicious cycle. The Government talks about poverty eradication as a palaver, without showing us how people will get money into their pockets. Talking about poverty eradication by getting money from donors to invest in projects to create employment is not enough.

Mr. Deputy Speaker, Sir, one of the things which the Government should do is to show how Appropriation money from taxation will help people get incomes into their pockets. At the moment, I feel that Kenyans will become poorer through enactment of this kind of Appropriation Bill, instead of having more money in their pockets. The latter

will not help this Government to feel proud because by June next year, so many people will be out of able to work. Indeed, so many people will not have money in their pockets to spend and kick-start the economy.

I beg to oppose.

Mr. Kajembe: On a point of order, Mr. Deputy Speaker, Sir. Since hon. Members have discussed this Bill exhaustively, I beg to move that the Mover be now called upon to reply.

Mr. Deputy Speaker: Hon. Members, this is the second time I have been requested to ask for the Mover to reply. Since I have not seen any hon. Member standing up to contribute, I will now put the question.

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

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

A lot of issues that have been raised during this debate, had actually been discussed in great detail, when each Vote was being discussed in this House. So, I really do not think that it is necessary for me to reply because my colleagues did actually respond to all the issues that I have heard being raised today. However, I just want to add one thing. I think it is on record that the Government is willing to involve all stakeholders in the consultative process of prioritizing all the expenditures which will lead to the actual Budget.

We actually did invite some of the hon. Members in this House to a seminar which we had yesterday and hardly anybody came. So, sometimes I find it very difficult to understand the sincerity of hon. Members. When we give them a chance to participate in forums such as the one we had yesterday, they do not show up. But when they come to the Floor of the House, they complain loudly that they do not have a chance to participate. We are now at a very critical stage--

Mr. Michuki: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Minister for Finance to make such serious allegation when he knows, for example, that his own colleagues from Central Province had called for a meeting at Thika to discuss the coffee industry, which ended just after midnight last night?

Mr. Deputy Speaker: Mr. Michuki, really that is not a point of order.

The Minister for Finance (Mr. Okemo): I will disregard the remark, Mr. Deputy Speaker, Sir. However, what I would like to say is that, by standing here, I do recognise the fact that the major concern of this House has been on how money is actually spent. During the Budget Speech, I gave my assurance that we will ensure that all money is properly spent. We have actually started putting in place a Budget Monitoring Unit, which is at the Treasury. The function of that Budget Monitoring Unit is to ensure that the line Ministries are actually spending money for the purposes for which it was intended in the Printed Estimates. I did go further to promise this House that I will be bringing them quarterly Reports.

Right now, we are working on the first quarterly Report on how the money has actually been spent. That report will be brought to this House so that hon. Members will be told how the money has been used. So, it is not going to be a Report that comes at the end of the financial year, and then it gets reflected only in the Public Accounts Committee Reports. This is going to be a quarterly Report, even though it may come late. But, at least, it is an improvement over the past years, so that hon. Members have a chance to see what is happening on a quarter to quarter basis.

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. I have a lot of respect for the Minister for Finance. However, is it really in order, in all sincerity, for him to say that money for the first quarter has been spent well, when the first quarter is now almost over without the disbursement of the DRCs Money?

The Minister for Finance (Mr. Okemo): Mr. Deputy Speaker, Sir, I think the only problem that hon. Mwenje has is that, he did not hear exactly what I said. That is not what I said! I said that, the first quarterly Report is under preparation and it might be late. When it is ready, I will bring it to this House to show Members of Parliament how money has been spent. That is quite different from what hon. Mwenje is saying.

Mr. Deputy Speaker: I think, hon. Mwenje is also saying that you will have to tell the House why money has not been spent because the District road Committees have not received any money.

The Minister for Finance (Mr. Okemo): Mr. Deputy Speaker, Sir, I think if anybody knows arithmetic, he will subtract one figure from the other and the answer is quite obvious.

With those few remarks, I beg to move.

(Question put and agreed to)

(The Bill was read a Second Time)

*and committed to a Committee of the
whole House)*

COMMITTEE OF THE WHOLE HOUSE

(Order of Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. Poghisio) took the Chair]*

THE APPROPRIATION BILL

(Clauses 2 and 3 agreed to)

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Appropriation Bill and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Mr. Imanyara) in the Chair]*

REPORT AND THIRD READING

THE APPROPRIATION BILL

Mr. Poghisio: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Appropriation Bill and approved the same without amendment.

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Speaker, Sir, I beg to move that The House doth agree with the Committee in the said Report.

The Vice-President (Prof. Saitoti) seconded.

(Question proposed)

(Question put and agreed)

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Appropriation Bill be now read the Third Time.

The Vice-President (Prof. Saitoti) seconded.

(Question proposed)

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, I just want to make a few observations. Now, that we have passed this Appropriation Bill, we should realise that every year we come here to debate the amounts of money which have been misappropriated. I want to take from what the Minister said that he will bring a quarterly Report in this House, showing that the money has been spent well. We hope he will not be reporting to us here how much money has been misappropriated, stolen or misused. Let us hope that what we have passed here is what will be followed. This is because, unfortunately, the Government is so good in telling us that this or that will be done. They keep on telling us that they have the goodwill, but at the end of the day that is not what we find.

We find that the Public Accounts (PAC) and Public Investments Committees (PIC) come here and tell us how much money has been misappropriated or misused. I want to believe the Minister what he has promised this House will be done. However, with regard to the quarterly Report, he needs to tell us precisely, how much has been spent and how much is also remaining. Otherwise, if it is spent in advance, then it means we will find ourselves in problems. However, I want to trust that what the Minister tells us here will be so and for that reason, let us take his word for it.

Mr. Kibicho: Mr. Temporary Deputy Speaker, Sir, now that we have approved this Bill we expect the Minister to quickly release money to Treasury, so that the pending bills can be paid immediately. There have been problems and business has come to a standstill. The majority of our businessmen cannot operate.

(Question put and agreed to)

*(The Bill was accordingly read
the Third Time and passed)*

Second Reading

THE CONSTITUTIONAL OFFICES
(REMUNERATION) (AMENDMENT) BILL

(The Minister for Finance on 2.11.2000)

(Resumption of Debate interrupted on 2.11.2000)

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Murungi was contributing.

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, I was on the Floor and I think I have 25 minutes to go. As I said last time, I am supporting this Bill subject to one condition. That condition is that the proviso to Clause 2 of the Bill which gives the President power to determine the entry point of a constitutional officer to the salary scale be deleted. I said we had discussed that in the Legal Affairs Committee and the Attorney-General indicated that, the Government would accede to delete that proviso.

Mr. Temporary Deputy Speaker, Sir, as we said, this Bill is seeking to legalise unconstitutional and illegal salaries paid to holders of constitutional offices; that is the Attorney-General, Chief Justice, the Judges of the Court of Appeal and the High Court and the Auditor and Controller-General since 1985. The Constitutional Offices Remuneration Act, Cap.423 of the Laws of Kenya fixes the job groups and the salaries of those officers. Those job groups and salaries cannot be changed without amending the law and without getting approval of this Parliament.

Mr. Temporary Deputy Speaker, Sir, however, since 1985, the Attorney-General himself and the judges who are custodians of the law have received illegal salaries and this House is being asked to validate and legalise those salaries.

Mr. Temporary Deputy Speaker, Sir, our complaint is that the Executive has treated this House as a rubber stamp. The Executive has usurped the powers of this House. As we are speaking now, those salaries are still illegal and unconstitutional and if we do not pass this Bill, then the Attorney-General and the judges will be required by the law to refund the salaries they have received, to the Government. This is because there will be no legal basis to justify the payment of those salaries.

Mr. Temporary Deputy Speaker, Sir, constitutional offices in this country have been characterised generally by poor performance. They have been badly hit by tribalism, politicisation, incompetence, low morale, poverty and lack of resources. So, there is operational ineffectiveness. Section 26 of the Constitution establishes the Office of the Attorney-General. In practice, the Attorney-General is, in effect, a jack of all trades and a master of none. He is neither an animal nor a bird. He is like a bat. The Attorney-General is a Member of Parliament; member of the Cabinet; a civil servant; he is the Head of the Bar that is made up of all the lawyers; he is the Public Prosecutor, and Protector and the

independent Legal Advisor to the Government. All these are conflicting and contradictory roles which cannot be effectively performed by any human being. The Attorney-General has misused his powers of *nolle prosequi* to protect his colleagues in the Cabinet from prosecution for corruption and misuse of office. The Attorney-General performance in the last ten years has been miserable. It is a tragedy that we are giving unlimited security of tenure to the Attorney-General in our Constitution. We are likely to have Attorney-Generals for life.

The Assistant Minister, Office of the President (Mr. Haji): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the DP Shadow Attorney-General in order to criticise his KANU counterpart, who is not in this House?

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, I think we should have some seminars so that some hon. Members can be educated on what points of orders are, among other things.

Mr. Temporary Deputy Speaker, Sir, if Mr. Charles Njonjo did not resign on his own volition, as the Attorney-General, he would still be the Attorney-General of this country. Similarly, if Mr. Muli did not resign, he would still be the Attorney-General. Even Messrs. Kamere and Karugu resigned. So, we are stuck with these people. If there is an Attorney-General who decides not to resign, he would be the Attorney-General for life, until he dies. This is a very dangerous situation. Suppose we have an incompetent character in that office or a habitual drunkard as the Attorney-General; are you going to subject this country to that kind of officer? I think it is high time, as we are talking about constitutional amendments, we limited the term of the Attorney-General to a maximum of ten years.

I would propose that the Attorney-General serves for five years, and if he has done well, he is given a second term of five years. However, after a second term, just like we are doing with the Presidents, the Attorney-General should not continue, however good he is. That is only the way we can get away from a situation of having an Attorney-General for life.

Mr. Temporary Deputy Speaker, Sir, we also feel that it is high time we created a Ministry of Justice to deal with the political aspects of administration of justice. Right now, we have an Attorney-General who cannot control the police force because it is under the Office of the President. We have an Attorney-General who cannot control the prisoners because they are under the Ministry of Home Affairs, Heritage and Sports. So, what area of justice is the Attorney-General in charge of? We need a Ministry of Justice which co-ordinates all these departments and then the Attorney-General remains a civil servant; a person who is neither a Member of Parliament nor a Cabinet Minister. He should be purely a civil servant who gives impartial legal advice to the government of the day. We also feel that the Attorney-General should be appointed with the approval of Parliament. The President should not appoint any lawyer who happens to be known to him, to be the Attorney-General. Top lawyers should be short-listed and brought for approval by this Parliament before they can be appointed by the President to the office of the Attorney-General. That is the only way we can protect ourselves against official incompetence in that office.

Mr. Temporary Deputy Speaker, Sir, with regard to the office of the Controller and Auditor-General, again, Section 110 of the Constitution provides for appointment of the Controller and Auditor-General by the President. Currently, the President is not supposed to consult anybody and the qualifications of the Controller and Auditor-General are not set up. So, any person, including a cook, can be appointed as the Controller and Auditor-General by the President and there is nothing we can do about it. So, we feel it is high time that basic qualifications of the Controller and Auditor-General were set up in the Constitution. The holder of that office should also be endorsed by Parliament before appointment. Kenya has had only one Controller and Auditor-General, Mr. Njoroge, since Independence. He is a good man. He has done a good job. However, we feel it is time for him to go now. Sitting in that office for over 30 years must be boring for any person. We feel we should limit the terms of the Controller and Auditor-General, preferably also to a maximum of 10 years. He or she should serve for five years first and if we are happy with his work, we can give him another term. That is the only way we can avoid a situation of having a Controller and Auditor-General for life.

Mr. Temporary Deputy Speaker, Sir, we also feel that the office of the Controller and Auditor-General should be split into two offices. There should be an office of the Controller-General. The work of the Controller-General should be to monitor the day to day performance of the Government. Sometimes when we approve expenditure by the Government like we have through this Budgetary process, there are some civil servants who will try to implement projects which were not in the Budget without following the financial procedures of the Government. We feel that instead of waiting for the Report of the Controller and Auditor-General after all the mess has taken place, there should be a Controller-General who monitors the day to day expenditure of these funds and should be able to stop any misuse of public funds at an early stage. Then there should be the Auditor-General who performs the current roles of the Controller and Auditor-General which is merely auditing Government books at the end of the year to find out whether the expenditures were in accordance with law and whether they were authorised by this Parliament.

Mr. Temporary Deputy Speaker, Sir, we also feel that we should create another constitutional office of the Director-General of the KACA. Although there is limited security of tenure provided by the Prevention of Corruption

Act, we feel that security of tenure is not sufficient. This office should be constitutional office and given security of tenure like in the cases of the Attorney-General and the Controller and Auditor-General. The Director-General of the KACA should be given the mandate to implement all the recommendations of the Controller-General and the Auditor-General in so far as the expenditure of public funds is concerned, so that where we had the Attorney-General receiving recommendations from the PIC and PAC and doing nothing about them; the Director-General of the KACA should be able to take up those cases immediately and arraign those people in the courts.

Mr. Temporary Deputy Speaker, Sir, with regard to the Judiciary, of course, it is obvious that the Kenyan Judiciary is the most rotten Judiciary in Africa. The Kwach Report, prepared after investigations by a Judicial Committee contains sufficient evidence for us to come to this conclusion. According to the Report, our Judiciary is of low quality that is characterised by poverty, corruption, incompetence and lack of independence. Our judges are not appointed on merit or on any professional criteria. Many of them have been appointed on grounds of nepotism, tribalism and because they have political connections. We have very brilliant lawyers in this country who can never make it to the Judiciary, like Dr. John Khaminwa, Dr. Gibson Kamau Kuria, Dr. Willy Mutunga and Prof. Kibwana. Those ones will never become judges so long as KANU and Moi are in power. Why is this? The reason is because we are appointing politically-correct judges. Top lawyers who are respected by other lawyers cannot make it because they are not politically-correct or because they come from the wrong tribes. The Kikuyu form one of the largest communities, and there are many Kikuyu lawyers in this country, but why are they not being appointed as judges of the High Court and judges of the Court of Appeal? Such appointments are purely based on tribalism.

Mr. Temporary Deputy Speaker, Sir, I have an occasion, as a practising lawyer, to interact with some judges. I know that judges live under very miserable conditions; they live in dire poverty. As we talk about independence of the Judiciary, we should understand that judges cannot give principled decisions if they continue living in conditions of perpetual poverty and if they are not secured from financial worries. We need to pay this country's judges salaries that are commensurate with the dignity and the honour of the high offices they occupy. There is no reason why this country's Attorney-General should earn more than the Chief Justice. Judges earn about Kshs60,000 when Members of Parliament earn close to Kshs400,000. At the very least, I would recommend that judges be paid the same salary as Members of Parliament.

An hon. Member: But an hon. Member is paid a salary of only Kshs10,000!

Mr. Murungi: I know that hon. Members are paid a salary of Kshs10,000, but I am talking about the salary and allowances that each hon. Member earns, which add to about Kshs400,000.

Mr. Temporary Deputy Speaker, Sir, we are saying that the total emoluments payable to judges should be equal to the amount of total emoluments paid to hon. Members. Hon. Members say that they donate most of the money they earn at Harambees. However, donating to Harambees is not compulsory; one can keep his money. We would recommend to the Attorney-General that this Bill be shelved for another six months, so that he can look at the whole question of the remuneration of judges and other holders of constitutional offices. He should bring the Bill here after six months with improved terms and conditions of service for the Judiciary. If we pass this Bill, as it is now, the Attorney-General will be required to bring here amendments to it, for us to increase salaries for the judges; that will be a waste of time. So, we recommend that the Bill be shelved until the Attorney-General looks again into the issue of remuneration and brings it back to us.

We are sympathetic to those serving in this country's Judiciary. Those people are doing a great job in very difficult circumstances, and we feel that we should do something about their remuneration. It is hypocritical for this Government to say that there is no money with which to pay judges. How many judges do we have in this country? We are talking about less than 50 people.

I remember that in 1997, we voted Kshs800 million to finance presidential visits to provinces, to inspect development projects. Parliament voted Kshs800 million for that purpose, but what did the President do? He went to Maua and found that there was no development there. He was given a lift in a lorry, because there were no roads.

An hon. Member: Who was given a lift in a lorry?

Mr. Murungi: The President. Wherever he stopped during that tour, he asked the crowd: "Wangapi ni wa KANU?" That was the "development" the President went to inspect in the provinces. Really, the Kshs800 million that was voted by this House was merely used for KANU campaign drive. So, out of that amount, we would rather have given the President Kshs300 million for his provincial tours and given the balance of Kshs500 to the Judiciary to enable judges determine court cases independently and fairly. We are concerned that a hungry judge may not be concerned about dispensing justice, but rather about food.

The Minister for Education (Mr. Musyoka): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is my learned friend in order to speak in derogatory terms in reference to the President and the Office of the President when he knows that President Moi was validly elected? He should know that because he is the Shadow Attorney-General of the Democratic Party of Kenya. His presidential candidate lost. He also knows what the Constitution says with regard

to executive powers over the Republic, and, therefore, would it not be in order for him to respect for once that office?

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, you know that is not a point of order. The hon. Minister wanted the President to hear that there is a person here who is very loyal to him, and I am sure the President has heard.

There is the question of appointment of the Chief Justice. Section 61 of the Constitution says that the President should appoint the Chief Justice. He is not required to consult any other person before he appoints the Chief Justice. At least, as far as the other judges are concerned, the President is required to consult the Judicial Service Commission. The Chief Justice is the top judge of this country - he is in charge of the entire machinery of administration of justice, and we should not leave this office purely to the whims of the President. Right now, Kenya has made history in the entire Common Law world by appointing a prosecutor to be the Chief Justice. It has never been heard of in the entire Common Law world, and, in fact, the matter was raised at a conference of judges of the Commonwealth and they expressed their concern at the trend that the administration of justice was taking place in Kenya following the appointment of the current Chief Justice. During the colonial period - under the Independence Constitution - the Chief Justice was to be appointed after consultations with the President of the Regional Assembly, the Governor-General and the Prime Minister. All those top offices had to sit down to determine who the Chief Justice would be.

We recommend that as we do carry out the constitutional reforms, more people are involved in identification and appointment of the high office of the Chief Justice. He or she should exclusively come from the Judiciary; a very top experienced judge should always be appointed as the Chief Justice. It will even be better if the Chief Justice is nominated by a conference of judges, because they know each other, and they know who can command better the respect of the other judges. The Law Society of Kenya (LSK) and the Kenya Judges and Magistrates Association should also be involved in identifying that judge. Once the names have been identified, they should be brought to this Parliament for approval and then finally taken to the President for the final formal appointment and gazette. That is how we can strengthen the system of administration of justice in this country.

There have been a lot of suggestions regarding the court system, and I support those who have been campaigning for the establishment of a supreme court manned by very experienced judges. The supreme court should be composed at the level of scholars - maybe professors of law - who should be the final authority on all judicial matters in this country.

Right now, there is a lot of confusion and perplexity in the law, as a result of cynical and unprincipled manipulation of legal authorities by the judges of the High Court and the Court of Appeal. It is even difficult for the lawyers to advise their clients on what the law is because what is the law in one case today is not the law in a similar case tomorrow. The whole doctrine of judicial precedence has been greatly undermined by interference in judicial decision making process in this country. For instance, election petitions in this country have become a game of chance. You do not know who will win or who will lose and there are no clear rules.

We do remember the petition that the Official Leader of the Opposition filed against President Moi. Before the petition was filed, there were three methods of serving the petition. You could serve it personally, through the *Kenya Gazette* and also through registered post. We duly served the petition through the *Kenya Gazette*. The High Court had said in previous cases, including hon. Maitha's case and Chelaite's case, that service by the *Kenya Gazette* was proper and legal under the election petition rules. When hon. Kibaki's petition landed in court, the High Court said there was only one mode of service and that was personal service. I think we are creating very bad laws. Who can penetrate the Presidential Guard to hand President Moi a piece of paper called the petition? This is saying that if a presidential candidate rigs elections and gets himself into power, there is no way he can be removed because he cannot be served with the petition papers. We thought it was a very bad law and we appealed to the Court of Appeal. Despite its previous decisions, the Court of Appeal overruled itself and upheld the High Court in saying that there is only one mode of service. As a result of that many other petitions which came afterwards - like the one of Betty Tett in Westlands - which had a lot of merit in them were also dismissed on the grounds that they were not properly served because there was no personal service. That is why we feel that we should have a final Court of Appeal which is above the day-to-day affairs and interference. We are talking about establishment of a new category of judges to man that supreme court. We would also prefer that the old East African Court of Appeal could be established with unlimited jurisdiction on all appellate matters in civil and criminal laws in this country. These are matters that should be attended to. Of course, the Electoral Commission exists largely in name. This is another area where we need to focus. We need a credible honest management of elections in this country. The Electoral Commissioners should also be supported and we should create sufficient infrastructure to enable that Commission to perform effectively if we are to have genuine free and fair elections in this country.

With those few remarks, I beg to support.

The Minister for Medical Services (Dr. Anangwe): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to make my contribution on the Constitutional Offices (Remuneration) (Amendment) Bill,

2000 whose objectives are, of course, to amend the Act in respect of the salaries of the holders of constitutional offices.

This particular Bill also seeks to validate increments on the salaries paid to the holders of these offices since 1st July, 1985. Already, there seems to be a problem. If we can wait for 15 years to validate in respect of specific categories of constitutional officers, you find that we have delayed to provide the requisite approval. That means that it may be necessary for this House to develop a more flexible way in which matters pertaining to the salaries of holders of constitutional offices should be handled. Already, we, as hon. Members, have said that we are legalising the illegality, but the burden and the responsibility for creating it is in this House which ought to have provided a mechanism through which issues of this nature are handled expeditiously.

All I am trying to do is to request the Attorney-General, in due course, to provide a more flexible manner in which these issues can be handled. This is because when there is a delay and the Government is obliged to resort to this kind of measure to pay salaries, as described, illegally, it may be prejudicial to the interest of these officers, particularly when some of them are judges, and whose responsibility is to ensure that the law is followed to the letter. So, whereas today we may pass this particular Bill, and I urge the House to do so, in the long term, we need a better way doing so. These officers perform very critical roles pertaining to governance in this country and matters related to their salaries should be central, so that they can be motivated. Whether it is a judge, an Attorney-General, a Chairman or a member of the Public Service Commission (PSC) or Electoral Commission of Kenya (ECK), they have needs to take care of. These people need food, shelter and all sorts of things in order to be satisfied. Therefore, we must streamline ways in which their salaries are being handled. We do not need to come here whenever we want to make changes to their salaries. Let us bestow that particular responsibility to some offices, be it the Attorney-General, the Judicial Service Commission or the Office of the President, so that this matter is handled expeditiously.

Mr. Temporary Deputy Speaker, Sir, I have looked at the salary scales and, indeed, as argued by some hon. Members here, of course, in relation to their needs and what is required as a salary to sustain a judge or an Attorney-General, they may not be adequate, but we have also to take cognisance of the reality in this country in terms of what the economy can support. It is not that the Government employees, judges or the Attorney-General do not deserve more, but it is just simply a recognition that this is what is available. The cake is so small that if we decided to give the judges an amount higher than what has been given to them, there may not be enough for others. So, the judges should be contented with what they have although there is a recognition that they deserve more.

The same thing applies to the Chairman of the ECK, and the Controller and Auditor-General.

The Temporary Deputy Chairman (Mr. Imanyara): Dr. Anangwe, I am sorry I have to cut you short, but you will continue with your contribution tomorrow.

An hon. Member: Time up!

ADJOURNMENT

The Temporary Deputy Chairman (Mr. Imanyara): It is now time for the interruption of business. The House is, therefore, adjourned until 8th November, at 9.00 a.m.

The House rose at 6.30 p.m.