

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 3rd July, 1997

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Mr. Shikuku: Mr. Speaker, Sir, before I ask this Question, it has become a habit by the Ministries these days not to supply us with the written replies as is normally required. Is this situation going to continue forever? I do not have a written reply to my Question No.351.

*(Mr. Sunkuli passed on the written
reply to Mr. Shikuku)*

Question No.351

APPOINTMENT OF CHIEF FOR MARAMA LOCATION

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

- (a) if he is aware that Marama East Location has been without a chief for the last five years; and,
- (b) if the answer to "a" above is in the affirmative, when he will advertise the post.

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

(a) Yes, I am aware.

(b) The post was advertised and interviews conducted on 30th May, 1997.

However, after the hon. Member asked the Question, we ensured that the appointment of the new chief has actually been expedited and he has taken up his duties.

Mr. Shikuku: Mr. Speaker, Sir, arising from that reply which to all purposes is rather affirmative, is the Assistant Minister aware that for people not to have a chief for over five months is, in itself, detrimental to the welfare of the people and the development of a given area? Even as I speak now, there is a chief who has been acting in Kisa West for the last two years. Is that fair?

Mr. Sunkuli: Mr. Speaker, Sir, I wish to thank the hon. Member for having brought this matter to my notice. As soon as I received this matter, I expedited the appointment of the chief. I am aware that, that vacuum was not good.

Mr. Speaker: Very well! Next Question, Mr. Munyasia! Sorry, hon. Munyasia. You indicated to me that you want the Question deferred. So, it is deferred!

Question No.450

ACTIVITIES OF ROAD SAFETY NETWORK

(Question deferred)

Mr. Speaker: Next Question, Mr. Kiliku!

Question No.300

ISSUANCE OF TITLE DEEDS TO MIKINDANI AND CHAANI RESIDENTS

Mr. Kiliku asked the Minister for Local Government, when the tenants of Mikindani and Chaani Site and Service Schemes will be issued with title deeds.

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

Certificates of lease for Mikindani and Miritini residents will be issued at the beginning of January, 1998. Survey of Chaani individual plots will commence soon. After this exercise, certificates of lease will be issued.

Mr. Speaker, Sir, Mikindani has got 1,593 plots having been surveyed, and it is expected that issuance of individual certificates of lease will commence by the beginning of January, 1998, subject to approval.

Miritini has got 171 plots. Having also been surveyed, issuance of certificates of lease is expected to commence by January, 1998.

Chaani residents will be issued with certificates of lease after survey of individual plots is done.

Mr. Kiliku: Mr. Speaker, Sir, since 1985 up to this year is about 12 years. Why has it taken the Council too long to survey Mikindani and Chaani Site and Service Schemes?

Mr. Kamuren: Mr. Speaker, Sir, it has taken a lot of time because any survey that involves anything to do with a piece of land, particularly, where you have to take care of individual rights, takes longer than expected. According to this answer, I am sure by January 1998, the whole exercise will be completed.

Mr. Kiliku: Mr. Speaker, Sir, when will the survey in Chaani Site and Service Scheme commence and how long will it take?

Mr. Kamuren: Mr. Speaker, Sir, we have ordered the surveyor to start doing it from November, this year. We want it to take four months only, so that it is ready by next year.

Mr. Kiliku: Mr. Speaker, Sir, could the Assistant Minister assure this House that the Council or councillors will not demand 10 per cent from the contractor who was given this job? This is the reason why this job has taken 10 years. When I spoke to the contractor, he said he was reluctant to pay 10 per cent.

Mr. Speaker: Mr. Kiliku, do you know what you are talking about? We are talking about issuing of title deeds, not contractors. Have you forgotten your own Question?

Mr. Kiliku: Sorry, Mr. Speaker, Sir. The Surveyor who was surveying these plots was requested by the Council to pay 10 per cent to those Councillors and that is why he left the site and somebody else from Mikindani was given the contract after having accepted to pay 10 per cent to the Councillors. Could the Assistant Minister assure this House that the question of 10 per cent will not arise this time?

Mr. Kamuren: Mr. Speaker, Sir, that is a serious issue. If there is anything to that effect, then that is part of corruption. We will make sure we follow it up from the Ministry and make sure we stamp it out, so that it will never happen again.

Mr. Speaker: Very well! Next Question, Mr. Rotino!

Question No.428

DESILTING OF DAMS IN SIGOR DIVISION

Mr. Rotino asked the Minister for Land Reclamation, Regional and Water Development, when the dams and water pans in Masol and Sekerot locations of Sigor Division, West Pokot District will be constructed and desilted.

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

In view of the big number of dams and pans that require to be distributed all over the country, my Ministry intends to desilt them before embarking on construction of any new ones. As a result, the Ministry has taken stock of all the water conservation structures that require to be rehabilitated and has submitted this list to Treasury for funding. Desilting work of this dams will start as soon as the required funds are made available.

In the meantime, my Ministry has, through the West Pokot District Integrated Development Programme, set aside a total of Kshs2 million to rehabilitate Lokishokona and Kawaiibel pans in Masol Location. Work on these structures will start as soon as the dam construction equipment finishes desilting three dams in Kacheliba Division.

Mr. Rotino: Mr. Speaker, Sir, I want to inform the Assistant Minister what he does not know. The Assistant Minister says in his reply that the equipment will be taken to Masol Location when they finish desilting dams in Kacheliba Division. As I speak now, and I come from the area, there is no desilting of dams taking place in Kacheliba. So, the Assistant Minister is misleading the House and the people of West Pokot. This is the same Question I had asked about two years, and nothing has been done. Could the Assistant Minister therefore, assure the people of West Pokot and those people in the locations in question that the funds and the equipment will be made

available as soon as possible?

Mr. Ligale: Mr. Speaker, Sir, I have already given that assurance.

Mr. Otieno: Mr. Speaker, Sir, this is what is aptly called "passing the buck". The Ministry is passing the buck to Treasury when the Printed Estimates are already out. The Ministry has not given priority to dams, yet it knows that wherever a dam was dug, it was because it was the only source of water. So, here you are sitting, aware that some people have lost their only source of water and you have done nothing. Could the Assistant Minister tell this House, how that the Printed Estimates are now out, why they are not giving priority to the dams and how much money has been allocated this year for the dams?

Mr. Ligale: Mr. Speaker, Sir, we have given priority to dams and that is why we have done a comprehensive exercise to determine the number that requires to be desilted so that we can have a phased programme over the next two to three years. During this Financial Year, we are already desilting some and that is why I quoted the figure that relates to this particular district of West Pokot.

Mr. Farah: Mr. Speaker, Sir, in the past, we used to have dam construction and desilting units in most districts in the country. We do not have them now. What happened to those units because, those were units that used to work on a permanent basis? They desilted, constructed the dams and kept on doing that job, the same way you have a policeman going in the morning to perform his duty and coming back in the evening. What happened to that unit? Why did you disband it? Where is it?

Mr. Ligale: Mr. Speaker, Sir, we do not have desilting units in every district. We do have some, but they have to work from one district to the next.

Mr. Nyagah: Mr. Speaker, Sir, we would like the Assistant Minister to tell us where those units are based. I am saying these because we have the famous Masinga Dam which provides electricity to this country, and if you bother to visit it, it has accumulated a lot of silt up to Sagana Bridge. Where within this country do we have those units so that we know for sure that the Government is concerned about this problem which is perennial?

Mr. Ligale: Mr. Speaker, Sir, those units are based at the Provincial Headquarters. In the case of the Masinga Dam, which the hon. Nyagah is referring to, clearly, that would fall under the relevant authority; the Tana and Athi Rivers Development Authority (TARDA).

Mr. Rotino: On a point of order, Mr. Speaker, Sir. The Assistant Minister has evaded answering my Question.

An hon. Member: Totally!

Mr. Rotino: He has not answered the Question because as we all know, the equipment is not even in Kacheliba. The machines have not even been mobilised there. So, how can he assure me that he is going to start dam construction? I can take him to Kacheliba so that he can show me where the dams are being desilted.

Mr. Ligale: Mr. Speaker, Sir, I have given an assurance to the Member for Sigor that the two dams that have been listed in this answer will be desilted during this new Financial Year.

Mr. Rotino: On a point of order, Mr. Speaker, Sir. The Assistant Minister is still evading the Question. In the first place, he said that the equipment is in Kacheliba, but I am telling him that it is not even there.

An hon. Member: Where is it?

Mr. Rotino: So, how can he move to Sigor, before the equipment is taken to Kacheliba in the first place? How can he move the equipment even when it is not there? Through the Chair, I want him to accompany me to Kacheliba, to show me where these machines are.

Mr. Ligale: Mr. Speaker, Sir, I did state that the desilting unit will carry out work first in Kacheliba and from there, it will go to Sigor. I did not say that the equipment was at Kacheliba.

Mr. Speaker: Mak'Onyango's Question.

Question No.080

PAYMENT OF SALARY ARREARS TO MR. OHADHA

Mr. Otieno Mak'Onyango is not here? We will come back to it.

Mr. Imana's Question.

Question No.004

REFUND OF MR. LOTEON'S CONTRIBUTION

Mr. Imana asked the Minister for Co-operative Development:

(a) whether he is aware that Mr. Longacha Loteon, Membership No.214991, Personal No.142661, was a member of Harambee Savings and Credit Co-operative Society from 1976 to 1980;

(b) if he was further aware that between 1976 and 1980, Mr. Loteon contributed Kshs18,926 which has not been refunded to him despite constant requests; and,

(c) if he could ensure that this amount is immediately refunded to Mr. Loteon.

Mr. Speaker: Anybody from the Ministry of Co-operative Development?

Mr. Ndicho: On point of order, Mr. Speaker, Sir. I want you to help us as far as the Ministry for Co-operative Development is concerned because every time there is a Question for this Ministry, it is dropped after you have called it for the second time, but immediately thereafter, the Minister comes into the House.

(Mr. Ndicho made a gesture)

Mr. Speaker: What are you showing now?

Mr. Ndicho: Mr. Speaker, in those circumstances, what are you going to do because after you have dropped this Question, he is going to come in?

Mr. Speaker: Well, at least, I will not dance like you. Can we wait for him?

Question No.169

FIRE OUTBREAK AT PAN PAPER MILLS

Mr. Busolo asked the Minister for Labour and Manpower Development:

(a) why it was impossible to immediately extinguish the fire outbreak at the Pan African Paper Mills Limited factory, Webuye, on the 27th April, 1996, in terms of Sections 36, 41 and 42 of the Factories Act; and,

(b) could he explain whether any fire audit inspection had been done before the April 27th fire incident and what its findings were.

The Assistant Minister for Labour and Manpower Development (Mr. Ali): Mr. Speaker, Sir, I beg to reply.

(a) It was not possible to immediately extinguish the fire outbreak at the Pan African Paper Mills factory in Webuye on 27th April, 1996 because the fire fighting equipment was inaccessible.

Though serviceable, the appliances could not be reached in time due to obstruction caused by stock piles of finished products.

(b) There was no immediate fire audit inspection at the factory preceding the fire incident on 27th April, 1996. However, a general inspection of the entire factory covering all aspects of safety, status of fire fighting appliances inclusive, was carried out in March in 1997.

Mr. Busolo: Mr. Speaker, Sir, following the reply to part "b" of the Question, could the Assistant Minister tell this House what the findings of that fire audit report were?

Mr. Ali: Mr. Speaker, Sir, I did not follow clearly, there has been some noise. Could the hon. Member repeat his Question?

Mr. Busolo: He said that, "however, the general inspection of the entire factory covering all aspects etc was done." What were the findings?

Mr. Ali: Mr. Speaker, Sir, the findings were that there was no proper installation of detectors, neither were extinguishers placed properly and the fire extinguishers were not of modern standard and the personnel had no proper training.

Mr. J.N. Mungai: Mr. Speaker, Sir, could the Assistant Minister agree or disagree with me that this is a failure on the part of the Ministry because, there are some requirements in the Labour Act to do with fire equipments; that they must be usable and they must be accessible at all times since these equipments are necessary for saving lives and property. At this particular time, these equipments were not usable which meant that it was a failure on the part of the Ministry because of poor inspection. Could the Assistant Minister agree or disagree with that?

Mr. Ali: Mr. Speaker, Sir, the equipment was serviceable and usable, but it was not accessible.

Mr. Maore: Mr. Speaker, Sir, many buildings that have caught fire in Nairobi and elsewhere have usually been razed to the ground. What modern fire fighting equipment does he have in urban centres in this country? What training measures does he undertake?

Mr. Ali: Mr. Speaker, Sir, the equipment is not with us: It is sold in the open market. But we advise on the type of modern equipment to be used. We make such a recommendation and then every factory is at liberty to look for the best modern equipment for its use.

Dr. Kituyi: Mr. Speaker, Sir, considering that by a decision of the management a lot of manufactured products, bales of paper, had been stockpiled in the path of fire extinguishers - the fire engines which were brought to help extinguish that fire - considering further that the management had by default not trained personnel on the use of existing fire extinguishers, considering further that actually fire extinguishers on the property were never used in extinguishing that fire, given that M/s Pan African Paper Mills were given the largest compensation in the history of this country for the destruction of their factory by that fire, can the Assistant Minister explain why he does not suspect that there was something fishy? Why was such a hurried insurance payment made before a fire audit was undertaken?

Mr. Ali: Mr. Speaker, Sir, that is a totally different question on payment of compensation. However, I have said in the past that we have competent officers who carry out inspections regularly, particularly at the Pan African Paper Mills Factory. If the hon. Member is interested in seeing it, I wish to inform him that I have a detailed report of the inspection carried out in March, 1997.

Mr. Speaker: Mr. Mak'Onyango's Question.

Question No.080

PAYMENT OF SALARY ARREARS TO MR. OHADHA

Mr. Speaker: Mr. Mak'Onyango is still not here? His Question is dropped.

(Question dropped)

Question No.004

REFUND OF MR. LOTEON'S CONTRIBUTION

Mr. Imana asked the Minister for Co-operative Development:-

- (a) whether he is aware that Mr. Longacha Loteon, Membership N. 214991, Personal No. 142661, was a member of Harambee Savings and Credit Society from 1976 to 1980;
- (b) whether he is further aware that between 1976 and 1980 Mr. Loteon contributed Kshs18,926 which has not been refunded to him despite constant requests; and,
- (c) whether he could ensure that this amount is immediately refunded to Mr. Loteon.

Mr. Speaker: Since there is still nobody here from the Ministry of Co-operative Development I will defer this Question.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

DISPUTE OVER NGONG PLOT OWNERSHIP

Mr. Murungi: 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 on Tuesday 17.6.97, Mr. Mohammed Kotikash Malambu of Bulbul Location, Ngong Division, incited Muslims residing in Bulbul village to chase away the district surveyor, who had gone to point out beacons of Plot No. NGONG/BULBUL/TOWNSHIP/40, which belongs to the Catholic Diocese of Ngong?
- (b) Is the further aware that the Muslims, supported by paramount chief, Idd Hassan Malambu, have prevented the Catholics from constructing a Catholic Church and a dispensary on the said plot since July, 1993?
- (c) What urgent steps is the Government taking to ensure that the Catholics in Bulbul Location enjoy the protection of their property rights guaranteed by Section 75 of the Constitution by taking possession and developing the plot?

The Assistant Minister, Office of the President (Mr. Awori): Mr. Speaker, Sir, in the first instance the written answer to this Question that might have been given to the hon. Questioner contains wrong information.

Mr. Speaker, Sir, I beg to reply.

- (a) No, I am not aware.

(b) No, I am not aware.

(c) After the incident of 17.6.97, where the district surveyor was chased away from the Catholics' plot, the district officer (DO) held a meeting between the members of the Ngong Catholic Diocese and the Muslims of Bulbul Location, where it was agreed that the Catholics can develop their plot without interference. Arrangements are under way to issue documents of ownership to the Muslims, who are squatters on Government land in Bulbul Location.

Mr. Murungi: Mr. Speaker, Sir, the answer given by the Assistant Minister is very interesting. This is because he has said that he is not aware of the dispute mentioned in parts (a) and (b) of the Question. But in answer to part (c) he said that there was a meeting after the dispute. How can he be aware of a meeting to resolve a dispute, which he is not aware of?

Mr. Speaker: Mr. Murungi, do you need an answer to that question?

Mr. Murungi: No, Mr. Speaker, Sir. That was just a preamble to my question. The Catholic Diocese of Ngong, which has asked me to ask this Question, has got the title deed to this land where they want to build a church, but the Muslims have made it impossible for them to do that. The diocese also has a court order restraining the Muslims from preventing the Catholics from putting up this church. Given the defiance of the Muslim community to the court order, could the Assistant Minister now assure the House that as a result of the meeting, which he alleges took place, the Catholic Diocese of Ngong can now go ahead and build a Catholic Church on this plot, and that the Provincial Administration will protect them as they construct the church?

Mr. Awori: Yes, Mr. Speaker, Sir, I can give the assurance that the Provincial Administration will protect members of the Ngong Catholic Church Diocese, and ensure that they construct their church.

Mr. Maore: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to contradict his own answer to the effect that the Commissioner of Lands will issue a title deed to the Muslims? He now says that the Provincial Administration will protect the Catholics. Which is which?

Mr. Awori: Mr. Speaker, Sir, if hon. Members had a bit of patience and allowed me to complete my answer, then points of order would be unnecessary.

I wanted to clarify that in answer to part (a) of the Question I said I was not aware because the Question stated that a paramount chief had incited Muslim youths. So, I am not aware that the paramount chief incited Muslim youths. In fact, the paramount chief has had a very good effect on the Muslim youths in ensuring that they do not interfere with a plot that has legally been given to the Catholic Church. As for the Provincial Administration, I meant to say that the Government is now in the process of educating Muslims in that area to ensure that they seek title deeds for the area in which they live, which does not encroach on the plot for which a title deed has been issued to the Catholic Church.

Mr. Farah: Mr. Speaker, Sir, it is very unfortunate that quite often the conduct of the Government also leads to a conflict between different tribes. The problem is that the Muslims who have lived in their traditional land for over 100 years do not have title deeds to it. We had a similar problem in Nyeri. We have a similar problem in Kibera. We have a problem in every urban centre. That same land is now being allocated to individuals, churches and other organisations. These people have lived in the Muslim Village for over 80 years. This is recorded and I know it. These people have not been given a title deed to the land on which they are living; instead a church has been given a title deed to develop the same land. As a matter of urgency, and in a bid to avert a religious crisis in this country, could the Assistant Minister immediately give title deeds for all muslim areas in Kibera--

Mr. Speaker: What is your point of order, Mr. Murungi?

Mr. Murungi: On a point of order, Mr. Speaker, Sir. Is it in order for hon. Farah to allege that the Catholic Diocese of Ngong has been allocated land belonging to Muslims when this is not the case? In fact, the Assistant Minister has said that the land allocated to the Catholic Church is different from the land for which the Muslims are going to be allocated a title deed. Is hon. Farah in order to mislead the House that the Catholic Diocese of Ngong has been allocated Muslim land?

Mr. Farah: Mr. Speaker, Sir, I have not finished my question.

Mr. Speaker: Order, Farah! Order, the two of you! The last thing I want is to have religious wars in the House. So, can the Assistant Minister now answer?

Mr. Farah: Mr. Speaker, Sir, I have not completed my question.

Mr. Speaker: You wanted to answer it yourself?

Mr. Farah: Mr. Speaker, Sir, he rose on a point of order before I finished my question.

Mr. Speaker: What was it?

Mr. Farah: Mr. Speaker, Sir, my question is: As we stand here today, those Muslims do not have title deeds to that village and the church has a title deed that was issued in 1993. The Muslims have been living in that village for over 80 years and the same happens all over our urban centres in this country. I have no problem with the church being

built in a Muslim village because we can also build a mosque, but we always buy land for mosques; we are never allocated land.

To avert this crisis now, could the Assistant Minister allocate land to Muslims in places where they have lived for a long time, for example, Majengo, Bulbul, Nyeri, Murang'a and in all these urban centres? In all these Muslim villages, he should give title deeds to the Muslims, including Bulbul, which he has not done up to now.

Mr. Awori: Mr. Speaker, Sir, there is no crisis. At this stage, the Physical Planner is in the process of preparing sub-divisions and when the sub-divisions are completed, Muslims who have been living on that land are going to be issued with the title deeds.

(Applause)

Mr. Speaker: Very well, the last question, Mr. Mwiraria.

Mr. Mwiraria: Mr. Speaker, Sir, since the Kenyan Constitution guarantees freedom of worship, and since we have got religious organisations of different shades and colours who must co-exist in this country for many years to come; given the fact that you have yourself noticed that we are almost having a religious war in the House, what action does the Government propose to take to ensure that the various religious groups in this country co-exist peacefully, particularly, in Ngong and in the rest of the country with regard to activities of the Government, such as land allocation and so on?

Mr. Awori: Mr. Speaker, Sir, when the Government allocates land, the question of religion does not come in. Secondly, to my knowledge for a long time, there are no conflicts here; there is no religious rivalry, definitely, based on division or allocation of land.

ARREST OF HAWKERS

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

(a) Why has the Police been arresting hawkers in Meru Municipality almost on a daily basis during the last fortnight?

(b) Since many of the hawkers have been carrying out their business in the municipality for the last ten years or so, what corrective action, if any, are they required to take so that they continue with their business uninterrupted?

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

(a) The police have been arresting hawkers in Meru Municipality for conducting business without valid trade licences and doing so outside banks, thus creating a security risk.

(b) The affected hawkers have been advised to apply and to obtain licences from the Meru Municipal Council so that they can be allocated appropriate areas to conduct their business.

Mr. Mwiraria: Mr. Speaker, Sir, while I appreciate the answer from the Assistant Minister, I would like to draw to his attention the fact that the reason he has given for the harassment of the poor hawkers does not quite seem to be borne out by the actions which have taken place since. Most of the hawkers who were affected used to operate from a plot which was set aside as public land, which was being used by hawkers, but which land has since been fenced off because it has been allocated to somebody illegally because the municipal council has not done the allocation. Could the Assistant Minister check on that? Could he also assure this House that once the hawkers have got valid licences from the municipality they will be left alone?

Mr. Awori: Mr. Speaker, Sir, in response to the first supplementary question, I have not got information as to who made the allocation of the municipal land that has been fenced off where the hawkers used to ply their trade. It cannot be the Commissioner of Lands; it has to be the Meru Municipal Council. I have not got that information, but I can seek it.

Regarding the second point, my answer is that: Yes, indeed I can give assurance that once the hawkers have been given the appropriate licences, they will be protected and not be harassed.

Mr. Murungi: Thank you, Mr. Speaker, Sir. It is true that hawkers are doing their business outside the banks in Meru because all the public land in Meru has been grabbed by private individuals. Therefore, the hawkers have no other place to do their lawful business other than at the available space, which is outside the banks. Given this fact, could the Assistant Minister consider allocating some land to these hawkers so that they can lawfully carry out their business there because they too have children, stomachs and they need to eat? Could the Assistant Minister look into this problem?

Mr. Awori: Mr. Speaker, Sir, I can give that assurance since I have got great sympathy for the hawkers. In fact, they are people who need respect because they take the trouble of trying to be self reliant.

Prof. Ouma: Mr. Speaker, Sir, arising from the answer which the Assistant Minister has given, and arising from the recent events surrounding hawkers in Nairobi, may I put the following questions to the Assistant Minister:-

First, I believe that hawkers are entrepreneurs just as jua kali industrialists are entrepreneurs. Could we accord the hawkers the same treatment in commerce as we accord jua kali artisans in industry? If the Assistant Minister agrees with that, could he adopt, as a general policy, that in each major township, the hawkers be given a section where they can practise their trade as beginning commercial men?

(Mr. Munyi was applauded as he entered the Chamber)

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir. We anticipated what the Minister has just done. In view of that, could you make sure that this Minister desists from coming just after Question time to avoid his Questions? Could you make him answer the Questions for a change?

Mr. Speaker: I suppose hon. Ndicho had a point.

(Applause)

Mr. Speaker: Order! I think hon. Munyi has already acquired a very bad reputation, and I hope next time he will not come in late. But I will consider what to do with the Question.

An hon. Member: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Continue, Mr. Awori.

Mr. Awori: Mr. Speaker, Sir, I agree with hon. Prof. Ouma that the hawkers are entrepreneurs that should be treated just like those working in the jua kali sector. I think, it is a question that will require many Government departments to sit down together and consider it. There is a great deal of merit to ensure that all townships do set aside land specifically for hawkers.

Prof. Ouma: On a point of order, Mr. Speaker, Sir. The Assistant Minister has fallen just short of saying what he should have said. I agree with the Assistant Minister, but I am asking him whether he can assure us that he will follow up this matter so that it comes out as a means of managing entrepreneur commercial enterprises? Could he assure us that he will ensure that this is done because he can appreciate it and this could be the end of it?

Mr. Awori: Mr. Speaker, Sir, I did give that assurance before continuing with my answer that various Government departments would have to get together, sit down and ensure that land is allocated or set aside in all townships for these people.

Mr. Mwiraria: Thank you, Mr. Speaker, Sir. I want to draw the attention of the Assistant Minister to the fact that all public land in Meru Municipality has been allocated by a triumvirate of the district commissioner, the physical planning officer and the clerk to the County Council and not to the municipal council itself. Is there any point in setting aside any more land if it is going to be allocated in the same illegal way or will the Ministry stop that practice since the chairman is the district commissioner?

Mr. Awori: Mr. Speaker, Sir, the hon. Member has an advantage over me because I have not got the information that there is a triumvirate that has been allocating this land.

PROVISION OF PROTECTIVE GLOVES
TO POLICE OFFICERS

Mr. J.N. Mungai: 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 the Police Traffic Officers do not have gloves to use while rescuing accident victims or collecting casualty bodies from scenes of accidents?

(b) Could the Minister provide the officers with gloves to protect them from contracting serious diseases such as AIDS?

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

(a) No, I am not aware.

(b) Surgical gloves have been provided to all police units including the traffic police.

Mr. J.N. Mungai: Mr. Speaker, Sir, it is very unfortunate because the Assistant Minister is denying the obvious. This is obvious because while travelling from my home to Nairobi, I have on many occasions found

incidences of various accidents. We have witnessed traffic police officers trying to rescue the accident victims and many a time, we have even seen them doing it without the gloves. We have witnessed traffic police get hurt by the wreckage and this is what has prompted me to bring this question here. Could the Assistant Minister order that if the gloves are available, then the officers must use them and if they do not have them they must make sure that they are bought? This is because I know that they are not there.

Mr. Awori: Mr. Speaker, Sir, I share the great concern of the hon. Member. Since the advent of AIDS, we have to be very careful in treating fresh blood wounds. In the fiscal year 1996/97, 5,000 gloves were purchased and distributed to all police officers including traffic police. What we have got to do is to instill obedience in the police to use these gloves when they are handling traffic cases particularly where bleeding is taking place.

Mr. R. K. Mungai: Mr. Speaker, Sir, now that the hon. Assistant Minister has given us a figure of the number of gloves that they bought in the year 1996/97, could he tell this House how many police officers were beneficiaries of these gloves? Is the Assistant Minister sure that those gloves were sufficient considering the number of traffic accidents?

Mr. Awori: Mr. Speaker, Sir, those gloves were not sufficient. In fact, as soon as the AIEs are issued for the 1997/98 fiscal year, very many more gloves are going to be purchased.

Mr. Mulusya: Mr. Speaker, Sir, the Assistant Minister is misleading this House. It is evident that it is only the Presidential Motorcade policemen who wear gloves while the rest do not wear them. The surgical gloves are only used when an operation is going on in a theatre. Could the Assistant Minister tell us now whether he is going to supply these traffic police with proper gloves to handle accident victims who at times require to be rescued physically from the accident wreckage?

Mr. Awori: Mr. Speaker, Sir, the gloves that have been purchased and distributed are the proper gloves that have to be used when you are handling accident victims.

Mr. J.N. Mungai: Mr. Speaker, Sir, now that the Assistant Minister has admitted that during the previous financial year they did not buy enough gloves, could I also remind the Assistant Minister that to be able to raise more funds to buy such very important equipment for traffic officers, they have to reduce the purchase of tear gases, ammunition, and batons and make sure that they buy such very important equipment because the transmission of AIDS disease has become a worse killer than the tear gases and ammunition?

Mr. Awori: Mr. Speaker, Sir, I have given assurance here that enough quantities of gloves will be purchased. Under the circumstances, I do not see any reason why I should reduce the purchase of those other items which are equally important.

Mr. Speaker: Mr. James Orengo's Question.

Mr. Orengo: Mr. Speaker, Sir, I have talked to the Minister and he has said that he is not quite ready to answer this Question today. With your permission, could it be deferred to Wednesday afternoon next week? I will have no problem with that.

Mr. Speaker: Very Well. Question deferred.

PAYMENT OF COMPENSATION TO KIOSK OWNERS

(Mr. Orengo) to ask the Minister for Local Government the following Question by Private Notice.

- (a) Is the Minister aware that some hawkers and kiosk owners who were carrying business in Nairobi City Centre had permits and licences from the Government and Nairobi City Council?
- (b) Is the Government considering paying compensation to such hawkers and kiosk owners who were either chased from the City or had structures demolished without any reasonable notice?
- (c) Why did the Government take such an arbitrary action when it had by conduct and pronouncements encouraged such business in the past?

(Question deferred)

Mr. Moiben: Mr. Speaker, Sir, with your permission and for the second week running, I beg to ask Question No.004 on behalf of Mr. Isaac Emmanuel Imana Ichoe.

Mr. Speaker: Do you know that I had deferred it?

Mr. Moiben: Mr. Speaker, Sir, but Mr. Imana had authorised me to ask the Question on his behalf. The Minister has just come in.

Mr. Speaker: Order! I had deferred this Question but the House will remember that even before deferring it, Mr. Ndicho had made certain predictions that the Minister would come after the Question had been skipped. Indeed,

he did actually come after the Question had been skipped. I am being implored by Mr. Moiben on behalf of Mr. Imana, that he does not want to take the risk since next time around the Minister might be late. So, I will use my discretion to reinstate the Question and allow you to ask it.

ORAL ANSWER TO QUESTION

Question No.004

REFUND OF MR. LOTEON'S CONTRIBUTION

Mr. Moiben, on behalf of **Mr. Imana**, asked the Minister for Co-operative Development:-

(a) whether he is aware that Mr. Longacha Loteon, Membership No. 214991, Personal No.142661, was a member of Harambee Savings and Credit Co-operative Society from 1976 to 1980;

(b) if he is further aware that between 1976 and 1980, Mr. Loteon contributed Kshs18,926 which has not been refunded to him despite constant requests; and,

(c) whether he could ensure that this amount is immediately refunded to Mr. Loteon.

The Minister for Co-operative Development (Mr. Munyi): Mr. Speaker, Sir, I beg to reply, although the hon. Questioner is asking on behalf of another hon. Member.

An hon. Member: Apologise first!

The Minister for Co-operative Development (Mr. Munyi): Mr. Speaker, Sir, I have already apologised to the House!

The payment of that money was made in 1980 and even the amount was actually Kshs989 and not Kshs18,400. I have got the cheque number and the day when payment was made. Therefore, the payment, even if you can ask the owner of this cheque, he can tell you that he did receive the money. I have got it here.

Mr. Mulusya: On a point of order, Mr. Speaker, Sir. With due respect to the hon. Minister, is the Chair satisfied that this House has got an answer from him because we did not understand what the Minister said?

Mr. Speaker: Mr. Mulusya, I suppose there is a saying that those living in glass houses should not throw stones!

Mr. Moiben: Mr. Speaker, Sir, I am very much dissatisfied with the answer given by the Minister. Mr. Longacha Loteon was a chief of Lomeno Location and he was not contributing Kshs15 per month, but Kshs150 per month. Can the Minister promise this House that he will bring a definite answer because a chief could not have been paying Kshs15 per month, but over Kshs150 per month as his share contribution to Harambee Co-operative Society? Can the Minister be serious enough and bring a definite answer to this House?

Mr. Munyi: Mr. Speaker, Sir, I am very serious because the payment was made by Harambee Co-operative Society in 1980. I did ask even the chairman of Harambee Co-operative Society and he said it was paid. The payment was made and I have a copy of the cheque here with me.

Dr. Otieno-Kopiyo: On a point of order, Mr. Speaker, Sir. The Minister is saying that he has a copy of the cheque. Is he tabling the cheque for the benefit of the House? Is he tabling it so that we can examine it because he is just waving it to show that he has got it? Why does he not table it so that we can have a look at it?

Mr. Munyi: Mr. Speaker, Sir, this is a copy of that cheque.

(Mr. Munyi laid the document on the Table)

Mr. Michuki: Mr. Speaker, Sir, can the Minister confirm or deny that in between the years mentioned in this Question, that is between 1976 and 1980---

Mr. Speaker: Sorry, Mr. Michuki. There is a point of order, I will come back to you.

Mr. Orengo: On a point of order, Mr. Speaker, Sir. It looks like what the Minister has answered is not a reflection of what has been laid on the Table. The Minister does not know the difference between a cheque and some documents here which look like a payment voucher. I can understand now why this Government is running down!

(Laughter)

Mr. Munyi: Mr. Speaker, Sir, even the hon. Member knows very well that through that voucher he has been paid and that has been done. He should understand what is a voucher and a cheque!

Mr. Michuki: Mr. Speaker, Sir, although we seem to be landed with a problem here, could the Minister confirm or deny that the amount mentioned in this Question was paid during the period 1976 to 1980?

Mr. Munyi: Mr. Speaker, Sir, I am not going to confirm or deny!

(Mr. Munyi withdrew the document from the Table)

Mr. Farah: On a point of order, Mr. Speaker, Sir. The hon. Minister has confiscated the document which was laid on the Table. But in addition to that, hon. Questioner is asking for a comprehensive answer which shows that he was a member from date "a" to "b"? This is deduction per month and how much it accumulated into. Can the Minister tell us how much he was contributing per month, how many years he paid that amount and what was the final payment due to him?

Mr. Speaker: Just before you do that, hon. Minister, once you have tabled a document, it ceases to be yours, and it becomes the property of the House!

(Laughter)

Mr. Munyi: Mr. Speaker, Sir, they want to hear more from me and I have already explained.

Mr. Speaker: What about the question by hon. Michuki?

Mr. Michuki: On a point of order, Mr. Speaker, Sir. The Minister has refused very categorically to confirm or deny or say so. Could we discipline him under Standing Order No.88(2)? It states:-

"Conduct is grossly disorderly not only if the Member concerned creates actual disorder, but also if he knowingly raises a false point of order or commits any serious breach of these Standing Orders, or persists in making serious allegations without (in Mr. Speaker's opinion) adequate substantiation or otherwise abuses his privileges, or deliberately gives false information to the House or refuses to answer a legitimate Question or acts in any other way to the serious detriment of the dignity or orderly procedure of the House."

Mr. Speaker, Sir, can the Minister be disciplined under this Standing Order?

An hon. Member: Let him be named!

Mr. Speaker: Mr. Michuki, is "inability" punishable?

(Laughter)

Would you like to answer that?

Mr. Munyi: Mr. Speaker, Sir, I have not committed any serious breach of these Standing Orders! I have already answered very well. I also do respect the House very well!

Mr. Speaker: The last one, Mr. Moiben.

Mr. Moiben: Mr. Speaker, Sir, Mr. Longacha Loteon was a chief of the whole Lomeno Location and he was paying Kshs150 per month as his share contribution for a period of five years. Is it in order for hon. Minister to say that this chief was contributing Kshs15 per month when, in fact, according to the Co-operative Societies Act, the minimum you can contribute is Kshs20?

Mr. Munyi: I will conduct more investigations, Mr. Speaker, Sir.

Mr. Speaker: Very well! Next Order!

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

Mr. Speaker: I am sorry, hon. Ndicho; I have no time! Next Order!

COMMITTEE OF WAYS AND MEANS

(Order for Committee Read)

MOTION

APPROVAL OF TAXATION MEASURES

THAT, the proposals relating to:-

- (a) Customs Tariff
- (b) Excise Duties
- (c) Value Added Tax
- (d) Income Tax

(e) Miscellaneous Measures and Taxes
contained in the Financial Statement for the year of Account 1997/98 be approved.

*(His Excellency the President has signified
his consent to this Motion)*

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

(Resumption of Debate interrupted on 2.7.97)

Mr. Speaker: Who was on the Floor? Did we have anybody on the Floor? Hon. Muhika Mutahi was on the Floor, but since he is not in now, he is deemed to have concluded his speech. Do you want to contribute, hon. Busolo?

Mr. Busolo: Yes, Mr. Speaker, Sir.

Mr. Speaker: Proceed, hon. Busolo!

Mr. Busolo: Thank you, Mr. Speaker, Sir, for giving me this opportunity---

(Loud consultations)

Mr. Speaker: Order! Can those who are leaving, do so quietly?

Proceed, hon. Busolo!

Mr. Busolo: Thank you very much, Mr. Speaker, Sir, for giving me this opportunity to contribute to this debate.

I just want to raise one or two points regarding this Motion which is before this House. The first point that I want to raise concerns our own economic programmes. The taxation measures that the Minister is proposing for approval by this House, are not in consonance with the spirit of economic growth in the world today. Some hon. Members have already referred to the question of harmonising tariffs between the East African Community. Given that only a large scale economy can perform better, I hope that in future, when the Minister proposes his taxation measures, he will put them in line with the rest of the East African Community, that is Uganda and Tanzania. That will harmonise our economies and help in creating a regional economy, that will be of much more importance to this country.

We are operating in the spirit of liberalisation. But within this spirit of liberalisation, we do not have any legal framework that guides the Government on which areas to liberalise, which areas to privatise and which should be left alone. In the absence of that, what we have as an economy, is *ad hoc* processes from one end to another. We just have *ad hoc* processes that one would hardly call an economy. Since we just have *ad hoc* measures and processes which go in the name of the economy, we at times have the President vetoing some of the programmes and monies that we pass in this House, and that goes to another Financial Year.

Mr. Speaker, Sir, we have examples like the youth programme, the women programme, the bullet factory and the Eldoret Airport. If the House sits at any one moment and passes certain economic measures to be undertaken within a year, and then all of a sudden, in the middle of the year, *ad hoc* programmes come into the midst of what the House had passed, it confuses a lot of planning.

The other point that I would like to raise concerns the whole question of the philosophy of the economy. In this country, one is not sure whether we have a savings economy, an investments economy or a consumption economy.

What one notices is that we seem to be heading much more into a service economy. There is no real economic philosophical foundation for the kind of economic framework that this country wants to operate in. In my view, part of the problem arises from the fact that the Estimates Committee that is supposed to under-ride the economic framework for any yearly budget and estimates, does not function. If the Estimates Committee was functioning, I think our Ministers will be much more accountable. We will not have a situation where Ministers come here with programmes within their Ministries, and when hon. Members ask whether these programmes have been effected within their constituencies, they are told that such programmes have not been effected. The non-functioning of programmes within the Ministries arises from the fact that the Estimates Committee has never met. In my view, there need to be some reforms within the Estimates Committee whereby, if Ministers propose certain programmes, they should also be able to assist the Ministry of Finance to propose the monies to fund those programmes. This will be in line with the United States of America (USA) budgetary system, where such authorization programmes are used.

We also need to reform this budgetary process, whereby, we do not have to be encumbered all the time, by

yearly programmes. Some programmes could be yearly, and that is fine, but there are other programmes which could be multi-yearly and permanent. In that way, it would be easier for the Estimates Committee to meet and determine the yearly programmes which need renewal, multi-yearly programmes which renewal and permanent programmes which need renewal. By doing this, it will also come up with programmes that will be terminated.

Again, we could borrow something from the US budgetary system, where they have what they call "sunrise laws" that authorise certain programmes to be started, and "sunset laws" which stop certain programmes from continuing because they are not deemed useful or have come to an end.

Other than reforms within the Estimates Committee, it is questionable whether this House has a capacity to actually propose taxation measures for this country. The reason why I say this is that the whole principle of representation in this House is very skewed. We have our colleagues from the Government side who were elected by less than 40 per cent of the people in this country. On this side of mine, we were elected by more than 60 per cent and yet, it is the 40 per cent who are proposing taxation measures. That goes against the principle of taxation without representation. As somebody said again, it also goes against the principle of taxation without services.

There is also need to empower the Efficiency Monitoring Unit within the Office of the President, to audit the programmes of the Ministries. If you go to any Ministry at random, whether it is the Ministry of Health, Ministry of Agriculture, Livestock Development and Marketing or the Ministry of Transport and Communications, a good number of programmes just appear on the paper. Monies are voted for such programmes and yet, by the end of the year, if you go to your district to find out whether money has been given out or not, you are told that no money has ever been forthcoming. That kind of thing would not be happening if the Efficiency Monitoring Unit in the Office of the President was operating very well.

Mr. Speaker, Sir, many have spoken about the Kenya Revenue Authority as the ultimate body in terms of collecting taxes. But it seems like the powerful and politically-connected people seem to have a lot of influence over this body. It is high time the Treasury put its foot down and told off some of the powerful politically-well-connected people to keep off the Kenya Revenue Authority. In my view, the Kenya Revenue Authority Act as passed in this House was very good. But of late, instead of giving power to the Commissioner-General, they want to give powers to the various independent fiefdoms there, that is, the Customs and the Income Tax Departments. Such a thing is out to open loopholes so that the people who are in the import-export business can fleece the economy. The Kenya Revenue Authority operations also need to be computerised. A colleague has just spoken on that, and I will not go into the details. The question of filling forms, whether it is the income tax or customs duty or at the revenue collection centres has been very burdensome to the mwananchi. It is high time that some money was spent to make the information system efficient, by putting it on a computer line.

Mr. Speaker, Sir, in terms of taxation measures, I have a feeling that many times, many of these Bills that come to this House that are related to taxation seem to be drawn up for the general welfare of the community, but to cater for the few who are basically in import and export business. We have the case of sugar, imported agricultural commodities like milk, maize, beans and so on. Why is it that those Members who are politically connected are the only people who are doing business in import and export and when the Bills come here, the kind of taxation proposed for the import of maize, milk and sugar seems to favour those people. So, it seems like there is just a small group of elites that seem to benefit from these taxes whereas the ordinary mwananchi is over burdened with a lot of taxes, especially those involved in agriculture. On top of presumptive tax, the local authorities also charge cess on the produce within the authorities. This is really burdensome and if we want to be self-sufficient in food, we have to look into that.

Mr. Speaker, Sir, I would like to complete my contribution by commenting on the Electoral Commission of Kenya--

With those few remarks, I beg to support.

Mr. Speaker: In the absence of any other Member who wants to contribute, I now call upon the Minister to reply.

The Assistant Minister for Finance (Mr. Keah): Thank you very much Mr. Speaker, Sir, for giving me the opportunity to make comments and reply to various contributions by Members with regard to the Motion before the House.

Mr. Speaker, Sir, I take the opportunity to thank all hon. Members who have, indeed, contributed to this Motion. I wish to say that we have taken very seriously the comments that they have made. We in the Treasury will take into account and consider as appropriate, the various issues that have presented to us through the debate and what is possible to be done, we shall do and what is not immediately possible will be considered with a few to putting into effect what can in fact, be effected. Having said so, I also want to make an observation that with regard to the proposal on the taxation measures, Members will have an opportunity in the debate on the Finance Bill to air various views and at that particular time, we will also appropriately give due consideration to issues that have been raised in the House.

There are however, specific matters that I must refer to for purposes of giving clarification to the concerns raised by Members. One of the issues that has been of great concern to Members, particularly in the farming community, is the presumptive tax. It has been stated here quite erroneously that those who suffer presumptive tax are being double taxed. This is incorrect understanding of the application of presumptive tax. Once presumptive tax has been charged at base, the taxpayer does not have to make any returns whatsoever of his income to any tax authority. It is taxed once and for all---

Mr. Farah: On a point of order, Mr. Speaker, Sir. I think we have a very big crisis just in the precincts of Parliament. University students, numbering thousands are outside there and many Members of Parliament are not able to come in today to participate in the deliberations. This is arising from grievances they have against the Ministry of Education. Could we have the Leader of Government Business or the Minister for Education to tell us something about what is happening now?

Mr. Speaker: Mr. Farah, to the best of my knowledge, of course, I do not know what is happening outside there. I saw many Members leaving this Chamber and I do not think they were chased away by University students.

Proceed, Mr. Keah!

Mr. Farah: On a point of order, Mr. Speaker, Sir. I have raised a genuine point of order. You could consult your parliamentary staff here. Members of Parliament cannot come into the House now. As we are, we have been cordoned off and this is arising from serious grievances which they have against the Ministry of Education. Could we have the Leader of Government Business or the Minister for Education tell us something about it. Members of Parliament have a right to participate on the deliberations of this House. They cannot participate right now.

The Minister of State, Office of the President (Mr. Koech): On a point of order, Mr. Speaker, Sir. I am wondering where the hon. Member is coming from. The university students are out there and we have just come through and there is no problem.

Mr. Speaker: Order! Order, now. You have put your point across and if the Government wants to respond, it is entirely up to them. You cannot ask me to do it for them. So, I do not know. Mr. Keah you have the Floor!

The Assistant Minister for Finance (Mr. Keah): Thank you, Mr. Speaker, Sir. I wish to continue with my response to the Motion before the House.

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

Mr. Speaker: Order, Mr. Munyasia. I have already said I have no authority to compel the Government or the Opposition on what position they should take on any issue. It is upto them to decide whether they want to respond to what you are saying or not. I will make the chance available when they want to respond.

The Assistant Minister for Finance (Mr. Keah): On the presumptive tax, I want to make it clear that when our taxpayer pays his presumptive tax, it is a once and for all taxation and there is no question whatsoever of double taxation. He does not have to make any returns whatsoever and he does not have to pay any other tax with regard to the matters related to the presumptive tax. Therefore, the farmer is not double taxed. In fact, it is the easiest way in so far as the farmer is concerned.

Mr. Munyasia: On a point of order, Mr. Speaker, Sir. I am from out there and I know that the gates to Parliament have been shut by the police when many of our colleagues were outside. It is in order that I ask the Chair to direct that the gates be opened for our colleagues to come back and participate in this debate.

Mr. Speaker: Order! Order, Mr. Munyasia! My first priority, obviously as Speaker, is the security of Parliament Buildings and the Members therein. No Member can invite me in a situation where you, in your own admission admit that there is a possibility of unruly persons entering Parliament Buildings. That is asking too much from the Chair, to open the gates of Parliament to disorganised groups. This place is for Members and organised groups at the invitation of Mr. Speaker.

The Assistant Minister for Finance (Mr. Keah): Mr. Speaker, Sir, I reiterate that I thank hon. Members for their contributions and I beg to move.

(Question put and agreed to)

Mr. Farah: On a point of order, Mr. Speaker, Sir. It is within your powers to make sure that Members of Parliament are not stopped from coming and deliberating in the House here. Our Members of Parliament cannot come in to take part in this very important Motion because the gates are closed. The system has the ability to allow the Members of Parliament to come in and to keep out those who---

Mr. Speaker: First of all, why did Members walk out in the first place?

Mr. Farah: Mr. Speaker, Sir, it is perfectly accepted within our Standing Orders for a Member of

Parliament to walk out and walk in at his pleasure. Now, they walked out at their pleasure and they want to come back at their pleasure too and they are within their---

Mr. Speaker: Order! Order, Mr. Farah! I will not open the gates of Parliament to disorganized groups. Members of Parliament are free any time to enter the building, but if outsiders make it impossible for them to come to Parliament, you do not expect me to go there in riot gear and disperse the crowd.

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): For the information of the House, the Members of Parliament from the other side are busy addressing university students outside.

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

Mr. Speaker: Order! Order! I cannot accept the business of the House to be hijacked. We will now move on to the next Order.

BILLS

First Reading

THE FINANCE BILL

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

Second Reading

THE NATIONAL SOCIAL SECURITY FUND (AMENDMENT) BILL

*(The Minister for Labour and Manpower
Development on 14.5.97)*

(Resumption of Debate interrupted on 18.6.97)

Mr. Speaker: Dr. Otieno-Kopiyo was on the Floor. Is he present?

Hon. Members: He is outside!

Mr. Speaker: His speech is, therefore, deemed to have been concluded.

Mr. Otieno: Thank you, Mr. Speaker, Sir. It is not fair for a Member to mislead the House because several hon. Members have been able to get into the Parliament Buildings through the main gate. It is only the Minister's gate that is occupied by Members of the Opposition who are addressing students from the university in an illegal meeting. So, hon. Farah should be fair to those Members who are willing to proceed with the business of the House.

I rise to support this Bill and confirm that I agree with the Minister on the amendment, particularly the ten clauses which he has proposed to amend on Cap.258. Certainly, there are other sections of the National Social Security Act that would still require amendments. One particular area is on the distribution of the surplus from the operations of the Fund to the different members of the Fund. The Fund belongs to contributing members. The Act provides that every year a surplus not less than 2.5 per cent should be distributed to the members of the Fund as at the end of that financial year. At present, the Minister has since been able to increase this percentage to 5 and 10 per cent and the members are not being credited 15 per cent of their contributions.

I have a bone of contention with the distribution system of the Fund proceeds. I find the system rather inequitable. In fact, so grossly inequitable that the Minister should have included an amendment to Section 19(2) of Cap.258 so that a more equitable method of distributing the surplus of the Fund could be instituted. As of now, the Minister will notice that the last audited accounts of the Fund indicate that the Fund is about Kshs35.8 billion. Out of this Kshs35.8 billion, the members' accumulated contributions that have not been withdrawn amount to Kshs25.5 billion. The accumulated surplus which the Fund has been retaining out of its annual earning is about Kshs10.3 billion and there has since been a small revaluation where they show revaluation surplus of about Kshs46 million. The inequity which I am talking about relates to the members of the Fund who are paid the terminal benefits. The very members who started this Fund have since retired and they have been receiving their contribution plus the interest declared by the Minister currently at the rate of 15 per cent. Whenever the earnings of the Fund exceed the 15 per cent

interest that is distributed to the Members, it means a surplus will remain and will continue to accumulate as accumulated surplus of the Fund. When a member retires, he is paid his contribution plus the interest accredited to him, but then his share of the remaining surplus remains in the Fund. The members who retire are paid their contributions plus 15 per cent interest, but they will not stand a chance of benefiting from part of the surplus of the Fund which remains and continues to accumulate in the Fund and possibly will benefit future members. So the inequity is between the members retiring now and the members who will retire in future. The Minister should provide for a suitable amendment to Section 19(2) so that there is evaluation basis by which the income of the Fund and the appreciation on the value of the assets of the Fund would always be adequately distributed to the members who retire now. For example, the assets of the Fund and the buildings that the Fund has purchased are bringing in rent. They are also appreciating in value. The members who contributed the money that purchased those buildings, when they retire, they only get the interest. The rest of the assets and the value in those assets which their money purchased is not given to them and possibly it will benefit future members of the Fund. So, the inequity between the members retiring now and those who will retire in future is great. Already somebody in the Fund should have realised that what they pay now in terms of terminal benefits to the members is so much peanuts compared to what remains and continues to accumulate in the Fund. We need to re-define and authorise the Trustee to periodically value the assets underlying the Fund and out of the income, such credits and annual amounts which are due should be credited to the individual member's account and then provide for a payment in lump sum for members who are now withdrawing from the Fund.

As of now, for instance, the Kshs10.3 billion which is accumulated in the Fund as surplus, belongs to who? It really belongs to the members and more so, it also belongs to the members who have since retired and have left their rightful share in this Fund. So, an appropriate amendment should be made to Section 19(2) of the Act to provide and empower the Trustees of the Fund to be able to carry out periodic valuations of the underlying assets and then be able to declare either a terminal bonus or a terminal payment for the members who are actually withdrawing from the Fund. In so doing, we will equalise the benefits to the members withdrawing and the benefits to the members who remain and will have to be paid when they finally will be retiring from the Fund.

Mr. Speaker, Sir, another alternative which could be considered by the Minister is that, instead of declaring say, a 15 per cent interest to be credited to the member's accounts what should be done is that, after the surplus of the Fund is determined at the end of every year, interest due to members should not be considered. Instead, there should be a 10 per cent reserve to be credited in total, as fluctuation reserve for future investment fluctuations. All the rest of the surplus which remain should, thereafter, be divided to all the members in proportion to their money. Now, that will be a very easy way of guaranteeing this equity. For instance, if there is Kshs2 billion surplus before accruing the interest due to members, of that Kshs2 billion, only 10 per cent of it should be kept in a reserve and the balance of Kshs1.8 billion should be distributed to the members accounts in proportion to whatever amounts are due to their credit. That would enable the Fund more or less operate the way in which the Central Bank distributes its surplus. It takes 10 per cent to be kept in a reserve and the rest is paid out to the members of the Fund. In the case of the Central Bank, it would have to be credited to the Government and we get the annual dividends from the Central Bank.

Mr. Speaker, Sir, the other area which the Minister should consider, is strengthening the hand of the Trustees of the Fund. As of now, the Trustees of the Fund can be removed by the Minister. In other words, they have no protection. On page 209 the Minister has listed the manner in which he can remove the Trustees of this particular Fund.

"They can be removed from office by the Minister, if he has been absent, adjudged bankrupt, convicted of a criminal offence, or if he is incapacitated for a long period, or is otherwise unable or unfit".

There is need to protect and empower the Trustees a little more than they do now. I personally would have preferred that Clause 4(b) of the proposed amendment reads:-

"Should be removed by the Minister if, and shall not be so removed unless the Trustee is---"

Then you list those reasons, and if the Minister was fair enough, he should delete condition No.6 which gives him any other basis for removing a Trustee. That is:-

"Is otherwise unable or unfit to discharge his functions".

That should be deleted so that once appointed, a Trustee of the Fund should have an element of protection and you can only be removed for specific reasons. In the absence of those reasons, you should finish your term without fear that if you do not obey something, somebody would stand to victimise you because you did not want to speak his language.

Mr. Speaker, Sir, with those few remarks, I support the Bill fully. Thank you.

Mr. Nyagah: On a point of order, Mr. Speaker, Sir. You will remember that after Question Time, I tried to stand up on a point of order, but unfortunately you did not allow. I hope I am not going out of the common practice of this House.

You will remember yesterday, the Vice-President and Minister for Planning and National Development promised the House that he would bring forward a Ministerial Statement in regard to the attempted arrest of hon.

Nyanja.

Mr. Speaker, Sir, I am sure in your ruling, you will consider, when there was looming shortage of maize in this country, when hon. Jeremiah Nyagah was the Minister for Agriculture, he read a Ministerial Statement during the normal Bill time. I would like to ask the Chair as to what he thinks may be right.

Mr. Speaker: As I have said, I do not force people to make statements, I only facilitate. As a matter of fact, now that you have raised this issue of privilege of Members vis-a-vis their arrest on a criminal or civil matter, may I assure this House that I will make a comprehensive ruling on Tuesday as to what amounts to privilege. Hon. Nyagah I just want to ask you a very simple question: If you drew a gun, then shot Mr. Orenge to death there and you refused to move away, are you telling me that nobody should ever touch you?

Mr. Nyagah: I am a Christian!

Mr. Speaker: I will make that ruling on Tuesday.

Let us Proceed!

Dr. Otieno-Kopiyo: On a point of order, Mr. Speaker, Sir. We are talking about facts that the Vice-President and Minister for Planning and National Development promised the country. That he will do something today.

Mr. Speaker: Dr. Otieno-Kopiyo, I am not the Vice-President and Minister for Planning and National Development.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, we are talking through you. I cannot ask him directly. I would be out of order.

Mr. Speaker: Now, anybody wants to contribute to the Bill? Well, if there is no contributor, can the Minister reply?

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Speaker, Sir, I would like to take this opportunity to thank hon. Members for constructively contributing to the amendments that were brought before this House on the NSSF Bill.

Mr. Speaker, Sir, the issues that have been raised by my colleagues have been noted and I would like to assure hon. Shikuku, for example, when he suggested that the Trustee members should be given the opportunity to run the business of the Fund without interference. I would like to assure hon. Members that, that will definitely be done and that is the main reason why we have brought in the amendments to this Bill, so as to enable the Trustees to run the Fund without interference from anybody. They will however, have to be run in accordance with the laid down rules and regulations and also in accordance with the quoted clause in the Retirement Bill which was recently passed in this House.

Mr. Speaker, Sir, the other issue was again raised by hon. Shikuku about appointments. That the members should be professional. In fact, this has already been stated in the amendment. We have had a provision where representatives of the workers have been appointed, and this remains that the workers will provide two people and the employers will also provide two people to represent their interests.

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Speaker, Sir, besides, we could have three professionals, one specialised in banking and finance, insurance and the other one, either a lawyer or somebody specialised in business administration and management. Therefore, these requests and suggestions by the hon. Members are already taken care of.

There was also a comment by hon. Otieno-Kopiyo that, the Auditor-General should be retained. We have had a lot of complaints in this House that a lot of accounts are delayed for audit and some of the accounts have taken years, not months, to be audited. To facilitate the quick auditing and quick detection of mismanagement, it is important that the accounts be audited as quickly as possible or as soon as possible and laid before the House. So, this will be done in consultation with the Auditor-General. So, the Auditor-General has not really been fully removed because there is a provision to that effect; providing for the auditors and the audited accounts to be definitely laid before the House in the normal manner. So, the slight change is to avoid too much delays in detecting whatever mismanagement may occur.

Mr. Speaker, Sir, I would like to take very special recognition of what the hon. Dalmas Otieno has raised. He has raised very important issues and, I will definitely look into them and as I mentioned earlier on, quite a number of amendments will be put forward when we come to the Committee Stage.

Mr. Speaker, Sir, again I want to thank all those who have contributed to this debate and with those few remarks, I beg to move.

(Question put and agreed)

(The Bill was read a Second Time and committed)

to a Committee of the whole House tomorrow)

Second Reading

THE NATIONAL CRIME RESEARCH CENTRE Bill

(The Attorney-General on 10.6.97)

(Resumption of Debate interrupted on 17.6.97)

Mr. Speaker: Mr. Kiraitu Murungi was on the Floor, is he there?

An hon. Member: No.

Mr. Speaker: Then he is deemed to have concluded. Any other person wishing to speak?

An hon. Member: No!

Mr. Speaker: There being nobody wanting to speak, I will, ask the Mover to reply.

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I do not wish to make a long speech in reply to this important Bill, but I wish to thank all hon. Members who contributed to it for having recognised the need to have a National Crime Research Centre. The Attorney-General will be enabled to find out the root causes of crime in our society.

This Bill will enable us to look in depth into the causes that make different crimes become difficult to be punished. The Crime Centre will look deeply into certain offences that have become rampant in our society nowadays. With this, I wish to ask my fellow colleagues here and the rest of our country that, while we establish a centre of this type, it is very crucial that the respect for our laws should be emphasised. I know that many hon. Members would like to say that they do not agree with the existence of certain laws in this country. I think, in the spirit of our democracy, any person is allowed to say that a particular law is not good. But it is not right for anybody, even though he is disagreeing with any piece of legislation, to say that he can break that law. All the laws, as they are established, procedurally and by this House, must be respected by all persons in our country. Nobody should say that just because a law does not appear to be to his taste, he can break it. We have undertaken to repeal certain laws and we have undertaken to amend others, but, so long as they remain in our books, those laws must be respected.

Mr. Speaker, Sir, we hope to get to the bottom of how to curb road carnage in our country. Road accidents have increased and every person in our country must be concerned about how to sort out this mess so that our roads can be safe; how to punish the offenders who cause these road accidents and how to make sure that the laws in our Traffic Act are efficient and can be applied with ease.

Mr. Speaker, Sir, 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 tomorrow)*

ADJOURNMENT

Mr. Speaker: Hon. Members, for lack of further business to transact, the House is, adjourned until Tuesday, 8th July, 1997, at 2.30 p.m.

The House rose at 4.20 p.m.