

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 4th July, 1996

The House met at 2.30 p.m.

[*Mr. Speaker in the Chair*]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No. 197

ASSAULT OF SCHOOL GIRL BY ASSISTANT CHIEF

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

Question No. 406

SOCIAL DIMENSIONS PROJECTS IN WEST POKOT

Mr. Speaker: Mr. Rotino is not also here. We will move on to the next Question.

Question No. 467

ABSENTEEISM IN BUNGOMA SCHOOLS

Mr. Busolo asked the Minister for Education:-

- (a) whether he is aware that absenteeism of pupils in primary and secondary schools in Bungoma contributes to poor academic performance and that the pupils are usually sent away because of unpaid levies; and,
- (b) if the Ministry could devise ways of collecting the levies without affecting the pupils' school attendance.

Mr. Speaker: Is anyone here from the Ministry of Education? We will leave that Question for the moment.

Question No. 594

RURAL POWER PROGRAMME IN TANA RIVER

Mr. Kofa asked the Minister for Energy:-

- (a) whether he was aware that the Ministry promised to start a rural electrification programme in Tana River District by the beginning of 1994; and,
- (b) what had delayed the exercise and when it will start.

The Minister for Energy (Mr. D.M. Mbela): Mr. Speaker, Sir, I beg to reply.

(a) No, I am not aware. In June, 1994, my Ministry promised to start, during the 1995/96 Financial Year, the implementation of the 11 kv trunk main power line from Kilifi to Garsen, Hola, Bura and Nanighi. Rural electrification projects to serve various parts of Tana River District would be planned from this trunk main line. The trunk main line must, therefore, be constructed first before a major rural electrification programme may be implemented in the district. No promise could, therefore, have been made for rural electrification before the main line is done.

(b) The construction of the 11 kv trunk power line is delayed because of non-availability of funds. It is estimated to cost Kshs3.5 billion and Treasury has not been able to provide this kind of money. My Ministry is, therefore, currently looking for donor funds to implement this project, among others.

Mr. Kofa: Thank you, Mr. Speaker, Sir. The Minister says "no" in part (a) of his answer. In answering part (b), he continues to say why there was a delay of construction. Can he sort out that conflicting answer first before I ask the supplementary questions?

Mr. D.M. Mbela: Mr. Speaker, Sir, there is no contradiction or conflict. Before you can have rural electrification in an area, you must be able to bring the power line which is like a river, that must flow before you can connect power to any other area.

Mr. Kofa: Thank you, Mr. Speaker, Sir. I would like to read from the Kenya Power and Lighting Co. Ltd. Report, signed by the late Hon. Lawrence Sagini, who was the company Chairman, in 1992 which says:-

"The consultancy agreement was signed in May, 1992 and work commenced in 1992".

This work began as stated in 1992, and when it reached Marereni, where a Government Minister is extracting salt, it stopped. To quote the HANSARD again, the late hon. J.M. Kyalo, Member for Machakos Town said as follows:-

"However, the most important thing will be to start it during 1995/96 Financial Year".

What delayed the commencement of this project?

Mr. D.M. Mbela: Mr. Speaker, Sir, I assume we are talking about the trunk line which was the subject of a study which ended in December, 1995. So far, the funds for that main line from Kilifi, Garsen, Hola and Nanighi on its way to Garissa have not been found.

Question No.323

REPAIRS TO KENDU BAY PIER

Mr. Speaker: Mrs. Asiyo is not in? Next Question, Mr. Maoka Maore.

Question No.329

CORRUPTION AT MOMBASA PORT

Mr. Speaker: Mr. Maoka Maore is also not in? Next Question, Mr. Imana.

Question No.521

PHONES INSTALLATION IN LONEGUM DIVISION

Mr. Speaker: Mr. Imana is not in? Next Question, Mr. Mulusya.

Question No.487

ROADS MAINTENANCE IN MACHAKOS

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

(a) whether he is aware that Tala-Mbiuni to Kithimani (in Yatta); Mbiuni-Mwala to Makutano (in Mwala Constituency); Mwala-Kangundo to Machakos Town and Kangundo to Kathiani Town are in bad state; and,

(b) if the answer to "a" above is in the affirmative, there were any plans to tarmac these soon; and why there was no proper maintenance of the same.

The Assistant Minister for Public Works and Housing (Mr. Mwamzandi): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that the Tala-Mbiuni to Kithimani in Yatta and Mbiuni-Mwala to Makutano in Mwala Constituency; Mwala Kangundo to Machakos Town and Kangundo to Kathiani Town roads are in a bad state.

(b) The Ministry will maintain these roads by grading to keep them in fair motorable condition. At present, the Government's priority is to maintain the existing classified road network. There are no plans to tarmac the roads in question due to lack of funds.

Mr. Mulusya: This is a very distressing answer from the Assistant Minister. In 1992, the President toured those roads and promised that by 1993/94 Financial Year, funds were going to be allocated for those roads to be tarmacked and not to be maintained into fair motorable conditions. Those roads connect the entire parts of central Ukambani. The people in these places have been suffering because of poor communication. Why is the Government denying that those roads are in very bad condition? The Government is not providing the money while it should be able to provide. When will funds be made available to tarmac those roads?

Mr. Mwamzandi: Money has been available to maintain the roads in question and from February up to June this year, we have done work on almost six roads. In addition to that, there are 17.1 kilometres section between Kamuthanga and Kangundo which is being gravelled at a cost of Kshs17,788,791; there is also resealing work on the Kamuthanga-Machakos Road going on at a cost of Kshs43,500,000. So, money has been made available to those areas.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. We realise that we need to do certain things in a certain way. You realise that when hon. Mulusya stood up, he used a promise made by the President as a basis for his question. I understand that according to Standing Order No.72, that will not be admissible. The President tours many parts of the country and makes such promises. Wananchi expect the Ministry to follow up and find out whether that promise has been adhered to, and yet, in the House, we are not allowed to use the name of the President as authority. Can we get some guidance from the Chair in relation to this matter?

Mr. Speaker: My guidance is simple. The work of the Speaker is to enforce the rules as they are. If the House finds that certain rules are not applicable in the current situation or if they think that they require certain amendments, it is not the work of the Speaker to amend. It is the work of the House. I must also make it absolutely clear that it is not my business to ignore a rule that looks at me in the face. As long as I remain the Speaker, I will apply the law as it is. I invite Members of this House, because I am the Chairman of the Standing Orders Committee, that any Member who wishes to make a suggestion to the amendment, deletion or addition of any Standing Orders to our Standing Orders book is at liberty to write to the Chair.

Mr. Ndicho: This Government is fond of defying Government directives---

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. Hon. Ndicho has said that the Government gives directives to the Government. Have you ever heard of a Government talking or giving directives?

Mr. Speaker: May, I, ask you Mr. Shikuku, have you ever heard of a Government ruling?

Mr. Shikuku: Yes, I have heard of a Government ruling. But the Government in this House according to the answers given by the late Humphrey Slade, means the Cabinet, and the Cabinet is headed by the President. The Government cannot be the President.

Mr. Speaker: Order! Order, hon. Shikuku! Taking into account what you have just said, and also taking into account what hon. Anyona had pointed out about the Standing Orders, what is your suggestion?

Mr. Shikuku: My suggestion is that, I agree with the ruling of the Chair to the effect that, that Standing Order should be amended. It is an anomaly which should be amended. But for the meantime, there is no Government which gives directives to itself.

Mr. Speaker: Mr. Shikuku, I would seek your assistance. Taking into account the Standing Order as it is, and taking into account what that Member has just said, I am asking you: Without my flouting that Standing Order or allowing a Member to flout it, how would you propose?

Mr. Shikuku: Mr. Speaker, Sir, I do not wish to argue with the Chair. The rules are there. But in view of the fact that we have not amended the Standing Orders, might we refer to him as the Member for Baringo because he is a Member of this House?

Mr. Speaker: I do not suppose that is what the Member for Juja had in mind.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. arap Saina): On a point of order, Mr. Speaker, Sir. The hon. Member for Butere referred to a Member for Baringo. I did not hear of Baringo Central. I heard of Baringo. Can he substantiate and tell us which Baringo he refers to?

Mr. Speaker: Order! Order! I had in fact to call Mr. Ndicho to continue. There is no doubt that there is a world of difference between a Member for a constituency and the President of a country. So, can you continue, Mr. Ndicho.

Mr. Ndicho: Mr. Speaker, Sir, my concern is what hon. Mulusya has said. This is a situation which we are all experiencing. It is a situation where the Government goes to the countryside and makes---

(Hon. Icharia interrupted hon. Ndicho)

Mr. Speaker, Sir, can you protect me from hon. Icharia.

Mr. Speaker: Order, Mr. Icharia!

Mr. Ndicho: Mr. Speaker, Sir hon. Icharia is speaking my bit. So in the given circumstances, what are we supposed to do? This is the Government going to Kangundo and making these promises and giving directives. Now---

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

Mr. Speaker: Order! Order Mr. Icharia! I am not only going to protect Mr. Ndicho against you but I am also going to protect myself against you. Proceed, Mr. Ndicho.

(Applause)

Mr. Ndicho: Mr. Speaker, Sir, this is a very sad state of affairs. Now that the Government had given that directive and the Assistant Minister who is in the same Government has said that he is not aware, and there are even used to newspaper cuttings and other evidences, what are we going to do in the circumstances to ensure that what the Government says must be followed?

Mr. Mwamzandi: Mr. Speaker, Sir, there has not been any Government undertaking to do anything. What we are doing is the normal maintenance work and I am sure the hon. Members will agree with me that whatever the Government has accepted to do, will be done.

Mr. Mutahi: Mr. Speaker, Sir, it was last week but one in this House that we were told that there is a pipe from City Hall to State House.

An hon. Member: What? A Pipe?

Mr. Mutahi: Mr. Speaker, Sir, now, almost every Member of Parliament in this House is concerned and asking about the roads in their constituencies. Earlier on we thought it was only roads in Opposition areas which are not repaired but today we have proved that even roads in KANU zones are not repaired and there is an estimate now of about Kshs152 million voted for the Ministry of Public Works and Housing. Where does this money go? Is there also a "pipe" from the Ministry of Public Works and Housing to State House or what is happening?

Mr. Mwamzandi: Mr. Speaker, Sir, I would not understand what the hon. member has in mind when he talks of a "pipe". I thought in the first instance it might have been a pipe pumping water to State House but I realised it might be another thing. In any case, when roads are repaired they do not remain the same after some time. There will come a time when they will get damaged and so we will keep on repairing them.

Mr. Mulusya: Mr. Speaker, Sir, you have heard the Assistant Minister denying the fact that when the Member for Baringo Central visited Kangundo constituency in 1992, he promised Kangundo constituents, and the entire Ukambani area he toured on that particular day, that he will provide roads. I am telling my constituents, and Ukambani people in general and this House, that we should, from now on ignore promises made by that Member for Baringo Central about empty promises of building roads.

Mr. Obure: On a point of Mr. Speaker, Sir. Is it in order for a hon. Member to say that the Member of Parliament for Baringo Central has authority and the power to order anything to be done? Does it mean that I, as the Member of Parliament for Bomachoge constituency, can also order for a road to be done?

Mr. Speaker: Order! Order! I suppose, Mr. Obure if you truly want to find out about that just go to the next constituency and do that. Would you like to answer him, Mr. Assistant Minister?

Mwamzandi: No.

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

Mr. Speaker: No, I am sorry.

Mr. Mwamzandi: Mr. Speaker, Sir, when the hon. Mulusya referred to the Member for Baringo Central, he meant the President and in our Standing Orders it is out of order to use the name of the President as a basis of ones argument and I am not going to reply to that Question.

Question. No. 287

DUAL CARRIAGE-WAY FROM MOMBASA TO NAIROBI

Prof. Mzee asked the Minister for Public Works and Housing:-

- (a) whether the Minister could consider constructing a dual carriage-way from Mombasa to Nairobi; and,
 (b) how much such a venture would cost.

The Assistant Minister for Public Works and Housing (Mr. Mwamzandi): Mr. Speaker, Sir, I beg to reply.

(a) The prevailing economic situation in Kenya does not justify construction of a dual carriage-way from Mombasa to Nairobi and, therefore, the Government will not consider its construction.

(b) Construction of a dual carriage-way from Mombasa to Nairobi would cost approximately Kshs 20 billion.

Prof. Mzee: Mr. Speaker, Sir, I was hoping that somebody else was to have answered that Question because hon. Mwamzandi should have an interest on that road. He used the word "justify" when the roads in this country kill more people than Human Immuno-deficiency Virus (HIV) and then he uses the word "justify". Kshs 20 billion is almost the amount which has been stolen by Kamlesh Pattni in the Goldenberg rip-off and he has used the word "justify". I never expected that answer from hon. Mwamzandi but probably from somebody else. We use that road and we put our lives at risk in the process.

Mr. Speaker, Sir, the Nairobi-Mombasa is one of the most important roads in Kenya. At the present time it is such a narrow road that hardly two cars can by-pass each other. A dual carriage-way might cost Kshs 20 billion. We have already one road there and constructing another road will probably cost Kshs 10 billion. With our budget of Kshs 156 billion, and with the present death toll, can the Assistant Minister change this word "justify" because definitely with all these deaths and the economic situation---

Mr. Nyanja: On a point of order, Mr. Speaker, Sir. Did you hear what I heard? The hon. Member has categorically said that Kshs 20 billion is the amount of money stolen by Kamlesh Pattni. I am a Member of the Public Accounts Committee (PAC) and it is not Mr. Pattni who has stolen Kshs 20 billion but it is a Member of a certain constituency who has stolen this money.

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

Mr. Speaker: Order! Order! I think it has rather become serious. Will you, Prof. Mzee, ask your Question?

Prof. Mzee: Mr. Speaker, Sir, in view of what I have said---

(Mr. Ojode stood up in his place)

Mr. Speaker: Mr. Ojode, any further interference with that Member will constitute disorderly conduct. Proceed, Professor Mzee.

Prof. Mzee: Mr. Speaker, Sir, considering that the Mombasa-Nairobi Road is not the best so far---

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

Mr. Speaker: Order! I am giving the hon. Member a chance to put his question, Mr. Michuki, please. It is a serious matter that questions must be put.

Mr. Michuki: On a point of order, Mr. Speaker, Sir. It is a very serious matter that an allegation such as the one that has been made here in this House by the hon. Member for Limuru, should be left hanging in the air when according to his own allegation a Member of this House, he said, has stolen Kshs 20 billion. Is this in order that we should leave this matter in the air?

Mr. Speaker: Order! Order, hon. Members. If the hon. Member, Mr. Nyanja as he says, is a Member of a Committee investigating a certain issue which has not brought its findings here and upon which some hon. Members have even put a Motion on the Chair for an alleged anticipation, how come that you want that hon. Member to breach that? In any case, it is Question Time and the Chair is also used to some Members using an occasion like this to tarnish others' names. Can we be serious?

(Applause)

Prof. Mzee: Mr. Speaker, Sir, can the Assistant Minister reconsider this word "justify" and give us, at least, an answer which says that the Minister will ask for funds to be made available in the near future and this road be made a dual carriage-way?

Mr. Mwamzandi: Mr. Speaker, Sir, when I used the word "justify", it was in relationship to the prevailing economic situation we have now.

Mr. Speaker: Very well.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I am not sure that this Assistant Minister knows what he is talking about. He never does. My understanding is that at the moment or for sometime now, the Government has been negotiating with the World Bank for a loan to construct a dual carriage-way between Mombasa and Nairobi. He should tell us how far those negotiations have gone. But if he does not know, he should not come here and mislead the House.

Mr. Mwamzandi: Mr. Speaker, Sir, I know what I am talking about. It is because of the poor financial situation we are now that we are not able to justify the construction of dual carriage-way from Mombasa to Nairobi.

Mr. Anyona: My point of order, Mr. Speaker, Sir, is that there are negotiations going on for money from the World Bank to construct this road and I am, in fact, saying that his answer is misleading the House. Can he either confirm or deny that what I have said is true?

Mr. Mwamzandi: Mr. Speaker, Sir, we are in the position of making a dual carriage way in sections, and not on the entire Mombasa-Nairobi Road. When I say so---

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

Mr. Speaker: Give him a chance now.

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

Mr. Speaker: Order, Mr. Mulusya.

Mr. Mulusya: The Assistant Minister has not been adequately informed.

Mr. Speaker: Order! Order! There shall be order here. There is no point of getting a Member pronounce one sentence and before he has even made his sentence intelligible, somebody is on a point of order. Can we have basic patience?

Mr. Mwamzandi: Mr. Speaker, Sir, if I can continue, we are going to rehabilitate some sections of the said road. In addition to that, the Government is intending to construct a dual carriage-way for selected sections like Changamwe, Mariakani, Jomo Kenyatta Airport turn off to Athi River and also Athi River-Machakos turn off. These areas might help to contain the accidents we have and so on, because traffic on the road is almost 3,000 vehicles per day. These are the stages that we are going to work on.

Mr. Speaker: Mr. Ndicho's Question.

Prof. Mzee: Mr. Speaker, Sir, I only asked one supplementary question. I am standing on a point of order.

Mr. Speaker: I appreciate, Prof. Mzee, but you would also appreciate that a lot of your of colleagues took a lot of time with unnecessary points of order. I have so many Questions unanswered and the time is running out.

Prof. Mzee: Mr. Speaker, Sir, I was hoping that you would protect me from my colleagues.

(Laughter)

Mr. Speaker: Order! Order! Hon. Members, that is a very, very understandable request. All hon. Members who have Questions to their names, are serious about them, and other hon. Members who want to distract them from pursuing their Questions are kindly requested to keep away. I will give you the last chance.

Prof. Mzee: Mr. Speaker, Sir, the hon. Assistant Minister has deliberately misled this House. We know for sure that the World Bank is willing to finance the entire dual carriage way from Mombasa to Nairobi. However, we know that large sums of money have been misappropriated in the building of the Eldoret International Airport and for the purchase of the President's Jet, so that there is no money now available to finance this road. He is coming here and just simply saying that such construction is not justified. I would like this Assistant Minister, who had misled this House before, to tell us the truth about the World Bank negotiations on this dual carriage way between Mombasa and Nairobi.

Mr. Mwamzandi: Mr. Speaker, Sir, the hon. Member is talking of Eldoret International Airport and so on. I am not going to answer those allegations which he has made. If he so wishes, he can put up a Question on that one.

Mr. Speaker: Next Question now, Mr. Ndicho.

Question No 207

TARMACKING OF THIKA-GATUANYAGA ROAD

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

- (a) whether he was aware that on 17th July, 1987, the Government directed that the Thika-Munyu-Gatuanyaga Road be tarmacked; and,
- (b) when this directive will be implemented and how much money has been set aside for this project.

The Assistant Minister for Public Works and Housing (Mr. Mwamzandi): Mr. Speaker, Sir, I beg to give the following reply.

(a) I am not aware that on 17th July, 1987, the Government directed that the Thika-Munyu-Gatuanyaga Road be tarmacked.

(b) The question of implementing the directive does not arise because I am not aware of its existence. There is no financial allocation set aside for the tarmacking of the Thika-Munyu-Gatuanyaga Road. However, it will continue to be maintained so that it remains motorable.

Mr. Ndicho: Mr. Speaker, Sir, this is a very sad thing again because on this particular day I attended a fund raising function at Gatuanyaga Primary School, where we raised Kshs 4 million for Gatuanyaga Water Project. At that time there was no Ministry of Public Works and Housing, but we had the Ministry of Transport and Communication, and the Minister by then was hon. Arthur Magugu. When the Government was speaking, it directed that the road be done.

(Laughter)

Mr. Speaker, Sir, protect me from hon. Icharia.

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

Mr. Ndicho: Let me finish my question first, Mr. Speaker, Sir.

Mr. Icharia: Mr. Speaker, Sir, did you hear the hon. Member say that he heard the Government speaking at Gatuanyaga Primary School, and directing the Government to make the road? Can you allow the hon. Member to clarify what he means by that statement because the Government cannot speak?

Mr. Speaker: Mr. Icharia, you will appreciate that I was not at the place. Mr. Ndicho knows what he is talking about.

Mr. Ndicho: Mr. Speaker, Sir, the then MP for Juja, hon. George muhoho made this request that this road which is less than 20 kilometres be tarmacked because it is serving a very important area. Because the Government was impressed by that particular day's function, it directed Arthur Magugu to tarmac that road and he stood up and bowed. *The Daily Nation* issue of 18th July, 1987, reported that and now the Assistant Minister says that he is not aware. In view of that, I can promise to bring the cutting of the newspaper of 18th July that year to prove that this road was supposed to be tarmacked. In view of that could the Assistant Minister promise that he is going to check on the records and I will assist him, so that if it is true that the road was to be tarmacked, the Government is going to consider tarmacking this particular road?

Mr. Mwamzandi: Mr. Speaker, Sir, we tried to find out the actual position of the promise the hon. Member is talking about and we failed to trace it. May I make it clear that by 18th July, 1987, it would have been the founder of this Republic, the late President Jomo Kenyatta, that time.

(Several Members stood up in their places)

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. I am raising on what the Assistant Minister is saying, because in 1987, the late President Jomo Kenyatta was 10 years dead. The late President died in 1978.

Mr. Speaker: Order! Anyway, I think the hon. Ndicho said "Government". I do not know whether the Government was existing at that time. So, can you answer the Question?

(loud consultations)

Order! I am finding it extremely difficult to believe that we are in Parliament today!

Prof. Mzee: On a point of order, Mr. Speaker, Sir. It is a well known fact in this country [**Prof. Mzee**] that "Government" means the President. There is no doubt about it. Everybody knows that when the Minister or any other person says "the Government", it means the President, it does not mean anything else. This is the ruling of the Chair as well. Do we also understand that it is out of order to use the word "Government" meaning the President? When the Minister refers to the word "Government", he implies that the Government at the time

was the Government of Jomo Kenyatta!

Mr. Speaker: Order! I think the Members somehow this afternoon are not really the ordinary Members we see in this House. There is certainly something amusing. So, can we for a change now be serious? I am mindful of the fact that at 3.30 p.m we will go to the Committee of Ways and Means. We have a lot of Questions unanswered, either because Members were not present or because Ministers were not present. We have also Questions by Private Notice. If the Members want to take their nice time, I do not mind. When it comes to 3.30 p.m, I will call the next Order. And I will make no further Order as to those Questions which have not been answered.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. There is some doubt in the House right now, as to what the Government is. Some are saying the Government is the President. I thought that under Section 17 of the Constitution, the Cabinet is defined and I believe that the Government hinges on the Cabinet. The rest are supposed to support the Cabinet which is the Government. Under Section 17 (1) the Constitution says:

"There shall be a Cabinet consisting of the President, the Vice-President and other Ministers."

I do not think that these hon. Members on the other side should now not discharge the responsibilities because according to the understanding this afternoon, the Government is the President and since the President is not here, they do not have to be responsible to this House as it is required by the Constitution.

Mr. Speaker: Order! Indeed the Government is the President and Cabinet. That is what the Government is all about; the President and his Cabinet. Continue.

Mr. Mwamzandi: Mr. Speaker, Sir, what I was saying was that---

Mr. Achieng-Oneko: On a point of order, Mr. Speaker, Sir. I think we are misleading ourselves. We have been saying that we use the words "Member for Baringo Central". I think it is erroneous to do that because what we need at the moment, is to go through this book and review what is not suitable to the present Parliament where we have several parties. This Standing Order booklet only reflects a single-party system. It would be very bad for this House in future, if they started using the words " Member for Baringo Central". What is he? He is just a Member of Parliament.

Mr. Speaker: Mr. Achieng-Oneko, I think you are just revisiting the issue, are you not? You are just revisiting what I had much earlier told this House. And I told it even yesterday. Now, the only limitation I have as Speaker, is that I have no vote. Number two, I have no authority to initiate debate even for amending that rule. Number three, I cannot even participate in that debate. You are trying as the House has tried, to shift the blame from itself to me who is totally incapacitated by law from acting in whatever way you wish. The ball is in your court, please play it. Next Question.

An hon. Member: That one is not answered.

Mr. Speaker: I am sorry we have others.

Mr. Kamuyu: Mr. Speaker, Sir, Question No.184, how many Private owned wildlife sanctuaries are there in Kenya?

Mr. Speaker: Order! I have never seen this jest before. I have never seen this. And if Hon. Members do not believe it, and if they think they are alone in this Chamber, I would ask you to just turn your eyes up to the Galleries, there are even children. Ask your Question, Mr. Kamuyu.

Mr. Speaker: Mr. Kamuyu's Question for the second time!

Question No.184

NUMBER OF PRIVATE WILDLIFE SANCTUARIES

Mr. Kamuyu asked the Minister for Tourism and Wildlife:-

- (a) how many privately-owned wildlife sanctuaries are there in Kenya; and,
- (b) whether he could table a list of these sanctuaries and in each case indicate the area covered, and the recorded breakdown of wildlife population.

The Assistant Minister for Tourism and Wildlife (Mr. Sing'aru): Mr. Speaker, Sir, I beg to reply.

- (a) Kenya has eight privately-owned wildlife sanctuaries.
- (b) The following are the eight privately-owned wildlife sanctuaries in Kenya together with their areas and a breakdown of their wildlife population:-

Sweet Waters (Laikipia), Lewa Downs (Laikipia), Solio (Laikipia), Taita Hills (Taita-Taveta), Soysambu (Nakuru), Ol Jogi (Laikipia), Lake Chem Chem (Malindi), Laikipia Ranching Ol Ngiro (Laikipia) and three other new community wildlife sanctuaries.

Mr. Kamuyu: Mr. Speaker, Sir, you will have noticed how incomplete that answer was. I did ask him in each case to indicate the area covered, and also the recorded breakdown of wildlife population.

Mr. Sing'aru: Mr. Speaker, Sir, first of all, I am going to table before the House the list of these sanctuaries indicating the areas covered and the recorded breakdown of wildlife population.

(Hon. Sing'aru laid the document on the Table)

Prof. Ouma: The Assistant Minister says that there are eight privately-owned wildlife sanctuaries and he gives a list of them. I wish to ask for a further clarification. Wildlife is a very key resource in the maintenance of tourism which brings great profits to this country. In these privately-owned sanctuaries, who is responsible for the conservation of the wildlife and how much freedom do the private people have to do what they like with the wildlife there? What are the conditions?

Mr. Sing'aru: Mr. Speaker, Sir, these sanctuaries are run by the local people themselves.

Mr. Kamuyu: Mr. Speaker, Sir, 60,000 acres of land are occupied by the eight privately-owned sanctuaries with 2,700 wild animals out of which 643 are elephants and 125 black rhinos. That is sad, considering that Kenya depends so much on tourism and therefore, wildlife. My friend tells me that these sanctuaries are run by local people. He is misleading this House because all these sanctuaries are run by foreigners and they export these animals overseas. What does the Kenya Government gain out of this kind of arrangement in terms of taxes?

Mr. Sing'aru: Mr. Speaker, Sir, as I have said, these sanctuaries are run by the local people. The Kenya Government is gaining nothing from them.

Mr. ole Tuya: Mr. Speaker, Sir, I am sure the Assistant Minister knows that in those areas, these animals outnumber the people and any other domestic animals there. They in fact disturb people there. What plans does the Government have to help the local people in those areas?

Mr. Sing'aru: Mr. Speaker, Sir, I am surprised to hear hon. ole Tuya arguing like that and yet one of the wildlife sanctuaries is situated in Narok and the people of Narok especially in his constituency, are generating a lot of revenue from these sanctuaries.

Mr. ole Tuya: Mr. Speaker, Sir, would the Assistant Minister be precise and tell the House the plans he has because human beings are more important than wildlife, and even if they are benefiting from these animals, that money means nothing compared to the life of human beings?

Mr. Sing'aru: Mr. Speaker, Sir, I think the hon. Questioner should understand that tourism is the leading foreign exchange earner in this country and I think the local people are benefitting from these sanctuaries. That is why they have agreed to have these sanctuaries in their areas.

Mr. Kamuyu: Mr. Speaker, Sir, the Minister has continually misled this House that these sanctuaries are run by local people. This is totally incorrect because I have got documentary evidence to show that they are run by foreigners. Can he tell this House who the directors of these sanctuaries are if the Government is not involved?

Mr. Sing'aru: Mr. Speaker, Sir, I do not know the directors because the people who are running these sanctuaries are the local people themselves.

Mr. Sankori: Is it in order for the Minister to mislead this House that these sanctuaries are actually run by the local people given that, even the user's rights are actually given to the foreigners, leave alone the sanctuaries? Can he confirm or deny that?

Mr. Sing'aru: Mr. Speaker, Sir, I think I can give one example. The owners of Kimana, which the hon. Questioner understands better, are the group members. The same thing applies to Ol Jorologua. Therefore, the benefit goes directly to the local people.

POINT OF ORDER

MINISTERIAL STATEMENT REQUIRED:

CIRCUMSTANCES LEADING TO DEATH
OF MRS. NDUBAI

Mr. Kiliku: Mr. Speaker, Sir, I am rising on a point of order to demand a Ministerial Statement from the Minister for Health on the circumstances leading to the death of the wife of hon. Ndubai, Mrs. Chloris Ndubai. Mrs. Ndubai underwent what the doctors would call gynaecological operation at the Aga Khan Hospital and the

two Asian doctors who performed the operation deliberately messed up and they caused a minor cut of two centimetres on Mrs. Ndubai's large intestine instead of operation on the uterus. Nine days later, they discovered the error and the same doctors, who are a man and his wife, operated on the lady and discovered that the injury went unnoticed. After this second operation, the lady went into a comma and later died. Could the Minister for Health explain to this House and to the nation why those doctors from India who are not competent were allowed to operate on that lady and it was just the other day that the Government said that it is going to "import" foreign doctors? If this is the kind of doctors we are going to have, it is sad. These doctors who did this operation should not escape the law of this country.

Mr. Speaker: Order! Order! I do not have the time for the Minister to respond. Maybe, he can do it on the earliest time, Tuesday. For now, let us proceed.

Next order!

COMMITTEE OF WAYS AND MEANS

(Order for the 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 Fees and Taxes

contained in the Financial Statement for the year of Account 1996/97 be approved.

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

(The Minister for Finance on 2.7.96)

(Resumption of Debate interrupted on 3.6.96)

Mr. Speaker: Who was on the Floor?

Mr. Shikuku: There was nobody on the Floor.

Mr. Speaker: Do you want to contribute, hon. Wamae?

Mr. Wamae: Mr. Speaker, Sir, thank you very much for giving me this opportunity to contribute to this important debate.

In the first instance, Mr. Speaker, Sir, we are very concerned as Kenyans, about the high interest rates being charged by commercial banks in Kenya. The interest rates being charged by commercial banks are retarding the development of Kenya. One of the major reasons for these increased interests---

(Loud consultations)

Mr. Mutani: On a point of order, Mr. Speaker, Sir. There are very loud consultations going on, especially on the KANU side of this House. We cannot hear what the hon. Member is saying.

Mr. Speaker: Order! Order, hon. Members! We shall have order here. I think the hon. Member for Mathira is entitled to make his contributions in this House, and he is entitled to be heard. Those hon. Members who are wishing to take their leave of the House may do so quietly. Those who are remaining and would like to consult, should consult in such a manner that do not deny the hon. Member for Mathira his right to contribute. Carry on, hon. Wamae.

Mr. Wamae: Thank you very much, Mr. Speaker, Sir, for protecting me from those who are making noise, and also from my friends from---

Mr. Speaker: Order, hon. Wamae! What is it hon. Kapten?

Mr. Kapten: On a point of order, Mr. Speaker, Sir. If certain points of order were to be raised, an hon. Member should see you, and you will give him some time after Question Time. Yesterday, I had a point of order to raise. You did not give me time. I saw you later, and you promised to give me time today. Today, I rose after Question Time and you did not give me time. I think it is unfair, Mr. Speaker, Sir.

Mr. Speaker: Order! Order! Order, hon. Members! I think hon. Members should also be serious in what they say. Do you, for example, know how many Questions went unanswered and unasked today, because hon. Members spent the whole afternoon on a lot of frivolous points of order? A lot of Questions, both regular and Questions by Private Notice went unanswered. I do not make laws governing this House. I have said before, and I will say it again, that on a day for Committee of Ways and Means and Committee of Supply, the Chair has no leeway. Once it gets to 3.30 p.m. this House must go to that business. Hon. Kapten was sitting here and he saw how many Questions were not answered. He saw that I was just barely able to get less than one minute for hon. Kiliku. Where do I get time, when you take it unnecessarily? It is for the House to allow me a latitude to be able to serve the interests of the hon. Members asking Questions, the interest of hon. Members who have urgent points of order to make, and also the main business of this House. My role is to ensure that we apply the rules as they are. Proceed, hon. Wamae.

Mr. Wamae: Mr. Speaker, Sir, I am sure that the time you have used will be added to my time.

Mr. Speaker: Yes, indeed, you are right. I will add your time.

Mr. Wamae: Thank you, Mr. Speaker, Sir. The question of interest rates is a very important issue in this country. Interest rates in commercial banks are now ranging between 28 and 35 per cent. This level of interest rates is detrimental to economic growth and I think the Government is to blame for this. The Ministry of Finance has continued to raise too much money from Treasury Bills. Now, they are raising nearly Kshs7 billion a week, to finance the Government at very high interest rates. This mobilisation of money to the Government is what has created the shortage of money for the private sector, and consequently, the high interest rates the commercial banks are charging.

I would urge the Government, through the Ministry of Finance, to reduce the amount of money they are borrowing from the banking sector, to allow the private sector to have the resources to make this country grow. We have agreed that the private sector is the engine for growth in this country. If you have to have an engine for growth, you must have fuel. The fuel in economic terms is the money flow. The money flow cannot move if the interest rates are detrimental to development. I hope this is a matter which the Minister will comment on when he is replying.

Mr. Speaker, Sir, the next current issue is the question of Kenya Co-operative Creameries (KCC). Most of our constituents depend on milk for income. KCC has been mismanaged for many years. But we wonder why there is some special interest now, after a new Board of Directors has been appointed. There seems to be some special interest, especially from the Minister for Agriculture, Livestock Development and Marketing. Before, the Minister used to say that he is not in charge of KCC. But all of a sudden, he has developed a lot of interest in KCC. We also note that the Government is commenting daily on KCC.

Mr. Speaker, Sir, we would like KCC to be left alone to do its job. We also want KCC to know that the price of Tetra Pak packaging which costs Kshs10 per package is too expensive for the milk. They should find an alternative packaging and not Tetra Pak. That is the most expensive packaging which can never be found anywhere else. They seem to like it. The new Board of Directors must do something, and make sure that they bring a reasonably priced and accepted packaging like polythene. But this Tetra Pak seems to be forced down the throat of KCC by Tetra Pak Company. We want to urge KCC that Kshs9 for one litre milk for packaging is too much for the farmer. We hope that the Minister for Co-operative Development will also assist in this regard.

Mr. Speaker, Sir, coffee is one of the major income generating and foreign exchange earning crops in Kenya with a lot of people depending on it. But through different types of deductions for financing the Coffee Board of Kenya, for the auction, cess for the county councils and fees for KPCU, 20.5 per cent of the total proceeds are deducted from the farmers' receipts. So, the farmers or the co-operative societies get only 79.5 per cent. This is too high. These deductions are not acceptable. Other statutory boards are financed by Government through the Budget. Why do the coffee farmers have to finance the Coffee Board of Kenya which is a Government parastatal? Why is the CBK not provided with the funds through the Budget like other parastatal bodies? It is not the work of a coffee farmer to finance a parastatal or a regulatory body. It is the Government which should do so. I hope that the Government will look into this area because the coffee farmers are very unhappy with all these deductions the Government is making on their crops, whereas other crops are not subjected to the same type of deductions and we think it is unfair. The Government should look into this issue to ensure that this high level of

deductions is not done on coffee proceeds.

Mr. Speaker, Sir, we have now liberalized the economy of Kenya and we are continuing to liberalize. This is a good thing because it is going to bring a level playing field for everybody. Instead of people going to get import licences and paying 10 per cent, now everybody is free to import what he thinks he can sell. But we must be serious about the question of people who do not pay import duty and VAT. There are a lot of goods getting out of the Port either as transit goods and are off-loaded in Kenya when they are supposed to go out to neighbouring countries and this is what is really destroying the economy of this country; these imports, we do not pay custom duty for. We had a case the other day of some Asians who were doing this and I hear that the case has been withdrawn by the Attorney-General on a *nolle prosequi* basis and therefore, they will possibly continue doing the same thing in future. Unless these things are stopped and we have a level playing ground for everybody, this economy cannot grow. We have a problem in the Textile Industry, we also have problems in bicycle tyre factories because of the same problem and many other industries have been affected by these illegal imports which are supposed to go to the neighbouring country but are unloaded in Industrial Area godowns and from there, they come into the market very cheaply. This is something which should be looked into as it is going to affect employment and the economic growth of this country.

Mr. Speaker, Sir when we pass this Budget in this Parliament, we should ensure that this Budget is adhered to, and that in the course of the year, the Government will not shift resources from what was approved to projects that were not approved. A case in point is the Eldoret Airport Project which originally was not in the Budget but was squeezed in there and money for road construction and repair was misappropriated and put aside for that purpose. This sort of thing should not be done because we have told the people the projects which we have approved for development and when they are not done, it becomes very difficult to be able to explain to the people why this sort of thing is not happening.

Mr. Speaker, Sir, when encouraging the foreign investors, we must also make sure and know that the local investor is a very important person and he must be given the opportunity to invest anywhere in Kenya and be given all the necessary incentives. It is we as Kenyans who must develop this country. This country is not going to be developed by foreigners. Foreigners can come and invest, but the long term investment is going to be done by Kenyans themselves and therefore, it is very important that we generate our resources and savings and channel them towards productive investment and encourage our people to invest, encourage our people to borrow and create an enabling environment which makes it possible for our people to invest and make money. Because without making profits, no private person is going to invest for the sake of it. It is for this reason that we support the privatization of parastatals. We established parastatals at the time when Kenyans were not able to go into joint ventures with foreigners. Kenyans are now able to go into joint ventures, they do not need the Government to compete with them in investing in commercial enterprises and therefore, we should complete this privatization of parastatals as quickly as possible. I think we are not going fast enough with this privatization process if nearly 70 enterprises are not yet privatized and we still have not broken up the big parastatals like Kenya Posts and Telecommunications, Kenya Railways and Kenya Power and Lighting Company, so that they can also be privatized. There is no need to kill these parastatals. The Government should make money from taxes and regulate the running of those institutions but the commercial aspect of it should be left to the private sector who are better equipped and more efficient than the Government in managing them. Of course, certain people are regretting that there will be no statutory boards where they will be appointed chairmen and directors. Those are people who want to get money from the Government. But, Kenya is not going to depend on those people who are just getting directors fees. We want the economy to grow, we want the economy to be able to mobilise its resources and to create employment. Employment will be created by the private sector on long-term basis. If a private investor does not produce the results, the Government is not called upon to subsidize, it goes under.

With those few words, I support the Motion.

Mr. Mwiraria: Thank you, Mr. Speaker, Sir, for giving me the opportunity to comment on the Motion before the House.

Mr. Speaker, Sir, I totally oppose this Motion for two main reasons. First, because the fiscal measures proposed by the Minister are, to a very large extent, inflationary and to a very large extent, aimed at the poor or the poorest of the poor in this country. We are going to make the cost of living unbearable and a lot has already been said about this by my colleagues who have spoken before me.

Secondly, I am going to oppose the proposals here, because I am now completely convinced that the Government does not care for its poor; the Government does not care for its people.

Mr. Speaker, Sir, if I may touch very briefly on the Financial Statement itself, I will make very few comments which clearly indicate that the financial proposals are aimed at the poor. The increase in the prices of kerosene, petroleum products, duty on imported second-hand clothing and so on and so forth.

Mr. Speaker, Sir, I would like to make a minor comment on the goods imported by the Kenya Navy, Army and Airforce. The only comment I would like to make is that, some of these goods are now being used for trade. At the Meru Agricultural Show a few days ago, the Kenya Army was there in full force selling duty-free goods to Members of the public. This virtually put all other people who were to sell drinks, out of business. Is this really the intention of giving this privilege to the people?

Mr. Speaker, Sir, I want to turn to my second point in showing that the Government does not really seem to care for its people. In North

Imenti today we have the elephant menace, which has reached a proportion that I cannot even describe. When I was a young child, elephants hardly visited the inhabited areas of North Imenti. Today, they are roaming everywhere. They have cleared all the villages around the forest and have moved further, deeper and deeper into the inhabited areas. We have had very little rainfall this season and so, people are not expecting to harvest adequate food. But elephants have gone even along the river beds, where people grow survival crops like sweet potatoes, arrow roots and bananas and have destroyed these crops as well. They have gone so far inside the inhabited areas that, this fact is

unbelievable. What surprises me is that the elephants of today seem to be much cleverer than the elephants of the days when I was a young child. In those days, we used to go across the forest with

a little goat behind us, and if we found an elephant, all that we did was hide behind a tree, bite the little goat's ear, it bleated and then the elephant would disappear. After that, came the gun and anything that made noise that was as loud as that of a gun, was enough to deter an elephant. Today, even if you aim a bullet and shoot over an elephant's head, it will not be bothered.

What I am really trying to say is that the elephant of today is not only a large animal but is also naughty. What is even more important is that it seems to understand the fact that the KANU Government cares more for the elephants than for the people. People in North Imenti have tried every trick to get rid of the elephant unsuccessfully. There are a few game wardens who even use thunder flashes, but all that the elephant does is to move away when the thunder flash comes its way, and then move back after the thunder flash is no longer there.

Now, I do not know what to say. In fact, it looks as though fairly soon the elephants of North Imenti will know how to sing "Nyayo" because of the protection they are getting from the Government. Indeed, today, they know how to wave using their only "kidole". But they do all this at the expense of the poor farmers of North Imenti, who are not allowed to protect themselves and who are not getting any protection from the Government. The question I want to pose today is: For how much longer will the people of North Imenti be expected to suffer this elephant menace? I can tell a little secret here: Sometime last year, the people of North Imenti said that if by August this year these elephants are not taken care of by the Government, they will take care of them the way they used to take care of them in days gone by. This is not a veiled threat. The matter is too serious to be allowed to continue the way it is.

Let me mention a second point which, in my view, proves that the KANU Government does not care for the welfare of its own people. Take a simple example like M/s Kenya Co-operative Creameries (KCC). The KCC is a co-operative body and is, therefore, a private organisation. It is not a state corporation and cannot, therefore, be privatised. In 1988 the Government, knowingly and wittingly, took a decision to remove the powers of appointing the chairman, the vice chairman and the managing director from the co-operators to Government hands. From that year, the KCC has been looted left, right and centre until it is virtually on its death bed. It is, in my view, the interference with the management which has been the biggest problem at the KCC, and nothing else.

Another point that we should note is that recently the Government agreed to hand over the KCC back to its rightful owners, namely the co-operators. But the Government is handing over with one hand and taking away with the other. If it handed the KCC to Mr. Metto and his team of directors, why does it want to continue interfering with them? Why not leave them to manage the KCC? One day this team is told to increase milk price from Kshs11 to Kshs14 per litre, and the following day people are being told: "Abandon the KCC and look elsewhere as some of us are doing". Why interfere with this team? Let us give them a chance!

The Government has a responsibility, indeed a duty, to support farmers in this country. The best way of supporting them is by supporting the KCC, which is really their only means of survival. I do not think the Government can get away with pretences that it has not been largely responsible for the present problems of the KCC. It has been responsible for them and no argument will change this position. My last point on the KCC is to urge the new Board of Directors to look after its farmers and give them interest in factories located around where they live. This is what the Kenya Tea Development Authority (KTDA) has done. I think if such action is taken, that will be a very positive development that will make the KCC a profitable organisation.

Thank you, Mr. Speaker, Sir.

The Minister for Information and Broadcasting (Mr. Makau): Thank you very much, Mr. Speaker, Sir, for giving me a chance to speak on this Motion on taxation proposals. Allow me to preface my contribution by commenting on one of the issues that was brought up by the Minister for Finance. This is the question of maize production in this country. It was stated that maize production has gone down. This is a very crucial issue. As you are aware, agriculture is the back bone of the economy of this country. When we are discussing tax proposals and other issues, there is no way we will do this without touching on the major contributor to the economic development in this country.

When we talk about tax proposals, the issue of farmers in this country should be taken into account. The farmer in this country is very important, in the sense that 80 per cent of our population is involved in agriculture. But the production of Maize, which is a very important and crucial crop, is faced with the possibility of being abandoned by farmers. We know that liberalisation has allowed people to import maize from other countries and importation of it has been going on. What is surprising is that farmers are not being allowed to export their maize freely to places where they can get better prices.

It is because of this that farmers are turning to the production of other types of crops and that is why we are facing this problem of not having enough maize produced in this country. I am stressing on maize because when there is insufficient maize in this country there is panic because areas that receive relief food depend entirely on maize and this is a worrying situation to them.

It is very important that the Minister for Finance and the Minister for Agriculture, Livestock Development and Marketing look into this issue of giving commercial farmers the opportunity to export their maize right from their own farms so that they would be able to fetch better prices. By so doing, we are not going to have shortage of maize because the farmers will produce enough for export and also for domestic consumption. Currently, we understand NCPB does not have enough maize to feed this country and that is why we are importing. While on that, the farmers should be given tax incentives to produce more because when we have any taxation, as far as farmers are concerned, especially taxes that discourage farmers from growing enough as they are supposed to do, that is bad.

Having said that, we know that in the whole of Africa when people are implementing the structural adjustment programmes or policies, the idea is to arrest the economic stagnation that has been there for the last two decades. We are aware, especially in this country that the economic reforms that have been taking place including modernisation of taxation, introduction of VAT and other schemes that have been brought into taxation, we have seen that the trade and liberalisation has resulted into some positive results. But it is high time we checked on areas that are meant for us to see improvements as a result of this liberalisation.

One of the areas that is very crucial is the creation of employment. We should ask ourselves and analyse and see whether there is any more creation of employment. We know that there has been creation of employment, but our proposals are that we should be able to check constantly to see whether whatever structural adjustment programmes or policies that we are adopting, are satisfactory.

The other area that we are happy about is the fact that economic reforms have resulted into economic growth. We know that about three years ago Kenya was almost experiencing on negative economic growth and now we can see results.

The other area that is extremely crucial and which we should assess is the question of modernisation and improvement of taxation systems. We have heard that the establishment of Kenya Revenue Authority will improve the collection of revenue in this country. Recently, we had this big scandal in the Kenya Ports Authority and the public is waiting anxiously to see what is going to happen to those people who were involved in that big scandal. What the Minister for Finance should be concerned on this issue is that here, we have the Kenya Ports Authority, the Kenya Revenue Authority, and all the mess, lack of paying taxes, customs duties and so on, which resulted to a lot of problems that formed that big scandal, it is extremely important why we talk about all the taxation proposals and systems that are supposed to improve on that, that we should be told periodically how far we have gone and be told whether the introduction of Kenya Revenue Authority which was meant to bring efficiency in the collection of revenue which was also meant to give incentives to the people who are working there that improvement that has come whether it is worthy taking. I am saying this because some of the measures that were taken within the time that everybody was talking about the Kenya Ports Authority that we should now be getting statements from the Minister for Finance to show us that measures which have been taken are bringing results.

We cannot, while debating on these proposals, fail to discuss the negative effects of Structural Adjustment Programmes (SAPs) which we have been extremely very unfortunate that the World Bank, the IMF have stressed on the Structural Adjustment Programmes have failed to provide safety nets for those vulnerable groups that have

been affected. But very fortunately because of the foresight of our President social dimensions of development have been provided for in our Budget and some money has been set aside.

One of the areas of concern is the question of vulnerable groups mainly in the arid and semi-arid areas. We are extremely grateful that the Government has seen it fit that people in the arid and semi-arid areas are provided with relief food. But the scheme that is supposed to address the social dimensions of development in the arid and semi-arid areas is known as Relief and Rehabilitation Scheme. Many a time those of us who come from arid and semi-arid areas know that the major problem is lack of rain or water for the growth of various crops. There is a lot of money that is set aside and if the rehabilitation aspects are stressed more than the provision of relief food, we appreciate those of us from the arid and semi-arid areas that the Government is committed to make sure that nobody dies of hunger as result of lack of rainfall. But more money should be spend on rehabilitation in places like Ukambani, North-Eastern Province and Coast Province, if the availability of water, permanent rivers are available in those areas and if those rivers could be made use of irrigation schemes would be able to provide a lot of food in those areas.

So, Mr. Speaker, Sir, with those few remarks, I beg to support.

The Assistant Minister for Public Works and Housing (Mr. Mwamzadi): Mr. Speaker, Sir, I would like to support the Motion, but I have the following observations. Whatever measures the Government is taking to see that we are self-sufficient with funds if revenues can be collected, we shall not be so self-sufficient unless stern measures are taken to control the revenue collectors in the country. We are in a different society now where those who are rich want to be richer and, therefore, the poor man is bound to remain poorer.

Mr. Speaker, Sir, on the current shortage of sugar in the country, I do not think we should be having shortage of sugar in this country. We have our own industries where white sugar is processed and then there are some people who have been importing sugar. Where does all this sugar go to? We even have other tracts of land where we can grow sugar and build more industries. But I do not know why people are not encouraged to do so. For instance, we have been expecting that the Ramisi sugar factory would be revived, but unfortunately, it was not revived and we have reached a time where the Government will no longer establish more parastatals. Therefore, the only thing is to get private investors to revive Ramisi Sugar Factory. We have not been able to do so up to now, although we are planning to hold meetings to see how we could revive this Sugar Factory.

Mr. Speaker, Sir, what worries the former outgrowers of Ramisi Sugar factory is the Agricultural Finance Corporation (AFC) loans that have not been paid up to now. I thank the Government for asking the AFC not to auction farms of defaulters. I hope as agreed, the Government will honour its promise that something will be done to alleviate this problem because if the farms are auctioned, then I am sure most of my people will be landless. A lot of sugar cane decayed in the farms because people had nowhere to take it. That the cane had decayed, not because of any mistake of the farmers, but because the factory collapsed. The Government should bear that responsibility fully so that the farms which were lodged as security to acquire loans from the AFC are not auctioned.

I said earlier that some people who are already rich would like to be even richer and this is a very dangerous trend. My area happens to be along the sea shore and it is easier to smuggle therein anything from other parts of the world like Tanzania, Zanzibar, Mauritius and any other parts. It has actually been a centre of drug trafficking, and I must declare here that as the Member for that area, I have always condemned this unlawful trade of importing drugs into this country. Several trips had already been made until the last one, and the matter is in the court now. I am made to understand that there is one official of the Kenya Wildlife Services (KWS) by the name Geoffrey Wakaba, who misled the whole seminar during that drug control programme attended by officials from within and outside Kenya. He said that the KWS wanted to open a Marine Reserve at Diani in Chale, but the local leaders have sabotaged this move because we are misled by the drug barons so that they can easily smuggle their drugs into the country. I must say here that, that officer who misled the whole seminar should actually apologise to the local leaders and fishermen. My people had objected to the establishment of a Marine Reserve because they have had enough of the KWS. People around Shimba Hills are always being killed by elephants. When my people go across the sea, sometimes they are arrested for crossing the Shimoni Marine Parks. People are being eaten by sharks and the KWS has done nothing to alleviate this problem.

Mr. Speaker: Is the Kenya Wildlife Services in the debate?

The Assistant Minister for Public Works and Housing (Mr. Mwamzandi): Mr. Speaker, Sir, we are debating finance and they are thinking of earning foreign exchange at the expense of mwananchi, which is very dangerous. These KWS personnel have become more of a nuisance to the local man than a help. We do not have food because our crops are eaten, our people are killed and we are never compensated. The KWS must think twice before it thinks of establishing any other parks anywhere.

Mr. Speaker, Sir, I would like to remind the Minister for Health, who is here, that I agreed with the

President when he said that senior Government officials should go for treatment at the Kenyatta National Hospital (KNH). Even Ministers should go there. I am sure if they go there for treatment, then they would be in a better position to assess the situation that the ordinary mwananchi faces. I, therefore, endorse the idea of asking other doctors from other areas to come and help us because our doctors have no interest in serving their own people. I have a good example in my own area where the doctor at Msambweni District Hospital is charging the ordinary mwananchi for any services rendered at the hospital. I have been forced to complain to the Minister for Health here to remove this doctor immediately, but instead of removing him, they removed another doctor and this is very bad indeed. People are not that rich to pay the charges demanded by that doctor. In fact, that doctor is being paid by the Government. Why should he ask for bribes from ordinary mwananchi? To be admitted at Msambweni District Hospital, one has to pay Kshs2,000.

An hon. Member: Ashikwe!

The Assistant Minister for Public Works and Housing (Mr. Mwamzandi): Mr. Speaker, Sir, [**The Assistant Minister for Public Works and Housing**]

if you are suffering from hernia and you have to be operated, or for a mother to undergo caesarian operation, you have to pay Kshs5,000. This is dangerous. I would request my fellow Ministers to make tours of the country on their own initiative. I am not happy when I see the President always burdened with everything. Has the President got to go to Msambweni Hospital for the Minister for Health to go there? The Minister only accompanies the President on his tours of health institutions. We as Ministers should spend public money to visit the institutions so that we know our problems. But my fellow Cabinet Ministers are just sitting in their offices and when the President goes out, then they accompany him. This is wrong. We should help the President in solving problems facing wananchi.

With these few remarks, I beg to support.

Mr. Speaker: The Minister for Health can now answer you.

The Minister for Health (Mr. Angatia): Thank you very much, Mr. Speaker, Sir, for giving me this chance so that I can also speak. But I will start by answering hon. Mwamzandi because I have been to Msambweni three times in three years. I must say that he is very lucky because he, at least, has three doctors when other people do not have even one. I want to congratulate the Minister for Finance for the manner in which he has set up the tax collection machinery in this country. Nobody would like taxation---

Mr. Shikuku: (inaudible)

The Minister for Health (Mr. Angatia): Mr. Speaker, Sir, you can hear even hon. Shikuku, who likes development, but still he does not like taxation. I do not know how we expect to get development without taxation. The tax levels and the items that are taxed---

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. Is the Minister in order to say that I do not like taxation when I have contributed and even suggested what items should be taxed so that we can get enough money? I started paying tax when he was still in school.

Mr. Speaker: I cannot hear you clearly.

Mr. Shikuku: Mr. Speaker, Sir, is it in order for the Minister to say that I do not like taxation when, during my contribution to this very Motion, I even gave proposals on some of the things that should be taxed so that we can generate more revenue? At any rate, I was paying tax when he was still in school.

An hon. Member: Let him answer!

Mr. Speaker: Instead of referring to the hon. Shikuku as hon. Mr. Shikuku, I think it is better to refer to him as the hon. Member for Butere, so that it is not personalised. Proceed.

The Minister for Health (Mr. Angatia): Mr. Speaker, Sir, when I commented on taxation, I heard him make a comment and I said that he may not have liked the comment but still, he likes development. I thought he would also complement me for complementing him. But, apparently, he took only one side and left the other side. The hon. Member for Butere likes development and also he has been paying taxes. The difference between his age and mine is so small. If he paid tax while I was still at school, it was okay because it enabled me to complete my studies.

I think it is important that taxation measures or machinery for collection is made much more effective because, I think, the items that are being taxed are nearly enough. If we can collect all the money that is due to the State, there will be enough money in this country to carry out the services that we need to carry out.

When we come to debate the various Votes of the Ministries, Members will complain about the shortage of money. But when you look at the overall picture in the whole country, the amount of money available and the way it is distributed, it is so limited. We cannot satisfy all the things we want to do.

I also wish to congratulate the Government for the manner in which it has managed the liberalisation and reforms. This is a pet subject for both the Opposition, the Government, KANU, the Clergy, NGOs and so on. There have been far-reaching reforms in this country and they are continuing and I think people should be satisfied that it is only under the present KANU leadership of President Moi that these reforms can be managed. Nobody else can manage these reforms at the rate at which they are being undertaken and the magnitude of the areas that they are covering. These reforms include laws and most laws have been brought before this House, while others have been lined up for reforms. I am sure that when all the laws which require reforming have been reformed, we shall have taken care of all the interests of wananchi including minute interests up to the family and individual levels. Out of that, we shall be able to sit down and summarise them into a constitution. Kenya did not attain its Independence in 1996, so that we can start off with the Constitution. Let us go to the laws that matter, about production, distribution, trade, sale, education and all the social aspects of our lives. Those are the areas that are urgent. Let us carry out reforms in all those areas and the Constitution can come later. Once the laws are in place, the Constitution can wait, so that we can summarise what the laws of this land say into a final Constitution.

I would also like to say something about the Opposition Members in this House. In this country, I am afraid that the Opposition seems to have refused to learn to be mature or to operate like a constructive Opposition, despite the very generous support which it has received from all over the world and even from church leaders. It is like Opposition is the theme. The Opposition should also be a responsible Opposition. Parliamentary Opposition is a responsible Opposition. It is not an Opposition for heckling the Speaker, opposing the Standing Orders of the House and destruction. It should be an Opposition meant to criticise things that are being done with a view to replacing those things with better things. When people are criticising like they want to destroy and uproot and not proposing better things that can replace what they are criticising with better processes and better schemes, then it becomes Opposition for the sake of Opposition and this has no room in this country. We are all in this country. There is no way somebody in the Opposition or in KANU or in Government will run away. We are all locked up in this country and it is our responsibility to look after this country. If the Government is reforming a law that has been oppressive, or the Government is changing a production process so that we can produce better and more effectively or changing a tax so that we can have a more effective taxation mechanism, it is expected that the Opposition will say that the Government is doing something. If there are things that should be changed and they are not being changed, it is expected that the Opposition should criticise. But when this House, where we want to pass laws, approve taxation, expenditure is heckled and derailed and all sorts of things happen, it becomes questionable as to whether we are having Opposition that is promotive, positive or do we have Opposition for the sake of Opposition?

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Angatia to take his time trying to criticise the Opposition? Who mandated him to tell us what to do? We are elected and we know what we are opposing. We are not opposing for the sake of opposing. Is he in order to misrepresent the Opposition here?

The Minister for Health (Mr. Angatia): Those are my views. I know that Members of the Opposition are earning a salary in this country in order to do good things for the country and not in order to destroy it.

The other issue which I would like to comment on is on the National Youth Development Fund. This is another area which, strangely enough, is receiving opposition from the Opposition for the sake of opposition. This country is short of money. But it is blessed with a system of Harambee. Those who have contribute whatever they have. Harambee is not only for those who have a lot of money. It is for everybody because anyone who can spare a shilling brings it forward for a good cause and where there is a good cause, people in this country know it and they deny themselves money in order to support that good cause. This one is one of those good causes. We expect that both sides of the House can contribute ideas on how this can be managed properly and how it can be utilised in order to generate employment and to organise wananchi, especially the youth so that they can engage themselves in productive activities. These matters are being handled by the DDCs. Opposition as well as KANU Members of Parliament sit at the DDCs. There is plenty of opportunity to make suggestions on the best way to use this money and the best way to select those who will use it, so that wananchi in this country can invest it where production can be enhanced. If Opposition Members are opposing this programme instead of assisting in the collection of this money throughout the country, it means that while the Government is pulling in one direction to support and alleviate unemployment, the Opposition Members are hindering this progress by opposing it for the sake of opposing. This is one area which the Opposition Members would have supported. If they do not want to support, they should leave it alone. Let them allow KANU to carry on and KANU will prove how mindful it is of the welfare of the people of this country, the youth, women, the aged people and also the Members of the Opposition.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. The hon. Member is just dealing with the Opposition and accusing them of all sins under the sun. Is he aware that we are not opposed to the National Youth Development Fund? If it is debated and the Paper is passed here, that is alright but not what they did with the Ngai Ndethya tragedy and that money got lost. The money for the cripples also got lost and there are many other programmes whose funds have been "eaten" by the Government. They are grabbers and we cannot withstand being lectured to by them!

The Minister for Health (Mr. Angatia): Mr. Speaker, Sir, indeed the Member of Parliament for Butere is just taking my time. He had his time to make his points so let me also have my time to make my point.

Mr. Speaker: Well, I suppose you are neighbours.

The Minister for Health (Mr. Angatia): We are not neighbours!

My final point is again an invitation to the Opposition Members, KANU Members and to everybody to participate in the inspection of our service Ministry. For example, as concerns the Ministry of Health, I have invited Members to visit health centres and hospitals in their own constituencies and suggest the best way to manage them so that people do not steal our drugs, linen and so on. So, I invite them to join in if they are willing to support the development of this country.

Mr. Speaker, Sir, with those few remarks, I beg to support.

Mr. Shikuku: What happened to the Mtongwe Ferry Disaster money?

Mr. Busolo: Thank you Mr. Speaker, Sir, for giving me this opportunity to contribute to this debate on the proposals contained in the Financial Statement.

Mr. Speaker, Sir, the way these proposals have been brought to this House speaks of something amiss within the financial processes in this country. I would have imagined or rather expected that the Estimates Committee of this House would have discussed some of these proposals first but as far as I know these proposals came to this House for the first time during the Budget Speech and the fact that the Estimates Committee did not meet or did not even have prior knowledge of the proposals by the Minister for Finance speaks a lot about something which in my view is wrong regarding the budgeting processes.

Mr. Speaker, Sir, I would suggest that the budgeting process should first and foremost begin in the Estimates Committee before it reaches this House. So, my first point is vested on the procedure about this taxation.

Mr. Speaker, Sir, secondly in the Budget Speech it would seem like there is a confusion between productivity as a way of raising revenue, generating income for other projects and taxation again as a way of raising revenue. If you look at the economy of this country, when it comes to agricultural production, the Economic Survey tells us that productivity was low. That is the Economic Survey for last year. When it comes to manufacturing, the statistics are not very good. When it comes to the service industry, the statistics are not very good and if we cannot raise our own productivity, it means that we will fall back on taxation and if we fall back on taxation, it means we are really taxing the mwananchi too much. The mwananchi in this country is already burdened enough with high cost of health services, cost of food and all these kinds of things. If we raise any taxation from mwananchi under those conditions, it means that the Budget proposals regarding taxation have not taken the plight of the mwananchi into account. What it has done, is rather again to use the mwananchi in order to squeeze him or her further to produce for Government spending because most of the money accrued from most of these taxation proposals is not going to increase productivity in other sectors of the economy but it is going more to Government spending. What is Government spending? Is the Government spending in relation to increased food production in this country? Is the Government spending in relation to increased health deliveries in this country? Is the Government spending on increased education delivery in this country? My answers to those questions is no. The Government is spending towards salaries and other kinds of projects enjoyed by the big people in the Government and as such I call on the Ministry of Finance to examine the sphere of production at the level of agriculture, at the level of manufacturing and also at the level of the service industry.

Mr. Speaker, Sir, increased taxation also seems only to lead to more corruption. This country is legendary for the corruption in areas where taxes are collected. We know the corruption that is going on at the Port of Mombasa where a lot of tariffs are collected. We know of corruption in the Customs Department where again a lot of tariffs are collected. And this Government has also not been very good at arresting the culprits whom they know. Recently there were cases of car importation rackets and names were mentioned and some people were even arraigned before courts but we were recently shocked when some of these suspects cases were withdrawn on account of the intervention of the Attorney-General. So the question which we are raising is: why protect tax evaders and yet at the same time tax the mwananchi? The role of the Attorney-General in prosecution of those who have evaded paying taxes is called to account. We are suggesting here that the Attorney-General is protecting tax defaulters, be they companies or individuals but if ordinary small mwananchi evades taxes, he is usually

arrested. So, I would call on the Attorney-General to liaise with the Ministry of Finance so that they arrest these tax defaulters.

Mr. Speaker, Sir, there is a question of specific taxes particularly, kerosene. No Government can claim to be protecting the common mwananchi if it raises the price of kerosene. We know that most of the people in this country live in the rural areas for this is basically a rural country and kerosene is a major fuel that is consumed in the rural areas. Raising the price of kerosene by Kshs 2 has made it very difficult for the over-burdened mwananchi. I think it was wrong for the Minister for Finance to have raised tariffs on kerosene.

Mr. Speaker, Sir, the Government has all the time been accusing oil companies of raising the prices of gas but it was so surprising that in this Budget Speech the Government increased the Petroleum Levy. In fact in yesterday's *Standard* newspaper there was an editorial to do with the Minister for Transport and Communications who claims that he had no idea of where the Petroleum Levy goes to. Does it go to development? Which [Mr.

Busolo]

development does it go to? Imagine a whole Minister of the Government having no idea of where the Petroleum Levy goes to. The Kenya Tea Development Authority (KTDA) also claims that they have no idea where 50 per cent of the cess they collect goes to. It seems that people are being taxed and the money disappears without trace. I would, therefore, like the Government to either deny or confirm that most of the Petroleum Levy is not channelled to the development of our roads but instead it is being channelled towards the construction of the Eldoret Airport. It is an assertion I have made and I would like to be proven wrong.

Mr. Speaker, Sir, in relation to the National Youth Development Programme, here I will speak in my capacity as the Shadow Minister for Culture and Social Services. Regarding this Programme, the Government opposed its own Policy Paper, which they presented on 16th February, 1996. In that Policy Paper, it is claimed that no programme will go ahead without passing through Parliament. But this Programme started before it ever entered this Parliament. The first time it ever came to Parliament was just by way of questions asked by hon. Members, and, then, it appeared in the Budget. I am suggesting that the Government has already opposed its own pledge in the Economic Reform Paper which they wrote together with IMF and the World Bank. The Government turns round and said that the IMF and the World Bank are hitting them too hard. We also want to ask them to be honest and honour their pledges. This Programme in as much as it is useful for the youth, the way it was introduced is illegal and they should legalise it first.

(Applause)

Mr. Speaker, Sir, again I will raise a question, and I will digress with your indulgence, and touch on athletics, speaking in my capacity as the Shadow Minister for Culture and Social Services. There has been the question of agents poaching athletes at the time when the country is running a round seeking support for our athletes who are internationally known; the question of their selection is dubious. All of us who were at Moi International Sports Complex, Kasarani, or who watched the selection through the television or heard about it through it through the radio or read the newspapers have heard complaints from some athletes who made it during the trials, but they were not selected. That is one issue I think the Government should respond to. Two, there is the question of the agents of a certain Kenyan, who in liaison with the Kenya Amateur Athletic Association (KAAA), have lured some of these athletes to go to Europe when actually they are supposed to be camping in readiness for the Olympic Games which will shortly be held in Atlanta, Georgia in America. I would like the Minister for Culture and Social Services to tell this House, how this happened because it is going to hinder our good performances.

Mr. Speaker, Sir, with those few remarks, I beg to oppose these proposals.

Mr. Falana: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this Motion. We are discussing money and I think we have enough money in this country; it is just a matter of priority. The problem with this country, I think, is not how to raise revenue, but rather how to use it. The utilization of this money is the problem. In most cases, the revenue proposals that are read to us here during the Budget Speech are not realised at the end of the year. Revenues are not collected for one reason or the other. More so, when collected, most of this revenue is mismanaged and misused. Therefore, our problem is not shortage of money or how to get the money, but how to use it. There is enough money. If all the revenue that we collect in this country, is well spent, I am sure that my colleagues will agree with me that we do not need to stretch out our hands to beg the donor community to give us donations. Surely, we do not need to do that. We have enough money in this country, if it is properly collected and utilised. There are few aspects I want to bring to light regarding the misuse of our own resources. It is important that we really protect what we have rather than go begging what we

do not have. A very good example is how Government property, like machinery, is used. There was a Question asked about this issue, but I do not want to revisit it. I congratulate the Minister for Health for acting very promptly on that issue and I hope what he did is what should be happening all the time. There are serviceable vehicles which are boarded. A boat in Lamu is a very good example. An ambulance which was surveyed and checked to establish how much it could cost if it was to be sold, was boarded and was to cost Kshs 1.5 million. But the Chairman of the District Tender Board, who happens to be the District Commissioner, colluded about the sale of the ambulance. They collude with certain officers to defraud the Government of a lot of revenue. The Mechanical Engineer, who is a staff of the Ministry of Public Works and Housing, there, was summoned and I think there was a way of distributing the loot. A serviceable vehicle, if it is in the interest of any senior officer in the Government, is bought by that officer through collusion with the Mechanical Engineer from the Ministry of Public Works and Housing. The officer instructs him that he wants that vehicle, and, he should board it. He is even told how much the reserve price should be when that vehicle will be sold. Such things prove that we loot what we have and then, we go out begging for what we do not have, and which we may not even be given. It is very important that civil servants in key positions should put the interests of this country at heart. They should put the interests of this country at heart and by saying so, I am not saying that these are civil servants affiliated to KANU or the Opposition, but as far as I am concerned, these are Kenya Government civil servants irrespective of their party affiliation. To me that is irrelevant. They should put their party affiliation aside whether it is KANU or the Opposition, and put at heart the interests of this country and its citizens first. The party affiliation or politics can follow and if the civil servants can only do that, then I think we would have greatly minimised the problems of this country.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. I do not like to interfere with the hon. Member's contribution, but he made a very categorical statement to the effect that some people can be told or instructed to board a vehicle and he is even told how much it will cost, and that is looting by the civil servants of the little we have. Could he enlighten the House by mentioning one or two people who have done this?

Mr. Speaker: It is simple English, substantiate your remarks.

(Laughter)

Mr. Falana: With pleasure, Mr. Speaker, Sir. A very good example is the District Commissioner, Lamu District, who instructed the Mechanical Engineer from the Ministry of Public Works and Housing, to board an ambulance boat called *Afya I*, which was bought at a cost of Kshs 5 million. The survey of the boat had been done and although it would have been sold for Kshs 1.5 million, he gave instructions that it be disposed off at Kshs 160,000. The good office of the Minister for Health intervened and as we are talking now, that boat has been towed to some place and is being vandalised. I pray that the Minister moves in fast and retrieves it because the citizens of Lamu District are ready to raise Kshs120,000 which is required for repairs and put that ambulance into operation. I am informed by the hon. MP for Lamu that the people of Lamu are ready to contribute Kshs120,000 to put the boat back on the sea to serve them. Is that not enough, Mr. Shikuku? Are you satisfied?

Mr. Shikuku: I am very much satisfied, Mr. Speaker, Sir.

Mr. Falana: Thank you, Mr. Speaker, Sir.

(Laughter)

Mr. Speaker: Mr. Falana, the Chair gave you a little latitude to ventilate on that, but I wish to remind you that that a Question is coming up on Tuesday next week. But because it was a Question by Private by Notice, which we could not reach, we had to put it on the Order Paper for the next time. But since you have ventilated on that, would you keep very many miles away from it?

(Laughter)

Mr. Falana: Thank you, Mr. Speaker, Sir. Having substantiated and said that--

Mr. Mak'Onyango: On a point of order, Mr. Speaker, Sir. Is it not time you once again looked at the question of Quorum in the House? This is a very important Motion and we should have a Quorum.

Mr. Speaker: Order, Mr. Mak'Onyango! You want me to look at the question of Quorum? Where is the question?

(Laughter)

Mr. Mak'Onyango: Mr. Speaker, Sir, do we have quorum?

Mr. Speaker: Well, I do not know. Order! Order, Mr. Falana. The law is this; so long as there is no Member objecting that there is no Quorum in the House, the Chair does not know. You have forced a question to me; "do we have a Quorum?" My answer to you is; "I do not know". But if you know, tell me.

QUORUM

Mr. Mak'Onyango: Mr. Speaker, Sir, we do not have a Quorum.

Mr. Speaker: Very well now. Do we have a Quorum? I am told you are right, there is no Quorum. Ring the Division Bell.

(The Division Bell was rang)

Mr. Speaker: Order now! Proceed, Mr. Falana.

Mr. Ndicho: On a point of order Mr. Speaker, Sir. I am trying to seek for your indulgence regarding a ruling you made last time that; even if the Bell for Quorum is ringing and as long as you are in the Chair, and the Mace is here, the rules of the House must be observed and when we are doing that the hon. G.G. Kariuki passed here and, I told him that he has misbehaved in the House, and he told me that; "even if I want to sing circumcision songs here, I can sing". Is that the position, Mr. Speaker?

Mr. Speaker: Well, first of all I did not see the hon. Kariuki cross. Secondly, at his age, he is unlikely to say what you have said he said. Proceed!

Mr. Falana: Mr. Speaker, Sir, the Budget used to have a lot of honour and respect some years back. I remember that the Budget used to be read exactly on 15th June, of every year. Kenyans, wherever they could be, would tune their radios and listen. They could know for sure that nothing else would be added until 15th June of another year. Where has that respect gone to? Where has that recognition for Budget reading and increases gone to? Is it because of liberalisation? If prices are increased overnight even reading the Budget for earning revenues and so on loses meaning. Because it is read now, we know what has been increased but after a month or two, or some few weeks, prices will shoot up. Where has that honour, respect and strictness gone to? Where are those good old days?

On road levy, we are taxed on fuel and what-have-you. Where does this road maintenance levy go? We are told that what is collected from petrol stations or automobiles goes to repair roads. The other day when we were asking questions here, the hon. Minister said that he will need a road engineer. And I find that very amusing. He needs a road engineer to tell him where a pothole is. Surely does that make sense? Do we need an engineer to tell us how many potholes we have on our roads? We do not! A naked eye, from a layman who does not know anything about road maintenance, can tell you that Kenyan roads have gone, there are no roads. We do not need road engineers to tell us that. Could that money be put to the use it was meant for?

With those few remarks, I beg to support.

Mr. Ndicho: Thank you Mr. Speaker, Sir, for giving me this chance to say a few things about these taxes and fees contained in the Financial Statement for year of account 1996/97. We know that whether we oppose this Motion or not, it is going to be approved and, all the taxes that the Government is asking for will have to be passed. I beg to concur with the speaker who has been on the Floor, hon. Falana, where he says that the problem that we have in Kenya is not that we do not have money which is raised by the Government through revenue collection and taxes. If we use all the money that is collected in this country through taxes and revenues, surely we do not need to go to Paris to beg for donor aid. The reason why the United States of America and the entire Europe, are so rich and can even afford to have money to give to the developing countries like Kenya, is because the citizens of those countries are taxed.

There is no money that is misappropriated in these nations and this is the reason why a country like Kenya must learn from those countries. Kenya is 33 years old since we achieved Independence and I do not see the reason why we have not learnt enough of how to use the taxes this Government collects from people correctly. The problem in Kenya is that there is misuse of taxes such as, VAT, Service Charge and so on. Kenyans are told to pay Service Charge yet the Government in power does not give services to the people. There is no reason why, for example, we should not have good roads yet all the taxes and revenues collected from the petroleum levy are not only enough to tarmac roads in this country, but enough to maintain them. You will find that it is Members

of the Opposition who ask the KANU Government where it takes the money it collects. Now, Members from KANU are also asking the same question. Kenyans are the most heavily taxed human beings on Planet Earth yet they are the poorest. Because of this poverty, we are going to have many Kenyan youth taking to hooliganism and thuggery. We are going to have many more Wanugus, Wacucus and Rastas because of the poverty and the pressure from the Government.

Last week, Wanugu, a most wanted criminal, was shot down. The whole of the Government machinery was mobilized to arrest three Kenyans who had been branded as the most wanted criminals. The question we should pose is: Who has killed more Kenyans, is it Wanugu, Wacucu and Rasta or this Government through road carnage? How many Kenyans have died on the Kenyan roads because of the very poor state of our roads? We no longer have pot holes but gullies and trenches. How many Kenyans are dying in hospitals because of lack of drugs? If there is somebody who has killed more Kenyans, it is the Minister for Health. How many Kenyans are dying at Kenyatta National Hospital and all the district hospitals in this country? How many Kenyans are, as we are debating, dying on the Kenyan roads? So many are dying yet the Government runs after one man called Wanugu and mobilizes the entire Police Force to chase after him, and when he is shot, the police are rewarded by being promoted to the level of Senior Superintendent of Police. I would challenge the Minister for Health to do something to our hospitals and if he ensures that Kenyans do not die because of lack of drugs, he can also be promoted as well. Mr. Minister, it is upon you to make sure that Kenyans are not dying because of lack of drugs for very simple diseases. Peasants are dying in your hospitals because of lack of drugs and enough doctors. You have encouraged doctors to go into private practice. They go to established hospitals where they charge exorbitant fees that the ordinary Kenyan cannot afford. This Government gives the Ministry of Health a lot of money and you wonder where all this money goes to.

The money raised through taxes at the Port of Mombasa every month before the current Mzungu was posted there, was Kshs1.5 billion. Now that the Mzungu is there I am informed that they are now collecting Kshs3.5 billion every month, that is about Kshs 40 billion every year. The money received from the Port of Mombasa in form of taxes can run this country. We do not know where trillions of shillings which are raised after selling petrol are taken to. It is a very serious thing that our people continue to suffer a loss simply because the Government has got a lot of money that it cannot manage well. We are very rich on one hand and poorest on the other hand. I think it is high time that this Government, through this Motion, manages our finances well.

Many factory workers in the City of Nairobi, and especially in my constituency, Thika, can no longer afford to pay house rent because the landlords hike rents every now and then. They give excuses that the Government is raising taxes. Most of my people in Thika can no longer live in Makongeni Estate which was meant for the low earning cadre of workers. Instead, they are living in Kiandutu, the slum area of Thika. These landlords blame the Government because when they ask it to give them protection it cannot listen to them.

We did hear that a person known as Kamlesh Pattni stole billions of shillings which had been raised from the taxpayers and when he is cornered, he has now started Kamlesh Pattni Foundation to help our poor children. I think what he is doing is shedding crocodile tears. How can he steal Kshs18 billion impoverishing Kenyans and then when he finds out that he is in problems, starts a foundation to help the same people that he impoverished?

With those few remarks, I beg to support.

The Assistant Minister for Land Reclamation, Regional and Water Development (Mr. Ligale):

Thank you, Mr. Speaker, Sir, for giving me a chance to contribute on this very important Motion on Financial Statement and taxation measures.

First, I would like to congratulate the Minister for rationalising the system and ensuring that our revenue collection measures are tightened so that we can collect the revenue required. It was gratifying to hear for the first time in the Budget Speech that, indeed, the Kenya Revenue Authority is now beginning to perform. It is now collecting money that this Parliament has voted and that the taxes that we did pass last year were collected to a very large extent. I would like to encourage the Minister, because most of the departments that collect revenue fall under his department, to ensure that they continue to intensify their efforts in collecting this money. This is because we need the money.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, generally, the Government should also be congratulated for having attempted to clean up certain departments of revenue collection that had been embezzling funds or have not been

performing well. We have in mind the efforts that were made in ensuring that Kenya Ports Authority (KPA), Customs, Road Transport and other various Government departments siphoning money and not performing properly, get the message that this Government intends to be a clean one. Those people who are going to perform less than par, or those who put the collected revenue to their own use should take note of that. We have had cases where vehicles disappear overnight from the port without money being collected, and you will find the heads of those departments running current accounts worth Kshs200 million.

The message should go out loud and clear, that the Government will not tolerate those kinds of activities.

The Government intends to be a clean one; to clean up those elements who are either embezzling money or not collecting money. We wish also to congratulate the Minister for promising that from now on, we shall get quarterly reports to indicate the amount of revenue that is being collected. I think that is a positive step in the right direction. We vote money here, but at the end of the year, we end up under-collecting. Sometimes, we do not get any reasons as to why we have under-collections. If we have under-collections, it means that the Exchequer issues which are supposed to go out from the Treasury, from the Paymaster-General to the Accounting Officers, to enable them to run services and to pay salaries cannot be issued. That money cannot be issued because it is one thing to vote money here and say that we are going to collect so much revenue and the manner in which it will be spent, but it is quite another matter to have that money being collected, and to have that money going to the use intended.

If we have these quarterly reports as promised by the Minister, we will have a way of monitoring, as legislators, of knowing that the money that was voted has actually been collected, and that it is being used for the purpose intended. I would also like to encourage the Accounting Officers to spread out the expenditure of these funds. We have a Financial Year running from 1st July to end of June the following year. We have had a practice by some departments and Ministries where, when money is voted, they tend to collect money so that they can have money to spend at the beginning of the Financial Year and come the second part of the year when virtually, all that money is gone. The Ministry's operations grinds to a halt. In fact, if you go to the Ministries in the final three or four months of the Financial Year, you will find that they can barely manage. All they have is enough money to pay salaries. Our job here is not just to collect enough revenue to pay salaries. Wananchi are interested in services. They want services from Government Ministries. If revenue is only collected to pay salaries and nothing else, wananchi are not going to get services, and we want them to get services.

Many hon. Members have contributed here, and alluded to the loopholes in the Value Added Tax (VAT) collection. I would like to emphasise that point. Still, the VAT collection has a lot of loopholes. We all know that a lot of businesses are owned by a particular community. We know that in that community, a lot of shady deals do go on. A notice has to go out loud and clear that we shall not condone any more of this pilfering of money by having two sets of receipt books, whereby when you go in, you are asked whether you want a receipt with VAT being indicated, or the other receipt where VAT is not charged. In other cases, it is payable but not remitted and declared to the Government. We must intensify our inspection of VAT defaulters. Officers must go around these premises and if any are caught, they should be brought to book. I know that there is a tendency that, because VAT inspectors are fairly junior officers, when they go to the field, they are told: "Wewe unataka nini? Mbona hii maneno kubwa namna hii? Namna gani? Pata kitu kidogo na uachane na hii maneno". They take the bribe and leave. We want to ensure that those inspectors are firm, and that they ensure that receipts are issued properly and VAT is actually remitted on time. We do not want VAT to be collected and it stays with Dukwalla for a long time, whereby, he makes a lot of money out of it by way of bank charges and interests, and only remits the remaining to the Government much later. We want VAT, once collected, to go immediately to the Exchequer, so that it can be utilised.

Mr. Temporary Deputy Speaker, Sir, in terms of utilisation of resources, because we want to collect this money for it to be utilised in giving service to the people, I want to make four important points. The first thing is for our Accounting Officers to know that we are not a very rich country. They should be prudent in the utilisation of these resources. They should know that they are accountable for the money that is allocated to them. They should ensure that the money goes to service projects which were in the first instance identified. We should avoid too much reallocation within the year. We know that there are times when reallocation becomes necessary, but we must avoid reallocation to a minimum. So, when money is voted for a certain service, it must go to that service. But more important, they must understand that they have to work within our limited means. We are not a rich country. We cannot afford extravagance.

Secondly, we must attempt to complete old projects, instead of starting too many new ones. In this country, we have a tendency to start new projects every year when we get money, and abandon the old ones which remain as white elephants. We have so many district headquarters which are standing out there uncompleted. The Nyanza Provincial Headquarters and my own district headquarters and hospital in Vihiga have been

uncompleted for a very long time. We need to try and complete these old projects now, so that we do not start new ones before we complete the old ones. Thirdly, I would like to urge our Accounting Officers and the Government generally, not just to allocate money, particularly recurrent money for salaries and petrol bills and so on. We want money for what we call "O and M". This is Operation and Maintenance. Operation and Maintenance is what will enable you, if you are an officer, to go out in the field and give service. Without that, the services are not provided. We must attempt to allocate money for operations and maintenance as opposed to only wages and salaries.

Fourthly, Mr. Temporary Deputy Speaker, I want to urge our people to know that we should not go in for the very expensive plant and equipments. As soon as we see the newest vehicles on the road, we are the first to buy the Mercedes Benz 320S, Volvo 940 and the other big cars. This country cannot afford those things. We must know that we are still a developing country where we can make do with a small vehicle, with a small plant, with something that is not the most modern. We should make do with those because we are not the kind of country that can afford very expensive machines and equipment.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to support.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Assistant Minister!

The Assistant Minister for Finance (Mr. Koech): Mr. Temporary Deputy Speaker, Sir, at the outset, I would like to thank the hon. Members for their contribution to this Motion. I would also like to assure them that their comments have been noted so that in our future Budget preparations, we shall consider the good comments they have made.

Now, Mr. Temporary Deputy Speaker, Sir, the taxation measures, as has been outlined by the Minister before, show that over the years, we have been having a modernization process of our tax system in that, we are lowering the duties especially on areas which are going to encourage our economic activity.

Before I come to taxation I wish to say something about the Kenya Revenue Authority. Many hon. Members have talked so much about the Kenya Revenue Authority and I want to assure the House and the nation that the Kenya Revenue Authority is being strengthened and efficient and technical officers are going to be hired so that we have effectiveness in the collection of revenue. So, we do hope that in future, the Kenya Revenue Authority is really going to improve the collection of taxes and also seal some loopholes in areas where taxation has been evaded. Now, we should thank the Government for the measures they have taken, especially, at the Port by removing some people who were denying this nation revenue in terms of the duty on imported vehicles.

Mr. Temporary Deputy Speaker, Sir, we have reduced taxation in all the banks such that at the top rate where we were taxing 40 per cent, it has been reduced to 35 per cent. I want to elaborate on areas of taxation that have been reduced which will give incentives to industrialization in this country. Many hon. Members have expressed a lot of concern about the reduction of the importation tax on quite a good number of goods in this country to the extent that they have discouraged our local industry. But when we look at our taxation measures, you will find that on the capital goods, we have lowered the rate of taxation. I do hope that with the reduction in the rate of taxation for the capital goods, it is going to encourage quite a good number of industrialists to import a good number of capital goods which will be able to stimulate our economy.

Mr. Temporary Deputy Speaker, Sir, taxation has also been reduced on primary raw materials. Now, the reduction in the taxation of primary raw materials is also going to encourage industrialization because raw materials will be easily affordable and this, of course, is going to be an incentive to the investors to produce more in this country.

Mr. Temporary Deputy Speaker, Sir, quite a good number of Members have talked about vehicles and, especially, matatus and other assembled goods. But I would like to tell the hon. House that taxation on matatus and other assembled goods in this country is low. In order to encourage the local assembly of vehicles, we have reduced the taxation on assembled parts which have to be imported into this country so that the vehicles which are assembled will be bought in locally rather than used vehicles which are going to be brought from outside, thus, reducing the local market. With the reduction of taxation on imports of the assembled goods which will be used for manufacturing vehicles, we are encouraging the local assembling of vehicles. But, it will be a calamity if we are going to import matatus and all other vehicles which are ready-made or which have already been assembled. If the Government is going to allow that, as we all know, the local assemblers are going to go out of production and that will mean that quite a good number of our labour force will be unemployed. So, I do expect the hon. Members to understand that we should not allow assembled vehicles into this country duty-free because it is going to reduce the amount of assembling which is done in this country, which of course is very profitable for the people of this nation.

Mr. Temporary Deputy Speaker, Sir, so much has been said about the Ministry of Agriculture, Livestock Development and Marketing. Hon. Members have said that the Ministry of Agriculture, Livestock Development

and Marketing has not been given enough funds. But, the Ministry of Agriculture, Livestock Development and Marketing or agricultural production in this country is going to be encouraged in various ways. It is not only through the direct allocation of money to the Ministry of Agriculture, Livestock Development and Marketing. If you look at the taxation, you find that quite a good amount of agricultural products have been encouraged by the reduction of duty which will encourage agricultural production. In order to protect our local agriculture, there is imposition of duty on quite a good number of imported agricultural products. For example, maize which is imported will face taxation of 15 per cent, the same with wheat. Powdered milk is going to be taxed at 25 per cent and rice 35 per cent. With these taxation measures, we do hope, the local agricultural industry is going to be encouraged and especially KCC which has had some problems with imported milk products. With this programme, we do hope there will be a reduction in the amount of importation into this country and of course, this will benefit the dairy industry.

Mr. Temporary Deputy Speaker, Sir, so much has been said about corruption. I know when we talk about corruption, it is very sweet especially to the ears of many people who may hear so- and-so has been corrupted and so forth. But what I want to appeal to the people of this nation, is to be corruption-free in their minds. We are not going to build a nation which is corruption-free when the majority of the people in this nation still accept tips or corruption in their daily lives. The people of this nation should desist from getting corrupted. They should make sure that they earn their money in a clean way. That way, when we have a nation of people, especially the citizens of this country, who are not going to be so much induced into corruption, then the official corruption will go down drastically because it takes two to be corrupt. If somebody meets an officer in an office and he induces him with something then it means that the members of the public also take part in corruption. So, I want to appeal to our people that they should not be tempted to be corrupt and that way, we shall be able to reduce corruption. As far as taxation measures are concerned, with the Kenya Revenue Authority, we are going to have effective personnel and I do hope these people are going to reduce corruption. The Kenya Revenue Authority (KRA), in conjunction with the Kenya Ports Authority (KPA), has already put in place some measures which, I hope, will reduce the problem of corruption.

Mr. Temporary Deputy Speaker, Sir, a good number of hon. Members have been confusing Value Added Tax with excise duty, or some other taxes which are levied directly at the source. Quite a good number of hon. Members have been saying that we should levy VAT at the source. If we levy it at the source then it will not be VAT. This is because VAT is based on the value added to a commodity. So, the Government has to reap something at every stage of production. Therefore, the more stages there is in production the more revenue the Exchequer will get, so that we are able to support the various Ministerial functions.

Since we shall be dealing with the Finance Bill where more will be said about taxation measures, and also the vote of each Ministry will be discussed in the House. With these few remarks, I beg to move.

(Question put and agreed to)

BILLS

First Readings

THE FINANCE BILL

THE PENSIONS (INCREASE) (AMENDMENT) BILL

*(Orders for First Readings read - Read
the First Time - Ordered to be read the
Second Time Tomorrow)*

Second Reading

THE AUCTIONEERS BILL

*(The Assistant Minister, Office of the President
(Mr. Sunkuli) on 11.6.96)*

(Resumption of Debate interrupted on 13.6.96)

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Members, I must bring it to the attention of the House that the last time, I was the person on the Floor.

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

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker: Hon. Wetangula, you have the Floor.

Mr. Wetangula: Thank you, Mr. Deputy Speaker, Sir. I was the last speaker on the Floor last time. I feel upset because I left my notes behind. But I will still say a few things about the Auctioneers Bill.

When we adjourned, I had talked about the composition of the membership of the Board. I had said that there should be adequate representation of auctioneers themselves on the Board, so that they are able to deal with their matters more effectively than they have so far done.

I had also cried against the criminal acts committed by auctioneers in the process of executing their duties. Any member of the public who has been visited by auctioneers will agree with me that when auctioneers raid your house, they are like an invading army. They do so with the highest degree of brutality and lack of civility. The Attorney-

General should, at the Committee Stage, bring amendments to this Bill, first, to bar auctioneers from raiding people's homes at 6.00 am. When they do this, they traumatise families and small children and leave them permanently scared for ever.

We should legislate to the effect that when auctioneers are going to execute a court order, the first and foremost thing is for them to notify the judgement debtor that there is a court decree against him or her, whose value is so much. He or she should then be given a deadline of, say, two or three weeks within which they can either meet the requirement in the decree or have the execution of the order and attachment of property effected. In this way, we shall bring some order and decency to the conduct of auctioneers.

Not only that, Mr. Deputy Speaker. Auctioneers are supposed to be agents of the court. They execute court orders and warrants. I would, thus, expect the hon. Attorney-General to tell this House whether where auctioneers in the execution of their duties break the law, the court is vicariously liable. This is because under the law of principal and agent the acts and omissions of the agent bind the principal. If an auctioneer is an agent of court and he steals--- In the course of the execution of their duties many auctioneers steal, damage property of the people they are executing against and do all sorts of illegal things. If they are agents of the court, where does the responsibility of the court start and end? Does an aggrieved party have recourse in law to move against the court?

I think this is a point that the Attorney-General should make clear. I think clause 19(1)(c) states that in the execution of his duties, the auctioneer is not allowed to act in a manner that is incompatible with his status as an officer of the court. But we do know that an auctioneer is not just an officer of the court; he executes court decrees and in so doing is, in fact, an agent of the court. That is a grey area that the Attorney-General should make quite clear.

Mr. Deputy Speaker, Sir, there is a provision in the Bill barring hon. Members of Parliament and councillors from practising as auctioneers. There is no justification whatsoever for the Attorney-General to legislate that a hon. Member of Parliament or a councillor cannot practise as an auctioneer. As long as their conduct is not in conflict with their public office, I do not see why an hon. Member of Parliament cannot be an auctioneer or a councillor cannot be an auctioneer. I call upon the Attorney-General to look critically at Clause 10 of the Bill and ensure that this kind of discrimination is removed from the Bill. A lot of councillors out there are never paid their allowances, are not paid salaries, and some of the immediately available jobs for them to do is to practise as auctioneers. As long as they are eligible, licensed and acting within the law, there is no justification for barring them from becoming auctioneers.

But, Clause 2(c) of the Bill, outlaws advocates from becoming auctioneers, and Clause 2(a) also outlaws judges and magistrates, or executive officers of subordinate courts from becoming auctioneers. This is one area where the penalties to be imposed on this kind of people should be very, very harsh. We all know that out there are a lot of corrupt magistrates, especially those manning courts in the country-side who are doubling as both magistrates and auctioneers. They sit on the bench, try cases, issue decrees and then follow-up to execute those decrees as auctioneers and levy huge sums of money from members of the public. This is wrong. Such magistrates are known. I am bound by Standing Order No.73 not to mention their names, but I want to say that the Attorney-General has got the capacity and means to get down to these corrupt magistrates and sack them,

either they choose to be magistrates or to become auctioneers and not both. More so, when they are using their privileged positions on the bench to harass wananchi. This is wrong and it is high time this kind of practice was brought to a stop. I have had an occasion to discuss the conduct of some of these magistrates with the Registrar of the High Court of Kenya who agrees with me that they have information that there are magistrates who are also practising as auctioneers in total violation of the principles of conflict of interests. It is up to the Attorney-General to either prosecute these magistrates or cause their dismissal or both.

Mr. Deputy Speaker, Sir, we also have lawyers practising law, particularly in small towns in this country, who also under cover of auctioneers, are using their clerks and using all manner of people and circumventing the law to harass members of the public. This again should be looked into and be straightened.

There is a provision where the foreigners can be allowed to come to Kenya and carry out specialised auctions. I do remember, I think the Attorney-General, giving an example that if you are auctioning an elephant it is unlikely that you have a Kenyan who knows how to auction an elephant, and therefore, you need a foreigner to come and do so. We need to say very clearly that those foreigners who are temporary licensed to carry out specialised auctions here should not be allowed unlimited practise in Kenya. We have enough Kenyans who can carry out the duties of auctioneers and, as it is, we have a problem in the legal practise with foreigners taking over 70 per cent of legal work in this country. We do not want this to be repeated in the auctioneer's field, all auctioneers must be mandatorily Kenyans. And I would go further and say they must be indigenous Kenyans and not otherwise. Other Kenyans of non-indigenous origin have excelled elsewhere and should leave this field for the struggling wananchi to earn a living.

One of the biggest problems we have with the conduct of auctioneers is undervaluation of the property that they auction. I want to suggest to the Attorney-General that where an auction is to be carried out, especially of valuable items like land, cars and so on, the judgement-debtor should be allowed to present a value of his land or car. Where necessary, the Court should seek a valuation of the car or land from an independent valuer, so that when the matter goes to auction, the auctioneer should, as much as possible, sell the property at an almost market value. I say this because recently there was a matter where a certain gentleman called Mr. Paul Murunga, from Meru, had a court decree against him for Kshs400,000. An auctioneer went to his house, took away a car valued at Kshs1.5 million, sold it, took away property from his house worthy over Kshs2.5 million, sold it, and finally returned and said he had sold this property at Kshs200,000. This is a monster's theft and has to be brought to an end somehow. And it is not only Mr. Murunga who have suffered under the hands of auctioneers, a lot of Kenyans have been dispossessed of their possessions either land or other movable assets through those unscrupulous deals. When you look into it, you will find that literally in every case, the highest bidder to every valuable item is the auctioneer himself. Using tricks, like setting up dummies to bid for them or sometimes just fraudulently transferring the property to themselves, and filing fake returns to the court that they conducted an auction and at the fall of the hammer, so-and-so was the bidder. If you go round at the auction, you will find the highest bidder is the auctioneer's infant child or his wife or his friend or himself. Under no circumstances should an auctioneer be allowed to bid in an auction he is conducting, because there is an obvious conflict of interest and that is how they dispossess people of their property.

Also under no circumstances should an auctioneer be allowed to auction a property, particularly at a throw-away price, to members of his family, close friends or close business associates and, if such practice is found out, the auction should be declared null and void. The auctioneer should be found guilty of gross misconduct and, at the very least, at the very most, he should be charged with committing criminal offence in terms of conspiracy and must face the law.

If we want to get auctioneering as a decent business and as an auxiliary arm of the law of the court process of this country, then it has to be conducted with civility and respect to the law. Short of that, we are just going to have what we see everyday. When you have the nightmare of a court decree against you, a band of marauding hoodlums behaving like Chicago mobs raids your house in the morning. Before you even leave the house, everything is being thrown all over and you have no control over what is being taken. And this gives a very bad name to the administration of justice. As I said here earlier, it is not a criminal offence to be a debtor. Anybody can be a debtor. Under different circumstances, people are unable to meet their civil obligations and where people fail to meet their civil obligations, auctioneers should not be allowed to apply the law of the jungle, punish, humiliate and embarrass people simply because they have not met their civil obligation.

We also have this issue of territorial jurisdiction. I do not see, for example, why a firm of auctioneers called Regent Auctioneers, based here in Nairobi, carries out 90 to 95 per cent of all the auctioneering work in Western Kenya. It does not make any sense. If an auctioneer is licensed in Nairobi, it is only prudent that their work should be territorially restricted, so that we spread out the opportunities to other Kenyans. There is no justification for Regent Auctioneers to go to North Horr to conduct an auction.

An hon. Member: It is unfair!

Mr. Wetangula: There is no justification for an auctioneer based in Mombasa to carry out an auction in Bungoma or Homa Bay, and he is going to load the charges of that auction on the judgement-debtor which, at the end of the day, exceeds even the decree sum. As much as possible, all decrees and auctions should be conducted by persons licensed to conduct their auctions within some defined territorial limits, either at the district level or the provincial level, at the very most. Where you have a province that is very large like the Rift Valley, it is not even wise to talk of provincial jurisdiction because an auctioneer in Lodwar, carrying out an auction in Kajiado, does not make any sense at all. I think my learned friend, the Attorney-General, should look into that. But over and above all this, there should be a very strong broad-set-up to investigate and carry out enforcement of discipline on errant auctioneers. I have already repeated myself on that point, that many of them conduct themselves very badly.

Mr. Deputy Speaker, Sir, we also have situations which have been currently going on, where you find an auctioneer who has misconducted himself and consequently, has either been suspended or has had his name struck off the role of auctioneers, but they just carry on with the work. They still carry on executing court decrees. In conspiracy with court clerks, they are allocated those decrees, they still go and attach people's goods. The Attorney-General should find a way of policing the suspension so that once somebody is suspended, the suspension is enforced.

There are private lawyers who have been struck off the roll of advocates, but they continue to carry out their duties as lawyers unabated. Even when it is brought to the attention of the judicial officers, nothing happens. I think the Attorney-General should find a way of policing these errant officers because a lawyer who has been struck off the roll of advocates for whatever reason, has no business going around fleecing wananchi by pretending to be a lawyer.

We also have many situations where an auctioneer will attach your car and before he advertises it for auction, he drives it around. We see this happening everyday. When you go to an auctioneer's house, you will find an attached and an unsold sofa set. You will find that all sorts of things that have been attached have been put into personal use. Whenever such an occasion occurs, it should give rise to criminal offence or criminal conversion and such an auctioneer should be prosecuted. Once one's properties are attached, if it is a car, at the very most, the auctioneer should keep it in safe custody until such a time as it is auctioned because you are also allowed to bid at the auction and buy back the vehicle.

The Attorney-General should also provide for a situation where, even if your property has been proclaimed and your car has been attached, you should be given the opportunity to scout for a buyer on a willing buyer, willing seller basis, provided that you meet the requirement of the law by paying off the money to the auctioneer. In this way, if an auctioneer has attached your car that is worth a million shillings, instead of going to carry out a mock auction and fraudulently dispose it off at Kshs60,000, one should be given an opportunity to get a buyer, sell it, pay off whatever you owe and keep the difference. That will help aggrieved parties. There should be very stiff penalties for auctioneers who sell attached properties on undervalued terms.

There is the question of licensing under Clauses 17 and 18. Here a person denied a licence by the Board appeals to the same Board to review and reconsider its position. In the rules of natural justice, this is not tenable.

The Board that sits, decides your fate and denies you a licence cannot sit in an appeal Board to justify and find themselves wrong and reverse their decisions and give you a licence. This cannot happen. There should be an independent Board where aggrieved parties present their grievances. The Board should go there and defend their decision and the aggrieved person should also present his facts and an independent decision made. There is a famous saying in Uganda which says "you cannot appoint a monkey to investigate a forest when the terms of reference are to destroy the forest".

That is what it leads to and there is no way it can do justice. You cannot ask the Board that has denied a licence to sit on an appeal to refute its own orders. The Attorney-General should look into this. Aggrieved parties, once again, should not ask the Board; whichever Board the Attorney-General will set up to go to the High Court because that gives limits to the avenue of appeal to only one. In fact, I think, I saw somewhere that the decision of the High Court will be final. I suggest to the Attorney-General that aggrieved parties should start their appellent process from the Chief Magistrates' Court and have a second appeal at the High Court and probably where the High Court reaches a decision that is clearly wrong in law, then they should have access to the Court of Appeal like any other litigant.

Mr. Deputy Speaker, Sir, although the Bill has not set out the remuneration process of auctioneers, it has been left to the Chief Justice to set out rules of remuneration. No grave abuse is committed by auctioneers than in the building system. I have seen a situation where an auctioneer who goes to execute a court decree worth Kshs50,000 ending up raising his own bill of Kshs60,000. The Chief Justice, and any other judicial officers who

may assist him in formulating the rules of remuneration, must ensure that auctioneers are not left to exercise their whims against aggrieved parties and charge them whatever amount they like. In fact, what auctioneers normally do is that once they raid your home like in the manner that I have just described here, the first thing they do is extort money from you by telling you that "If you pay us our charges, we shall only proclaim the things and come back another time". Under that fear which one colleague described as "a combination of the fear of God and the terror of the devil", a party will part with any amount of money. You are being humiliated before your wife, children and everybody and the first thing you want is to get these hoodlums from your compound and you pay them any amount of money so that they can go.

Mr. Deputy Speaker, Sir, if auctioneers are indeed agents of the court, they should not be allowed to levy any money from the people they are executing against without the approval of the court because it is only the court that will determine what is the fair fees to an auctioneer otherwise they will continue doing what they have been doing with impunity.

Mr. Deputy Speaker, Sir, I said last time here that in the United Kingdom (UK) and, I think, in Tanzania, although I am not quite well sure about this, auctioneers are not allowed, for example, if they raid a home comprised of young children, to confiscate the basic necessities of the family. They are not allowed to take away sufurias, cooking implements like gas cylinders, and in the UK they are not even allowed to take away Television sets because the purpose of executing court orders is not to paralyse the life process of the family, but it is to simply make people know that they have a responsibility to meet their civil obligations.

If a person is applying to become an auctioneer, how can he have sufficient knowledge and experience in the business and practice of an auctioneer? I do not know the intention of the draughtsman, may be my learned friend the Attorney-General will tell us when he comes to reply. Because, if you are a green novice, applying to become an auctioneer, you cannot again have sufficient knowledge and experience in that field. Here it says;

"has not been convicted in the 10 years immediately preceding the application of an offence involving fraud, dishonest or immorality and it is otherwise of a good character and reputation."

I do not know what the Attorney General has in mind when he talks of immorality, because this is a very broad word. I think it would be a good idea because I have looked at Clause 2, and in the definitive section, "immorality" is not defined. Does a person who runs a brothel qualify to be immoral?

The Attorney-General (Mr. Wako): On a point of information, Mr. Speaker, Sir, I think the contributor was not here when another Member raised that question. I referred him specifically to the Penal Code; I have forgotten the Chapter which deals with the offence against immorality.

Mr. Wetangula: Mr. Speaker, Sir, I get the Attorney-General's point. So persons convicted under the Penal Code under immoral offenses--- But we have a lot of crooks in this country who have not been convicted and sent to jail for 10 years. Do they qualify to be auctioneers within the meaning of this Act? How are we going to gauge this? We know that there are people who have no business working at all in this country and they will come up and apply to become auctioneers simply because we have no record of conviction, they will sneak in and carry on with their dishonest activities. So, something should be done about who should qualify to be an auctioneer. In any event, if a person is convicted under the Penal Code, for instance, of indecent assault or attempted rape, how does that affect his possible conduct as an auctioneer? I do not see the link. I think the emphasis should be on financial probity and honesty, because auctioneers are handling people's money, they are not handling peoples morals. Those are my views, and I think we should look into that, Mr. Attorney-General, because we might be overstretching the issue of morality.

The Attorney-General (Mr. Wako): There have been calls for stiffer penalties on these type of offenses. So, if they have been convicted, they will not even have time to apply because they will be serving life imprisonment, and if the Motion which is before this House is passed, it will be capital punishment for them.

Mr. Wetangula: Thank you, Mr. Attorney-General. In Clause 10 (1) (e), the Attorney-General has not provided that persons of unsound mind cannot be auctioneers. Well, we could very well have some people with very unstable minds finding their way into becoming auctioneers.

I had an occasion once to hold brief at an auction for a client and there was some fellow with an unstable mind who did not have a cent, but who rose and was the highest bidder to every item of the day. Such a fellow could easily get a licence to be an auctioneer and God knows what he will do with people's property! I am saying this because a lot of importance even in our Constitution has been given to the sanctity of property. The protection of a person's property is important. It should not be made to look like it is a crime to be in debts. Anybody can be in debts and those in debts must be handled carefully hence the quality of an auctioneer. Just like when we go to courts, any magistrate who is unfit to hold a public office cannot be a magistrate. The same should apply to auctioneers.

I now turn to complaints against auctioneers. I had briefly touched on the constitution of the Board.

Clause 24 (1) states:-

" A complaint against a licensed auctioneer of misconduct, which expression includes disgraceful or dishonourable conduct incompatible with the status of an auctioneer, may be made to the Board by any person".

Mr. Deputy Speaker, Sir, nothing can be more vague than this. What is a disgraceful and dishonourable conduct incompatible with the status of an auctioneer? What does this mean? It will help if we frame our legal clauses in very explicit terms. Does "conduct incompatible with the status of an auctioneer" include excessive drinking, killing and fighting in a public place? What does it mean? I think it will be a good idea if the Attorney-General was more definitive in what constitutes conduct incompatible with status of an auctioneer. It will be fair even to the auctioneer himself to know which conduct that the Act anticipates not to be compatible with his status otherwise as it is---

The Attorney General (Mr. Wako): Mr. Speaker, Sir, that is a phraseology that applies to all professionals and it is now up to the professional body, because you cannot anticipate the numerous occasions or acts which can become dishonourable or not, to set those standards. If you are an advocate you will set those standards of what amounts to dishonourable misconduct. In as much as it applies to doctors, lawyers, engineers to set those standards themselves, it is envisaged that you are now trying to create a profession called auctioneer and it is up to them now to fill in the details.

Mr. Wetangula: Clause 24 (2) states:-

"Where a person makes a complaint under this section, the complaint shall be by affidavit by himself setting out the allegations of misconduct which appear to arise on the complaint, and shall be forwarded to the Board together with the prescribed fee."

I want to suggest to the Attorney-General that the complaint should not be restricted to the aggrieved persons. He can make the complaint through his agents like, for example, his lawyers because we have cases of illiterate persons who cannot frame an affidavit. They should be given the opportunity to get either members of their family or their lawyers, if they can afford them, to lodge complaints on their behalf.

Mr. Deputy Speaker, Sir, in this Clause, I want to urge the Attorney-General to look at it critically, and when he comes up to reply, set-out a time limit, within which a complaint against an auctioneer can be made. This is because, if there is no time limitation, it might be open to abuse. Within the meaning of this Clause, if an auctioneer aggrieved you five years ago, you can come up with a complaint.

I also want to suggest to the Attorney-General that an aggrieved party should file his or her complaint to the Board, within a period of 60 days. I am saying 60 days because of the increasing number of Kenyans, who have either no access to legal advice, or are not able to read and write. Otherwise, you as a learned colleague, know that in criminal law, the appellant period is 14 days and in civil law, it is 28 days. There is no reason why we should leave the complaining period against auctioneers to run unlimited. We should set a time limit for them. Even after an affidavit has been filed, a specific time within which the auctioneer has to file an affidavit in reply, should be set out in this Clause. The Attorney-General should also provide for a situation where, if we want to limit endless litigation and complaining, where there is a complaint and a reply by affidavit from the auctioneer, the Board constituted should be able to determine the matter on the basis of those affidavits, unless if the issues raised are very complicated as to require the parties to be heard in a formal hearing. In the absence of that, the matter should be disposed off in that way.

I had already mentioned Clause 24 (8) to the Attorney-General. But the Attorney-General should ensure that the appellant court starts at the Chief Magistrate, and not at the High Court as set out in Clause 24 (8).

Mr. Deputy Speaker, Sir, where an auctioneer has misconducted himself in the course of duty, the penalty provided for under Clause 26, is a bit too harsh. It says:-

"A person convicted of an offence under this Act for which no other penalty is specified, shall be liable to a fine not exceeding Kshs100,000 or to imprisonment for a term not exceeding two years or both."

First of all, a fine of Kshs100,000 cannot attract an alternative as lenient as two years. If you are imposing a fine of Kshs100,000, the correct custodial alternative should be a minimum of five years. But, my feeling is this, that, the penalty should reflect on the offence. Supposing an auctioneer in the process of execution loses an item valued at Kshs10,000, he commits an offence and he will be liable to a fine of Kshs100,000, it does not reflect on the offence. Supposing an auctioneer in the process of carrying out an auction damages property of a value less than Kshs100,000, let us say Kshs50,000. The mandatory penalty of Kshs100,000 fine is a bit too stiff in some circumstances. Maybe the Attorney-General should consider giving the courts a lee-way to impose fines that will reflect a certain percentage on the value of the transgression by the auctioneer. For example, if the hon. Katana Ngala, invited an auctioneer to auction some wildlife and the auctioneer under-states the value,

running into millions, then the court should be allowed to punish that auctioneer by fining him almost an equal sum of money that the country has lost in revenue, instead of restricting it to Kshs100,000. That way, justice will be meted equitably, because if we have fixed rules, we might have a problem in administering them.

Mr. Deputy Speaker, Sir, I also saw one clause - I cannot quite remember which - that, at an auction, the auctioneer must wear a tag giving his name and his licence number, and every auctioneer will conduct himself in a personal capacity. I would wish to suggest to the Attorney-General that where an auctioneer has competent staff, for example, he has employed clerks whom he has trained and they know how to do the job, I think it is a bit too harsh to say that the auctioneer must be personally there. All we need to say is that, the auctioneer takes personal responsibility for whatever his firm does, so that if his clerk conducts an auction and he commits some breaches, then the auctioneer will be held liable. But, it is not strictly necessary that the person holding the hammer at all times, must be the man in charge and in possession of the licence. Because, even in law firms, we have certain duties that are carried out by our para-legal and all we do is to take personal responsibility for the acts and omissions whenever they transgress the law. The Attorney-General should think of that.

Mr. Deputy Speaker, Sir, Clause 17, says:-

(a) "The Board may refuse to grant or renew a licence if it is satisfied that the information contained in the application thereof, is false or untrue in any material particular."

(b) "The applicant does not meet any of the requirements for the issue or renewal of the licence."

"Where the Board refuses to grant or renew a licence it shall forthwith notify the applicant in the prescribed form specifying the reasons for such refusal."

First of all, Mr. Deputy Speaker, Sir, where a person gives a false or untrue material particular, in the application for a licence, he should not simply be denied a licence, he should also be charged for giving false information. Because, this is the only way that we will discourage people from taking short-cuts. For example, if the form asks an applicant whether he has ever been convicted of a criminal offence and he files a report to the extent that he has not, and it turns out that he has, it is not enough to deny him the licence, he should be punished for giving false information. Then, once a licence has been given, unless there are such aggravating factors, the issue of renewal in my view, should be automatic. So, I do not see why the applicant should fail to meet requirements for the renewal of the licence unless, of course, if the licensed auctioneer has in the course of the period running to the renewal of the licence suffered continuous financial embarrassment to the extent where he is unable to meet the obligations of his firm, then the renewal should be questionable. Otherwise, the renewal should be automatic.

Mr. Deputy Speaker, Sir, Clause 19, says:-

"The Board may suspend the licence for a period not exceeding six months if---"

(a) "the licensed auctioneer is charged with an offence involving fraud, dishonesty, immorality, violence or malicious damage to property."

ADJOURNMENT

Mr. Deputy Speaker: Mr. Wetangula, you will continue next week. Hon. Members, the House stands adjourned until Tuesday, 9th July, 1996 at 2.30 p.m.

The House rose at 6.35 p.m.