

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 29th June, 2004

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

CENSURE OF JUSTICE AND
CONSTITUTIONAL AFFAIRS MINISTER

Mr. Kajwang: Mr. Speaker, Sir, I beg to give notice of the following Motion:-
THAT, this House expresses its displeasure with the manner in which the Minister for Justice and Constitutional Affairs, Hon. Kiraitu Murungi, has conducted the affairs of the Ministry, and particularly, the manner in which he deliberately misled His Excellency the President on the question of the date of the enactment of the new Constitution and therefore, hereby, censures the Minister.

(Applause)

Mr. Speaker: Order, hon. Members! I thought there was also a Motion against my Deputy! Where is Mr. Koigi Wamwere?

Hon. Members: Koigi! Koigi!

Mr. Speaker: Order, hon. Members! I think hon. Members must understand that the Chair is the embodiment of the House. Therefore, hon. Members are, at all times, obliged to respect the Chair. When a question arises as to the ability of the Chair to conduct the business of this House, it must be disposed of as quickly as possible. That is done so that, the person from the Chair concerned will be able to know whether or not the Chair carries the respect and the confidence of hon. Members.

(Applause)

This is a constitutional issue. My Deputy has urged me to ensure that the matter that questions his integrity and ability to conduct the business of this House be disposed of as quickly as possible. I wish, therefore, to ask the hon. Member who brought the Motion against the Deputy Speaker to give notice, so that we give it a date. Failure to that, he should say that he does not want to pursue it.

(Applause)

But, as it is now, my Deputy does not feel comfortable sitting here. That puts a lot of burden on me! I would, therefore, like this issue to be dealt with as quickly as possible.

One other thing I would like to say about that is: The Chair does not mind how long a Motion against any hon. Member takes. But we mind about a Motion that debates the Speaker or the Deputy Speaker for that matter. You all know that it is a constitutional matter. When it comes to the House, you will all be advised that, for there to be a vote, the requisite quorum necessary for a constitutional issue must be present. So, please, note that, if it ever comes, it will require a constitutional majority to be present before the vote is taken.

Mr. Khamisi: On a point of order, Mr. Speaker, Sir. In view of what you have said, and the fact that the Mover is not here to give notice, could you direct that this particular Motion be suspended?

*(Mrs. Ngilu moved towards
the Dispatch Box)*

Mr. Speaker: Order, Members! Mrs. Ngilu, what is it? Can you say what you want?

The Minister for Health (Mrs. Ngilu): Mr. Speaker, Sir, until a Member brings a Motion to the House, no other hon. Member can ask another Member to bring a notice of the Motion.

Mr. Speaker: Order! That may be so, but this is not an ordinary Motion.

(Applause)

This is a Motion challenging the integrity of the Chair. The Chair itself has an interest to know whether or not there is confidence in my Deputy.

Mrs. Ngilu, I think you were present and you will recall--- If I may---

(Mr. Maore consulted loudly)

Order, Mr. Maoka Maore! You know you are assaulting the Chair by being disrespectful to it.

Mrs. Ngilu and the House at large will recall that there was a Motion brought against me, which I approved and directed that it be heard the next day. That was done and the reason was that, you cannot sit on this Chair when your partiality or impartiality is suspect.

We must get out of the way, so that if you do not have confidence in the Chair, you remove that particular person, put another one and then we proceed. However, hon. Khamisi, you have no business at all getting into this issue. It has nothing to do with you. Will you keep your peace? Let the Chair handle it. It has nothing to do with you as an individual. It is not a party matter; it is a matter for the House.

Mr. Keter: On a point of order, Mr. Speaker, Sir. In view of what you have said, could you be kind enough to allow the Motion of confidence in the Deputy Speaker by hon. Boit to be debated?

(Applause)

Mr. Speaker: Order! Mr. Keter, you have been here for one-and-a-half years. How long will it take you to master the Standing Orders? Standing Order No.40 is clear on this issue. Does it take you two years to understand the provisions of one Standing Order? You cannot bring a Motion when another one is pending. If I were you, I would not talk any more. I would go and study the Standing Orders.

(Laughter)

Can we now leave this issue?

The Minister for Health (Mrs. Ngilu): On a point of order, Mr. Speaker, Sir. We do agree with you that you did pass that Motion for debate when you were censured by this House.

Mr. Speaker: By the way, I was not censured. The Motion was defeated.

The Minister for Health (Mr. Ngilu): Mr. Speaker, Sir, yes, it is true. I agree with you. However, you do also realise that you were not a chairman of a political party. This issue is very different.

Mr. Speaker: Order, hon. Members! Again, it is worse for you hon. Ngilu than Mr. Keter.

(Applause)

You have been here for ten years!

(Laughter)

That is long enough to know the provisions of Standing Orders that you do not anticipate a Motion. So, can we wait for hon. Wamwere to make his move?

(Loud consultations)

Order, hon. Members! You know, one thing that I am experiencing in this House is its inability to listen. It is really strange that when we are communicating even from the Chair, hon. Members are still talking, like Mr. Ojode and the hon. Minister there called Mr. Balala. Hon. Members, please, as you always say, this House must have integrity; the House is not a room. It is you, the individuals, who are sitting in this building for the time being. Let us give our Parliament dignity and a good name. So, can we now proceed?

Mr. Muiruri: On a point of order, Mr. Speaker, Sir. Hon. Wamwere has only brought an intention to file this Motion in this House and it is not before the House. However, under the circumstances, hon. Musila has absconded his duties and he does not appear in this House. Before the Motion is actually brought to the House, it should be understandable why he does not appear or why he does not come to chair the House. However, he is out of his job and, therefore, he is guilty.

Mr. Speaker: Order, hon. Members! In essence, what you are saying is that any hon. Member is at liberty to intimidate the Chair by bringing a Motion and leave it to hang over his head. That is absolutely wrong and it is not acceptable. I think, let us take parliamentary business seriously; particularly, we must take the Chair seriously and give it the due respect it deserves. So, if you must decide that you want to discuss the Chair, please, do it very quickly. Make up your decision and then we proceed from there. I think that is the end of it.

*(Mr. Musila was applauded as
he entered the Chamber)*

Order! Order, hon. Members! You must now relax. There is nothing more.
Next Order!

QUESTIONS BY PRIVATE NOTICE

STATUS OF KENYA COFFEE
FARMERS BANK MONEY

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

(a) Under what circumstances did the Director, Mr. J.G. Gacheru, resign as the Vice-Chairman of Kenya Coffee Farmers Bank Limited on 8th of May, 2004?

(b) Is he aware that a sum of over Kshs340 million is in danger of being misused by the Chairman and Director of the bank who have now embarked on paying themselves unnecessary emoluments, expenses and honoraria?

(c) What are the current balances in Treasury Bills, Barclays and Standard banks in Nairobi and who are the signatories?

(d) Who are the original contributors to the bank and what plans does the Minister have to either register the bank or refund the contributions plus interests?

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

(a) I am not aware of the circumstances under which Mr. James Gacheru resigned as Vice-Chairman of the Kenya Coffee Farmers Bank, since the bank is not a licensed banking institution regulated by the Central Bank of Kenya.

(b) In view of the above, I am not aware that the sum of Kshs340 million is at risk of being misused by some directors.

(c) There is an investor I know in the name of Kenya Coffee Farmers Bank Limited whose holding of Treasury Bonds with the Registrar of National Debts is Kshs333,737,500 as at 28th May this year. However, I am not aware of any other account held in the name of this same investor in the banking sector because this information would be confidential between the customer and the respective banks.

(d) I have no details on who the original contributors were. Finally, it is considered imprudent at this time to license the Kenya Coffee Farmers Bank, since many of the farmers and co-operative societies which originally contributed towards the establishment of the bank have been asking for refunds of their money.

Mr. Muiruri: Mr. Speaker, Sir, I would like to thank the Minister for that answer. However, I believe he is aware that this bank was registered as a limited company on 3rd May 1998, and up to now, he has confirmed that he has no intention whatsoever of licensing it. Could the Minister consider, in his own right, because this money is invested in Treasury Bills, and I am aware that despite that, this bank has never taken off, it has no offices, banking halls; it has employed a general manager earning a salary of US\$80,000 per month which is close to Kshs533,000 per month---

They hold meetings in hotels and other places, and now, they are in the process of "eating" this money and paying themselves honoraria---

Mr. Speaker: Mr. Muiruri, ask your question!

Mr. Muiruri: Mr. Speaker, Sir, could the Minister consider that after I have furnished him with all this evidence, he is going to refer this matter to the Kenya Anti-Corruption Authority (KACA) because I have irrefutable evidence of what they are doing with the farmers' money?

Mr. Mwiraria: Mr. Speaker, Sir, I will be most grateful to the hon. Member if he gave me information which would help us protect the money belonging to the co-operators, especially coffee farmers, throughout the country.

Mr. Muiruri: Mr. Speaker, Sir, I will be glad to do that.

**COMMUNICATION FROM
THE CHAIR**

DISTINGUISHED GUESTS IN
THE SPEAKER'S ROW

Mr. Speaker: Hon. Members, I must interrupt you a little. I wish to welcome the Speaker of the National Assembly of Swaziland, hon. Sgayoyo Magongo, and Senator hon. Thuli Msani, accompanied by Zanale Gamedze, an official from the Swaziland Parliament. They are here as guests of the Commonwealth Parliamentary Association (CPA), Kenya Branch, to familiarise themselves with the arrangement of the CPA Conference details. As you are all aware, Swaziland CPA Branch will be hosting this year's regional conference in early August.

May I, on my on behalf and your behalf, wish them all the best and success in preparation for the conference. I also wish them a good stay in Kenya. Thank you very much.

(Applause)

*(Resumption of Questions by
Private Notice)*

MEASURES TO STABILIZE SUGAR PRICES

Dr. Khalwale: Mr. Speaker, Sir, I beg to ask the Minister for Trade and Industry the following Question by Private Notice.

(a) Is the Minister aware that the consumer price of sugar has shot up to over Kshs70 per kilogramme over the last few weeks?

(b) What is the cause of this increase?

(c) What steps is the Minister taking to stabilize the prices and cushion consumers?

The Minister for Trade and Industry (Dr. Kituyi): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the price of sugar has shot up to over Kshs70 per kilogramme in the recent past.

(b) The main reason for the exorbitant sugar prices is hoarding of the commodity by unscrupulous traders as the major sugar factories in the country closed down for seasonal maintenance. Further, the traders speculated increase in the price of sugar during the 2004/2005 Financial Year's Budget Speech. The aim was to make huge profits and then release back to the market the stocks that were hoarded.

(c) The following steps are being taken as safeguard measures to stabilize the prices and cushion the customers:

(i) Arrangements are under way to reorganize importation of sugar from COMESA countries in such a way that more quantities of the agreed quota are imported into the country when major sugar factories are just about to close down for maintenance, and then reduce the importation when factories resume normal business.

(ii) The District Trade Development Officers have been instructed to undertake a thorough inspection of the premises of sugar distributors, to ensure that none is hoarding the commodity. Appropriate measures will be taken against anyone found acting to the contrary.

Dr. Khalwale: Thank you Mr. Minister for that answer. Mr. Minister you will recall that---

Hon. Members: Address the Chair!

Dr. Khalwale: Mr. Speaker, Sir, the Minister will recall that during the height of this crisis, some hon. Members of Parliament, accompanied by District Trade Officers, broke into godowns. Since hoarding is a criminal offence, what action is the Minister taking against the people who are hoarding sugar?

Mr. Speaker: Dr. Khalwale, just as a matter of interest, are you saying that hon. Members of Parliament broke into premises?

Dr. Khalwale: Mr. Speaker, Sir, it is just that we were forced to consume that kind of news. We saw a television footage that showed hon. Members actually storming godowns.

Mr. Speaker: I do not know what the Minister has to say, but---

(Loud consultations)

Order, Members! It concerns me a lot and should also concern each one of you that hon. Members can actually take the law into their own hands and break into premises. Are you admitting that?

Dr. Kituyi: Mr. Speaker, Sir, I do share your concern and the anxiety of hon. Members, and that of the country at large, about the deleterious consequences of hoarding and other unfair trade practices. I also share your anxiety about hon. Members breaking the law. Having said that, anybody found involved in hoarding will be dealt with according to the law by Ministry.

Prof. Oniang'o: Mr. Speaker, Sir, factories close down every year for the purpose of maintenance. We have not had this kind of situation where there is fluctuation in the sugar prices and, in fact, there is no sugar at all in Nairobi because of the temporary closure of sugar factories. Is the Minister being honest by telling us that, in fact, that is the reason for the rise in sugar prices and scarcity of it in Nairobi?

Dr. Kituyi: Mr. Speaker, Sir, first of all, I want to assure the House that not only is sugar available in Nairobi right now, but also the retail price of sugar in Nairobi has gone down. It is also not true that we have never had artificial scarcities around the time when Mumias Sugar Factory closes down for maintenance purposes. The factory accounts for more than 60 per cent of all the sugar produced in this country. The truth is that this is happening for the first time, this year, after the experiences of last year when some importers of sugar brought in many volumes of sugar at the beginning of the year and then developed competition-related problems by attempting to bring in uncustomed sugar irregularly. There have been efforts to manage the importation of the 200,000 tons of COMESA duty-free sugar. Unfortunately, it was spread out over 12 months. The consequence is that in the month of June, when Mumias Sugar Factory closes down for the purpose of maintenance, we have a shortage in the domestic production, but because of the uniform regulation of the duty-free sugar, there was a possibility that hoarding would really cause an artificial scarcity. That is why I said that we will from now on structure the way we deal with importation of uncustomed sugar to increase the amount available during the times when factories close down for maintenance.

Mr. Midiwo: Mr. Speaker, Sir, the question of sugar importation has been a really big problem for the last few weeks. Could the Minister, at least, consider - the problem here is caused by the old barons and the new barons that have been created - allowing sugar factories to import the sugar as opposed to the barons created by the Ministers?

Dr. Kituyi: Mr. Speaker, Sir, there are two different components in this question and for the public interest, I wish to make the following clarifications. You cannot accuse people of over-importing sugar and use that to explain an increase in price of the same commodity. If there is over importation, it leads to a decline in the price whether it is through old barons, new barons or

whichever barons. Over-importation of uncustomed sugar will not lead to an increase in the retail prices. In fact, it will lead to a collapse of prices.

With regard to the second question, it is true that we are relatively charting new waters. Our obligation under the COMESA Treaty are to reduce, as much as possible, State regulation and inhibition of free trade after commodities are brought in. But our responsibility to the Kenyan consumers is to balance the neo-liberalism with the protection of the interests of the domestic consumer and producer so that monopolistic tendencies do not distort the market. Right now, the different Government agencies are engaged in streamlining a policy framework which will offer transparent allocation of the possibility of importing uncustomed sugar, but more importantly, cultivation of an enabling environment for Kenya not to import any sugar.

Dr. Khalwale: Mr. Speaker, Sir, this crisis has resulted into a tug-of-war of some sort over importation concerns between the Kenya Sugar Board on one hand, and the Kenya Revenue Authority on the other. Could the Minister tell us what steps he is taking to streamline the situation so that we could know who is in charge of allowing importation of sugar in the country?

Dr. Kituyi: Mr. Speaker, Sir, a Committee of this House has invited officers from different Ministries concerned to help it in trying to correct the situation. They have been ostensibly summoned judiciously. I think that it is within the precincts of the House where the relevant Committee of this House will bring back its report about what the Government is doing to streamline the operations and management of imported sugar.

Mr. Speaker: Next Question, Mr. Kamama!

REDUCTION IN PRICES OF ARVS

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

(a) How many types of Anti-Retroviral Drugs (ARVs) are available in Kenya?

(b) How much does each one of them cost?

(c) What plans has the Ministry put in place to reduce the prices or subsidize the cost so that the majority of the HIV/AIDS victims can afford?

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

(a) Several types of ARVs are available to date. They are 17 in number.

(b) The ARVs are given in combination and, therefore, the cost of treatment would, normally, be the total cost of at least three drugs which are used together. For example Stavudine, Lamivudine and Nevirapine are used together.

In the first line treatment, we have two types of ARVs being used in hospitals today. The first type, which is a combination, includes Stavudine, Lamivudine and Nevirapine. We are using generics which cost between Kshs1,350 and Kshs1,700. Further, similar branded drugs would cost between Kshs3,600 and Kshs4,000. The Government hospitals subsidize these drugs at a cost of Kshs500, whether they are branded or generics. The second type of ARVs are Stavudine, Lamivudine and Efavirenz. I am sorry, pronunciation is a bit difficult. I can pronounce them easily in Kimaasai.

(Laughter)

Now, the cost of this other set of drugs, which is also used in combination, ranges between Kshs3,200 and Kshs4,000 for generics. These drugs are also being dispensed in Government hospitals for Kshs500. When these two classes of drugs fail because the patient is not responding,

we then provide the second line treatment which comprises of the following combination of drugs: Zidovudine, Didanosine and Lopinavir/Ritonavir. The cost of the generic drug is between Kshs3,980 and Kshs6,000. However, in case of branded drugs, the cost ranges between Kshs7,200 and Kshs8,000. However, we still dispense the drugs to our patients at a cost of Kshs500 despite the price.

(c) The Ministry has put in place the following measures to reduce the prices or subsidize the cost of ARVs so that the majority of HIV/AIDS patients can afford treatment.

(i) In 2002, the Industrial Property Act was enacted to remove the legal barriers on the importation of generic drugs, bringing costs down significantly.

(Applause)

Initially, the drugs would cost between Kshs40,000 and Kshs50,000 per month, but now they are costing between Kshs1,350 and Kshs7,000 per month.

(ii) ARVs have been included on the essential drug list and are currently purchased by the Government and its partners and made available to patients at a subsidized cost of Kshs500 per month as opposed to the market price ranging between Kshs1,350 and Kshs7,000 per month.

(iii) The Government has increased access to treatment by working with Non-Governmental-Organisations (NGOs), private institutions and faith-based organizations by providing subsidized drugs through these organizations.

At the moment, there are 30 facilities with trained staff which are providing ARV drugs countrywide.

Mr. Kamama: First of all, I would like to thank my friend, hon. Konchella for answering that Question well.

The HIV/AIDS scourge is a big problem in this country, and I think the Ministry should take it very seriously. At the moment, we all know that there is no cure or vaccine for HIV/AIDS which has been discovered so far. The only drug that can postpone the funerals of most Kenyans are the ARVs.

Mr. Speaker, Sir, since about 53 per cent of Kenyans live on less than a dollar per day, how can they afford paying Kshs500 per month? I know that quite a number of them earn about Kshs500 per month. Again, I want to ask the Ministry to---

Hon. Members: *Uliza swali bwana!*

(Loud consultations)

Mr. Speaker: Order! Order, Mr. Kamama! You are attracting the wrath of the House because you have also failed to follow the provisions of the Standing Orders, which state:

"A Question shall not be a pretext for a speech".

You have just done that, and the House is unhappy about it. Will you now ask your question?

Mr. Kamama: Since 53 per cent of Kenyans live on less than a dollar per day, what is the Ministry doing to reduce the price of ARVs from Kshs500 to Kshs10?

Mr. Konchella: Mr. Speaker, Sir, this is a new disease in this country. It is a disease that---

(Loud consultations)

Please, allow me to answer the question. The Ministry is working out ways of supporting Kenyans, because HIV/AIDS is not malaria.

Mr. Mukiri: Did you hear the Assistant Minister---

Mr. Speaker: Order, Mr. Konchella! What is it, Mr. Mukiri? Order!

Mr. Mukiri: On a point of order, Mr. Speaker, Sir. Did you hear the Assistant Minister saying that HIV/AIDS is just a new disease in this country, when it has been with us since 1984? Is he in order?

Mr. Konchella: Mr. Speaker, Sir, the hon. Member should know that drugs were discovered in this country in the 16th Century, and so this is a relatively new disease. However, I want to tell the House that the Government will not only reduce the prices, but will also actually provide the drugs to Kenyans free of charge. As you are aware, funds are coming from our partners, namely, the Three by Five Initiative, the Global Fund and the Bush Fund. In the next five years, about 200,000 Kenyans with HIV/AIDS-related illnesses will be treated free of charge. As the hon. Member has said, the cost of anti-retrovirals drugs will be reduced to enable Kenyans---

(Loud consultations)

Mr. Speaker: Order, hon. Members! Quite frankly, we cannot continue like this. There is too much talk in the House. Will you, please, keep order now?

*(Mr. Leshore consulted
with Maj-Gen. Nkaiserry)*

Mr. Leshore, I will not derive any pleasure by sending you out, but if I must, I will. So, please, keep order!

(Laughter)

Dr. Galgallo: Mr. Speaker, Sir, the House is consulting loudly because the Assistant Minister is saying his own things. The issue of HIV/AIDS treatment is a major problem in this country. It is not a new problem. The hardest hit people are the expectant mothers and every year, they give birth to HIV/AIDS-positive babies. What plans does the Ministry have to provide free anti-retroviral drugs to all expectant mothers in this country?

Mr. Konchella: Mr. Speaker, Sir, Dr. Galgallo knows that we are providing Nevirapine to all expectant mothers in this country.

Mr. Speaker: Mr. Kamama, can you donate the last chance to Mr. Boit?

Mr. Kamama: Yes, Mr. Speaker, Sir.

Mr. Boit: Mr. Speaker, Sir, the Assistant Minister has told us that---

*(Mr. Boit held the microphone
with his hand)*

(Laughter)

Mr. Speaker: Order, hon. Members! Mr. Boit, do not take away my microphone! That is why I am called "Mr. Speaker", because I give you voice through that microphone. So, please, use it there without touching it because you may turn it into an offensive weapon. Turn it down!

Mr. Boit: Mr. Speaker, Sir, we are very thankful for the many cheap drugs that have been brought into this country, but when the deal is too good, you must think twice. Do these drugs have

a long shelf life? Will they last long enough?

Mr. Speaker: Do not make a speech, Mr. Boit! Ask a question.

Mr. Boit: Mr. Speaker, Sir, could the Assistant Minister answer my question in good English and not in Kimaasai?

Mr. Konchella: Mr. Speaker, Sir, the combination of drugs we are giving to our patients are brought by the World Health Organisation (WHO).

Dr. Galgallo: On a point of order, Mr. Speaker, Sir. I asked a very valid question about the treatment given to expectant mothers in all our health facilities. As much as the Minister is whispering to her Assistant Minister, I know for sure that these drugs are not available in our district hospitals. Our pregnant mothers are not getting them. Could the Assistant Minister take that question more seriously and tell us which hospitals in this country are getting anti-retroviral drugs? My district hospital is not getting anti-retrovirals and I know most district hospitals are not getting them. Could the Assistant Minister give that question a fair treatment?

Mr. Konchella: Mr. Speaker, Sir, we are providing anti-retroviral drugs to big hospitals countrywide. They are 30 of them now. We are providing these drugs to 40 hospitals this year.

Hon. Members: Which ones?

Mr. Konchella: Mr. Speaker, Sir, the list is here and I will read the hospitals out. They are:- Nyanza Provincial General Hospital, Nakuru Provincial General Hospital, Mbagathi, Forces Memorial, Machakos, Nyeri, Coast, Kakamega, Garissa, Voi, Kenya Medical Research Institute Clinic, Kenyatta National Hospital, Moi Teachers Referral Hospital---

Mr. Speaker: How many are they?

Mr. Konchella: Mr. Speaker, Sir, they are 30 of them.

Mr. Speaker: Table the list!

Mr. Konchella: Mr. Speaker, Sir, I beg to table the list.

(Mr. Konchella laid the document on the Table)

Mr. Speaker: Next Question, Mr. Mwanzia!

Mr. Mwanzia: Mr. Speaker, Sir, before I ask this Question, I want to seek some direction. I referred this Question to the Minister for Local Government, who is actually better placed to answer it. I think it was mistakenly referred to the Minister for Co-operative Development and Marketing.

Mr. Speaker: Mr. Mwanzia, why do you not ask your Question first and then listen whether the Minister will be able to answer it? The Question is not before the House yet.

Mr. Mwanzia: Mr. Speaker, Sir, I agree with what you are saying, but I consulted with the Minister for---

Mr. Speaker: Order! Mr. Mwanzia, if you are not interested in your own Question, I will go to the next one.

Mr. Mwanzia: Mr. Speaker, Sir, I apologise.

MEASURES TO SAVE NACICO SACCO FROM BANKRUPTCY

Mr. Mwanzia: Mr. Speaker, Sir, I beg to ask the Minister for Co-operative Development and Marketing the following Question by Private Notice.

(a) Is the Minister aware that NACICO SACCO has been taken to court by its creditors and members for non-payment of loans and refunds of contributions and may be declared bankrupt?

(b) Could the Minister inform the House why the SACCO has not been able to meet its financial obligations for the last ten years?

(c) What urgent measures is the Minister taking to save the SACCO from collapse and loss of contributions of its members?

The Assistant Minister for Co-operative Development and Marketing (Mr. Kenneth): Mr. Speaker, Sir, last week, when the Question came up, it was agreed that it would be rerouted to the Ministry of Local Government. This is an issue of non-remittances by the Nairobi City Council to this particular SACCO.

Mr. Speaker: Which SACCO is it?

The Assistant Minister for Co-operative Development and Marketing (Mr. Kenneth): Mr. Speaker, Sir, it is the Nairobi City Council SACCO.

Mr. Speaker: Why have you not done that?

The Assistant Minister for Co-operative Development and Marketing (Mr. Kenneth): Mr. Speaker, Sir, we consulted the Clerk of the National Assembly last week and it was agreed that the Question would be rerouted.

Mr. Speaker: Maybe, you are right, Mr. Mwanzia! So, shall I refer it to the relevant Ministry?

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

Mr. Speaker: Who are you?

Mr. Mwenje: Mr. Speaker, Sir, my name is Mr. David Mwenje, Member of Parliament for Embakasi.

Mr. Speaker: You look very different!

Mr. Mwenje: Mr. Speaker, Sir, I have always looked different at times.

Mr. Speaker: What is your point of order?

Mr. Mwenje: Mr. Speaker, Sir, my point of order is that the Government has collective responsibility. It is very unfair that this Question was asked to the Minister for Co-operative Development and Marketing. Instead of redirecting it to the relevant Ministry, they are telling us that it should be referred to the relevant Ministry. Even if this was not the relevant Ministry, the responsibility of the Government is to answer Questions which are asked to them. Could the Assistant Minister tell us why he did not do that? He is bound by the rule of collective responsibility.

Mr. Speaker: That is a very valid concern from Mr. Mwenje, but between you and the Chair, who sits on the Government side? Is it me or you? I think it is very good for you to advise the Government of which you are a Member. You have a Parliamentary Group.

That is a very valid point. Mr. Assistant Minister; why did you not do as suggested by Mr. Mwenje?

The Assistant Minister for Co-operative Development and Marketing (Mr. Kenneth): Mr. Speaker, Sir, actually, we did. We spoke with the Clerk's office last week. We were surprised to see this Question on today's Order Paper. We had already informed the Clerk's office about this.

Mr. Speaker: Very well, I will reroute the Question to the Ministry of Local Government and it will come up next week.

Mr. Speaker: Very well. I will redirect the Question to the Ministry of Local Government which will bring the answer next week.

Next Question, Mr. Ndolo!

(Question deferred)

NHC'S TAKE-OVER OF NAIROBI ESTATES

Mr. Ndolo: Mr. Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that the National Housing Corporation (NHC) is in the process of taking over the management of Kaloleni, Mbotela and Maringo Estates from the Nairobi City Council?

(b) Is he further aware that the above has created anxiety and tension among the residents, who are uncertain about their future?

(c) What is the basis of the claim by the National Housing Corporation?

(d) What measures is the Minister taking to address this matter?

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

(a) The Minister is aware of the take-over of the estates.

(b) The Minister is aware of the tension created.

(c) The basis of the claim is a misinterpretation of a court order given to NHC for take-over of only Kariokor and Madaraka Estates, and not any other estate.

(d) The Ministry of Local Government is liaising with the Ministry of Public Works, Roads and Housing with a view to seeking arbitration between the (NHC) and the City Council of Nairobi.

Mr. Ndolo: Thank you, Mr. Speaker, Sir. I thank the Assistant Minister for that answer. She is my mother-in-law, although she disowned me in public.

Mr. Speaker: Order!

(Laughter)

Order, hon. Members! Order, order, Mr. Ndolo! Can we now be serious. Keep your relations out of the House, Mr. Ndolo!

Mr. Ndolo: Mr. Speaker, Sir, I thank the Assistant Minister for that answer. However, she is misleading this House.

Hon. Members: Your mother-in-law is misleading this House!

Mr. Ndolo: Mr. Speaker, Sir, I have two notices here. One concerns Mbotela Estate and the other concerns Kaloleni Estate. According to the notices, the City Council has not paid the loans it owes the NHC, which has increased the rents for the houses. Could the Assistant Minister tell this House why the NHC has increased the rents of these houses? These houses were built for the poor people and have been there since 1943.

Mrs. Tett: Mr. Speaker, Sir, the court order gave the NHC management mandate to increase rent for Kariokor and Madaraka Estates only. It was not given the mandate to increase rents for the other estates. It is now extending its authority beyond its mandate.

Mr. Manoti: Mr. Speaker, Sir, it is clear that these houses were built by the NHC. The City Council is benefiting from where it did not sow. Can the people who have been living in these houses for a very long be allowed to pay for them directly to the NHC, instead of the corporation taking them over?

Mrs. Tett: Mr. Speaker, Sir, these houses were referred to as "the African houses". They were built in 1958, but not by the World Bank. The houses the NHC is interested in are those that were built using Kshs590 million, which was extended to the City Council of Nairobi as a loan. The NHC is now asking for Kshs1.3 billion. The money was given to the City Council of Nairobi in 1958. Interest has raised the amount from Kshs590 million to Kshs1.3 billion. The houses in question have nothing to do with the NHC. I do not know why it wants to phase out low-cost housing by classifying these houses together with those in Kariokor and Madaraka Estates. The NHC has already been paid Kshs300 million of the principal amount of Kshs590 million. Due to the accumulated interest, the amount owed is now Kshs1.3 billion. However, the remaining amount of the original loan is very little. The NHC is acting mischievously; maybe, it wants the land occupied by the houses for a different project.

Mr. M. Kariuki: Mr. Speaker, Sir, I have listened to the Assistant Minister, who seems to be speaking with a sense of frustration. She is an Assistant Minister of the Government. The NHC is owned by the Government. Can she tell this House what she is doing, so that the issues between the NHC and the local authority are put to rest once and for all? This is happening in other towns like Nakuru. What we are getting from her is that she is frustrated and has lost authority.

Mrs. Tett: Mr. Speaker, Sir, we have been consulting and having meetings with the NHC on this matter.

(Loud consultations)

Mr. Speaker: Hon. Members, can we follow this? Order! Continue, Mrs. Tett.

Mrs. Tett: Mr. Speaker, Sir, we were discussing how the NHC is to get Kshs1.3 billion. The NHC was to sell only Kariokor and Madaraka Estates. The corporation has been meeting with the Nairobi City Council over the issue. On 27th May this year, there was a meeting at 10.00 a.m in the conference room at City Hall. We were surprised that while negotiations were taking place, the NHC gave notices for the sale of the other estates.

Mr. O. K. Mwangi: Thank you, Mr. Speaker, Sir. I have listened to the Assistant Minister and it appears as if the NHC is more powerful than the Government. Since this matter has gone to court, the NHC is acting on a court order which allows it to take over Kariokor and Madaraka Estates. Has the Assistant Minister gone to court to get an order to bar the NHC from taking over the other estates?

Mrs. Tett: Mr. Speaker, Sir, we were negotiating on that, as I have said, then all of a sudden, the NHC started taking over everything. Indeed, we shall go to court. The court order that the NHC was given was for the management of Kariokor and Madaraka Estates. It was not a mandate for it to sell the houses. So far, the corporation has recovered Kshs300 million of the principal amount of Kshs590 million.

Mr. Ndolo: Mr. Speaker Sir, these houses were built back in 1945. In 1965, the shops were sold to individuals. Since the shops in those estates were sold to individuals, could the Assistant Minister tell this House why the houses cannot be sold to those who have been living in them since 1945?

Mrs. Tett: Mr. Speaker, Sir, we are looking at all these possibilities. We are also considering redevelopment of these houses.

COMMUNICATION FROM THE CHAIR

DEFERMENT OF ORDINARY QUESTIONS

Mr. Speaker: Order, hon. Members! I am afraid that is the end of Question Time. Unfortunately, we have not tackled a single ordinary Question. This means the following.

First, we must again bring ourselves to respect time and we shall allocate every Question not more than five minutes, so that we will be able to cover all of them.

Secondly, occasionally, I may have to begin with Ordinary Questions to be able to get to hon. Members who have been waiting for a long time. Finally, hon. Members will recall that I did explain the procedure involved in the Motion, That, Mr. Speaker do now leave the Chair. At the tail end of last Thursday, that Question was put and carried. Mr. Speaker left because the time was up and the Question was carried. When we get to the next business, Mr. Speaker will leave the Chair as commanded by the House, and the Chairman will take his seat.

I also wish to remind hon. Members that in the Committee of Ways and Means to approve

taxation proposals, the House will strictly be in Committee. We have talked on policy. In Committee you will be forced to talk on the specific provisions. No hon. Member will be allowed to talk on generalities or policies. You must talk about the specifics. I know it is hard, but you must try.

ORAL ANSWERS TO QUESTIONS

Question No.027

IMPLEMENTATION OF KOECH REPORT

(Question deferred)

Question No.064

DROWNING OF PEOPLE IN RIVER GUCHA

(Question deferred)

Question No.127

VEHICLE FOR MOLO TOWN COUNCIL

(Question deferred)

Question No.214

ELECTRICITY SUPPLY TO
BUMULA CONSTITUENCY

(Question deferred)

Question No.294

ELECTRICITY SUPPLY TO
TANA RIVER DISTRICT

(Question deferred)

Next Order.

COMMITTEE OF WAYS AND MEANS

(Order of the Committee read)

Hon. Members: *Umesahau!*

Mr. Speaker: Order, hon. Members! If you know nothing about the procedure of the House, please, keep your peace.

[Mr. Speaker left the Chair]

IN THE COMMITTEE

[Mr. Chairman took the Chair]

MOTION

APPROVAL OF TAXATION MEASURES

Mr. Chairman: Order, hon. Members. We are now in the Committee of Ways and Means. I just want to again repeat what Mr. Speaker has said. We are now in the Committee. If you look at the Order Paper you will find that there is Motion by the Minister for Finance which has proposals. So, we will restrict ourselves to debate on those proposals, and each hon. Member will, as usual, have 10 minutes to debate. Could I now ask the Minister for Finance to move the Motion?

The Minister for Finance (Mr. Mwiraria): Mr. Chairman, Sir, I beg to move:-

THAT, the proposals relating to:-

- (a) Customs Tariff;
- (b) Excise Duties;
- (c) Value Added Tax;
- (d) Income Tax; and
- (e) Miscellaneous Fees and Taxes

Contained in the financial statement for the year of Account 2004/2005 be approved.

Hon. Members, His Excellency the President has signified his consent to this Motion. A lot of hon. Members have asked me where they can find the taxation measures, and I suggest that they look at the Budget Speech from page 35.

In the year 2003, the real Gross Domestic Product grew by 1.8 per cent, up from 1.2 per cent recorded in 2002. This is a clear indication that the economy has started recovering. In order to support the economic recovery strategy, I brought up the theme of this year's Budget, enhancing efficiency for accelerated growth. The taxation measures are intended to form part of the Government effort to promote economic recovery.

The export processing zones (EPZs) enjoy generous fiscal and economic incentives, including duty and VAT waiver for both machinery, capital, plant and inputs. They have also got a ten-year income tax holiday, not available to other enterprises. It is for these reasons that the local producers have been complaining of unfair competition when the EPZ enterprises compete with them in the domestic market.

To mitigate some of the many advantages enjoyed by EPZ enterprises when they compete against domestic producers in the local market, I propose to invoke a section of the Customs and Excise Act, which provides for surcharge of 2.5 per cent on goods sold into the domestic market by enterprises operating in the EPZs.

Mr. Chairman, Sir, in the taxation measures, I reduced Import Duty from 35 per cent to 25 per cent, which is the highest allowable under the East African Community Customs Union on sanitary towels to make these goods available to our women at affordable prices. Besides that, I removed Value Added Tax altogether from sanitary towels, which means that the sanitary towels manufactured in Kenya will be free of taxes, and that those imported will be subject to the maximum import duty of 25 per cent.

I also made it possible for the Commissioner-General of the KRA, through his Commissioner for Customs and Excise, to sell goods which have been advertised for sale after they have been advertised once, without any further advertisements in order to avoid abuse of the law, which has been prevalent in the past.

Mr. Chairman, Sir, under the same taxation measures, I introduced a minimum packaging of alcoholic spirits to 200 millilitres in order to completely eliminate the possibility of our young,

particularly the school children, from buying the little measures and putting them in their school bags. I really want to make it clear that the packaging will be in hard containers such as bottles. This is because if we allow the manufacturing industries to package them in the plastic containers, they will continue making it possible for them to be carried by school children. We will make this point very clear in the near future.

Mr. Chairman, Sir, let me also remind hon. Members that we recently signed a Customs Union Protocol (CUP) which will entail having three tariff bands, namely; zero per cent, 10 per cent and 25 per cent that started on 1st January, 2003 in order to protect revenues for Kenya, Uganda and Tanzania, and also to push for industrial development.

(Mr. Gumo consulted loudly)

Mr. Chairman: Order, Mr. Gumo! Let the Minister be heard!

The Minister for Finance (Mr. Mwiraria): Mr. Chairman, Sir, I was saying that after the adoption of the common external tariff which was as a result of signing the CUP for the East African Community (EAC), I decided that we needed to protect our motor assembly plants here in Kenya. Consequently, I propose to transfer Customs tariff in excess of 25 per cent on motor vehicles and load the amount on excise duty. This does not increase the price of vehicles; it does not change the prices. All it does is to give the locally assembled vehicles adequate protection.

Mr. Chairman, Sir, introduction of Withholding Tax into the Value Added Tax Act may affect persons who are not eligible to register. In order to enable such persons to register and claim refunds where applicable, I propose to amend the VAT Act to allow any person who wishes to apply for registration to do so.

Under the Income Tax Act, I felt that since the tax brackets had not been adjusted since 2002 and though inflation has remained low, it is necessary to make some adjustments in order to protect low income earners from inflation induced. In view of this, I propose to increase Personal Relief by 10 per cent and also to widen the tax bracket by 5 per cent. The combined effect of these two measures is to raise the minimum income at which Income Tax applies from Kshs10,267 to Kshs11,135.

Under the same law, the Income Tax Act requires persons making payments of unspecified incomes to withhold and pay the tax withheld to the Commissioner. Unfortunately, the law does not provide for penalties where the person paying fails to withhold and pay the tax. To correct this anomaly, I propose to amend the Income Tax Act to provide for appropriate penalties where the person deducting defaults. I also propose to provide for appeals against such penalties provided the principal tax is paid in full.

Mr. Chairman, Sir, the Kenya Revenue Authority (KRA) collects taxes on behalf of the Kenya Civil Aviation (KCA) among other public bodies. However, under the current provisions, KRA cannot issue an agency notice to collect money from those who fail to pay, neither can it attach property of defaulters. To speed up collection, I propose to amend the Civil Aviation Act and other Acts such as the Petroleum Development Fund Act and the Air Passenger Service Charge Act, for KRA to appoint tax collection agents or collect taxes and levies through restrained action.

Mr. Chairman, Sir, having listened to hon. Members discuss the Budget Speech, I was left in no doubt that they had understood fully the tax measures which were contained in it. For that reason, I do not want to belabour the point. All I need to do, as I conclude, is to appeal to hon. Members to give support to these measures which, as I said in the Budget Speech itself, really are not increasing taxes at all. We have held down taxes in order to stimulate growth. We have taken several other measures, but on the taxation side, we tried as much as we could to be pro-poor.

Mr. Chairman, Sir, with these remarks, I beg to move.

The Minister for Education, Science and Technology (Prof. Saitoti): Mr. Chairman, Sir, I rise to second the Motion. Hon. Members will remember that when the Minister was delivering his

Financial Statement, just before he reached the stage of reading the taxation measures, he stated that he was actually giving notice of a Motion, which would be moved in the Committee of Ways of Means. Precisely, this is the Motion. It spells out the various ways and means in which extra revenue will be raised by the Minister after this House approves them. Indeed, the Budget Speech contained several issues and some of which are spelt out in this Motion.

In the case of the Customs Tariff, I would like to address myself to a very fundamental amendment that the Minister made. He, along with his East African colleagues, decided to formulate a common tariff. This meant that tariffs within the three East African countries would fall under the three categories of zero per cent, 10 per cent and 25 per cent. That in effect meant that our tariffs actually came down. That may itself be seen to imply that, indeed, we will be losing revenue. However, the fundamental point here is that having common tariffs within East Africa will make it much easier for the goods within the region to circulate. That in itself basically means that we, as a country, will have a bigger market. The same will also apply to Tanzania and Uganda.

Fundamentally, what it means is that, there is much more wealth which is being created and retained within East Africa. That, in itself, means that there is going to be more room for the creation of extra employment opportunities. That must be the case because, given the globalization trends today, which are dominated by a great deal of competitiveness, countries such as Kenya, Uganda and Tanzania can be part of that global economy, if they go through an economic integration. That is what is happening in East Africa today. That is why I applaud our own Minister for being part and parcel of that very important effort, which is going to lead to the eventual integration of our own economies in East Africa. First of all, there will be huge markets within the East African region for our own goods. More importantly, it is going to allow competitiveness within East Africa. Eventually, our countries will get into the global market. I am quite happy with what has been done.

Mr. Chairman, Sir, with regard to Customs tariffs, a lot has been done to close the various loopholes that exist in the current Finance Act of 2003, where certain revenues have been lost. He went to great length to tighten up the loopholes and make sure that, there is going to be much greater collection of revenues. While on the same topic, we should understand that the tariffs which were set in the last Finance Act, still remain in place and, therefore, revenues are still being collected on the old Finance Act. It is where there are variations that the collection of revenue will be much more or less. But, basically, that is the position.

Mr. Chairman, Sir, in the case of excise duties, I also want to take this opportunity to commend the Minister on two very important items here. First of all, the Minister, during the presentation of the Budget, removed excise duties on sodas and other items. That will not only make some of those soft drinks cheaper to drink, but much more importantly, more people would be able to drink soft drinks. That will lead into much greater production of those items. In the process, it means that the producers of those juices and sodas are going to employ more people. It leads to more employment opportunities and less poverty. That is exactly what we want. To me, the most important thing was stating the minimum contents in terms of packaging of alcohol in the so-called sachets. There is no doubt that students have been able to buy those sachets, keep them in their pockets and drink them the whole time they are in school. That has contributed to the deterioration of education standards and discipline in our schools. I, therefore, commend the Minister for Finance for doing something very important in our schools and for the youth in general.

The only thing that I would like to request the Minister, and which he should think very seriously about is that, when we come to the Finance Bill, he should raise the content levels of sachets. He had proposed the minimum contents to be 250 millilitres. He should make it something like 500 millilitres. That would help us a great deal. I am very much encouraged by the fact that you have said you are going to make it a requirement that they are not just going to be packaged in those plastic things, but in hard containers. So, it is going to be much more difficult to put those things in the pockets. I have no doubt at all that, that measure is going to protect our children a great deal.

Mr. Chairman, Sir, as we all know, the Minister removed Value Added Tax (VAT) on the sanitary towels. Nothing speaks greater volumes for this Government's commitment to assist children and women, more than that gesture. We do know, and we have had those cases before, especially those who have worked in the Ministry of Education, Science and Technology that, when girls are in school, the sanitary aspects of the toilets are not available. Those kids have to undergo those situations. What they do is to actually skip the classes. So, that recognition has now been made and it means a great deal. As a matter of fact, I attended an international meeting of Federation of African Women in Education (FAWE). Kenya was lauded for removing VAT on sanitary towels. That, in itself, was testimony of the fact that, Kenya is willing to cover the gender gap as far as education is concerned. Therefore, the Minister for Finance has done us proud in that respect.

Mr. Chairman, Sir, the other important thing has to do with Income Tax. Income Tax has, to a certain extent, been adjusted. The relief has been increased by 10 per cent. By "relief", we are talking of those earnings which are not going to be subjected to Income Tax. Along with that one, the threshold or the bracket has also been expanded by 5 per cent. That, in itself, is a recognition of the fact that, the lowly paid workers in this country, are the ones who are more vulnerable to inflation. The only way of compensating them against inflation is to make adjustments as far as tax reliefs are concerned, and broaden the brackets. In effect, the Minister has said that those who earn a salary of up Kshs11,235 per month will not be subjected to any taxation. That, in itself, is a very fundamental relief. It is a recognition of the fact that, indeed, the Government has realised that inflation has greatly depleted the earnings of our own workers.

Mr. Chairman: Order, Prof. Saitoti! Your time is up!

The Minister for Education, Science and Technology (Prof. Saitoti): Mr. Chairman, Sir, with those few remarks, I beg to second this very great Motion.

(Question proposed)

Mr. Chairman: Mr. Billow, I understand that you are the Shadow Minister for Finance and, therefore, you are speaking on behalf of the Official Leader of the official Opposition. Am I right?

Mr. Billow: Yes, Mr. Chairman, Sir.

Mr. Chairman: Proceed!

Mr. Billow: Mr. Chairman, Sir, the Minister, in his Speech, referred to the East African Customs Union, which will come into effect in January next year. It will bring about common external tariffs between the three countries of East Africa.

Mr. Chairman, Sir, while I appreciate the need to harmonise our tariffs so that our businessmen can trade within the three countries freely, it is important to note that the immediate result in this year's Budget is the Kshs3.2 billion loss in revenue. But it is also important to harmonise the tax administration in the context of the Customs Union. For example, in a country like Uganda, Custom Duties are even payable in instalments on imported products. It is something that we need to consider if we are going to have the Common External Tariff across the region to enable our businessmen to import machinery and capital goods, and at the same time be able to get into productive activities. It is important that the Government also considers the context of harmonising.

Mr. Chairman, Sir, in countries like Uganda, they have very conclusive pre-budget consultations which are made. There are no shocks or surprises. In terms of policy measures, they are pretty much insured because of that. I think it is important that we also harmonise, from next year, the process of making our Budget to make it more inclusive and much more participatory because of the need to bring all our businessmen on board in this context.

The other thing I am concerned about and which the Minister may need to think about, is the

porous borders we have with our neighbouring countries and the impact it has on goods coming into those countries and which eventually will find their way into Kenya. I think there is need to consider the impact of that in future years.

Mr. Chairman, Sir, as regards the tax administration measures that are contained in the Minister's Budget Speech, I remember the Kenya Revenue Authority (KRA) launched its chatter a few years ago. Now, the KRA should appreciate that the business people are their customers. But the laws they use; the Income Tax Act and all the regulations that are there, in fact, empower the tax officers or the tax inspectors in such a way that quite often, the tax inspectors literally harass business people forgetting that these are the people who generate all the revenue, these are their partners, these are their clients. If you visit some of the offices in the Times Tower where the tax officials meet with customers, you find even the rooms where the meetings are done are called interrogation rooms. That clearly implies that those rooms are not user-friendly. They should deal with businessmen as their customers.

The KRA Investigations Department, in particular, has a serious problem when it comes to dealing with customers. I have seen instances where the KRA attaches the bank accounts of customers doing important businesses and then weeks later, they start investigations. I am aware of business people, for example, whose bank accounts have been frozen for six months and their businesses literally grounded, because the KRA Investigations Department has to carry out an investigation and clear it, including even forwarding log books to KRA so that they can allow the company to have its bank accounts to operate. I think it is important the Department improves its administrative approaches because in that process, they are going to kill the goose that lays the golden eggs.

Mr. Chairman, sir, at the same time, in terms of administration, there is need to look at the local tribunals that deal with disputes between the KRA and business people. Quite often, there are disputes on tax issues that arise particularly with income tax and it is important that when the Minister appoints members of the tribunal, he gets people who are competent and impartial so that they can address the concerns of the business people.

Mr. Chairman, Sir, let me now turn my attention to the tax waivers which are contained in the Speech of the Minister. The law gives discretion to the commissioners to exercise powers to waive tax and particularly, interests and penalties. There is need for these officers to exercise that discretion very diligently. In the past, this country has lost huge amounts of money; billions of Shillings, because the officers who are responsible have misused those powers and have waived taxes even from those who are not entitled to. Quite often, those who are "politically correct" have benefited from those powers to waive tax. In particular, even as late as last year, we have seen instances where people have received tax waivers when they are not entitled to. This is going to result in lose of revenue to the Government.

Mr. Chairman, Sir, in this Budget, the Minister has disallowed waivers to be given in cases relating to fraud. However, I feel that is not very clear and that those who are responsible may, in fact, abuse that provision and may use it for the purpose of extortion or blackmail to make money.

Mr. Chairman: Please, mind your language.

Mr. Billow: Thank you, Mr. Chairman, Sir. I think that provision relating to fraud can be misused. There are concerns that some people within the KRA may, in fact, use the provisions given by the Minister to extort money from some businessmen.

Mr. Chairman, Sir, tax measures should not only encourage our enterprises or productivity, but they should also be set in such a way that they should help particulars in areas of priority like poverty reduction. A good example is the VAT that has been introduced to NGOs. Purchases that are made by NGOs benefit, to a large extent, the poor. For example, VAT waivers on food items do benefit the poor. Many organisations import food in times of difficulty, like now when there is drought, and that food is given to the needy in some parts of our country. The Minister has removed the exemption on VAT to NGOs and I think that is going to affect the poor negatively. I think it is

important to vet NGOs rather than remove the VAT exemption from the NGOs.

The next item I want to talk about is on the withholding tax. I appreciate that the Minister has appointed agents who are going to withhold tax from those small business people; those who do not have addresses or business premises. There are many of these kind of brief-case business people and it is important that he has appointed agents who are going to withhold tax and remit it to KRA. I think in that context, the kind of incidents we have seen, like the Anglo Leasing and Finance Company; these are people who do not have addresses. These are the brief case businessmen that the Minister intends to catch by this measure, which is something that I recommend a lot.

However, the VAT being withheld by Government departments affects small businesses in the rural areas. Small contracts given to business people or even individuals in the rural areas are now subjected to VAT and the Government officers use it selectively. They, in fact, deduct the withholding tax on some of them and they do not deduct on others. I think that discretion is going to affect some of the small business people in the rural areas. What I wanted the Minister to do in future is to put a threshold so that contracts that cost above Kshs1 million should be the ones on which VAT must be withheld by the Government agents. At present, there is not threshold and I think it affects the small business people and contractors in the rural areas.

Mr. Chairman, Sir, on tax relief, the Minister expanded the tax bracket for low income earners by 5 per cent; the lowest paid from Kshs10,627 to Kshs11,135. This is just a minimal increase of 5 per cent. The Minister should have expanded that bracket much more to get most Kenyans who earn very little out of the tax bracket. This is important because inflation went up to 10 per cent last year and, consequently, the cost of living too has gone up. Some of the basic commodities such as food and essentials like sugar, transportation, housing and everything has gone up. It is important that the Minister should consider, in future, to expand the tax bracket significantly. This will ensure that we get all those who are earning below a certain minimum say, below Kshs20,000, excluded from the tax bracket. This increase that he has given, the 5 per cent expansion of the bracket although remarkable, is still very low given the inflation and the increase in the cost of living. I would request the Minister to consider expanding that because many Kenyans are living below the poverty line.

Moreover, the fact that the economy is expected to grow by 3 per cent next year, does not mean that many Kenyans will get out of poverty or that poverty will, in fact, reduce. A good example is Uganda which has maintained consistently a 6 per cent growth rate for the last ten years. However, poverty has grown from 34 per cent in the last ten years to 38 per cent last year. This is because of the inequalities and some of the policies that have been adopted which do not necessarily address income inequalities in our society. It is very important that these rates be reviewed so that we can get at least those who are earning less than Kshs20,000 to be excluded.

On tax amnesty, while I commend the Minister for introducing the amnesty on interest and penalties, it is also important to expand that to include principals relating to beyond a certain period. For example, for any outstanding tax, or tax that has not even been disclosed, if we take the cut-off, say, a year like 1992, 1997 or any other year, this should be given amnesty. This will ensure that many people who are scared of coming in because of their past misdeeds can pay taxes. That is the best way of expanding the tax base. I will appeal the Minister to also consider that.

It is not enough to give amnesty of interest and penalties but it is important that we also give tax amnesty on principals; on principal tax outstanding beyond a certain date. This will encourage many Kenyans to embrace tax payment. That would also encourage us to shed off the past. If there are people who have in the past avoided paying tax, they would now be encouraged if they are given that amnesty and told; "For those who have not paid beyond a certain year, forget about it!" At the same time, it will also save the Department huge administrative costs that they incur chasing small amounts of taxes relating to early 1990s or even beyond.

Finally, I must mention that with regard to tax amnesty, it is important that the Department issues appropriate guidelines to ensure that it is not going to be used selectively and

discriminatingly. Those are the comments I would make with regard to the measures that have been proposed by the Minister.

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

Mr. Chairman: Who wants to contribute? Mr. Githae?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Thank you, Mr. Chairman, Sir, for giving me this opportunity to contribute to this Motion.

First of all, I would like to commend the Minister for Finance for the good work that he is doing.

Secondly, I would like to take this opportunity to ask the Kenya Revenue Authority (KRA) to open up offices in almost every district. Being at provincial headquarters is not good enough since Kenyans have now agreed to pay taxes. It is important that the KRA opens up offices in every district. They can even go to every location and town. They could even appoint agents in every small town because people at the local area would know traders who are in a position to pay tax. This would go a long way in making Kenya a tax-paying nation. Previously, Kenyans used to be very happy when they avoided paying taxes. This is because they were not seeing where these taxes were being taken to. However, now every person can see where these taxes are being taken to. They can see the good things that have started appearing all over in the country; roads, free primary education and rehabilitation of all projects that had been abandoned. Kenyans can see and that is why they are supporting taxation efforts. That is why you see that for the first time in the history of this country, people were queuing to pay their taxes. This is wonderful and needs to be encouraged! It is even better that the KRA has opened up many stations for receiving these forms. I would, therefore, request that whenever we have an opportunity to go to the rural areas, we go and plead with our fellow Kenyans to start paying their taxes. This is because the Government can only implement its policies if we pay our taxes.

However, there is a problem particularly with small traders. There is no law that says that before any tender is issued, it is advertised. Companies, business people and corporations are doing that but they are charging for those tender documents; a fee of Kshs10,000. Sometimes even more and there is no guarantee that after paying for those tender documents, traders are going to be awarded the tenders. Small business people are paying for those tender documents and quoting. However, from the ones that I have met, they are really complaining. In fact, they have said that they have stopped buying those tender documents because they do not win and it is expensive.

Mr. Chairman: Mr. Githae, I just want to caution you to restrict yourself to Customs Tariffs, Excise Duties, Value Added Tax, Income Tax and Miscellaneous Fees and Taxes.

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Chairman, Sir, I am talking about Miscellaneous Fees and Taxes.

Mr. Chairman: I am sure that, that was not covered by the Minister! I strictly want you to confine yourself to the measures proposed by the Minister in his Budget Speech. Continue!

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Thank you, Mr. Chairman, Sir. What I am saying is that we need to support our small business people so that they are able to pay more tax and meet their obligations.

The other thing is on Value Added Tax (VAT). The amounts are going up but I think that even more money is not being paid basically because there are some traders who maintain three or four receipt books. It would be a good thing if the KRA would give all traders receipt books which would be accountable documents so that they would not need to have three sets of documents. Now they have one set for the bank which shows profit, another for their own which shows the true state of affairs and another set for the tax authorities to show losses. That is something that needs to be done.

It is also good that issuing of cheques that are "referred to drawer" has been criminalised. There has been a problem of people issuing bouncing cheques and traders cannot even accept cheques now. They insist on bankers cheques and this only increases their costs.

Mr. Chairman, Sir, it is also good that VAT should be deducted at source from manufacturers. If this was done, even the issue of tax being evaded would not arise. Therefore, if tax was deducted at source and paid by manufacturers, small business people and traders would not have to keep records and would not have to evade taxes.

Mr. Chairman, Sir, if you go to purchase an item from a trader, you are asked whether you want a receipt or not. If you decline to be issued with a receipt, you do not pay Value Added Tax (VAT) on that item. If you ask for a receipt, you are charged VAT on it. That should be an offence. Prices for all items should inclusive of VAT, so that, that loophole is sealed.

We need to support the Minister in his effort to collect taxes, because the Government mainly implements its policies and projects from the taxes that we pay. We even need to re-introduce the tax clearance requirement. Previously, before you went outside the country, you needed to have a tax clearance certificate. This requirement was very effective. However, the requirement was withdrawn and people are not paying taxes.

We also need to encourage traders to accept personal cheques. People are being forced to carry huge amounts of money in cash, and this increases insecurity. It is also very stressful. Men carry money in their socks and in other funny places. Women put it even in funnier places, which I do not want to mention. That is because traders in this country do not accept cheques. They insist on being paid in cash. This has not been very helpful.

The loopholes that were at the Customs and Excise Department have been sealed, but not completely. We need to keep track of the containers that come into this country. If cars can be tracked wherever they are, I do not see why we cannot track the containers. That is where a lot of tax evasion occurs. We have even been told of cases where somebody used to import left-foot shoes in one month and he does not clear them. The shoes will be auctioned by the Customs and Excise Department, and he would pay for them. In the next month, he would import right-foot shoes. Again, he would not clear them. They would be auctioned by the Customs and Excise Department, and he would pay for them. Subsequently, he would sort out the two consignments and match the shoes to make complete pairs. In the process, the Government used to lose a lot of revenue. So, such loopholes need to be sealed.

Mr. Chairman, Sir, the rule barring the importation of vehicles that are more than eight years old needs to be removed. The majority of Kenyans cannot afford new cars. We should encourage them to own cars. The only cars that people can buy cheaply are those which are more than eight years old. A car which has been driven in Europe or Japan for eight years is as good as a car which has been driven in this country for two years. I would like to draw the Minister's attention to this fact. That rule has stopped our people from owning cars. We want them to own cars. In fact, whoever arranged for the councillors in Mombasa get *mitumba* cars did a good job.

(Laughter)

We need to encourage Kenyans to own cars, because we do not have a reliable public transport system in this country.

With those few words, I beg to support.

Prof. Oniang'o: Thank you, Mr. Chairman, for the opportunity.

I do not know what the previous speaker was talking about Kenyans wanting to own cars. Most Kenyans can hardly afford a bicycle. They cannot even afford a second-hand bicycle. So, I would like to see the Government being a bit more serious about the kind of Kenyans it is talking about.

Mr. Chairman, Sir, let me talk about sanitary towels. I would like to see how the Minister

picked up the pledge that the President made to women when they attended the HIV/AIDS conference in Nairobi. I understood that all taxation on sanitary towels was removed. I did not understand the President's directive to have anything to do with whether the sanitary towels were imported or locally-produced. I want to argue that sanitary towels in this country are still unaffordable. However, I have to commend the Minister. The fact that he mentioned sanitary towels while presenting his Budget to this House meant that he understood what they are meant for. I would like to see the Government subsidising sanitary towels, so that their prices can fall further from Kshs76 per packet to Kshs50 or less. That is only when we can say that we care about the larger gender of this country. So, I hope that the Minister will do something more on that aspect.

On the issue of liquor and our children, I think we have not addressed the real issue. The real issue is liquor. We are talking of liquor which is packaged. Nobody is talking about the illicit brew called *kumi kumi*, which can be sneaked into schools. I would like to see this linked to the school situation, where there are punitive measures by the Government against those who take this product to schools for consumption by our children.

Mr. Chairman, Sir, the cost of fuel in this country has not reduced. How are we going to be a working nation, do business or trading, when the cost of fuel has not reduced? The Minister would have wished the prices of fuel to come down, but they have not. He only needs to visit the outlets that sell fuel to realise that their prices have not reduced.

Another issue I would like to talk about is that of cooking gas. If the idea of reducing tax on cooking gas was to save the environment, then we are really not working in the right direction. I would have hoped that the reason was to make cooking fuel affordable by the majority of Kenyans, who use kerosene. They do not use gas. So, we hope that very soon, before the next Budget, the Minister can look into ways and means of lowering the cost of cooking fuel in Kenya by addressing the high prices of kerosene, so that we can save trees and wood.

Another issue I would like to raise is Value Added Tax (VAT) for sugar-cane farmers. They have been appealing to the Government through the Press and correspondence, saying that: "The many taxes imposed on sugar means that the sugar-cane farmer does not get enough to take home." So, I would like to see the Minister address this issue. From where he sits, he can remove VAT on sugar, so that farmers can benefit more from the sugar-cane that they grow on their land.

Mr. Chairman, Sir, I have never understood why funds that are voted to Ministries and Government departments are returned to the Treasury unutilized when there are areas on which they can be applied. I know that one area which is very close to your heart is fees owed to secondary schools by parents who are unable to pay.

Mr. Chairman: Order, Prof. Oniang'o! Restrict yourself to taxation!

Prof. Oniang'o: Mr. Chairman, Sir, but this money has come from taxpayers!

Mr. Chairman: Order, now! Prof. Oniang'o, please, restrict yourself to the ways and means of achieving the revenue; that is, the taxation aspect.

Prof. Oniang'o: Mr. Chairman, Sir, the reason why I am saying this is because money had been allocated and then it returned back to Treasury. Why should it be returned back to Treasury when there are other areas where it could be used? We need to change the law, so that we re-allocate that money! Mr. Chairman, Sir, do you not think so? I think so!

(Laughter)

Mr. Chairman: But that is the policy on the Budget which we have been debating for the last seven days. Now, we are in the Committee of Ways and Means. So, please, restrict yourself to the ways and means of raising revenue.

Prof. Oniang'o: Mr. Chairman, Sir, there are also levies that Kenyans pay. For example, the Kenya Airports Authority (KAA) collects money. Another example is the small monies we pay the Kenya Revenue Authority (KRA). The KRA is supposed to retain a certain small amount out of this. However, in this Budget, they are retaining about Kshs850 million. This is more than what they should have retained. We want to be told why this is so. When the Minister presents his budgets, we would like to know how much the KRA is collecting and from what areas, item by item. This is because this money is from Kenyan taxpayers. We should address any shortcomings in the way we prepare our budgets.

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

Mr. Khamasi: Thank you very much, Mr. Chairman, Sir, for giving me a chance to contribute to the Motion on taxation. I would like to state that, perhaps, the Minister allowed waivers where it did not really matter much. The waiver on taxes on LPG was not necessary. Perhaps, he would have put it elsewhere; where it would have touched hearts of many Kenyans. I think during our debate for the last seven days on the Financial Statement by the Minister for Finance, we have as well told him so. We have told him that, that waiver would have been used elsewhere, for example, on a commodity like paraffin.

Mr. Chairman, Sir, I want to talk briefly about some of the measures which the Minister will apply to raise taxes as he indicated during his Budget Speech. One of the things he said he would do is to put measures in place to facilitate faster movement of cargo through the port. Therefore, he wants to amend Section 9 of the Act to allow consolidation of cargo and transit sheds out of the port. I think this is very important. The cargo which stays for a very long time in the port causes a lot of problems. The problem we have is that the longer the employees at the port stay with this cargo, the more they are tempted to find means and ways of making money out of it. Indeed, some of them actually get bribed and goods get out of the port without the Government getting the necessary tax. It is necessary for this period to be shortened so that, at least, we have people who import goods, pay taxes promptly, so that Treasury can get its money.

Mr. Chairman, Sir, with regard to the same area of ports, the Act requires the Commissioner to issue two notices in the Gazette to owners of such goods before they are disposed of. The same argument goes with this particular exercise. We do not have to give notices of more than seven days. Seven days are enough. In fact, goods are not normally abandoned. They are carefully left behind, so that they can be manipulated to get into the open market. So, this period must be reduced. So, I fully support the Minister. Therefore, the Commissioner of Customs should dispose of those goods and remit money to Treasury.

Mr. Chairman, Sir, I would like to talk a little about the bonded warehouses. The Act allows the importer 21 days within which to deposit the goods in a bonded warehouse. This is the same area that I have been talking about. We do not really require that length of time. We require a shorter time so that the people who have got funny intentions of getting money from the Government could be dealt with effectively.

Mr. Chairman, Sir, we have been talking and the Minister has repeated about import duty reduced on sanitary towels and the Value Added Tax (VAT) removed altogether. Well, that is good news! Indeed, that should have been done yesterday. However, we are yet to see the effects of this. How will the Minister manage this? This is because importers of these sanitary towels still sell them at the same high prices. So, the management of that order from the Minister has got to be properly looked at. This is because there is no point in a Minister giving a waiver, and yet, the people who eventually sell that product do not translate the same to benefit the common *mwananchi*. Mr. Chairman, Sir, the question of packaging of alcohol in mini-packs or sachets being done away with, is a welcome move. The Minister intends to have alcohol packed in 200-millilitre bottles and not

plastics. It will help, particularly our youth, not only in school, but all over the country, who have found them very convenient. Even during meetings, those who are completely hooked to alcohol, pack these mini-packs in their pockets and before they deliver any speech, they go to hide somewhere and squeeze a little into their system. This is meant to give them some funny courage to say what they would not have otherwise said without it. This is very healthy. We should support the Minister in his effort in getting rid of packaging of alcohol in mini-packs and sachets.

Mr. Chairman, Sir, the signing of Customs Union Protocol by the three Heads of the East African Community, on the face of it, would appear that Kenya seems probably to be the only partner State which will continue to pay levies on the goods being taken to the neighbouring countries for the next five years. We must move further than that and make that relationship much better than it is. This is because when we speak to our partner States, even today, they do not seem to trust us. They seem to feel that we have got an advantage over them.

It is high time we told them that we mean well and must demonstrate that. Perhaps the Minister should look into that aspect. We intend to increase employment opportunities and reduce poverty levels in this country. Perhaps the Minister should look into the area where employers---

Mr. Rotino: On a point of order, Mr. Chairman, Sir. Is it in order that when we are discussing this very vital Motion, the Minister is not sitting there to listen to what we are saying? I believe that we are discussing a Motion which is very important.

Mr. Chairman: I think it is quite fine! We have a Government Minister here and the officers there are taking notes. That does not confine the Minister here all the time. I believe he is aware that he has to know what is going on. Mr. Rotino, how do you know that he has not left a brief to his colleague?

Proceed, Mr. Khamasi!

Mr. Khamasi: Thank you, Mr. Chairman, Sir. I was saying that this country has got a problem of unemployment and poverty. With regard to unemployment, we have got very highly-trained manpower churned out of our universities and tertiary institutions and they go without employment. The Minister should have thought of giving tax relief to some employers. He should have said that an employer who engages about ten university graduates would get a certain tax relief. I believe that will go a long way towards alleviating the unemployment problem in this country. We have got very many of them. Recently, I spoke to a certain employer who told me that he employs in his farm about three university graduates every year. He also told me that if he got tax relief, then obviously, the number of graduates he would employ would increase. He further told me that he knows some of his colleagues in the industry who would be willing to employ a certain number of university graduates or experts from our tertiary institutions if they were given a tax relief. Perhaps, the Minister should look into that aspect. If he feels that it is something worth trying, he should try it for a year and see the benefits it can bring about, through the reduction of the unemployment levels we have in this country.

Mr. Chairman, Sir, with those few remarks, I beg to support these proposals.

Mr. Rotino: Thank you very much, Mr. Chairman, Sir, for giving me this opportunity to contribute to this very important Motion. At the outset, I would like to say that taxes are not supposed to be an impediment to anybody to start any business. Taxes are supposed to motivate our young men, businessmen and businesswomen to open businesses, so that we increase the bracket of our taxpayers. But what we have seen is very unique. As I speak here, I have a document in front of me from one of the businessmen in West Pokot District. The businessman has been grounded completely by the Value Added Tax (VAT) officials. When a businessman starts a business, he might come from a very remote place and he might not be educated. He does not know what it entails to be a VAT contributor. The officers who collect revenue are supposed to educate

our businessmen and hold seminars for them, so that they can motivate them to pay taxes.

As I speak now, there is a businessman in Makutano Trading Centre in West Pokot District called Charles. The businessman has completely closed his business and run mad because he has been told to pay Kshs10 million. This is the case, and yet if you value all his assets, you will find that they are not even worth Kshs2 million. That businessman is a simple distributor of Coca Cola soft drinks. He has been told that he registered to be a VAT contributor in 1997. The officers who registered him did not educate him at all. The officers disappeared until January, this year, when they came back and told him that he should pay Kshs10 million. As I speak now, the pick-up vehicle of the businessman was repossessed and sold. At the moment, people are scared of opening businesses in West Pokot District. This is because they are scared of the VAT officials, who come and sell everything that one has if he has not paid the VAT arrears. Those officials tell you to pay the arrears or they close your business. The nearest VAT office is in Eldoret Town and when the officials visit you for the second time, they are accompanied by auctioneers who sell all your property.

That businessman was given a notice in January this year and all his property was confiscated, taken to Eldoret in February and auctioned in March this year. That has become a very bad lesson to all the businessmen in that centre. No businessman would like to start any business in that centre because of the problem the VAT officials put them into.

I would like to propose that a system should be worked out, whereby one can pay tax arrears that he or she has in instalments, where the businessman sits down with the Income Tax or the VAT officials and work out a system where one can pay one's tax on a quarterly or yearly basis instead of selling the property that the businessman has. If this is done, it will encourage our businessmen to start businesses. We are supposed to woo our businessmen and encourage people to open businesses. We should give soft loans to enable many people open up businesses in the *Jua Kali* sector, so that they can pay taxes. We are supposed to prepare training sessions for those people so that they can learn the advantages and disadvantages of paying tax. We should not assume that all our businessmen are literate. Some of them have not gone to school and, therefore, they are illiterate. Those businessmen are supposed to be taken through a process and told why they should pay taxes. The Government should come up with a system, whereby businessmen pay taxes by instalments if they have arrears.

Mr. Chairman, Sir, I would like to talk about the NGOs. In the Minister's Budget Speech, he talked about removing waiver for the NGOs. This is very serious because there are some NGOs which work in very remote areas of this country. When the Minister generalises and says that all NGOs are supposed to pay taxes or duty on imported goods, then those in remote areas where Government services are not evident are disadvantaged. The Minister should consider that aspect. I know this privilege has been misused by many NGOs which have mushroomed up. But the Ministry should investigate and determine which one is a genuine NGO and which one is not, so that many people do suffer. They should look at every individual Non-Governmental Organisation (NGO). If any is found to have messed up or not done what it is supposed to do, it should be penalised. That will ensure that many people do not suffer.

Mr. Chairman, Sir, I want to talk about the expansion of tax waiver brackets. It is important that the Minister speaks about tax collection. There are many people in this country who evade taxes. They do so through the assistance of those who are supposed to collect taxes. The people who collect taxes from shops collude with the businessmen to evade taxes and yet, we are talking about eliminating corruption.

If our own people who collect taxes are genuine enough, this country could not be going around begging for money. We should have honest people to collect taxes! When tax collectors visit

the Asians, they are supposed to be eye-openers of our own people. But they collude with big Asian businessmen to evade taxes. Yet, they go to Africans who are struggling to make ends meet and squeeze them so much. That is because they are not able to bribe those tax collectors.

Mr. Chairman, Sir, we should look for genuine and honest officers to collect our taxes. Otherwise, it has been a shame that those who are supposed to be paying taxes are the same people who are evading taxes. If you look at the Asian community, between the months of March and June, they buy many cars on credit. They do not even pay a single cent, so that they are given tax exemptions and waivers. They spend all their income buying new cars on credit! There is no Asian who goes to a shop and buys a brand new car by using cash! He has to buy it on credit. He benefits from tax exemptions. We should look at that and advise our own people.

With those few remarks, I beg to support.

Mr. Arungah: Thank you, Mr. Chairman, Sir, for giving this opportunity to contribute to this Motion. Let me state from the outset that I support the measures proposed by the Minister. However, I have two observations that I would like to make. The theme of the Minister's Budget Speech was: "Enhancing Efficiency for Accelerated Economic Growth". To illustrate that, my view is that the measures he is proposing could be counter-productive. I will give two examples to show that.

First, the Minister proposes to amend the Civil Aviation Authority Act to empower the Kenya Revenue Authority (KRA) to issue agency notices, appoint agencies and attach property for those who fail to pay the Civil Aviation Authority revenues. My understanding is that the Kenya Civil Aviation Authority was formally a department of the Ministry of Transport and Communications. The reason why it was formed was to enhance efficiency. Now, we are bringing in the KRA to collect taxes. Now, my fear is that, if you allow a third party to collect taxes, you are going to end up with a situation where the Civil Aviation Authority is going to have difficulties accessing that money and, in turn, it is going to jeopardise or make their operations difficult. I do not understand why, for example, the Civil Aviation Authority cannot be left to collect its own revenue. That is because bringing in a third party is going to complicate and introduce unnecessary bureaucracies. The Civil Aviation Authority has got enough authority to ground any party that does not pay taxes. Those who own aircrafts will tell you that they only earn revenue when they are in the air. So, the Civil Aviation Authority has the power to ensure that taxes are paid, I do not, therefore, see why we need to bring in the KRA to collect that money.

Mr. Chairman, Sir, the same applies to the Kenya Airports Authority (KAA) where, again, the KRA is being brought in. I know that the KAA has the machinery to collect revenue. If there is any defaulting party, they have the capacity to refuse to service an aircraft. So, I do not understand why you create an authority to enhance efficiency, and then seek to bring in what I call, unnecessary bureaucracy which will, inevitably, lead to inefficiency.

Mr. Chairman, Sir, the last point that I would like to raise is on the licensing of air carriers and operators. I do not feel that the Minister went far enough in that regard. It is known the world over that, if you went to a country and wanted to register a business as an air operator, you must ensure that 51 per cent of the ownership of that company belongs to the locals. I know that Kenya is the only country where every Tom, Dick and Harry just walks in and, without any regard, is given a licence and starts operating. Now, this country has borne the brunt of looking after refugees for a long time. God willing, there is going to be peace in Southern Sudan. Kenyan companies must be allowed to benefit from that operation. That is because people are coming from all over the world and registering companies. The Civil Aviation Authority (CAA), without any regard to the ownership of those companies, is granting them licences. That means that whatever profits are made end up being taken out of the country. So, we do not benefit at all. With opening up of possible trade links with Sudan, I think the Minister should insist that before the CAA gives any licence to any air operator, he has to ensure that majority ownership is by Kenyans. Some of them go and bring what I call "paper owners". We must go further than that and seek proof that those people exist. They must

swear affidavits that they are true shareholders and fulfil several other conditions so that, at the end of the day, this country benefits.

My understanding is that by taking such measures and ensuring that Kenyans are participating in the air charter business, there is going to a trickle-down effect that will benefit our people. Those are the two observations that I wanted to make.

With those few remarks, I beg to support.

Mr. Omingo: Thank you, Mr. Chairman, Sir, for giving me this chance to contribute to this Motion. As my colleague has just said, I also want to support, but with the following remarks.

I would like to visit one of the issues which was raised by Prof. Oniang'o when she was contributing. She said that, when we collect funds and do not apply them, either we do not need them and, therefore, we should not tax our people. The other explanation is that we have collected funds, but we do not know how to use them. We should stop over-burdening our people. That is what she was saying. I think she had a valid point which I would like to amplify here. Kenya is one of the countries where people are highly taxed. I think our taxation levels are high simply because most of us have refused to completely live within our means. Of course, you can see it in the extravagance in Government. I think taxpayers have a load on their shoulders that is impossible to carry and if we could adjust ourselves, live within our means, spread our tax bracket to lower the rates of taxes, then everybody will efficiently contribute rather than run away from paying taxes because the taxes are very high.

Mr. Chairman, Sir, it is true that the Personal Identification Number (PIN) system was introduced to create efficiency and touch every sector of the economy and every other person enjoying the benefits of services provided by taxpayers actually contributes to the Exchequer. Unfortunately, I do not think that the PIN system is really working. The Government has spent large amounts of money to implement that system but, unfortunately, I do not think we are getting returns yet from the PIN system. As a result, you find those who are on record as paying tax are the same Kenyans paying tax yesterday, today and they will pay tomorrow. Let us broaden our tax base by effectively implementing the PIN system.

Mr. Chairman, Sir, Appropriations-In-Aid (A-in-A) or support from our donor community is actually supposed to relieve the burden on Kenyan taxpayers from paying taxes and a grant will relieve you from the burden of paying tax or bearing that particular expense. However, we have lost billions of shillings in donor support because somebody somewhere has failed to implement the donor conditionalities. If a particular civil servant has got nothing for him in that A-in-A or a donor-funded programme, then it is sabotaged and, therefore, we lose the valuable grants we receive in our community. If we did receive all that money, I am too sure Kenyans' tax burden will be lowered and the tax rate will come down and everybody else will be glad enough to contribute because then, our VAT rate can come as lower as 8 per cent so that Kenyans can happily pay their taxes. However, we are concentrating on a particular nature of people refusing to receive grants because there is nothing in for them. The monies are not disbursed to us and as a result, the taxpayers continue supporting what good friends would have wanted to support.

Mr. Chairman, Sir, if I talk about Customs, there is this "monster" called transit sheds. Transit sheds were introduced to de-congest the port. However, the transit sheds have actually now been used as a conduit to pass drugs, ammunition and duty-free goods. I petition the Minister now to bring an amendment to scrap these transit sheds. They are a source of leakage of revenue and he did promise us, when they came into power, that they were going to plug all revenue leakages and this is one of the avenues that the transit sheds must, as a matter of necessity, be closed.

Mr. Chairman, Sir, if you want to attract tourists to come to this country, there is a simple technology used by other countries that you need to invite the tourists to come home, purchase items but on exit, they are refunded. However, Kenya is so mechanical that you cannot even borrow from South Africa that what the technocrats gave us last year and the year before is what we are using today. We are lacking innovation and we must think broadly. The only problem is that most of us

want to think on how fat our pockets are without service delivery. Let this Government wake up and introduce issues like VAT departments at the airport. Tourists will drop and they will be encouraged to purchase and the revenue from tourism will also relieve the Exchequer from the burden of just taxing people.

Mr. Chairman, Sir, this Ministry of Finance has a donor dependency syndrome that even before the donors give them money, they will factor it in the Budget and as a result, mid-year through, they want to make a Supplementary Budget which includes higher taxation to supplement what the donor brothers would have given us but had not given. Let us actually not be donor-dependent. It is true that we have developed that culture in our system but let us re-think, so that we only live within what we have or do not depend on what is not in our kitty so that we can do what we call fire-fighting at the end of time and not before the end of the financial year.

Mr. Chairman, Sir, the efficiency of tax collection will not be that efficient with litigations in court. These days, although we were told there is going to be radical surgery in the Judiciary, they are running amok in Parliament by telling us what is going to be included in the Constitution. They have gone to KRA to actually even petition a legitimate tax because they have gone to court. Litigation is really rampant in the KRA. Anybody who does not want to pay rushes to court to block the Commissioner from collection and the person who goes to court with the cost of the legal fee is one person who has stolen more than the tax he is going to pay. So, he can afford that and block the new face of the law to actually circumvent the law. We want the Minister to introduce some legislation here that, unless somebody actually has evidence to prove that the assessment is wrong, the courts have got no business legislating on everything, even what they do not know because I am sure the tax law is very technical. I know they have gone to school, yes, they are learned friends but I am too sure that some of these issues are very intricate and that they require that the Minister introduces some provision in the law to say: "Unless you prove otherwise, this is the tax due or present an irrevocable statement to suggest that upon information coming to light that this is correct, you pay twice or pay 50 per cent or 90 per cent as down payment and then petition and when you succeed, the Government is rich enough to give you interest upon successful litigation."

Mr. Chairman, Sir, investment deduction has been introduced through lease financing. The Minister is prudent enough to encourage investment. They have said that other than an investor coming from out to get relief from our country, the people who are ready to finance within the local set-up can now also qualify to bring the investor to invest in the country. However, one wonders if lease financing, like what we have been hearing, is something different from the actual investment because you are not spending money but you are paying for something you own over a period of time--- So, when the Commissioner is going to give investment deduction, what is he going to give investment deduction on? Is he going to give investment deduction on lease rent or the total cost of the project which actually has not been invested in this country because we are saying you must invest to get that investment deduction? However, he is saying here that you can get deductions after committing lease rent. On what figure is the Commissioner going to grant investment deductions? That is the question the Minister must answer.

Mr. Chairman, Sir, the Minister has indicated that he wanted to appoint agents across the boundaries to collect tax on his behalf. I am not too sure what kind of controls he has to collect tax in Tanzania for example, or Uganda for instance, if he does not have the control mechanisms to even collect sufficient funds within the local boundaries. I think here, the Minister is trying to give the commissioners enormous powers which may not be realised in the objectives of efficient collection of revenue. Therefore, this provision of an agent being appointed to collect tax on behalf of the Kenya Government out there in the exterior boundaries, is one sure way of revenue leakage.

Mr. Chairman, Sir, the issue of the donor funding, as I said, is a critical matter in these budgetary provisions. The donor community did suggest that they wanted to support our Budget direct through the Government. Of course, they retreated from the previous regime directly because of the incompetencies and the corruption that was rampant within the previous regime. I am

not too sure whether that kind of confidence that they lost to run away and used the tertiary institutions and the NGOs of this world is not just about to happen, unless this Government changes their way of doing things. This Government actually condones graft. This Government looks at graft in the eye because they are shy from looking at the graft.

Mr. Chairman: Mr. Omingo, I just want to emphasise that for the last two minutes, you have been just talking about the Budget policy which we debated for seven days. I want you to concentrate on taxation measures proposed by the Minister. Carry on!

Mr. Omingo: Mr. Chairman, Sir, it is these bad policies that are actually making us not achieve the revenue targets. Our people are highly taxed because of incompetencies and by the fact that we have factored funding from donor communities in the Budget.

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

Mr. Sungu: Thank you, Mr. Speaker, Sir. As I begin to debate---

Mr. Chairman: Hon. Members, we are in Committee so, please, refer to me as Mr. Chairman.

Mr. Sungu: Sorry, Mr. Chairman. I do apologise one thousand times. As we debate these taxation proposals, I note that the total revenue expected is Kshs271 billion out of which the Government expects Kshs1.3 billion in the form of Pay As You Earn (PAYE) from teachers and lecturers while Kshs5.9 billion is expected from licence fees paid by the third mobile phone operator and the second fixed-line telephone service provider. I hope that these measures will come into force very soon and that the fixed-line telephone service provider will start operating as soon as possible without undue waste of time.

Mr. Chairman, Sir, I want to congratulate the Minister and, by extension, the Kenya Revenue Authority (KRA) for the tax amnesty that has been proposed. I believe that this is a measure that will encourage many people who do not comply with the tax requirements in this country to pay tax. The penalties that are normally provided for whenever you fail to comply with the set deadline are a great discouragement and in the end, the Government loses a lot of revenue. The period given for the tax amnesty between 11th June and 30th September is adequate for Kenyans of goodwill to comply.

As we look at these taxation proposals, I notice that the Minister has now put in motion the 2.5 per cent tax on goods that may be off-loaded from the Export Processing Zones (EPZ) into the local market. These goods get a lot of advantages such as exemption from taxation of machinery and inputs and the ten-year tax reprieve. That is a good and necessary thing to do.

Mr. Chairman, Sir, with respect to measures meant to speed up the movement of cargoes throughout the Port of Mombasa, I would like to draw the Minister's attention to one aspect. When the cancellation of cargo is being done outside the port, the question of theft arises. If you want to know where there is the largest number of thieves anywhere in the world, you go to a port, an airport or a border. Therefore, the measures the Minister intends to put in place must be very thorough because there are very few people of integrity, indeed. I am talking about this matter because just the other day we read from the Press about some cargo on transit which was put in a private inland container depot in Mombasa. When it was discovered, attempts were made to remove it, but that was the end of the story. No action has been taken so far. Such kind of things will only serve to discourage investors of good standing.

Mr. Chairman, Sir, under Clause 14, the Minister proposes to allow remission of tax on specific goods excluding motor vehicles and so on in the case where goods are imported during periods of civil strife, natural calamities or disasters, declared under any law for the time being enforced. I am worried because I come from the Western part of this country where we experience perennial floods. I cannot remember any occasion when the Government declared that there was a disaster. I am worried that the floods in Western Kenya may not actually qualify for this kind of remission given in such cases. I hope the Minister will consider that when he reviews the entire Clause.

Mr. Chairman, Sir, there is a question on Cap.472 of the Customs Excise Act and the proviso to Section 139(g) on the Customs Excise Petroleum Oil Submission Order. I do agree that the limitations on the quantities shown there are reasonable and adequate. However, we need to ensure that the facility is not misused and that there is maximum revenue collection.

With respect to the Customs Excise Amendment, 2004, in Section 2(3)(iv), there is provision that the fees shall be payable per vehicle at customs and petrol stations by a person applying for the services of an officer outside the hours of general attendance and for the purpose of dealing with any vehicle carrying passengers and their baggage. Whereas I agree with the Minister with respect to that proviso, let us look at the question of the tourism sector. Is this not going to discourage tourists if, for example, they are supposed to pay extra? Although the amount indicated is really mundane, but really when you want to encourage people to come to our country, we need to look at all the areas where it is possible to lay the extra charges because this has always contributed to poor results in the tourism sector.

Mr. Chairman, Sir, with respect to the proviso that the Commissioner may revoke the licence granted to a bonded warehouse after failure to account to the satisfaction of the Commissioner for any goods found therein, this is a good proviso except that we would want to see more of this put in place. The proviso exists in law, but we do not hear of any bonded warehouse that has been de-registered publicly because of flouting those same rules.

With respect to goods in transit, the proviso that there is an electronic cargo tracking device may never work in this country because the human element in us is the most important anywhere in the world. Whatever machine you put in place may never work if the human being accompanying that equipment is not honest. Therefore, I hope that there will be more training for those who export these goods and that they will be paid better so that they can be honest. I also hope that the Commissioner will then revoke any licence granted in respect of transit goods involved in the flouting of the rules. However, there should not be any discrimination, whatsoever, against any upcoming business particularly where--- The proviso indicates that if you are to qualify to get the licence then you must have, at least, goods weighing 100 tonnes. We should leave that one to be free so that young upcoming businesses are encouraged to carry on with business in this country.

Mr. Chairman, Sir, so far, most provisos in the taxation proposals are with regard to the remission on investments. I would like to appeal to the Minister to simplify the rules. Recently, during a visit to Germany in the capacity of a member of the Public Investment Committee (PIC), we sat with various investment groups interested in importing things from Africa, industrialists and businessmen interested in doing business in Kenya. The simple and the most common complaint is that there are too many rules in Kenya with regard to investment. If it is licensing, let it be a single licence that caters for all.

Let us make things simpler for the investors. We should encourage investors, rather than discourage them by making long rules. We should also define exactly what is necessary by being specific. We should not leave it to the Minister to put any rule or act in a manner that he may deem necessary. Let us put everything in black and white because before the investor becomes interested in Kenya, he will want to know what exactly is at stake. He will have to compare the Kenyan market with others in the world. I wish that the Minister takes those points in consideration.

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

Mr. Kipchumba: Thank you, Mr. Chairman, Sir. I beg to support.

I want to support what my colleagues have just said, that the Kenya Revenue Authority (KRA) is actually an agent of the Government. Therefore, to create another agent would create duplication and complications. I do not see why the KRA, being an agent of the Government cannot be expanded, so that its agency services can be included in the civil aviation industry. I would like to suggest that all taxes collected under the civil aviation should actually be deposited in the Consolidated Fund. I do not see why we would like to give powers to the Civil Aviation Authority (CAA) to collect their own taxes and use it themselves. It does not make sense, and it negates the

principle of accountability.

Mr. Chairman, Sir, the other day, the Minister scrapped suspended duty on petroleum products. But in the same breath, he also introduced the same tax as excise duty in the same proportion and quantity. What the Minister failed to understand is that suspended duty was introduced only on imported petroleum products and that now, the product will be an excise duty on all products. This means that duty on petroleum products actually went up. It is no wonder the prices of petroleum products actually shot up and the Minister goes to the press to deny that he never actually increased the prices! I wish that technocrats in the Ministry understood that, indeed, 70 per cent of petroleum products that we use in this country are derived from crude oil, therefore, the suspended duty element only applied to the remaining 30 per cent of the total consumption of this country. This, therefore, means that the dealers and petroleum companies were left with no option, but to increase the price of petroleum products. I would, therefore, like to request the Minister to go and look at this issue with a view to scrapping the additional excise duty on petroleum duty altogether, because the prices of petroleum products are already too high for us and we cannot afford another addition. Mr. Chairman, Sir, while I appreciate that the introduction of a tax of Kshs10 per kilo of raw hides is welcome, I do not support the same for scrap metal, because we are not an industrialized country. We do not use most of this metal and we would like to export it. Therefore, we would like to encourage the export of raw materials like scrap metal. So, we should have widened that bracket to include other products such as wool, because all these textile industries in the Export Processing Zone (EPZ) and others in the Rift Valley and other places use a lot of wool. Given that there has been a very low tax imposed on exported wool, it means that the raw material for use by this industry is insufficient. Therefore, I would have expected the Minister to raise additional revenue by imposing a tax on raw wool, so that we can encourage value addition in this country.

Mr. Chairman, Sir, the tax imposed on goods being cleared at the Port of Mombasa, which is the first port of entry, is a very welcome phenomenon. What has been happening in the past is that people have been importing goods through Mombasa and bringing them to the inland depot in Nairobi, and in the process, we lose duty on the same. So, that is a very welcome move. But reducing the number of days in which goods must be warehoused from 21 to seven days is quite unfortunate. We all understand that the Port of Mombasa is very inefficient and, therefore, it will not be uncommon to find that goods will still be at the Port of Mombasa for one or two weeks before they are cleared. Unless we make this port efficient, it will be very difficult to enforce laws. Let us not bring in provisions which we cannot enforce. So, until such a time that the Port of Mombasa becomes very efficient, let us be careful. 21 days is, in my view, very sufficient.

Mr. Chairman, Sir, the introduction of a surcharge of 2.5 per cent for the EPZ is too low. We should raise additional revenue by surcharging up to 5 per cent, because they enjoy a lot of facilities. For example, they enjoy tax holiday, a lot of duty exemptions, among others. So, I do not understand why somebody could be tempted to sell goods locally when he enjoys all those facilities.

Mr. Chairman, Sir, there should be stringent penalties on adulterated products, because Kenyans must be told that, probably 50 per cent of the products that we consume in Nairobi are actually adulterated, especially gasoline. This is because the enforcement regulations are too weak. In as much as you may get somebody being taken to court for this offence, the fine they are charged is too little, and yet the impact of adulterated products is very high. For example, our machineries are destroyed and the Government loses revenue. People use paraffine to adulterate gasoline so that they can make a bigger profit margin and more money. The Minister has said that he will leave that issue to the Minister for Energy and the KRA. But I wish that issue could be looked at more quickly, so that the Government does not lose a lot of revenue, and the machineries of Kenyans do not get destroyed.

But Mr. Chairman, Sir, there is also the issue of Value Added Tax (VAT) which should be looked into more seriously. It is now a requirement that when you sell goods that qualify to be

charged VAT, the other party will pay you the price of the goods less the component of VAT. While at the same time, the KRA will raise an invoice for VAT on the other side. This, therefore, amounts to double taxation, and it takes time for one to claim back the VAT component. This makes it very difficult to operate when dealing in high value products or high turnover goods. So, I would wish to request the Minister not to look for money from business people. He should not let the business people to finance the Government in this kind of way. If there are no funds, the Government should raise funds in a better and reasonable manner. Because the Government is punishing business people at the expense of inefficiencies that have existed in the Government.

Mr. Chairman, Sir, the duty on Liquefied Petroleum Gas (LPG) should not have been reduced because it has no impact. The Minister for Environment, Natural Resources and Wildlife will tell you that trees are still being destroyed. The problem is not firewood. The problem is the big multi-national companies that exist in this country.

Finally, Mr. Chairman, Sir, I want to talk about the long-term securities. I would like to request the Minister to bring these amendments very quickly. You will remember that Barclays Bank of Kenya issued a corporate bond sometimes back, probably six or seven months ago. Up to now, the Capital Markets Authority (CMA) claims that the problem lies with the Treasury, while the Treasury pushes the buck to Central Bank of Kenya (CBK), to the extent that, I think that the Barclays Bank has probably given up, and yet we needed this corporate bond to finance our local investments.

With those few remarks, Mr. Chairman, Sir, I beg to support.

The Assistant Minister for Environment, Natural Resources and Wildlife (Prof. Maathai): Thank you, Mr. Chairman, Sir, for giving me this opportunity. I would like to contribute to this Motion and support it. I want to thank the Minister for articulating very well how he intends to raise revenue for the work of the Government.

I would like to point out one issue that is of great concern to those of us who represent coffee growers. This probably applies to other cash crops as well, but particularly, many coffee farmers complain that they are taxed before the income reaches them. I do not know the logic for this. While everybody else is taxed on the income, the coffee farmer is taxed before the income reaches him. They have often complained that when the income, finally, reaches them, sometimes it is even negative. The Minister for Co-operative Development and Marketing is working very hard to revive the coffee industry. One of the areas that we need to look at is the taxation method to enable the farmers file their income returns like any other Kenyans. Why was the system of taxing coffee farmers before they receive their incomes introduced? I would like the Minister to look into that in order to encourage our farmers. As we speak, they are still very apprehensive about the commitment and, therefore, we need to demonstrate this as soon as possible, especially through taxation.

Mr. Chairman, Sir, I would also like to mention the fact that we are still very depended on donors 40 years after Independence. I hope that one day we will be a country that does not look forward to donor support, but to other forms of investments. Sometimes it is embarrassing when it is pointed out to us that even though we depend very much on donors, we are high spenders. Instead of using the taxes that we collect from our people efficiently and for the benefit of the public, we are very luxurious spenders. For example, the cars we drive. The Minister mentioned that he will put a ceiling on the kind of cars that, for example, Ministers should buy. That is embarrassing.

Many people outside the country, and especially from the countries where we get support, look at us and wonder why we spend the taxpayers' money so luxuriously, for example, buying very expensive cars and spending very luxuriously in our offices. I have mentioned many times in this House that we waste so much paper and then we go about looking for money to rehabilitate our forests. Sometimes it does not make sense to onlookers.

Mr. Chairman, Sir, in the same vein, the Minister promised not to tax the liquefied petroleum gas (LPG). As an hon. Member has said, the people who use the LPG are not the poverty

stricken millions of Kenyans who use firewood. Although this is good, it is not likely to reduce the pressure on forests. The other aspect which the Minister should also look at is the use of the power saws, which I understand are not taxed. This is something that almost every Tom, Dick and Harry can buy. They are doing a lot of damage to our trees. I wish the Minister would specifically target the power saws and tax them, so that trees are protected. At the moment, power saws are doing a lot of damage, especially in the rural areas.

The other product that ought to be taxed is plastic, especially the high density plastic that is not recyclable and which is literally destroying our environment. If you go to some places, for example, Naivasha, you will think that plastic grows on trees. This type of plastic is the largest contributor to garbage and as we all know, it does not rot. If this was heavily taxed, the consumers would be forced to pay for it. If we were paying for the high density plastic, which is usually used for packaging, then we would force the consumers to either not use it or pay for it and the producers will be forced to produce low density plastic which is recyclable. This is something that everybody ought to be concerned about and the Minister should look into that taxation.

Mr. Chairman, Sir, the Minister did not mention this, but I was hoping that he would introduce a non-taxable donation in this country to encourage people who have money and who want to support certain projects without paying taxes. At the moment, many people who are able contribute a lot of resources to the communities, not necessarily in form of *Harambees*, but that money is not taxable. There are people who could contribute towards re-afforestation programmes or any type of philanthropy work in this country. We need to encourage people to do this. There will always be the rich and the poor. Those who are very rich and are generous should be encouraged by having non-taxable allowances. That would be very helpful to many poor people who benefit from these people. These people have no taxation benefits.

Finally, I would like to call upon my fellow Kenyans to be proud of their country. Sometimes I wonder what we shall do to encourage Kenyans to feel proud of this country and to love this country. We should understand that paying taxes is a duty we owe to our country. We should not allow people to come into this country, exploit our resources without paying taxes. As many hon. Members before me have indicated, there are many people in this country who do not pay taxes. Sometimes it is because of the non-patriotic nature of our fellow Kenyans, who literally sell their country and allow people to come into this country, exploit it and get away with a lot of profits without paying taxes. Sometimes these people benefit personally because they are given kick-backs. They allow people to keep double books to straightforwardly avoid paying taxes. I would like to call upon Kenyans to dedicate themselves to their country, love and serve it and ensure that everybody who is eligible to pay taxes is doing so.

The kind of corruption that we read about is an embarrassment to us as citizens of this country. We can be so much willing to allow our taxpayers' money to be siphoned by a few individuals. Sometimes, these resources benefit people outside this country when our people are suffering in poverty. This does not make sense whatsoever. The Minister should look into this issue. The tax collectors need to be given special lessons on patriotism for them to understand what is citizenry. They should understand that they are the eyes of the Kenyans. They should collect what is due to the Government, so that we can develop our country.

Many people who come into this country do not understand why there are so many poor people, and yet it is a very rich country. People come from other countries and become millionaires within no time and yet our people are so poor. Our children sleep in garbage piles like dogs. They are hungry and dirty because we are unable to take care of them. While that is happening to our people, non-citizens are enriching themselves.

With those few words, I beg to support.

Mr. Chepkitony: Thank you, Mr. Chairman, Sir. I wish to comment on the taxation measures that the Minister is going to take. From the outset, I would like to air my support to what has been mentioned by other hon. Members on the setting up of KRA Offices in districts. This

specifically touches on the issuance of road licences, driving licenses and other licences. At the moment, these services are only found at provincial headquarters and some district headquarters. If you go to some parts of the Rift Valley like Turkana District, you cannot access these services. You have to travel over 1,000 kilometres to Eldoret, so as to seek these services. I would like to urge the KRA to have offices in all districts for convenience.

The issue of tax amnesty, penalties, and interest is a good move. The same should be extended to those people who are under investigations. Why should we give amnesty to only those people who can pay taxes anyway? It should be extended to cover all those people who are under investigations. The KRA should accept this, so that those who are under investigations do not continue being penalised. They should pay agreed penalties and be covered by the same amnesty.

I would like to talk about the method of paying Income Tax, both assessed and additional tax to the Commissioner of Income Tax. I would like to urge the Minister not to amend Section 92A. It should remain the same. If we want people to pay assessed tax and also pay additional tax, I think we are not being fair. It should remain the same so that the person being taxed does not find filing of returns unfair. The additional tax might not be all that fair. The Section should remain the same.

I support the restriction of waivers to NGOs and other charitable organisations. They have been asking for waivers of taxation on motor vehicles, food, and clothing. This should be restricted because some organisations bring in food on the pretext that it is for charitable purposes. They sell it to millers and compete with the commercial importers and the local producers. Waivers should be highly restricted. The waiver on the importation of clothing should be completely removed, because it is destroying our textile industry. It should not be allowed. We should, maybe, allow waivers on medicine and a limited number of foodstuffs.

I want to touch on EPZs. Most of the companies in the EPZs manufacture products for export. I support the Minister in separating the manufacturers for the local market from those doing it for export. Those who manufacture in the EPZs should only do it for export. At the moment, most of the EPZ companies manufacture garments for export to the USA under the AGOA initiative. In order for the Government to encourage local textile manufactures or factories, EPZ manufacturers should be encouraged to buy from the local textile firms, and be given tax waivers so as to encourage the local textile firms owners to invest more. This will encourage them to produce enough for the EPZs so that they can also manufacture and export more garments through AGOA facility.

I do not see this in the Budget. However, I think it should be encouraged and VAT can be removed from local clothes. Locally manufactured clothes are very expensive due to the high production cost and is brought about by high electricity and other infrastructural costs. EPZ manufacturers who divert their manufactured goods to the local market should face heavy penalties. What they do brings about unfair competition to the local manufacturers.

With those few remarks, I beg to support.

Capt. Nakitare: Thank you, Mr. Chairman, Sir. I rise to support the taxation proposals.

I have a few remarks on the method of taxation in this country. I think Kenyans are living beyond their means. Kenya is the only country that over-taxes its citizens. Food in hotels is taxed, and this is a burden to the rural poor. There are other methods that the Government can use to raise funds. When the Government introduced the VAT, the common man started looking at it as a big monster. All taxes that have been collected are not benefiting people in a way. They are, in fact, depleting the meagre resources of the rural poor.

Our communication, health and educational facilities are poor, yet the rural people pay taxes. I wonder why they pay taxes. I support the concessions that the Government has suggested. There must be other ways of collecting taxes. We know that the Government relies on taxes to run the country. It is an agent of the people of Kenya. When we look at the way taxation has been spread out, we wonder. There is one question that disturbs my head. Is over-taxation going to attract

foreign investors or discourage them from investing here? The Minister did not talk about international investors who come to invest here. When they repatriate their profit, is it taxable or a gift because they invested in this country? We have heard from previous speakers that the KRA will take over revenue collection in civil aviation. Civil aviation is a very delicate and sensitive area, and we have no local investors in aviation. All aviation operators are from overseas. If we introduce heavy taxation, hence discourage investments, we will kill civil aviation business in the country.

Mr. Chairman, Sir, landing fees can be collected by the Kenya Civil Aviation Authority. Air operators meet a lot of costs before they operate their aircrafts. An aircraft is not a motor vehicle. It has three repair stages which cost money. When you ground an aircraft for check up, repair work costs almost a quarter of the price of that aircraft. The second and third checks cost almost the same amount of money. We already have similar ways of collecting revenue. It is Pay-As-You-Eat, Pay-as-You-Earn and Pay-as-You-Buy. I think Kenyans are paying taxes in all their purchases. Food and clothing in the stores are taxed and fuel is taxed, hotel services are taxed. Is this not enough taxation that the Government can rely on and only control and safeguard what it receives? Why can it not just create better management to manage the money that we collect from the common people? How is the tax that is collected utilised? It has to pay for service that benefits out people.

We have had removal of tax on gas, but it does not benefit everybody. Gas benefits only people who cook. On the other hand, kerosene can be used to heat and cook food. It helps the rural poor, and in areas where there is no electricity, school children use kerosene to read and do their homework. This is the same commodity that is heavily taxed. Are we benefiting our people? Taxation in our country is exorbitant, and yet Kenya is now ranked as one of the poorest countries. We cannot say that we are doing better by depending on foreign investors. We have enough raw materials to export and establish factories, but we do not have the required mechanisms.

Mr. Chairman, Sir, we have heard Mr. Kipchumba talk about scrap metal. Kenya is not an industrial country; it is an agricultural country. If we tax agricultural products, implements and fuel that is used to produce food, are we really being fair to ourselves? Are we sharpening a double-edged knife that will cut us? Why can we not have a way of ensuring that revenue that is collected is used on projects and not salaries. I do not see how a Government can boast of having established the Kenya Revenue Authority offices in districts and yet we are not seeing the results of this.

We have inherited from the previous Governments a practice where taxes were not used to improve our people's welfare. This Government inherited the highest number of unemployed people in this country. This is not a creation of just 16 months that the NARC Government has been in power. It is an inheritance that resulted from 40 years of negligence by the previous regime. So, it is negligence that has caused Kenyans to suffer.

Mr. Chairman, Sir, I do not see how we will continue solely depending on donors. Donors' money comes from taxpayers in overseas countries. For example, NGOs utilise funds that have been donated by taxpayers from other countries who sympathise with us. That kind of money should not be taxed. We do not have tax relief or refund in this country. How will I know that I am being over taxed? If so, how will I claim that money? A method has to be introduced that will allow tax payers to get tax refund and relief.

Mr. Chairman, Sir, Value Added Tax (VAT) is a great burden to the citizens of this country. It used to be called Sales Tax. It should have remained so. For example, if I import a car or clothes from overseas, I pay taxes at the port of entry. Why do I have to pay taxes at the port of entry and also pay VAT when the material is already on the shelves? This is double taxation that needs to be looked into. Therefore, the Minister for Finance has to device ways of collecting taxes that will benefit our people.

People are afraid of disclosing how much they earn because they fear that the tax man is too harsh. In other countries where people willingly pay taxes, they do not fear doing so. Since we abolished GPT and replaced it with a more humble way of collecting taxes--- The Minister of Finance should find a polite way of collecting taxes that will benefit our people.

Mr. Chairman, Sir, with those few remarks, I beg to support the Motion.

The Assistant Minister, Office of the President (Prof. Kibwana): Thank you, Mr. Chairman, Sir, for giving me this golden opportunity to contribute to this very important Motion. From the onset, I support.

One of the first important statements regarding the tax measures is that the Kenya Revenue Authority (KRA) should find out how it can ensure that all those who are eligible to pay taxes do so. This is one area where a lot could have been done, and has to be done to ensure that those who need to pay taxes do so, so that we have more money which will go into our Recurrent and Development Expenditures. If one combines PIN numbers for companies, co-operative societies, all legal persons and even targets all Kenyans who have identity cards and are over 18 years old, I think we can come up with a system where nobody will be able to escape paying taxes. This is really an urgent measure that should be pursued to ensure that all of us pay taxes. There is a possibility of the Minister making sure that individuals could actually write to say whether they have paid their taxes or not. Every person who is registered to pay taxes could write a letter, at the end of the year, to say whether he or she has met the tax obligation. Maybe, in the next Budget, a provision like that could be introduced in the relevant law to ensure that people have a duty to say whether they have paid their taxes or not. That way, if you cheat, then you could be prosecuted.

Mr. Chairman, Sir, I am happy that in the new Constitution, there is a provision to pay duties. In the directive principles of state policy, there is a provision which says that we have a duty to pay taxes. I am sure that the new constitution will be passed by Kenyans soon. One of its provisions would be to ensure that we all pay our taxes.

Mr. Chairman, Sir, the second point that I would like to make is: When there is revision of taxes, for example, in the situation of sanitary towels and soft drinks, there needs to be a corresponding instrument to ensure that manufacturers and entrepreneurs would not benefit from that rebate, but the consumers. There have been lapses. When there are rebates, it is the entrepreneurs, manufacturers, shopkeepers and so on, who benefit. I think it is important for us to introduce an instrument to ensure that, when there are such rebates, the benefits fall on the intended beneficiaries. I know that there will be a problem with constructing a proper instrument because we do not also encourage price controls. But I think it is important that those rebates help the intended beneficiaries.

Mr. Chairman, Sir, many Members have talked about the customs waiver for Non-Governmental Organisations (NGOs) and religious organisations. They want the situation tightened. The NGOs and other charitable organisations could get waivers when it is necessary, especially in very needy situations. I think that is in order. We do not want people to ask for waivers on luxurious cars which do not benefit those they work for. In the same breath, it is important to ensure that the Kenya Revenue Authority (KRA) will expeditiously process requests for duty waivers. I am aware of many situations where, after there is an application, it takes a long time for the waivers to come through, or for the NGOs and religious organisations to be told that they have not been successful.

Mr. Chairman, Sir, the proposal that spirits should be packed in 200 millilitres is a positive measure. I wish that, within the necessary law, there is an amendment to say that spirits must be bottled. That is because if spirits are bottled and are not packaged in no-bottled form, it will be difficult for young and under-age people to access them. It will not be easy to conceal a bottle. It is easy to conceal a sachet, even if it is 200 millilitres.

The reduction of Excise Duty on soft drinks to 10 per cent, to correspond with an earlier reduction of Excise Duty on natural and artificial juices, is good. As I said earlier, it is important to reflect such a rebate in terms of prices of sodas, so that many of us could prefer taking sodas instead of alcoholic drinks.

I think one of the important measures is the ensuring of VAT paying at a constant rate, which is 15 per cent, which was set last year. This is commendable because, obviously, when you raise VAT, then most prices also go up. I think, as the previous hon. Member said, it is very good to

exclude VAT on LPG but of course, this is very good for the middle class people like us, but I think it is important to next time look at kerosene and fuel sources that impact on very poor people. It is good that the Income Tax Relief has been adjusted, as well as relief on pension, so that people earning Kshs11,135 do not have to be taxed in terms of income so that at least, relatively poor people have relief and the income that is taxed is quite high to accommodate those Kenyans. That also goes for pension.

Mr. Chairman, Sir, I think we need to look carefully at how we give incentives to KRA. I know there are certain incentives which already exist. But when they do a good job, when tax revenues keep on rising, it is important to have within regulations ways of giving them incentives; monetary and other incentives, so that they continue to raise the tax revenue that we get. I think if the Minister is going to appoint agents for collection of VAT and presumably be able to give them some money for doing that, it also makes sense to advantage our KRA officials so that they do a good job. This should be in line with the new Government policy of contracting to our public servants and thereby, ensure that those who work hard are duly recognised.

Mr. Chairman, Sir, we also need in the next Budget to particularly look at measures that are going to improve the livelihoods of the youth, women and the poor people. I think this is something that must be very deliberately done in the next Budget so that more income goes into the pockets of our poorer people and avoid a situation like in India where the Government was voted out by the poor people when the Budget was advantaging the middle class population. I think we need to begin debate on the next Budget even now so that we come up with a Budget that helps all of us, particularly poor Kenyans.

With those remarks, I beg to support.

Mr. Magugu: Thank you, Mr. Chairman, Sir. I want to start off by saying I do not think I have seen many people who are willing to pay income tax on their own. They have to be pushed.

Mr. Chairman, Sir, I also support the Budget. I want to say that Kenyans come from every part of the country and over 60 per cent of Kenyans are unemployed. They are living in the country's towns and cities without employment. That is for sure.

Mr. Chairman, Sir, if we look at this particular City, it is self evident that a lot of them really try hard by exchanging little items that cost as little as Kshs5. The Budget did not, apparently, address the issue of unemployment and job creation. I am aware that there is a Ministry of Labour and Human Resource Development which I have not--- I do not think the Budget addressed the issue.

Mr. Chairman: Order, Mr. Magugu! Please address the taxation proposals because we have already debated them for seven days.

Mr. Magugu: Okay, Mr. Chairman, Sir. I was just going to come to that straightaway and say then that there was no money set aside for that specific purpose. The Budget, therefore, ignored more than 50 per cent of the population and we have not been told whether this matter will be addressed. We should say that for the Budget money that has already been approved, each Ministry should contribute so much percentage from it so that the Government then will be actually showing that, in reality, it was committed and will be committed to start off with the line of creation of jobs and employment opportunities. When I say that, I have in mind the issue of forests in Kenya. Those are areas which can generate income, revenue and foreign exchange. The Government should also undertake to start training people in Forestry. I believe that all those who were there may have been rendered jobless and there are people who are doing that privately. I congratulate the hon. Member for Tetu, Prof. Maathai because of her commitment to this industry of forests. I have also a lot of interest in that. We should be able to gather together in this House and say that each constituency should undertake to do whatever little can be done. There are some Non-Governmental organisations (NGOs) which are ready and available and, I believe they can assist us. The Government will not at this stage of the Budget be able to come up with funding but we should also be using our own ways and means to secure our friends' assistance. If we did that, we can begin

turning Kenya green. Although there will be some people who will not be interested in that, we have to start re-afforestation. We have to do that!

We have to undertake re-afforestation because, there is a lot of employment in that area. However, if we wait for the Government and foreigners to come and do all this for us, it will be too late. Desertification is just around the corner.

With those remarks, I beg to support.

Mr. Moi: Thank you, Mr. Chairman, for giving me the opportunity to contribute to this Motion.

The theme of the Budget Speech was Accelerated Economic Growth. Personally, I did not see any economic growth in that but, there may be a little bit of a swelling. Why do I say this? The engine for growth is the private sector. I did not see any reduction in corporate tax from 30 per cent. It was left as it was at 31 per cent. We expected it to go down to 25 per cent. On the other hand, we did not see any increase on the taxation of tobacco products. You know that the greatest mass killers are the tobacco-related illnesses. We would have been very happy to see an increase in the tobacco tax.

Another area we have not seen changes in taxation is that of imported logs, which are being imported for the Kenya Power and Lighting Company without being taxed. I was very surprised that the Member for Tetu did not raise the fact that the purpose of reforestation is partly to encourage our people to grow trees. In order to realise that objective, we should tax heavily all imported wood products. Secondly, we should give our people tax rebates. For every acre, or two acres, of forests you plant, you should be given a rebate. Thirdly, the Kenya Revenue Authority (KRA) needs to be user-friendly. Mr. Githae mentioned that we see long queues of people at the Times Towers, because they want to pay taxes. I can assure you that no one wants to pay taxes. They are very hard-pressed to pay taxes, but should the KRA be user-friendly, I am sure, they could be convinced to do so. If Kenyans see that their money is being used wisely and for provision of services to the public, they will be encouraged to pay taxes.

Mr. Chairman, a working nation should be a healthy nation. There was no reduction of taxation on sporting equipment. We would have wished sporting equipment to be zero-rated to encourage our youth to use our sports facilities. As you know, Kenya is a leading sports nation in the world. We need to do more to encourage our youth to participate in sports. In fact, sports is a very large and growing industry.

I commend the Minister for the 10 per cent tax relief he gave to Kenyans. In effect, one who earns between Kshs1,000 and Kshs10,000 is exempted from paying tax. We would have wished that, that exemption covered those who earn up to, at least, Kshs20,000.

I would like to commend the Minister on the issue of the harmonisation of the Customs Union Protocol (CUP) within the East African Community. We will now have a market of over 60 million people within the East African Community and the great lakes region.

I would like to support the Member of Parliament for Tetu Constituency that we should tax heavily the high density plastics. This is very important. This country has been littered with garbage and plastics which cannot be recycled. I would have liked the Minister to give rebates on those who use recyclable products.

I really do not see any need why the Kenya Civil Aviation Authority had its power to tax removed from it and given to the KRA. In fact, this will increase the bureaucracy and complicate the process.

Lastly, it is a pity that every Tom, Dick and Harry in this world can come to this country and get a licence to operate his or her carriers. I think it should be left to only those who have a 51 per cent indigenous ownership of a carrier to operate.

Mr. Chairman, Sir, with those remarks, I beg to support.

Mr. Maore: Thank you, Mr. Chairman, Sir. I wish to state that when the Ministry of Finance is preparing the tariffs for COMESA, it needs to lead the way. The issue of the 16 per cent

Value Added Tax (VAT) may look like a generic way of putting up revenues that are premeditated rather than stimulating the economic growth. So, I would wish to ask the Minister for Finance to assemble his Treasury team and ask them whether it would be possible to lower the tax, so that we spur the economic growth in this country and have a wider scope of compliance.

The other issue that I would like to address myself to is the Customs Duty. For very many years we have been complaining about very high duties charged on vehicles. Since we are not primary producers or assemblers of vehicles, I think it is not fair for us to ask for nearly 100 per cent duty on vehicles. It becomes very tempting for importers to evade duty. In very many instances we find that a very big chunk of the high engine capacity vehicles that are supposed to be duty-free and on transit to Uganda, Congo or other neighbouring countries, end up being diverted to the local market. It then becomes lucrative to bribe the Customs officers to agree on registering these vehicles on duty-free status after paying some small fees. For very many years, that has been the trend. I would like to request the Minister to reduce the high tax levied on vehicles, so that many people can pay tax rather than very many vehicles being on our roads duty free. The people who import those vehicles evade paying tax.

Mr. Chairman, Sir, another aspect which I would like to talk about is the taxation on fuel. We know that nearly 55 per cent of the pump price is made up of tax. I would like to request the Treasury to look for other sources of revenue and lower the high taxes it levies petroleum products, and more so, gasoline. If that is done, a lot of money which is taxed by the oil companies will go into our economy. We all know that the multi-national oil companies repatriate all the profits they make here. We are not worried about their profits as much as we are worried about the high taxes our people pay. You stifle economic growth when you have very high taxes. You may say that you need to pay the wage bill and run the Government, but if you stifle the engine which runs the economy, it would stall one day. So, we would like to have some sensible regulations because there were many alternative budgets which I remember used to be prepared by the shadow Minister---

Mr. Chairman: Order, Mr. Maore! I have to stop you now. You will continue for three minutes tomorrow. Hon. Members, in accordance with Standing Order No.127, the business has not been concluded and, therefore, we will have to report progress.

PROGRESS REPORTED

APPROVAL OF TAXATION MEASURES

The Minister for Finance (Mr. Mwiraria): Mr. Chairman, Sir, the Committee of the whole House is considering the proposals relating to Customs Tariff, Excise Duties, Value Added Tax, Income Tax and Miscellaneous Fees and Taxes and has instructed me to report progress and beg leave to sit another day.

(Question put and agreed to)
(The House resumed)
[The Temporary Deputy Speaker
(Mr. Khamasi) in the Chair]

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, I am directed to report that the Committee of the whole House is considering the proposals relating to Customs Tariff, Excise Duties, Value Added Tax, Income Tax and Miscellaneous Fees and Taxes and seek leave to sit another day.

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

The Assistant Minister for Foreign Affairs (Mr. Wetangula) seconded.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Wednesday, 30th June, at 9.00 a.m.

The House rose at 6.30 p.m.