

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 4th December, 2003

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Report of the Departmental Committee on National Security and Local Authorities on the Report of Prison Conditions in the Coast, Nairobi and Nyanza Provinces.
Report on Insecurity and Famine in the Rift Valley Province.

(By the Chairman, (Mr. Mwenje)

The report of the Departmental Committee on Finance, Planning and Trade on the Finance Bill (2003).

(By the Chairman (Mr. Shitanda)

ORAL ANSWERS TO QUESTIONS

Mr. Speaker: Hon. Members, I have been requested by Eng. Toro to deal with his Question first because he has another appointment very soon. Therefore, I will call the Member to ask that Question.

Question No.670

TARMACKING OF MJAHANERI-NGOMENI ROAD

Mr. Kombe asked the Minister for Roads, Public Works and Housing:-

- (a) how much money was spent on murraming of the Mjahaneri-Ngomeni Road; and,
- (b) when the road will be tarmacked.

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

(a) My Ministry had set aside Kshs148,800 in the financial year 2002/2003 through the District Roads Committee for gravel patching of Mjahaneri-Ngomeni Road.

(b) My Ministry has no immediate plans to tarmac the road in question. However, my Ministry through the District Roads Committee will ensure the road is maintained to motorable standards.

Mr. Kombe: Mr. Speaker, Sir, the Assistant Minister is saying his Ministry had set aside

Kshs148,800. But he understands very well that putting some murrum on the road for a kilometre costs about one millions shillings. What will this Kshs148,800 do to a ten-kilometre road?

Eng. Toro: Mr. Speaker, Sir, I said Kshs148,800 was used in the last financial year. That was for gravel patching, not to put a layer of murrum. This financial year, 2003/2004, approximately Kshs230,000 has been set aside to gravel-patch 0.2 kilometres.

Mr. Abdirahman: Mr. Speaker, Sir, the Ministry of Roads, Public Works and Housing is doing very well with the little amount of money that they use either for gravelling or murraming roads. But the question of tarmacking is one that frequently comes to this House. Many of us from the long-forgotten areas---

Mr. Speaker: It is not time for a speech, Mr. Abdirahman!

Mr. Abdirahman: Mr. Speaker, Sir, could the Assistant Minister tell the House what plans they have to tarmac major roads in the whole country, especially those ones that go to regions? Some of us have been made to think that probably, closeness to the centre of power might be a determining criterion of actually tarmacking roads. Could he tell us what plans they have, nationally?

Eng. Toro: Mr. Speaker, Sir, the policy of the Ministry at the moment is to rehabilitate the tarmac roads in existence, which have been neglected over a long period of time. If donor funding is available, then we will embark on the construction of new roads. This is because the fuel levy fund that we get, if we put it into construction, it is going to do very little, whereas most of the roads have been neglected. So, the policy is to use as much of the fuel levy funds in rehabilitating the already existing tarmac roads and then, use, through the District Roads Committees, money to gravel and grade the un-paved roads so that we can be able to make a bigger number of kilometres as motorable as possible. When funds become available through donor funding, we will be able to embark on construction of new roads.

Mr. Kombe: Thank you, Mr. Speaker, Sir. This road becomes impassable during the long rains, and yet the Assistant Minister has said that he will do 0.2 of a kilometre, which is only 200 metres out of the 10 kilometres. The solution is just but to tarmac the whole road. What plans has he got, in the near future, to make sure that the road is tarmacked? How can the Government spend Kshs100 million on Jamhuri Day celebrations but fail to repair this road to enable people go about their businesses without any problem?

Eng. Toro: The Kshs100 million will not come from the Ministry of Roads, Public Works and Housing's Vote.

Hon. Members: It will come from the Treasury!

Eng. Toro: Mr. Speaker, Sir, the Kshs100 will not come from the Ministry's Vote. However, before we even talk about tarmacking this road, it is Class "E", and falls under the District Roads Committee (DRC). The estimated amount of money required for the gravelling of this road is about Kshs35 million, which is currently not available. When I said that 0.2 of a kilometre will be gravel-patched, I did not mean that a continuous stretch will be gravelled. I meant that the sections which are impassable will be gravel-patched. The aggregate of the impassable sections will be 0.2 of a kilometre.

Question No.934

ASSISTANCE TO FREEDOM FIGHTERS

Mr. M. Maitha asked the Minister of State, Office of the President, what plans the Government has to assist freedom fighter hon. Paul Ngei financially, along with other known freedom fighters.

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Speaker, Sir, I thank

Mr. M. Maitha for asking a very important Question. I would like to seek more time so that I can provide a satisfactory answer. I am in communication with the National Committee for the Recognition of National Heroes and Heroines. There is some information I have not got from the Committee yet.

Mr. Speaker: Very well! Mr. M. Maitha, what is your reaction? Is that all right?

Mr. M. Maitha: Mr. Speaker, Sir, if deferring this Question might bring hope to freedom fighters, then let the Assistant Minister tell us when he will bring the answer to this House.

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Speaker, Sir, I would like you to allow me to answer this Question on Wednesday next week.

Mr. Speaker: Very well! This Question is deferred until Wednesday, next week!

(Question deferred)

Question No.609

RESETTLEMENT OF MOLO ETHNIC
CLASHES VICTIMS

Mr. Mukiri asked the Minister of State, Office of the President, when the Government will resettle victims of ethnic clashes in Molo.

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

The Government is in the process of ascertaining the number of genuinely displaced persons with a view of establishing a comprehensive record of claimants. Accordingly, modalities of setting up a resettlement programme involving communities and church leaders and other stakeholders are being worked out in order to achieve an amicable solution to this problem once and for all.

Mr. Mukiri: Mr. Speaker, Sir, the answer the Assistant Minister has given this House is unsatisfactory. We passed a Motion in this House, and the Government promised that it would resettle the victims of tribal clashes. I am sure that the Assistant Minister is just buying time because of the way he has answered this Question. I am sure that no tangible measures have been put in place to ensure that the victims of tribal clashes are resettled. Since we passed the Motion on resettlement of tribal clashes victims, how much money has been set aside to enable this process to go on? The Assistant Minister has said that they are already doing something.

Mr. Tarus: Mr. Speaker, Sir, I cannot give the exact amount of funds set aside for the resettlement of victims of tribal clashes. "Modalities" go beyond money. First of all, we must ensure that the communities which live in the areas concerned can co-exist peacefully. So, this is beyond setting aside the money.

Capt. Nakitare: Mr. Speaker, Sir, is the Assistant Minister in order to say that resettlement of tribal clashes victims involves genuine squatters or displaced people? I would like him to clarify that. Resettlement of tribal clashes victims---

Mr. Speaker: Capt. Nakitare, it is not debating time! Put your question to the Assistant Minister!

Capt. Nakitare: Mr. Speaker, Sir, resettlement of tribal clashes victims is facing a bottleneck. I would like to know the measures the Assistant Minister will take to compensate and resettle these people, especially the tribal clashes victims in Saboti Constituency.

Mr. Tarus: Mr. Speaker, Sir, we are not only looking at Molo, but also at other parts of the country, which were affected by tribal clashes. It is important to note that it is perfectly in order to establish genuinely displaced persons in order to resettle them effectively.

Mr. Mukiri: Mr. Speaker, Sir, I do not think the Assistant Minister is serious when he says that money is not an issue here. These people do not have houses to live in and their children do not go to school. He has said that they are in the process of resettling tribal clashes victims but he cannot resettle them without using money, unless he is not serious. He just wants to answer this Question and allow the "cloud" to pass. When will he start resettling tribal clashes victims, and how much money has been budgeted for this exercise?

Mr. Tarus: Mr. Speaker, Sir, I have said that I cannot tell this House how much money has been set aside for this exercise. But I would like to invite the hon. Member to my office so that he can give us more information on this issue.

Question No.606

DEATH OF MR. LONG'OLEKOU

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

(a) whether he is aware that Mr. Long'olekou was killed while fishing at River Aror on 12th April, 2003; and,

(b) how many people have been arrested in connection with the death, and what action will be taken to bring the culprit(s) to book.

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

(a) A death report of a Mr. Long'olekou is not in any police record. However, I am aware that a body identified to be that of a Mr. Michael Cheptoo Yano was discovered by one Julius Chemweno at the delta of Kerio and Aror Rivers. A report was made to the police on 12th April, 2003 at about 10.00 a.m.

(b) No arrests have been made yet in connection with the death of Mr. Yano. An inquest file No.3/2003 has been opened to facilitate investigations into his death. So far, five witnesses have recorded statements with the police and investigations are still on-going.

Mr. Sudi: Mr. Speaker, Sir, I thank the Assistant Minister very much for the answer he has given this House. The late Long'olekou's other names were Michael Cheptoo Yano, and he was killed in that river. In view of the answer the Assistant Minister has given this House, the late Yano was going to fish at 8.00 a.m.---

Mr. Speaker: Order, Mr. Sudi! This is Question Time! But you have heard that the Assistant Minister has opened an inquest file. So, if you have any information in connection with the death of Mr. Yano, maybe, you can surrender it to the police. For the time being, ask your question.

Mr. Sudi: Mr. Speaker, Sir, from 12th April, 2003 to now is a long time, and yet the culprits have not been brought to book despite the inquest file having been opened. How long will it take for the culprits to be arrested and prosecuted so that justice can be done?

Mr. Tarus: Mr. Speaker, Sir, investigations are on-going and we shall be able to prosecute where there is credible evidence as soon as possible.

Mr. Rotino: Mr. Speaker, Sir, There are many people along the borders of Marakwet, Baringo East and West Pokot who have been killed by thugs. This is just one of the persons who have been killed. He was killed in April, and yet the Assistant Minister is saying that the inquest file is open. Do they wait until a Question is asked here, before an inquest file is opened?

Mr. Tarus: Mr. Speaker, Sir, it is not true that the inquest file was opened as soon as the Question was filed. The file was opened immediately the body was identified. It was discovered on 12th April, 2003.

Mr. Speaker: Last question, Mr. Sudi!

Mr. Sudi: Mr. Speaker, Sir, the body was discovered on 12th April, 2003 at 10.00 a.m. The late Michael Cheptoi Yano had gone fishing at 8.00 a.m. Now that he was killed, it shows that there was no security in that area. Could the Assistant Minister tell this House how he is going to arrest the insecurity situation in Marakwet area, given that by 8.00 a.m. people are getting killed?

Mr. Tarus: Mr. Speaker, Sir, I appreciate the sentiments expressed by the hon. Member. However, I want to say that there have been elaborate security measures taken in those particular areas. We have given additional security personnel to Marakwet District. We have also improved the patrols within those affected insecurity prone areas. We shall continue strengthening security issues in those particular areas.

Mr. Speaker: Next Question!

Question No. 516

DISAPPEARANCE OF POLICE
CORPORAL CHACHA

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

- (a) whether he is aware that Police Corporal Daniel Chacha, Force No.61965, disappeared while on duty on 14th April 1993 and has not been found to-date;
- (b) what effort has been made to trace him and, with what results; and,
- (c) when the Government will compensate the family for the loss.

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

(a) I am aware that Corporal Daniel Chacha disappeared on 14th April, 1993 from Duna Police Station in Wajir Division when he was given permission to go for treatment in Moyale. Since then, he has not been heard of.

(b) All possible efforts to trace the missing person have been carried out. Signals were sent to all stations in the Republic and an Inquiry File No.2/93 was then opened.

(c) As soon as the case is determined in court and the Attorney-General advises on the procedure to be followed.

Mr. Omingo: Mr. Speaker, Sir, the Government does not value the lives of its officers if ten years down the line an officer who disappeared in the course of duty has not been traced. How long then will it take for the family to be compensated for the officer who lost his life or disappeared in the course of duty? What is the Assistant Minister waiting for, ten years down the line?

Mr. Tarus: Mr. Speaker, Sir, may I ascertain that it will not take long. I have said that we are awaiting a report from the Attorney-General's office and we will be able to act accordingly. Certainly, this will not take long. I assure hon. Members that this issue will be resolved.

Mr. Sasura: Mr. Speaker, Sir, in 1992, a police officer similarly disappeared in the very vast Chalbi Desert. His body was not found but his gun was immediately traced by the Government. After getting the gun, they forgot about the dead police officer. Could the Assistant Minister tell this House the procedures of the Government for compensating the family of a dead officer in such circumstances? What procedures does the Ministry follow, because this is not the only case? It has taken more than 12 years and they are still waiting for the Attorney-General. What happens to the compensation of a dead officer's family with respect to procedure?

Mr. Tarus: Mr. Speaker, Sir, I cannot enumerate the details of the procedures here, given the fact that, that will take a Question on its own. However, I want to say that if an officer dies while on duty, there is an appropriate procedure to be followed to ensure that the family gets appropriate compensation. In a situation like this where the officer disappeared, the law says that if it takes seven

years without knowledge of that particular person, it can---

An hon. Member: Seven days!

Mr. Tarus: Mr. Speaker Sir, it is not seven days!

There may have been many cases of this nature. This is perhaps the second time a Question is being filed by hon. Members with regard to disappearance of officers and whose families have not been appropriately compensated. We shall carry out an audit of all these issues and ensure that we have taken care of these problems without necessarily having to wait for hon. Members to file Questions on this.

Mr. M. Kariuki: Mr. Speaker, Sir, the Assistant Minister appears to be aware of the provisions of presumption of death after seven years. This person disappeared more than ten years ago. What steps has the Assistant Minister taken to obtain an order from the court for the person to be presumed dead, so that the relatives can get the necessary compensation?

Mr. Tarus: Mr. Speaker, Sir, as soon as the file was opened, it was forwarded to the magistrate to presume the person dead, and to date, we have not received it. But as soon as we receive it, we will act upon it.

Mr. Speaker: Last question, Mr. Omingo!

Mr. Omingo: Mr. Speaker, Sir, I sympathise with the Assistant Minister because he came to the office less than a year ago. However, that does not exonerate him because they came in with speed and we believe a new broom is supposed to sweep best. Now that he appreciates that seven years have lapsed and the family is suffering in anguish, could he state categorically on the Floor of this House, when he is going to finish this matter? He should state the date and how much the family should expect. I am sure he should be aware, if he actually knows that the presumption of death is seven years.

Mr. Tarus: Mr. Speaker, Sir, I certainly cannot say the date when this will be completed, given the fact that we have to follow a particular procedure. It has to take more than one department. On the issue of compensation, I want to request for understanding as we sort out this particular problem and get a solution to the matter.

Question No.541

STABEX FUNDS FOR KAITI FARMERS

Mr. Ndambuki asked the Minister for Finance:-

(a) whether he is aware that coffee farmers from Kaiti Constituency did not benefit from STABEX funds; and,

(b) when the farmers will be paid.

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

(a) I am not aware that coffee farmers from Kaiti Constituency did not benefit from the STABEX funds.

(b) STABEX funds are accessed by farmers as loans to them through the Co-operative Bank of Kenya. Interested farmers apply for the funds and they are given on a first come, first served basis. Going by the records provided by the Co-operative Bank, it is very difficult to identify the beneficiaries on constituency basis, as they do not have such details.

Mr. Ndambuki: Mr. Speaker, Sir, these funds were provided by the European Union to assist coffee farmers. There are coffee farmers in my constituency. The Assistant Minister says these funds are given on first come, first served basis. When coffee farmers in my constituency applied for these funds, they were told to do so, through their co-operative societies. However, some of those co-operative societies have huge debts. So, they cannot access the STABEX funds. Could he assist

coffee farmers in my constituency to access these funds through Co-operative Bank without going through their co-operative societies?

Mr. Katuku: Mr. Speaker, Sir, I have a list here of individual farmers and co-operative societies from Machakos and Makueni districts who have benefited from these funds. So, what the hon. Member said is news to me, but if he could avail more information on this, we will taken an appropriate action. Essentially, these funds were meant to be accessed mainly through co-operative societies because we felt more coffee farmers would benefit.

Mr. Angwenyi: Mr. Speaker, Sir, you heard the Assistant Minister say that he does not know who have received these funds and how much money is there. These are funds availed to the Kenyan Government. Does the Kenyan Government not have a machinery of accounting for these funds? If so, could he tell us how much of these STABEX funds are in the bank? How much is available to coffee farmers?

Mr. Katuku: Mr. Speaker, Sir, as I speak now, we do not have STABEX funds in the bank for farmers. The account was exhausted. However, we are in the process of appointing auditors to verify whether this money was properly used or not. As I said, all the STABEX money was given to farmers.

Mr. Ndambuki: Mr. Speaker, Sir, I would like the Assistant Minister to confirm whether this is a revolving fund for coffee farmers. If so, how much money was released to the Co-operative Bank to be given to coffee farmers?

Mr. Katuku: Mr. Speaker, Sir, I want to confirm to the hon. Member that this is supposed to be a revolving fund. As at the end of May, Kshs1.9 billion was deposited with the Co-operative Bank for disbursement to farmers.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to tell us that this is revolving fund, yet he has said that there is no money in the account? A revolving fund can never be exhausted.

Mr. Speaker: That is not a point of order! It is an argument. It is frivolous! So, please, Mr. Angwenyi, withdraw from the Chamber!

(Mr. Angwenyi withdrew from the Chamber)

Next Question, Mr. Shitanda!

Question No.666

CONSTRUCTION COST OF NHIF
OFFICE COMPLEX

Mr. Shitanda asked the Minister for Health how much money has been used by the National Hospital Insurance Fund to construct the office complex at Upper Hill in Nairobi.

Mr. Speaker: I am sorry. I skipped Mr. Mbau's Question. Since Mr. Shitanda has already asked his Question, we will come to Mr. Mbau's Question later. Proceed, Mr. Konchella.

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

The Ministry has spent Kshs3,306,981,328.36 to construct the NHIF office complex at Upper Hill in Nairobi.

Mr. Shitanda: Mr. Speaker, Sir, the NHIF office complex at Upper Hill Nairobi was initially meant to cost about Kshs1 billion. This is a case where the contract price went up by over 200 per cent. Could the Assistant Minister tell us who were the contractors of this complex? Why did the

contract price go up by over 200 per cent?

Mr. Konchella: Mr. Speaker, Sir, the main contractor for the project was M/s N.K Brothers Limited who were awarded the tender at Kshs1,483,000,000. There were other minor contractors.

An hon. Member: He has not answered the second part of the question! Why the variation in contract price?

Mr. Speaker: Have you answered the second part of the question?

Mr. Konchella: Mr. Speaker, Sir, the variations were covered by the provision of the contract. These variations were properly processed by the consultant, the Ministry of Roads, Public Works and Housing, and eventually, they were approved by the NHIF Board of Management. So, those variations were due to a host of issues. First, the contractual claims were brought subsequently. The other issues were price escalation, new works and proposals which came about after the project was re-evaluated. There were changes of design arising from the site conditions and dictates of the changing technology which they were using. So, those are some of the reasons why the variation occurred.

Mr. Munya: Mr. Speaker, Sir, could the Assistant Minister explain to us what he means by "changing technology and design"? Why did they have to change the original design? Was it a way of trying to misappropriate public funds?

Mr. Konchella: Mr. Speaker, Sir, "change of technology and design" would mean, for example, what happened when we had the bomb blast. Most contractors changed their windows and window panes into non-blast ones. I will not give the details, but that is how it is now. If we have a bomb blast tomorrow, it will not kill so many people inside the building like it did last time.

Mr. Bahari: Mr. Speaker, Sir, there is need for medical insurance cover for all Kenyans. What was the rationale of investing Kshs3 billion in that grandiose project?

Mr. Konchella: Mr. Speaker, Sir, I also do not see the rationale. What I know is that the Government approved Kshs1.4 billion, but the price escalated to Kshs3.3 billion and it was justified by the board of management. The Government has already now sent auditors to the site to determine why and how these variations took place. So, I cannot say anything other than to wait for this report. I know the Public Investment Committee (PIC) will handle this issue in future.

Mr. Shitanda: Mr. Speaker, Sir, I have been consulting valuers, and they have confided in me that there is no single building in Nairobi whose value exceeds Kshs2.5 billion. Could the Assistant Minister table the valuation report of the National Hospital Insurance Fund (NHIF) Building? What is the current value of the building?

Mr. Konchella: Mr. Speaker, Sir, the NHIF management took over the building on 23rd October. I only know its price, which is Kshs3.3 billion. Most of it has been paid. Less than Kshs100 million is pending. So, once that money is paid, the building will be valued to determine its actual current value.

Mr. Speaker: Next Question, Mr. Mbau!

Question No.752

COMPLETION OF IFAC-FUNDED PROJECT

Mr. Mbau asked the Minister for Planning and National Development:-

- (a) whether he is aware that the IFAC funded project in Maragua has stalled;
- (b) whether he could disclose how much money was allocated during the financial year 2002/2003 and how much has been used so far; and,
- (c) how much money is yet to be released for the year 2003/2004 financial year and what the anticipated completion date is.

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Speaker, Sir, I would like to give apologies for the absence of the Minister. I have read the answer. I will attempt to answer the Question so long as there will not be too many complicated supplementary questions.

(Laughter)

Mr. Speaker: Well, if the Vice-President and Minister for Home Affairs is not comfortable with the answer, I think the most reasonable thing to do is to seek the indulgence of the House and have the Question deferred.

The Vice-President and Minister for Home Affairs (Mr. Awori): Thank you very much, Mr. Speaker. I now seek your indulgence that the Question be deferred.

Mr. Speaker: Well, I think the Vice-President and Minister for Home Affairs has done his best. I will, immediately, grant the deferment of the Question. He has tried. I think he needs a good answer. I will defer the Question to Tuesday next week. Is that okay with you, Mr. Mbau?

Mr. Mbau: Mr. Speaker, Sir, I sympathise with the Vice-President and Minister for Home Affairs. I, humbly, accept his submission. I was not going to ask him complicated questions, but we can defer it to next week.

Mr. Speaker: Very well, the Question is deferred to Tuesday, next week. Thank you, Mr. Mbau.

(Question deferred)

Question No.642

UTILISATION OF COFFEE CESS MONEY

Mr. Wambora asked the Minister for Agriculture:-

- (a) whether he could inform the House how cess money has been used in the past in coffee growing areas;
- (b) how much cess has been collected by the Coffee Board of Kenya and is yet to be released for road maintenance; and,
- (c) when this money will be released.

The Assistant Minister for Labour and Human Resource Development (Mr. Odoyo): Mr. Speaker, Sir, I have the authority of the Leader of Government Business to humbly request the indulgence of the House, so that this Question can be deferred to Wednesday, next week.

Mr. Speaker: Why?

The Assistant Minister for Labour and Human Resource Development (Mr. Odoyo): Mr. Speaker, Sir, in view of the complex nature of the issue of coffee cess, and the inadequacy of the answer received, the Minister has requested additional information, so that he can bring here a proper and adequate reply to the Question.

Mr. Speaker: What is your reaction, Mr. Wambora?

Mr. Wambora: Mr. Speaker, Sir, I have seen the initial answer. It was very inadequate. So, I would prefer to wait until Wednesday.

Mr. Omingo: On a point of order, Mr. Speaker, Sir. Sometime ago, you ruled that this House should be treated seriously because of the value of its time. This is not the first time we have heard about technocrats giving Ministers wrong answers to Questions. Can something be done about the situation? Why can such technocrats not be sacked and replaced with other persons? We have many

graduates who can do their jobs. The time of the House is being wasted.

Mr. Speaker: Well, I suppose that is a genuine complaint from the hon. Member. I have, in the past, ordered Ministers to take the work of this House seriously. May I now sound the following warning in the presence of the Leader of Government Business: The Chair will be very firm with Ministers who will not take the business of this House seriously.

(Applause)

How the Ministers deal with the civil servants under them is their problem. This House will deal very firmly with Ministers who refuse to answer Questions. So, we will defer the Question but, please, take my warning very seriously.

Next Question, Mr. A. Haji!

Question No.605

STATUS OF MALKAMARI NATIONAL PARK

Is Mr. A. Haji not here? Now, what do I do with hon. Members who do not turn up to ask Questions?

Hon. Members: Defer the Question!

Mr. Speaker: It falls flat on its face! Question dropped!

(Question dropped)

Mr. Speaker: Let us proceed to Mr. Kajwang's Question by Private Notice.

QUESTION BY PRIVATE NOTICE

PUBLICATION OF RINGERA COMMISSION REPORT

Mr. Kajwang: Mr. Speaker, Sir, I beg to ask the Minister for Justice and Constitutional Affairs the following Question by Private Notice.

(a) Is the Minister aware that one of the litigants in the Court of Appeal Civil Appeal No.63 of 2001 has annexed a portion of the Ringera Commission Report on corruption in the Judiciary to his application seeking to review the judgement of the court made on 30th September, 2002?

(b) How did the litigant obtain a copy of the report?

(c) When will the report be made public?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Speaker, Sir, I beg to reply.

(a) The Court of Appeal case referred to is Miscellaneous Civil Application No.307 of 2003, Nairobi, and not Nairobi Civil Appeal No.63 of 2001, as cited by the hon. Member. That notwithstanding, my Ministry is aware that one of the litigants in the said application annexed copies of documents to his application, seeking to review the judgement of the court made on 30th September, 2002. This came to the notice of the Ministry as copies of the alleged documents were passed over to the Public Complaints Office, which I head, by a member of the public who complained that the documents were part of the Ringera Commission Report. However, on perusing the documents, which were affidavits, it was found that a copy of a statement clearly indicated that it originated from the

Kenya Anti-Corruption Commission (KACC), which is based at the Integrity Centre.

The KACC has been investigating at least three complaints related to corruption allegations involving one Judge of the Court of Appeal and two High Court Judges, and outsiders in order to defeat the course of justice. In one of the investigations by the KACC, one of the litigants in the suit was a complainant. The complainant had, in support of his complaint, copies of court proceedings, affidavits and desk diaries, among others. The complainant later made a request for the Commission's authority under Section 7(1)(d) of the Anti-Corruption and Economic Crimes Act, 2003 for copies of some of the documents in the investigation for use in a civil suit. The Director is empowered to authorise such a disclosure under Section 33(10) of the Act.

Such a disclosure is made where the disclosed information can assist any other law enforcement agency, or an administrator of justice like a law court. The Commission can participate in a civil suit like the Miscellaneous Civil Application No.307 of 2003, where allegations of corruption have been raised, and the applicant is applying for a review of the case by the court. The documents in question---

(A mobile phone rang)

Mr. Khamasi: On a point of order, Mr. Speaker, Sir. A mobile phone is ringing.

Mr. Speaker: Where?

Mr. Khamasi: Somewhere around here.

Hon. Members: It is in a handbag!

(Laughter)

Mr. Speaker: Order! Order, Members! No person should handle private handbags which have been kept there by hon. Members. If you think there is a mobile phone in any of them, go and switch it off but, please, leave them intact!

(Laughter)

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Thank you, Mr. Speaker, Sir, the documents in question are, therefore, part of an investigation by a law enforcement agency who are saying that they have useful information which can assist a court of law in a matter which is before it. The documents included copies of desk diary entries and statements recorded on indicated dates at Integrity Centre, and not copies of the Ringera Commission Report. Copies of the Report have not been availed to the Kenya Anti-Corruption Commission (KACC).

(b) As stated above, the documents were not copies of the Ringera Commission Report which is under the jurisdiction of the Judiciary.

(c) The Report on Integrity and Anti-Corruption was in two parts. Volume One was for general consumption and has been published in the media. It is a general policy document and has no attachments. It has neither names nor details of allegations against each officer, neither does it have supporting documents. Such information is contained in Volume Two, which is strictly a confidential document and is not meant to be and should not be made public. That document is in the custody of the Chief Justice. It is under lock and key. I would, therefore, like to confirm that no part of the Executive, including the Police, the Kenya Anti-Corruption Commission, the Department of Governance and Ethics in the Office of the President, the Office of the Attorney-General and my office, have formally received a copy of Volume Two of the Report.

Mr. Kajwang: Mr. Speaker, Sir, the Assistant Minister has referred to Section 33(10) of the

Act. That section is not there. There is only Section 33(1) and (2). Maybe he can go back and read the law better. Section 33(1) says that nobody should disclose any information gathered during investigation not even the names, except with the permission of the director. We are faced with a situation where investigation documents held by the director have been released to a civilian to use them in a civil case. He has even sworn an affidavit saying that: "I hereby annex this document from the Kenya Anti-Corruption Commission". Is there a law which allows the Commission to release documents to individuals to use them in civil cases, as is in this case? Is it a case where somebody is selling secret documents so that they can fight their wars in the High Court or the Court of Appeal?

Mr. Githae: Mr. Speaker, Sir, one of the reasons why this answer is long is because we wanted to give an elaborate answer which can satisfy the hon. Member. We have noticed that he only asks Questions concerning this Ministry. However, I agree that--

Mr. Speaker: Order, Assistant Minister! What are you implying?

Mr. Githae: Mr. Speaker, Sir, I am saying that we wanted to give a very elaborate answer so that the hon. Member can be satisfied.

Mr. Speaker: Order, Assistant Minister! That is not what I asked you. You have said Mr. Kajwang only asks Questions to your Ministry. What are you implying?

Mr. Githae: Mr. Speaker, Sir, that is a matter of record and it can be confirmed. However--

Mr. Kajwang: On a point of order, Mr. Speaker, Sir. The Assistant Minister wants to evade answering the question. I ask many Questions, including those on fisheries in Lake Victoria. Could he answer my question, and later apologise to me outside the Chamber?

(Laughter)

Mr. Omingo: Mr. Speaker, Sir, is it in order for hon. Mr. Kajwang to take out issues of this House?

Mr. Speaker: It is totally out of order! Proceed, Mr. Githae!

Mr. Githae: Mr. Speaker, Sir, I was referring to Section 33(1) and not 33(10). However, under this Section, the Director of the Kenya Anti-Corruption Commission is authorised, upon request of any person, to disclose whatever information that may be in his possession. That is exactly what happened. This matter is in court and the answer I have given has tried to avoid the *sub judice* rule. So we should be careful not to go into the merits and demerits of the case. However, the Commission is doing a commendable job. It is charged with the responsibility of investigating and preventing corruption. The most important thing is that these documents were not part of the Ringera Commission Report. That document is under the custody of the Chief Justice and is not part of the civil suit.

Mr. Owidi: Mr. Speaker, Sir, we know that those who keep the secret documents in the Ministry are either the Permanent Secretary, the Director of the Kenya Anti-Corruption Commission, the Minister, the Chief Justice or the President. Could the Assistant Minister confirm to this House that this document is not part of the document which was given to the Ringera Commission and which made Justice Shah to be sacked?

Mr. Githae: Mr. Speaker, Sir, I have just confirmed that this document being referred to by the hon. Member is not part of the Ringera Commission Report. There was only one copy of the Report and it is in the custody of the Chief Justice. As we speak, it is under lock and key.

Mr. Kajwang: Mr. Speaker, Sir, the Assistant Minister has said that the Report is under lock and key. Is there a law to determine which documents are supposed to be put under lock and key by the Chief Justice, or any other public officer? Is the evidence given by members of the public against any person for purposes of proving corruption an example of documents that can be kept under lock and key? Is it not this lock and key business which has made that document so valuable that people are

buying it to fight their own wars in the High Court and the Court of Appeal? When will it be published?

Mr. Githae: Mr. Speaker, Sir, I have clearly said that, and I will repeat again, this document that the hon. Member is referring to is not part of the Ringera Commission Report. That document is safe and it has never been photocopied. There is only one document and it is safe. However, as to whether it should be made public or not, it will not be made public. Whenever a commission is appointed, it sets out its terms of reference. Some would receive information in public and others in camera. The Ringera Commission, for obvious and very good reasons, decided to receive information in camera.

Mr. Speaker: Very well, that is the end of Question time. Next order!

MINISTERIAL STATEMENTS

KENYA'S FATE IN AGOA PROGRAMME

The Minister for Trade and Industry (Dr. Kituyi): Thank you, Mr. Speaker, Sir. I have two brief Ministerial Statements to make. The first one is a response to a demand for a Ministerial Statement by hon. Ndambuki concerning what the Government is doing in the wake of information that the third-country sourcing of fabric and inputs in apparel manufacturing under the African Growth And Opportunity Act (AGOA) expires at the end of September 2004.

Mr. Speaker, Sir, there are two directions in which the Government has moved in the desire to consolidate the gains so far achieved under AGOA and to respond to the possibility of the provision in the AGOA to stop importation of apparel without compliance to the third-country sourcing by September next year. The first line of attack has been to seek, together with the other AGOA compliant countries, an extension of the grace period by amendment to the Act by the US Congress. This is under way. Over the past year, I have participated directly in canvassing with congressmen three times and together with the others, we have interceded with the US Government, including our Head of State, during a state visit to Washington that the necessary amendment be made. This is because the lead up time to the operationalisation of AGOA took away the first two years making it impossible for us to implement our obligations and, therefore, it is our position that the third-country sourcing requirement in the AGOA Act be postponed until the end of the year 2008. At the forthcoming meeting of the Third Ministerial Forum of AGOA in Washington on 8th and 9th of December, we are having a concerted effort to see a time frame for this amendment to the AGOA Act to send the deadline to 2008.

Mr. Speaker, Sir, secondly, we have been making efforts to start increasing the local content and build a value chain in the apparel manufacture not only in Kenya but in other countries of East Africa, particularly the sourcing of cotton in Uganda and part of the yarn from Tanzania. So far, we have had a 100 per cent increase in the production of cotton every year since the year 2000 and this is partly the process of building domestic value adding into the apparel that goes to America around AGOA. Secondly, we have attained 75 per cent of the utilisation of otherwise idle capacity in our textile industry and a 50 per cent additional expansion in yarning in Kenya. As we talk, my Ministry has negotiated a credit line with Opic and Exim Bank of the US to avail affordable credit for Kenyans to purchase jeans in order to continue adding domestic value into the textiles that go to America under AGOA. These measures are undertakings in an attempt to fulfil the third-party sourcing requirement under the AGOA.

Mr. Speaker, Sir, unless there is a clarification about that, I wish to go to my second Ministerial Statement.

Mr Speaker: Go ahead!

IMPORTATION OF SUGAR INTO
THE COUNTRY

The Minister for Trade and Industry (Dr. Kituyi): Mr. Speaker, Sir, one of the main concerns that has arisen in this House over the past one year particularly from Members of Parliament coming from sugar-cane growing areas, has been the problem of uncustomed sugar entering the Kenyan market, particularly from COMESA countries. As an effort to sustain our obligations to open up markets to other COMESA countries particularly the free-trade area countries, while at the same time nurturing the vulnerable sugar-cane sector in Kenya, my Ministry negotiated at the last council meeting of COMESA in Khartoum in March this year, a limit on the duty-free sugar entering the Kenya market. For the calendar year 2003, we were granted an exemption that out of a domestic projected consumption of 600,000 tonnes of sugar, we will limit the amount of COMESA sugar entering uncustomed into Kenya to 111,000 tonnes of industrial sugar and 9,000 tonnes of table sugar. I reported that matter to this House and expressed concern that at the end of the year, there was uncertainty as to whether we will be able to get another extension.

Mr. Speaker, Sir, meanwhile, my Ministry together with the COMESA Secretariat undertook a study on what it takes to rehabilitate and make competitive the Kenya sugar sector. We were very happy that we received a lot of co-operation from the Kenya Sugar Board and Members of Parliament in the sugar-cane growing areas in addition to the Ministry of Agriculture. At the COMESA Council of Ministers 8th Meeting which ended this morning in Lusaka, I am glad to inform the House that I managed to persuade and get the concurrence of the COMESA Ministers of Trade from all the countries unanimously that Kenya has been allowed a safeguard extension on the same arrangement for the next four years.

(Applause)

Mr. Speaker, Sir, however, our request to get a similar extension of safeguard measures for the wheat flour sub-sector was turned down because we have not completed a comprehensive survey on how to restructure the wheat flour sector. However, we got an extension of one year while we undertake a comprehensive study with a view to seeking necessary reforms.

Mr. Speaker, Sir, I wish, while thanking the Members who have been on the forefront of fighting for the rights of sugar-cane farmers, to emphasise that the conditions we have are that the first 200,000 tonnes constituting 111,000 tonnes of industrial sugar and 89,000 tonnes of table sugar, will be allowed from within the free-trade area countries of COMESA into Kenya without any duty. After that, we impose a duty of 120 per cent. This should help encourage farmers and other stakeholders to implement the necessary reform measures to make the sugar sector competitive in four years.

Mr. Speaker, Sir, finally, we have had a certain problem as a Ministry. There are some Kenyan enterprises which attempt to import sugar into Kenya without paying duty after the grace period and the quota provision has been exhausted and when our officers stop them, they seek intercession of foreign missions. I have had two ambassadors coming to see me and last month, I was interceded by the Minister for Foreign Trade of Egypt on behalf of Kenyan companies which falsify evidence claiming Kenya is distorting trade rules, and they are Kenyan companies which are aware of the provisions. The need to protect and nurture the sugar sub-sector is a collective duty of traders, politicians and the farmers of this country.

Thank you, Mr. Speaker, Sir.

(Applause)

Mr. Speaker: Very well. I have always encouraged Ministers to make available to the House those policy decisions and any other agreements reached outside this country or even within this country. So, on behalf of the House, we congratulate the Minister.

(Applause)

I will let Mr. Ndambuki seek one clarification only since I have a line of Ministers ready to issue Ministerial Statements.

Mr. Ndambuki: Thank you very much, Mr. Speaker, Sir. I thank the Minister for the answer. My question was: We know that by 30th September 2004, Kenya is supposed to be self-sufficient in cotton production because now we can import cotton from the Far East, Uganda and Tanzania. The conditions under the initiative are such that by that time, we need to be self-sufficient. Mr. Minister, you have said that you are negotiating for an extension. While you are negotiating for an extension, we have not seen anything on the ground towards being self-sufficient in cotton production and that is what I would like you to tell us. Which exact plans do you have on the ground to enable us to achieve that condition by the year 2008, as you have said?

The Minister for Trade and Industry (Dr. Kituyi): Mr. Speaker, Sir, the provisions in the AGOA are not that you must be self-sufficient in cotton production. They are that, at least, 75 per cent of the value content of what you export to America under the provision must be sourced from within your country or another country which is the beneficiary under the Act. That means, if you expand the importation of cotton from Uganda instead of importing it from Sri Lanka, you are becoming compliant. My Ministry has offered partly as part of deepening our commercial relations with Uganda, to purchase every surplus cotton that Uganda produces. That is compliance.

Mr. Speaker, Sir, secondly, my Ministry with the support from USA carried out a comprehensive consultancy job on how to rebuild the entire cotton industry. We have had the completion of that study. Some of the contents of that study have already been passed over to the Ministry of Agriculture which prepared and steered through Cabinet a Cabinet Memorandum under which a new authority is going to be established by statutes to manage the affairs of the cotton industry. We have also encouraged more marketing information to farmers about the unfair trading practices by some merchants who have been purchasing cotton. Some of the results from this, as I mentioned, are the doubling of the cotton production in Kenya every year over the past two years. Also, and importantly, is the rehabilitation of the textile manufacturing industry, which had been forgotten. Now we have only two factories remaining. We are negotiating to see if we can re-open them. These factories are Rivatex and KICOMI. This is also part of the compliance effort. So, I did say that we are addressing the domestic context as far as we can go as a Ministry, while encouraging the related Ministries like the Ministry of Agriculture and the Ministry of Regional Development also to contribute. We are also working on the possibility of extending the deadlines set in the Act.

Mr. Speaker: Thank you.

Proceed, Minister for Finance! Sorry, Mr. Minister, can I give Mr. Osundwa just one chance?

Mr. Osundwa: The Minister says that we should persuade our farmers to produce sugar cheaply. But I want to ask him whose duty it is to make sure that fertilizers and pesticides are imported cheaply because farmers have no control over such things. Secondly, this country receives fertilizer from Japan under the Commodity Aid, which should influence the cost of fertilizers on the shelves. But this fertilizer is given to these buccaneers who sell it so expensively. So, I am putting it to the Minister that the ball still rests in the court of the Government to make sure that the inputs are cheaper!

The Minister for Trade and Industry (Dr. Kituyi): Mr. Speaker, Sir, if my memory does not let me down, I have not in any way, made any attempt to suggest that we persuade farmers to produce cheaply. An all-stakeholder forum was established in which hon. Members of this House actively participated in identifying what ails the sugar sector; what required actions and intervention policies are necessary and whose responsibility it is. The Government has implemented part of this responsibility by cleaning up the balance sheets of some of the parastatal sugar companies. Other stakeholders also have roles to play. We are saying that a joint collective statement, the result of the study which hon. Osundwa has also perused, is the basis of intervention actions. The Government is not asking the farmers to do everything. All stakeholders have a role to play, and it is set out very clearly in the study.

Mr. Speaker: Very well, proceed, Minister for Finance! Sorry, hon. Ndambuki, we must make progress!

IMPLEMENTATION OF PENSIONS
AMENDMENT ACT

The Minister for Finance (Mr. Mwiraria): Thank you, Mr. Speaker, Sir. I rise to give a Ministerial Statement in response to a request by the hon. Musila, who wanted to know what measures the Government has put in place to ensure that come January, 2004, the Government shall implement the provisions of the Pensions Act, 2003 and also to inform the House on what the Government is doing to clear the large number of unpaid pension arrears, running into tens of thousands.

Mr. Speaker, Sir, the Government is committed to adhere to the provisions of the Pensions Act, which was passed by this House. We are going to do so with effect from January, 2004. All Ministries and departments, as well as the Teachers Service Commission (TSC) were notified of the changes to the law and the required implementation through a Treasury Circular No.ZZ10/04/B of 19th September, 2003. The Pensions Department has prepared statistics on the officers retiring before 31st December, 2003, and who are likely to be affected by this Pensions Act. The same statistics are being used for analysis of the budgetary implications for those officers who are to be retained in the service.

Mr. Speaker, Sir, as at 24th November, 2003, the number of officers in the Ministries as well as the TSC whose claims had not been processed, and will need to be retained on the payroll if they are not paid by 31st December, 2003, is 6,432 broken down as follows.

Ministries	2,459
TSC	3,973

All officers who are not paid their pensions by their retirement date would be retained in the service of the Ministries.

(Applause)

The interest rates prevailing at the bank rates will be paid on all dependants' benefits not paid within 90 days from the date of death, except where the delay is caused by a court process.

With regard to what the Government is doing to clear the large number of unpaid pension arrears, a number of measures have been taken in the Pensions Department to address the backlog of pension claims. These include the authorization for payment of overtime, strengthening of staff capacity and upgrading the Information Technology (IT) services. This has entailed the identification and posting of additional clerical officers to assist in processing claims at the ministries and

departments as well as the TSC. Consequently, there has been a marked improvement in the number of files being processed and paid, amounting to 5,196 between July and November, 2003. Departments have also been authorised to work overtime to clear the backlog. Consequently, there has been a marked improvement in the number of files being processed and paid. Further, the existing IT system, including equipment is being evaluated for upgrading in order to ensure faster processing of claims. To improve operations and access by the public, the department is soon to be moved to Bima House.

[Mr. Speaker left the Chair]

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

Therefore, from the foregoing, it is quite clear that the Government is committed to adhere to the provisions of the Pensions Amendment Act with effect from January, 2004 as follows.

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

(Mr. Speaker resumed the Chair)

Mr. Speaker, Sir, all officers who were not paid their pensions by their retirement dates will be retained in the service of the Ministries, departments and the TSC payroll until the payments are made as provided for under the law. Secondly, the interest prevailing at the bank rates will be paid on all the dependants' benefits from the date of death, and which are not paid within 90 days. Except when such a delay is caused by a court process.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Let us have a very brief word and a clarification from Mr. Musila.

Mr. Musila: Mr. Speaker, Sir, I want to thank the Minister for that Statement. I seek the indulgence of the Chair to be allowed to ask for four very short clarifications in view of the importance of this Act, which touches on every constituency of this Republic.

First, the Minister has said that there is marked improvement on the backlog of unpaid pensions. However, as hon. Members are aware, everyday, we ask Questions here about unpaid pensions. I fear, and I am sure I share this fear with hon. Members, that the Ministry could be concentrating on paying the new pensioners in order to abide by the Act which became effective from 1st January and forget the backlog, some of which is as old as ten years. Could he inform us what he intends to do?

Secondly, the Pensions Department is very small and inefficient. As you are aware, all the problems that we have witnessed are as a result of a weak Pensions Department. Could the Minister assure this House that the department will be upgraded to ensure that it is headed by a person of the rank of a Permanent Secretary, in order to meet the challenges lying ahead? Thirdly, the Minister has told us about teachers and the Ministries yet we know that employees of parastatals are also public officers. We also know that many former employees of parastatals have not been paid their pensions. Could the Minister also assure this House that he will ask all heads of parastatals to include their employees in this one?

Mr. Speaker, Sir, finally, it is so good that pensions will be paid promptly from 1st January, but this will only be the little pensions that are payable; sometimes as little as Kshs500 per person. Could the Minister inform the House when he intends to increase pensions, so that pensioners can

receive money that they can live on?

Mr. Speaker: I think the last issue was not within the Statement. On that, you are out of order!

The Minister for Finance (Mr. Mwiraria): Thank you, Mr. Speaker, Sir. I had already stated that in order to clear the backlog, we have been carrying out a special exercise of identifying clerical officers knowledgeable in pensions work and posting them to the Ministry. As a result, from July to early November this year, over 5,100 pensioners have been paid. We are intensifying that effort.

I fully agree with the hon. Member that the Pensions Department has been very weak. At the moment, we are carrying out an exercise with the assistance of the Directorate of Personnel Management (DPM) to find out what additional staff we require in order to solve this problem once and for all. I must admit that, in my reply, I dealt with only the pensioners who get paid by the Chief Pensions Officer. I forgot about the parastatals and, maybe, that can come as a second exercise later.

Mr. Speaker: Very well.

The Minister for Finance (Mr. Mwiraria): Mr. Speaker, Sir, I had another one.

Mr. Speaker: You have another one?

The Minister for Finance (Mr. Mwiraria): Yes, Mr. Speaker, Sir.

Mr. Speaker: Well, I will finish with this Minister and as for the balance of time, I will have to go on choosing because it is 4.00 o'clock now.

ACCEPTED DONOR CONDITIONALITIES

The Minister for Finance (Mr. Mwiraria): Mr. Speaker, Sir, let me start off by giving the august House what I consider to be good news. After the Consultative Group Meeting last Monday and Tuesday, we had pledges and the total pledges amounted to US\$4.1 billion for three years. After saying that, let me give what you may call the conditionalities which the Government accepted in order to get the IMF Programme.

First, and this is really coming from the list attached to our letter, is presentation to Parliament of a Budget for 2003/2004 consistent with the programme and understanding by the end of June, 2003. That went through. All the hon. Members know it. You discussed it and you know what is contained in it.

The second item is for the Government to decide on the transfer of the financial sector regulatory functions from the Ministry of Finance to the Central Bank of Kenya. We are discussing these matters, but some of them do not matter much.

The third one is reaching an understanding with the staff on a time-bound plan for the restructuring of the National Bank of Kenya. At the moment, we are looking for money from outside to put into the National Bank of Kenya to make it a viable institution before we decide on whether to privatise it or not.

Here comes some structural performance criteria. The first one is to finalise an audit on the stock of pending bills and adopt measures that provide for their clearing over a three-year period. We are working on it. I am afraid it is one of the toughest subjects we have to deal with because we want to be absolutely sure that we will not pay any pending bill which is not genuine. So, we are still working on it.

Mr. Speaker, Sir, the next item is the completion of a report of the committee of officials on the new mechanism for determining the salaries of public officials to ensure the reduction of the wage bill in the total expenditure. Here I can explain to the House that, we said that because of the disparities existing within the Kenya Government salary structure, and the very low salaries paid to some of our officers like the police, we needed to have a study to look at it, so that we do not freeze salaries at a level which is certainly not acceptable. So, His Excellency the President appointed a team

which is working. We shall let you know the outcome of its work.

The next item is completion of an audit on the financial position of the National Social Security Fund (NSSF). This is ongoing. The next one is submission to Parliament of a Banking Act (Amendment) Bill for transfer of financial sector regulatory functions from the Ministry of Finance to the CBK. Now, let me emphasise one thing. We have committed ourselves to submitting to you an amendment. We did not commit you. We did not do as the previous Government did earlier on and committed ourselves to getting the Banking Act amended. The decision of amending rests with this House.

Mr. Speaker, Sir, the next one is something we have inherited from the old set-up, which I think is fairly harmless. No imposition of controls by the Government or the CBK on the determination by commercial banks of fees, charges and interest rates. We have not done it, but you know that we brought down the Treasury Bill rate and other rates through prudent economic governance.

The other one is about structural benchmarks; presentation of the 2002/2003 final Budgetary accounts to the Controller and Auditor-General by March, 2004. In fact, those accounts are already with the Controller and Auditor-General.

The next item is about reaching an understanding with staff, on new ways of setting mechanisms for public employees, designed to reduce the size of the wage bill in total expenditure. I think that will be the outcome of the exercise that is being done by the committee.

The next one is presentation to Parliament of a Bill to establish a framework for transparency, privatisation and sale of public assets. We have already talked about it and it is before this House; the development of an action plan and a timetable for introducing a commitment to a control system to minimize deviation of expenditure outcome from targets and build up areas. Once again, that is something that we have been doing and is expected to be done by the end of December, 2003.

The next item is the establishment of a clear timetable for the completion of initial assets declaration by all senior public officials.

Last, but not least, is the establishment of a Kenya Anti-Corruption Commission with a credible management, which has already been done. Finally, we have been reaching out for an understanding of the fiscal policy.

Mr. Speaker, Sir, let me, in conclusion, emphasise on two points. The IMF has used our own document to draw these criteria. So, in a sense, they are holding us to the issues we have put down as the ones we want to do.

Mr. Weya: Mr. Speaker, Sir, I want to thank the Minister for his statement. It seems like the IMF, World Bank and the Kenyan Government are not being transparent on the issues. Those countries post their conditions in the websites and even their letters of intent, which the Government gives. Could the Minister tell us when they intend to do this? Were there any political conditions, like sacking of some Ministers as we have been hearing in the public domain?

Mr. Speaker: Mr. Minister, note that; I will give the last chance to Mr. Okemo.

Mr. Okemo: Mr. Speaker Sir, I think that the Minister would save this House a lot of trouble if he gave us a copy of the letter of intent; that is the contractual obligation between the Government and the IMF. It forms the basis for all the discussions that the IMF Board undertakes. It will outline everything and, if he is unwilling to do so, it becomes a public document that will be posted to the IMF website. Therefore, he should give it to us before that happens. Alongside that, we would like the comments of the individual members of the IMF Board on the conditionalities they have set for Kenya. That information is with the Minister and he can make it available to this House. There are a number of issues---

Mr. Speaker: Very well. Let us not debate on that clarification. That is enough!

The Minister for Finance (Mr. Mwiraria): Thank you, Mr. Speaker, Sir. Let me, from the outset, plead with our Press. They sometimes give conditionalities that we know nothing about. I

want to assure this House that we have received absolutely no political conditionalities. We have not talked about the sacking of Ministers, we have not talked about anything that is politically-sensitive. My plea to my colleagues in the Press is that they should report facts.

Where I have the facts, I will give them out freely to our Press because this is our country and we cannot run it secretly. We need the efforts of all the Kenyans. When I read the Budget, I appealed to all Kenyans to work together, turn the economy round and make this country grow. I could not do better than repeat the appeal now that we have a substantial amount of money which needs to be put to good use and needs the supervision of each and every Member of Parliament in this House. There were absolutely no political conditionalities of any kind, let alone the sacking of any Minister.

Mr. Dahir: Mr. Speaker, Sir, there is a cry outside that President Kibaki's Government has been given conditions that he must curtail the number of Muslims in his Government. Could the Minister assure this House that there is not such a condition?

(Laughter)

The Minister for Finance (Mr. Mwiraria): Mr. Speaker, Sir, the fact that His Excellency the President appointed another Muslim as a Minister recently, is an indication that there are no such conditions. In any case, let me say that one point we must always emphasise is that Kenya is a sovereign State and I want to assure you that we shall do everything possible to protect our sovereignty.

Mr. Speaker: Mr. Tarus, you will be the last in all these Ministerial Statements. Everyone else will read theirs on Tuesday.

COLLECTION OF FUNDS FOR JAMHURI DAY CELEBRATIONS

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, on Tuesday 2nd December, 2003, hon. Macharia Mukiri sought a Ministerial Statement on the suspicious fundraising for Jamhuri Day celebrations following a report in the *Daily Nation* which I wish to respond to as follows:-

As you are all aware, on 30th April, 2003, His Excellency the President of the Republic of Kenya gave assent to the Public Officer Ethics Act, which prohibits public officers from soliciting or collecting Harambee money. The provisions under this Act also apply to public collections for activities like national celebrations and agricultural shows.

Mr. Speaker, Sir, following the enactment of the Public Officer Ethics Act, my office communicated to all field administration officers the need to observe and adhere to the provisions of this law. In addition, a Press statement was issued on 19th November, 2003, clearly stating that Kenyans should not be expected in any way to contribute financially to the 40th Independence Anniversary events.

If, therefore, any officer has engaged himself in any soliciting of funds as alleged in the Press, this has been done outside the directive of the office, and more so, contrary to the code of conduct. Since this matter was brought to the limelight by the Press, I have ordered for an urgent and thorough investigation of the officers alleged to have been implicated in soliciting for funds from *wananchi*. If, indeed, this is found to be true, then the necessary action will have to be taken in accordance with the legal procedures.

Mr. Speaker, Sir, while preparations for this year's Jamhuri Day were going on, a number of well-wishers had volunteered to support the Government in marking the occasion by donating

foodstuffs and other material directly to the needy members of our society. This gesture is still on, and it is expected to continue until the last day of the celebrations. It is only after the celebrations that the Government shall be able to confirm the actual number of donors and account for individual contributions.

I must add that, due to the negative coverage these events have received in the media, many potential supporters have tended to shy off from coming forward.

Finally, I wish to assure this House that the alleged circulars soliciting for funds did not originate from the Ministry's Headquarters. The NARC Government is committed to fighting corruption and will, therefore, not hesitate to take action against any public officer acting contrary to the law and regulations established.

Thank you.

Dr. Wekesa: Mr. Speaker, Sir, I would like the Minister to respond to another Statement from one of his colleagues that donations have come from friends of our party NARC. These friends also include briefcase contractors who may have donated something as friends of the Government.

Mr. Speaker: Last one, Mr. Mukiri!

Mr. Mukiri: Mr. Speaker, Sir, that is the gist of the clarification that I wanted to seek. However, I had asked for the list of donors, especially businessmen who have donated money towards the celebrations. The Minister has not provided us with the list of the donors. We wanted to know whether we have other people who may take advantage of

this situation, some of whom are being referred to as "cowboy contractors".

Mr. Speaker: Very well. As the Assistant Minister answers, are these contributors friends of Kenya or friends of NARC?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, first of all, I want to confirm that the names of people who have volunteered to give donations to needy persons in this country will, indeed, be made public. The amounts received will also be made public. I also want to clarify that the issue is not about the friends of NARC or the Government. These are people who are willing to contribute money towards assisting the needy in this country and not the friends of NARC. They are friends of those who deserve to be assisted.

Mr. Speaker: Order, hon. Members! I know Mr. Kenneth has dutifully sat here and so has Mr. Wetangula. I am sure others would like to seek further clarifications. But business must now commence. We have been dealing with matters other than business for close to two hours. I think we will proceed on Tuesday on what is left. So, let us go to business now.

Next Order!

BILLS

First Readings

THE CO-OPERATIVE
SOCIETIES (AMENDMENT) BILL

THE NATIONAL MUSEUMS AND
HERITAGE BILL

*(Orders for First Readings read -
Read the First Time - Ordered to be
referred to the relevant*

*Departmental Committees)**Second Reading*

THE FINANCE BILL

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

Allow me to begin by thanking and expressing my gratitude to the hon. Members of this august House for the support they have given to the budgetary process through their interrogative and informed debate on the Financial Statement for the current fiscal year, 2003/2004. When delivering the Financial Statement earlier in June, I spoke at length on the economic background upon which the National Rainbow Coalition took over the management of the national economy. We have since taken policy initiatives aimed at reviving the economy.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, the policy initiatives and strategies that the current Budget is based upon broadly draw upon the NARC manifesto that was drafted to reflect the national economic aspirations that have since been enshrined and published as the Economic Recovery Strategy for Wealth and Employment Creation, 2003/2007. Beginning 2003, the NARC Government is focused on economic recovery efforts and the measures I have already presented in this House, when delivering the Financial Statement, underline the initial phase of our Economic Recovery Strategy.

May I just reiterate that the objectives of our recovery strategy include:-

1. Maintaining a stable and acceptable macro-economic framework for development.
2. Reversing declines in the per capita income growth in this country.
3. Increasing levels of investment, both private and public.
4. Creation of incentives for investors and for export promotion.
5. Directing adequate budgetary resources to growth and poverty reduction areas; and,
6. Maintaining sound relations with all our development partners.

While we positioned ourselves to achieve the said strategies, the NARC Government has other goals which include:-

- (a) Creation of half a million jobs per annum.
- (b) Fostering an average real growth of domestic product rate of 4.7 per cent.
- (c) Raising the annual investment rate to an average of 17.7 per cent to achieve an average of investment to GDP ratio of 2.3 per cent.
- (d) Raising the annual savings ratio from 10.7 per cent in 2002 to 15.8 per cent in 2007.
- (e) Fostering an annual export growth of 5.8 per cent during the recovery period.
- (f) Reducing the Government's consumption of Gross Domestic Product (GDP) to a target level of 14 per cent while raising external resources, particularly the in-flows to, at least, US\$2,221,000,000 per annum to cover the savings and investments gap over the next five years.

Mr. Temporary Deputy Speaker, Sir, given the foregoing background, I would now turn to the recovery measures that have been captured in the Finance Bill, 2003, under the various revenue

laws and other miscellaneous measures. In this Budget, hon. Members might have noticed that we are targeting the key productive sectors as a way of giving impetus to rapid economic recovery. One of those key sectors is the manufacturing sector. The sector recorded a positive real growth of 1.2 per cent in the year 2002. In order to build upon that rate, I propose to remove impediments that continue to hinder the competitiveness of that sector by foregoing duties and Value Added Tax (VAT) on capital goods, equipment, machinery and plant imported for new investments, extension, expansion or replacement of capital assets. Those tax remissions on investments shall apply to all productive sectors.

Now, manufacturers aiming at exporting their products have an added advantage in that I propose to remit VAT on all their imported inputs that are used to manufacture goods for export under the Tax Remission for Export Office (TREO) Programme. Similarly, producers exporting under TREO will only pay Kshs5,000 processing fees instead of the 2.5 per cent of import declaration fees.

Mr. Temporary Deputy Speaker, Sir, other Customs measures that I am undertaking to bolster investment in the manufacturing sector include removal of all taxes on electricity imported from one of our neighbouring countries in bulk. I propose too, to lower Excise Duty on fuel oils used in power generation by 50 per cent. Some industries have credibly shown that, if supported they may raise the value added activities they are currently involved in. The motor industry is in that category. In order to support that industry, I propose to remove the 10 per cent Excise Duty on locally-assembled motor vehicles. I further propose to remove the Excise Duty on aviation gas used in light aircraft engines. That should now boost the economic activities undertaken by such aircraft.

Mr. Temporary Deputy Speaker, Sir, I am aware that the agricultural sector recorded a poor growth of 0.7 per cent in the year 2002. We are addressing the major constraints that have militated against that sector's growth. In the meantime, I have undertaken a number of measures to bolster the agro-processing industries. To encourage the production of exports, and exports of cashew and macadamia nuts, I propose to remove the Export Duty. Similarly, in the hides and skins industry, I propose to lower the Export Duty from 20 per cent to 15 per cent to stimulate the sub-sector. Another critical measure that I am taking is to remove the 35 per cent Import Duty on fertile hatching eggs imported by approved hatcheries. That will boost the commercial production of poultry and enable the industry to cope with the demand for exports in the region.

Mr. Temporary Deputy Speaker, Sir, to stimulate consumption, I propose a number of measures under VAT. I propose to reduce the standard rate of VAT from 18 to 16 per cent. That will essentially reduce the tax cost to producers, while translating to lower prices for consumers and hence boost consumption. I similarly propose to reduce the VAT rate on hotels and restaurants; from 16 to 14 per cent. Like in the case of measures under Customs, I propose to remove VAT on bulk electricity imported from neighbouring countries.

Mr. Temporary Deputy Speaker, Sir, coffee farmers may now have a reason to be happy since I propose to zero-rate coffee. That will enable the farmers to claim tax on inputs used in coffee processing. I am also proposing Income Tax measures in the Finance Bill, 2003. I, particularly, propose to increase the investment deduction from 60 to 100 per cent with effect from 1st January, 2004. Hitherto, only the productive sectors with large capital outlets have enjoyed investment incentive under the tax law. In order to encourage smaller and medium-scale industries, I propose to lower the threshold for Import Duty set-offs against Income Tax payable from the current US\$5 million to only US\$70,000.

Mr. Temporary Deputy Speaker, Sir, pilot training in this country and other similar aviation programmes have been on the decline. In order to revitalise that sub-sector and also promote tourism and use of smaller aircraft, I propose to remove the 15 per cent Withholding Tax on aircraft leasing.

The floriculture industry in the country has gained international competitiveness that I propose to consolidate by removing the 20 per cent Withholding Tax on commission paid to non-resident agents in overseas auctions.

The pensions sector in this country is vital for the mobilisation of savings. In order to encourage growth in the pensions industry, I propose to increase tax-free lumpsum payments from Kshs240,000 and Kshs360,000 to Kshs480,000. In other words, the tax-free lumpsum payments will rise from Kshs240,000 and Kshs360,000 to Kshs480,000 for provident funds and pension schemes, respectively.

Mr. Temporary Deputy Speaker, Sir, I have also proposed a number of miscellaneous measures in the Finance Bill, 2003, that, I think, are critical to our economic recovery efforts. As hon. Members are aware, the local public transport sector has continued to operate in a manner that leaves a lot to be desired.

In order to facilitate the regulator and to reinforce discipline and order in the industry, I propose to reinstate the Transport Licensing Board fee. I similarly, propose to introduce a number of measures under the Retirement Benefits and the Insurance Act to improve the operational environment both in the pensions and in the financial sectors, respectively. Specific measures under the said Act are contained in the two small amendment Bills that I have already introduced in this House.

My Budget proposals can hardly be complete without mention of the measures that I am undertaking in the banking sector. Commercial banks have been undergoing lean times, a fact that has made it herculean for them to comply with some regulatory requirements. One such requirement has been the escalation of core capital limits earlier established. Some banks have been unable to meet the core capital requirement. I, therefore, propose to free and tap the core capital requirement for banks and mortgage finance companies at Kshs250 million and Kshs200 million respectively.

With a troubled environment in the banking sector, I have found it pertinent to require the creation of a Credit Reference Bureau to provide information to financial institutions with a view to improving their credit rating. I propose further to enhance the role of the Deposit Protection Fund by providing enabling provisions under the Banking Act to enable it to discharge its functions expeditiously.

Ultimately, allow me to draw the attention of hon. Members to the fact that sustainability of the recovery efforts is a challenge to all Kenyans. We must individually and severally, as leaders of this nation, play a concerted effort in supporting measures such as those contained in the Finance Bill (2003) as a critical step to our success. Consequently, I appeal to hon. Members to support these measures in the Finance Bill (2003).

With those remarks, I beg to move.

The Assistant Minister for Regional Development (Mr. Mungatana): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to second the Bill that has been moved by the Minister for Finance.

The proposals that are contained in this Finance Bill are proposals that one can summarise as being friendly to the nation as a whole. In the Budget Speech that was read to us in June, the rallying call the Minister made to this House and the nation as a whole is that we must work together to make this country a better nation. All the issues that were proposed in that Budget Speech have been properly reflected in this Finance Bill. I am particularly happy that most of the proposals that Members made here in terms of trying to improve on what the Minister had said have been included. I am also grateful that even the proposals that I brought to this House concerning the removal of the Export Duty on cashewnut is included in this Finance Bill. This shows that the Minister has been sensitive to all the issues that Members raised during the debate of the Budget Speech.

I would urge this House to support every section that has been brought in this Finance Bill. Of particular interest is the agricultural sector. The Minister has made proposals that are going to bolster the hides and skins industry. For a very long time, our pastoralist communities have been ignored. In past Budgets, they have not been given the significance which that industry plays in this nation. The proposed removal of the duties will encourage the growth of this industry and it will encourage the

farmers, especially those who have been practising pastoralism for a very long time, who have not been able to enjoy such facilities as we have.

In the hotel industry, the VAT that has been reduced from the past 16 per cent to 14 per cent, is one of the targeted measures to help in the revival of this industry. As we had said in the Budget Speech, this is one of those industries that suffered tremendously when we had terrorist attacks. This measure, that was promised in the Budget Speech, comes in handy at this time so that we can help this particular industry and tourism to come out through its hard times.

The other particular point of interest to many middle scale industries is that, there is a great improvement on what used to be in terms of the income tax measures that have been taken. Now, these threshold industries will be able to import plant machineries without taxation, from what used to be US\$5 million to US\$70,000. These measures, as we have said in the past, are specifically targeted at those enterprising people who would like to help create the dream of having more jobs and, therefore, help in achieving our aim of creating the 500,000 jobs per year. In particular, we hope that those people who have been holding money or moved their money out of this country for fear of the outcome of the electioneering period, they should now come back and invest, specifically in these threshold industries, so that as a sign of their patriotism for this nation, we shall be able to create the jobs we have been talking about for a very long time.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to congratulate the Minister for the measures he has put in place to ensure that pensioners are paid their benefits in good time. We have heard today in this House the specific measures which are being taken to speed up the processing of pension, whose payment has been a nightmare to pensioners in the past. But more important, as we debate the Finance Bill, the lumpsum amount to be taxed has been increased to Kshs480,000. This shows that this Government cares for our people who have had productive lives and have retired. We hope that this will enable them to invest their retirement money so that industries can thrive in this country.

Mr. Temporary Deputy Speaker, Sir, with those very few remarks, I would like us to join our hands in support of all the Income Tax measures and other measures which the Minister has proposed in the Finance Bill so that he can exercise his authority.

With those few remarks, I beg to second the Bill.

(Question proposed)

Mr. Kagwima: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill. From the outset, I would like to start my contribution by supporting the Bill and congratulating the Minister for the manner in which he is running his Ministry. Sometimes, he is seen as being very firm and difficult but I think this will help all of us.

I would like to request the Minister to ensure that the money voted in this House is released to the districts in good time so that it is not mismanaged by being used hurriedly in order to beat the deadline of the end of the financial year. I am saying this because sometimes, when the money arrives late at a district headquarters, civil servants there use that late arrival as an excuse to advertise and open tenders in a hurry. The end result is that the money is not used properly. I would like to request the Minister to ensure that when the Budget has been read out, and the money passed by the House, it is disbursed to the districts in good time.

I would also like to restate the fact that the Minister has been very considerate in reducing taxes, especially the ones which affect coffee, cotton and sugar cane farmers. I do not want to over-emphasise the fact that agriculture is the backbone of our economy. The reduction in taxes on agricultural inputs will go a long way in boosting agricultural production.

I urge the Government to look for ways and means of ensuring that our production costs are

lowered, so that our products can be competitive, not only in the COMESA market, but also in the international market. For a long time, this House, and other stakeholders, especially, hon. Members who come from agriculturally-productive areas, have been complaining about cheap maize and sugar imports. They have also complained about imports of eggs and other agricultural products. These imports find their way into this country because our agricultural products are more expensive than them. So, the Government should address the question of high production costs effectively. If we produce goods cheaply, the cheap products will not be imported into this country. Why would you buy goods imported from other countries when you can get them in this country at the same prices? I hope that the Ministry of Agriculture, together with the Ministry of Finance and other related Ministries, will educate our farmers on better methods of production so that they can grow maize, sugar cane and other crops which find their way into this country cheaply.

Mr. Temporary Deputy Speaker, Sir, I am happy that the Government is concerned about cotton production amongst other cash crops. One of the reasons why we continue to import textile products into this country is that the production cost for cotton is high and the returns are low. This has made most cotton farmers abandon their farms. Even the few farmers who grow the crop sell it at high prices, and so people find it easier and cheaper to import textile products from other countries. We should ensure that cotton is produced at a low cost so that the textiles produced locally can be affordable.

I want to very quickly salute the Minister because he has reduced taxes on imported electricity.

I know he has done that to ensure that this commodity is cheaper to us. But I would like electricity to be made available in the rural areas. If we are talking about Kenya being industrialized by the year 2020, then we have to move faster than we are moving now and ensure that the Rural Electrification Programme is promoted. The Chair will be surprised to hear that there are some district headquarters which do not have electricity. Examples of such districts are Tharaka and Ijara. The Ijara and Tharaka District Commissioners cannot receive fax messages in their offices. If the Permanent Secretary in charge of internal security and Provincial Administration wants to send a quick message by fax, he cannot do that. He will have to send a fax to a nearby district and a runner will be told to take it to those DCs' offices. That puts these DCs in a very difficult situation. Even running those districts is very difficult. This is the case, and yet we want industries to thrive at the district headquarters, and, if possible, in market centres, so that *Jua Kali* people can be self-employed. The Minister has encouraged local entrepreneurs to generate electricity. In order for these people to achieve this goal, I request the Ministry to liaise with local and international donors to ensure that money is made available so that local entrepreneurs can borrow it and invest it towards this end.

Mr. Temporary Speaker, Sir, as a country, we are lucky to have many rivers with waterfalls, which can be used to produce hydro-electric power. I am sure that one of the biggest hinderances to production of enough electric power is lack of funds. We can generate electricity from these rivers if we have funds. I would like to request the Minister for Finance that, as he continues to ensure that we have an enabling environment for development, we also develop the power subsector by availing money to the local entrepreneurs who would like to invest in it.

Mr. Temporary Deputy Speaker, Sir, it will be a lot cheaper to produce electricity from running waters than the plants that are currently running on diesel or industrial fuel. What we need to do is get money and tap our waters to ensure that we have cheap electricity. I also want to thank the NARC Government for having taken keen interest in the ASAL areas. I note, from the list of the first lot, that about 22 districts have been identified as ASAL areas and the Government has deployed drought management personnel into those districts. I also appreciate the fact that, for a start, most of the districts have been given some Kshs18 million for development projects. This money should be availed to the officers in good time so that planning can start. Otherwise, if we wait until the last quarter, we will be caught up in the issue of tendering and late implementation of the projects. I am

happy that a manager has already reported in our district, and we will work very closely with him to ensure that the World Bank-funded project becomes a success.

Mr. Temporary Deputy Speaker, Sir, I am also happy that the Government is taking a lot of interest in education in those ASAL areas, which, of course, calls for financing. Whatever projects we are talking about will have finally to get financing. Even when we talk about the Finance Bill, I know all this has to go back to the Ministry. Therefore, through the Minister, I would like to thank the Government for trying to make money available.

I also hope that with the good Budget the Minister read and the financial statement that he is now going through, monies would be available to repair and tarmac our roads. Even as much as we are talking about agricultural development, unless our roads are repaired, it will not matter what agricultural production we shall have, because most of the produce will go to waste. I do not know what has been happening with the Fuel Levy funds. The law requires that 24 per cent of the total money collected from fuel levy should be divided amongst the existing districts in the country at the time of the provision of the money. I am surprised that, for the last five years, some districts like Tharaka have not received a single cent from the Fuel Levy Fund; unless we are saying that the Government or somebody is breaching the law or breaking the Act which is already there. We cannot explain this. I am sure that the Government continues to collect this levy. I will request that the Minister for Finance liaises with the Minister of Roads, Public Works and Housing in order to release the money equitably to all the districts, so that we develop them. Even the districts I have just mentioned as being arid, and which form about 75 per cent of this country, if properly developed, would be able to contribute substantially to the economy of this country.

Mr. Temporary Deputy Speaker, Sir, the so-called potential areas are now saturated and exhausted. The land in the areas which used to produce coffee and maize has already been taken by the population. As we speak of looking for cheaper methods, we cannot do that on one or two acres of land, which are left in the high potential areas. We require to develop the three-quarters of the country where we have massive land which can be mechanised for agricultural production. We can also have massive ranches where we can settle people in the nomadic areas, instead of them moving around. We can supply them with water in their thousands of acres of land. By so doing, they will keep animals for beef, so that we become exporters instead of importers of beef.

Mr. Temporary Deputy Speaker, Sir, it is important that we provide roads and the required infrastructure for this country to develop. I had an opportunity of travelling to the North Eastern Province recently, with the House Departmental Committee on Education, Research and Technology, and we saw massive un-utilized land. Near Garissa Town, we saw Tana River just flowing to nowhere and, just one kilometre away, people had no access to water. That is why I am saying that, with proper management, we can turn this country into a beautiful and productive country.

As the Tana River waters pass by, people are busy moving around looking for pasture because the area is generally dry. If that water was piped, they would settle. As much as we talk about the children of those people not going to school because of their nomadic lives, I am sure they would finally settle. The Government and the Ministry of Finance should ensure that funds are available, so that our country is developed.

Mr. Temporary Deputy Speaker, Sir, finally, I want to talk about micro-financing. I am happy that the Minister, even as an individual, is very keen on ensuring that there is micro-financing. This will enable our people in the rural areas access credit. An ordinary *mwananchi*, who does not have a title deed or any other tangible kind of security, cannot dream of having access to credit. If we have micro-financing institutions, even in small towns, we can be sure that our people will be able to access credit in order to buy farm inputs and acaricides for their cattle and, therefore, all of us will be working without having our hands tied. Existing and new co-operative societies will be strengthened if we make credit available to the members, most of who are in the rural areas.

Mr. Temporary Deputy Speaker, Sir, the base requirement to start a bank or a finance institution has been reduced to Kshs250 million and Kshs200 million respectively. This will enable individuals and companies to start money-lending businesses. The more players we have in the sector, the more we will ensure that money is available. I am also happy that the Government, and more so the Ministry of Finance, has reduced or slowed down Government borrowing to a level that Treasury Bills and Bonds rates have come to slightly less than 2 per cent. Effectively, this has reduced the interest payable to those who go putting money in fixed accounts. However, what the banks have not done is to also reduce interest on the money that is being borrowed. The banks can now have excess liquidity. They have money and even finance institutions can borrow money from them cheaply. I hope they will also reciprocate by lending money to the business and private sector at cheaper rates. As I speak now, some of them are lending at 20 per cent interest rate. However, they only pay 2 per cent interest rate on fixed deposits. This gap is very wide. So, let them have the moral obligation to lend money to our people at affordable rates. This is the only way we can develop our country.

Mr. Temporary Deputy Speaker, Sir, I hope the NARC Government will ensure that the Kenya Meat Commission (KMC) is operational and that abattoirs are built in those areas where livestock thrives. I would urge them to make sure that we have KMC branches in different parts of this country so that we will have enough meat for domestic consumption and even for export. Of course, this will assist the Government to create the 500,000 job opportunities as they promised Kenyans. So, I hope the Minister for Livestock and Fisheries Development will take note of this. Kenyans, especially the livestock farmers, are anxiously waiting for the re-opening of KMC.

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

Mr. Biwott: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support the Bill. In doing so, I am aware that the Departmental Committee on Finance, Planning and Trade has gone through the Bill and its proposed amendments. Therefore, I will confine my remarks to few areas where I think we need to put more emphasis.

Mr. Temporary Deputy Speaker, Sir, the Minister was very clear when he moved this Bill. I think we are moving in the right direction. In fact, this Bill intensifies what the KANU Government started. I would like him to go on increasing the momentum by addressing areas which will help this country to industrialize. We would like to see every thing that is being implemented, done on an equitable basis so that our country can prosper in the same way.

Mr. Temporary Deputy Speaker, Sir, I am very happy with the Minister's intention to reduce taxes on the raw materials and inputs. This move will actually help to reduce production costs and enable our industries to compete both regionally and internationally. Also, our people will have access to more cheaper goods and services. In turn, this will also create an impetus for our people to support local industries and we will realise employment opportunities for our people. If we continue to over-tax our people, we will only succeed in creating employment elsewhere. Our people will turn to imported goods which actually benefits people in those countries.

I am also happy with the reduction of duty on motor vehicle, textile and pharmaceutical industry. The reduction, especially on pharmaceutical industry, will not only support the fight against the HIV/AIDS scourge, but it will also support industrialisation and create employment opportunities for our people.

Mr. Temporary Deputy Speaker, Sir, the other area where the Minister has put more emphasis is on agriculture. I would like to encourage him to concentrate more on value adding processes, so that our people benefit more as opposed to selling raw materials which, in fact, does not fetch much. The sugar industry will continue to be dogged by problems because we do not produce sugar at low cost. We need to emphasise on efficiency in the management of this industry. We all know that agriculture cannot survive without credit. It is a well known fact, all over the world, that agriculture cannot thrive if it is not subsidised. However, we cannot afford to subsidise ours because we depend

on donors. These donors, especially the International Monetary Fund (IMF), are encouraging us to move more in the direction of free trade. However, free trade cannot succeed unless the cost of production is low. We cannot reap much unless we produce our own goods. Therefore, agriculture can only be viable if we adopt these two strategies. First and foremost, we must diversify so that we grow high value crops. We would like to see a situation where quantity becomes less and the value goes up. Secondly, we need to process our agricultural produce so that we get rid of excess material trash. However, all this requires a decent society which is aware of what it is doing. In other words, the cost of production must be scaled down. To that extent, the anti-corruption drive, which was started by the KANU Government, should be emphasised because it will also help to reduce the cost of production. I am quite happy with what the Minister is doing and that is why I am supporting this Bill.

Mr. Temporary Deputy Speaker, Sir, in the past, this country benefited much from the tourism industry. So, we should strive very hard to reduce the taxes imposed on this industry. Any additional taxation on it will drive away tourists. In this case, I support the Minister's measure to reduce the cost of the fuel which small aircraft use to ferry tourists to various parts of the country. I think this is a very good move. I urge him to consider reducing the cost of spare parts used by those aircraft.

I am very happy with the Minister's move to outlaw the dumping of counterfeit goods in this country. These goods are not good for us because they destroy our economy and create employment for other people in other countries. Furthermore, some of these goods are of low standard and, therefore, cannot even be serviced later on. So, that direction is good because it will help our people to grow. It will, therefore, be necessary for the Government, and the private sector, to concentrate more on small and medium-size industrial outfits, because that is where there is a lot of growth. It will do a lot of good if the Government ensures that all market places countrywide are turned into centres of industrialisation. It should encourage and support industries that are started in such places using taxation measures.

Mr. Temporary Deputy Speaker, Sir, this country's population increases daily. The population pressure is so much that the standards of living have fallen. So, we have to really move. I hope that if the money that we are expecting comes, it will help in that direction. Also, the money that is available from micro-finance institutions should be channelled towards the same direction. Maybe, some of the money that we are now getting can be used to externalise the domestic debt, which has crippled this country for a long time. Somehow, the domestic debt has to be retired. To retire it, it should be made an external project, so that part of the external funding is given to us on a long-term basis and at a very low rate of interest. That will allow the country to have more resources to direct to development.

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

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

Of course, a farmer cannot flourish unless he is given credit. The actions being taken to restructure and finance the Agricultural Finance Corporation (AFC) are good. In fact, those ideas have been there all along. Attempts had been made to effect reforms in it. Maybe, we can also encourage banks to finance agriculture as a special project. Agriculture cannot compete with industrial or commercial activities that require financing. Farmers should, at least, have some money. If they get some money, their ability to consume will also increase. That will lead to a wider spread of financial resources which will, in turn, lead to more demand for goods and services. That will tend to bring about an equalising factor in the standards of living of our people. It will ensure that poverty is not

concentrated in the rural areas. The support of co-operative societies and banks will help a lot in that direction. In the past, commercial banks were required to commit 17 per cent of their lending portfolio to agriculture. That idea could be re-visited, so that banks can also act as agents of development.

Mr. Temporary Deputy Speaker, Sir, this country is divided into ASAL and high potential areas. I am glad that there is a Minister who is concentrating on ASAL areas. I hope that all ASAL areas will be covered, and their financing done on a regional basis. This is because livestock keeping is the main economic activity in ASAL areas and the Kenya Meat Commission (KMC) should be revived. Again, I am proud to say that reviving the KMC was part of our programme while we were in the Government. We did not complete it because we went to elections. It is a good idea. We are one country and it is incumbent upon us to support the programme. The economy of this country is vital to our future.

The Rural Electrification Programme should also be continued and supported, especially with concessionary or grant money. Rural electrification expanded during the time when we used to receive grants. If we put more emphasis on it, we might be able to expand the programme further. Electricity is basic to industrialisation in rural areas. All these efforts can bear fruit only if other support services are given greater emphasis, and I believe this is currently being done. But, I think, we need enhanced action on it.

Mr. Temporary Deputy Speaker, Sir, water is essential. Unfortunately, this resource is running out faster than we believe. This is because the environment itself is becoming more and more hostile. Rivers which used to flow are drying up; they are becoming seasonal. So, attempts to create water dams, especially in ASAL areas, are very necessary. Cotton, which has been talked about, is also essential in supporting our own industries as well as rural areas.

Since there is not much time left before we go on recess, I will end my contribution at this point.

With those few remarks, I beg to support.

Ms. Mbarire: Mr. Temporary Deputy Speaker, Sir, I beg to move that the Mover be now called upon to reply.

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

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

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

The Assistant Minister for Finance (Mr. Katuku): Mr. Temporary Deputy Speaker, Sir, first and foremost, I would like to thank the hon. Members who have contributed to this important Bill. I want to assure them that their comments will go a long way in strengthening the management of the resources we have voted. Most of the views they have expressed will be considered while implementing the Finance Act. I would like to assure hon. Members that we will ensure that the funds that have been voted to the various Ministries and Departments are used for the purposes they have been voted.

Mr. Temporary Deputy Speaker, Sir, the measures we have proposed in the Finance Bill will go a long way in strengthening the tourism and manufacturing sectors. We want to see a lot of improvement in the manufacturing sector. I want to assure this House that with the passage of the measures outlined in the Finance Bill, we will get more investors, especially with the exemption of

taxes on those who want to invest in our country. In the first few months, more than 70 companies have come to invest in this country. This will create more jobs and wealth for this country.

Mr. Temporary Deputy Speaker, Sir, I want to assure Kenyans that we will not allow civil servants or Accounting Officers to misappropriate funds voted by this Parliament. We will make sure that those funds are spent on the intended purpose. However, I would like to ask hon. Members to participate in the implementation of projects in their constituencies, so that we get value for money. We are committed to eradicate corruption from this country. We would also want to urge our development partners to, ensure that we get the necessary output.

On the question of creating employment, I think it is a concerted effort for everybody. That is why we have come up with these measures to encourage investors to invest in our country. This will create more jobs and wealth for this country.

With those few remarks, I beg to move.

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE FINANCE BILL

Clause 2

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

THAT, Clause 2 be amended-

(a) by deleting paragraph (a) and substituting thereof the following paragraph-

(a) in subsection (1) -

(i) by deleting the words "goods and services" from the definition of "duty" and substituting therefor the words "goods, services and gaming takings".

(ii) by inserting the following new definition in proper alphabetical sequence-

"regional market" means the countries with which Kenya shares a common border, and which includes Rwanda, Burundi and the Congo".

(b) in paragraph (b) by deleting the proposed subparagraph (iv) and renumbering the proposed subparagraph (v) as (iv).

(Question of the amendment proposed)

*(Question, that the words to be
left out be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted, put
and agreed to)*

(Clause 2 as amended agreed to)

Clause 3

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

THAT, Clause 3(b) be amended by deleting the expression "31st June 2004" appearing in the proposed subsection(1A)(f) and substituting therefor the expression "31st December 2004".

(Question of the amendment proposed)

Mr. Maore: Mr. Temporary Deputy Chairman, Sir, could the Minister clarify what amount of difference the additional commencement of the subsection will make?

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, there is a basic mistake in that this clause deals with amendments to Section 9 of the Customs and Excise Act, Cap.472 of the Laws of Kenya, which introduced a condition for licensing or gazetting transit sheds and inland container depots. One of the new conditions imposed under this section is the requirement that all transit sheds must have a minimum size of 2.5 hectares. This measure was intended to discourage and control proliferation of transit sheds and attract serious investors and operators.

The Temporary Deputy Chairman (Mr. Khamasi): Mr. Minister, the question is, if I got hon. Maore right---

Mr. Maore: Mr. Temporary Deputy Chairman, Sir, I am satisfied.

The Temporary Deputy Chairman (Mr. Khamasi): He says he is already satisfied with your explanation. Probably, you may not

go into detail. **The Minister for Finance** (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, we are really trying to give a little more time to the small-timers to expand and grow to bigger sizes.

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be
inserted in place thereof be
inserted, put and agreed to)*

(Clause 3 as amended agreed to)

(Clauses 4, 5, 6, 7 and 8 agreed to)

Clause 9

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

THAT Clause 9 be amended by inserting the following new subclauses immediately after Clause 9—

Amendment of section 117 of Cap. 472. **9A.** Section 117 of the Customs and Excise Act is amended by inserting after subsection (1) (f) the following paragraph—

(g) in respect of gaming takings, duty in accordance with the provisions of section 126A,

Insertion of new section 126 in Cap. 472. **9B.** The Customs and Excise Act is amended by inserting after section 126 the following section—

Duty on gaming receipts. 126A. (1) A duty is hereby imposed on the gaming takings of licensees of gaming premises, at the rate of five per cent of all such takings.

(2) The duty shall be payable by the licensee of the gaming premises at prescribed intervals.

(3) The licensee of any gaming premises—

(a) shall make and preserve such records, and furnish such returns, in relation to its gaming takings as may be prescribed; and

(b) shall afford the proper officer full and free access to all such records and to all parts of the premises—

(i) at all times while they are open for gaming or other business; and

(ii) at such other times as the Commissioner may direct by order in writing issued to the proper officer.

(4) Without limiting the generality of subsection (3) (b), the proper officer, for the purposes of ascertaining whether the provisions of this section are being complied with, shall have and may exercise, in relation to the licensee, the same powers as are conferred by paragraphs (a) to (e) of subsection (2) of section 174.

(5) The proper officer, when acting in reliance upon an order referred to in subsection (3) (b) (ii), shall produce a copy of the order to the licensee or person in charge of the premises at the material time.

(6) A licensee who—

(a) neglects or fails to pay any duty, to make or preserve any record or to furnish any return as required by or under this section; or

(b) fails to afford the proper officer full and free access as required by subsection (3) (b),

shall be guilty of an offence.

(7) The provisions of subsection (3A) of section 96 shall apply in respect of a return required to be furnished under this section in the same way as they apply to a return under subsection (2) of that section.

(8) In this section—

Cap. 131. “gaming” and “gaming premises” have the same meanings as in the Betting, Lotteries and Gaming Act;

Cap. 131. “licensee”, in relation to gaming premises, means the holder of a licence in force under section 46 of the Betting, Lotteries and Gaming Act in respect of the premises;

“gaming takings” means the total amount of wagered stakes taken by the licensee from gaming conducted on the premises during a prescribed period, reduced by the total amount paid out by the licensee on wagers in the course of such gaming during that period.

Amendment of section 127C of Cap. 472. **9C.** Section 127C of the Customs and Excise Act is amended by deleting subsections (3) and (4) and substituting therefor the following subsection—

(3) For the purposes of subsection (2), the ex-factory selling price shall not include—

- (a) value added tax;
- (b) cost of returnable containers; or
- (c) cost of excise stamps.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 9 as amended agreed to)

(Clauses 10 and 11 agreed to)

Clause 12

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

(i) THAT Clause 12 (a) be amended—

(a) by deleting subparagraphs (i) and (ii) and substituting therefor the

following subparagraph—

(i) by deleting item 26 and substituting therefor the following new item—

26. Kenya military and police officers returning from United Nations peace-keeping missions outside Kenya.

One personal passenger motor vehicle (excluding buses and mini-buses of a seating capacity of more than 8 passengers and load-carrying vehicles of a load-carrying capacity exceeding 1.5 tonnes) imported by a military or police officer returning from a United Nations peace-keeping mission outside Kenya:

Provided that—

- (a) the motor vehicle was purchased prior to the return of the officer into the country; and
- (b) the exemption from tax liability shall not exceed the limits specified in the table hereunder---

Mr. Temporary, Deputy Chairman, Sir, I am afraid something is left out in Sub-clause 26(b) and I would like to bring up as an amendment.

The Temporary Deputy Chairman (Mr. Khamasi): Mr. Minister, did you give notice of the amendment?

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, I have just noticed it. I can give notice.

The Temporary Deputy Chairman (Mr. Khamasi): Yes, it is necessary that the Chair be given notice of the amendment you want to make well in advance, but in this case, I would like to give you an opportunity to do so if you have noticed a mistake.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, Sub-clause 26(b) should read:-

- (b) the exemption from tax liability under this Act and any other Act shall not exceed the limits specified in the table hereunder-

<i>Category</i>	<i>Military Officers</i>	<i>Police Officers</i>	<i>Maximum Tax exempted</i>
Category I	Private to Senior Sergeant	Constable to Senior Sergeant	Kshs.800,000
Category II	Warrant officer to Captain	Inspector to Chief Inspector	Kshs.1,200,000
Category III	Major to Full Colonel	Superintendent to Assistant Commissioner	Kshs.1,500,000
Category IV	Brigadier and above	Senior Assistant Commissioner and above	Kshs.2,000,000

- (b) by deleting subparagraph (iii) and substituting thereof the following subparagraph—
- (iii) by deleting the words "ordered for or" from paragraph (d) of item 27
- (ii) THAT Clause 12 (b) be amended by deleting subparagraph (i) and substituting therefor the following subparagraph—
- (i) by deleting the expression "(kerosene type)" appearing in item 1C and substituting therefor the words "and aviation spirit".

(Question of the amendment proposed)

Mr. Maore: Mr. Temporary Deputy Chairman, Sir, could the Minister explain whether this exemption also applies to those military officers who import vehicles from Japan when for, example, they have been serving in Sierra Leone and other parts of Eastern Europe, where they use left-hand drive vehicles? We should also remember that one of the conditions is that the officer must have been using the vehicle while serving in the United Nation Peace-keeping mission outside Kenya.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, this is an issue we have discussed at length with the Chief of General Staff (CGS) and his staff and, in fact, we had wanted to insist that the people buy vehicles from the country where they are serving. However, as it turned out, it was impossible when you are serving in some remote corner of Eritrea to buy a car and use it. So, we agreed that the best way is to allow officers of a certain cadre to buy a car valued at a certain amount because we do not want a constable to buy a Mercedes 500, which we know he cannot afford, for some *Mhindi* somewhere. That is why we put in these limits, but there are limits we have agreed mutually with the army commanders.

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 12 as amended agreed to)

(Clauses 13, 14, 15, 16, 17 and 18 agreed to)

Clause 19

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

THAT Clause 19 be amended in paragraph (e) by deleting the proposed paragraph (j) and substituting therefor the following paragraph—

(j) goods imported under bond for manufacture of exports, indirect exports, goods free of import duty, goods for use in official aid-funded projects and goods for use in manufacture of goods which are in turn supplied to another manufacturer of goods under the Essential Goods Support Programme.

Clause 24

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

THAT the Clause 24 be amended in paragraph (a) (ii) by inserting the words "Including any services supplied in connection herewith" after the words "drilling services" in the proposed item 15.

(Question of the amendment proposed)

Question, that the words to be inserted be inserted, put and agreed to)

(Clause 24 as amended agreed to)

Clause 25

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I will leave parts (a), (b) and (c) and most of part 30, except 30(b), where I have given notice of amending by inserting after the following words:-

(b) "the exemption from tax liability", the words "under this or under any other Act" shall not exceed the limits specified in the table hereunder".

The rest remains as it was.

(i) THAT Clause 25 (a) be amended—

(a) by deleting subparagraph (i);

(b) in subparagraph (a) (ii) by deleting the proposed paragraph (d) and substituting thereof the following paragraph—

(d) unless the motor vehicle was purchased prior to such recall;

(c) by inserting after subparagraph (iv) the following subparagraph—

(v) by inserting the following new item—

30. Kenya Military and Police Officers returning from United Nations peace-keeping missions outside Kenya

One passenger motor vehicle (excluding buses and minibuses of a seating capacity of more than 8 passengers and load carrying vehicles of a load-carrying capacity exceeding 1.5 tonnes) imported by a military or police officer returning from a United Nations peace-keeping mission outside Kenya:

Provided that—

(a) the motor vehicle was purchased prior to the return of the officer into the country;

(b) the exemption from tax liability shall not exceed the limits specified in the table hereunder—

<i>Category</i>	<i>Military Officers</i>	<i>Police Officers</i>	<i>Maximum Tax</i>
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			<i>exempted</i>
Category I	Private to Senior Sergeant	Constable to Senior Sergeant	Kshs.800,000
Category II	Warrant officer to Captain	Inspector to Chief Inspector	Kshs.1,200,000
Category III	Major to Full Colonel	Superintendent to Assistant Commissioner	Kshs.1,500,000
Category IV	Brigadier and above	Senior Assistant Commissioner and above	Kshs.2,000,000

(ii) THAT Clause 25 (b) be amended—

(a) by deleting the proposed item 26 and substituting therefor the following item—

26. Jet Fuel and Aviation Spirit

Jet fuel and aviation spirit purchased by an aircraft owner or operator for use in an aircraft engine.

(Question of amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 25 as amended agreed to)

(Clause 26 agreed to)

Clause 27

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

THAT clause 27 (b) be amended by deleting paragraph (b) and substituting therefor the following paragraph—

(b) in subsection (5)—

(i) by deleting the words “such value as the Commissioner may, from time to time, prescribe” and substituting therefor the words “the fair market value of the benefit”;

(ii) by inserting at the end of the subsection the following proviso—
Provided that, the Commissioner may from time to time prescribe the value where

the cost or the fair market value of a benefit cannot be determined.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 27 as amended agreed to)

(Clauses 28, 29 and 30 agreed to)

Clause 31

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

THAT clause 31 be deleted and the following clause substituted—

Amendment Section 35 of the Income Tax Act is amended in subsection (3) (d) of section 35 by inserting the expression “(except a commission or fee paid or credited of Cap. 470. to another insurance company)” immediately after the words “group of persons”;

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(Clause 31 as amended agreed to)

Clause 32

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

THAT Clause 32 be amended in paragraph (b)—

- (a) by deleting the proposed paragraph (a) and substituting therefor the following paragraph—
fifty per centum of its gross income from interest (other than interest from its members);”
- (b) in the proposed paragraph (b) by deleting the words “with provisions” and substituting therefor the words “with the provisions of”.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted, put and agreed to)*

(Clause 32 as amended agreed to)

(Clauses 33, 34, 35, 36 and 37 agreed to)

Clause 38

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I have given notice of further amending item 38(b) by adding at the end the words "provided that the tax so deducted shall be final". Otherwise, the rest remains as it is in the Order Paper.

Amendment of Third Schedule to Cap. 470. THAT Clause 38 be deleted and the following clause substituted—
38. The Third Schedule to the Income Tax Act is amended—

(a) in item 3 by inserting the following new paragraph (k) immediately after paragraph (j)—

(k) in respect of gains or profits from the business of a ship-owner which is chargeable to tax under section 9 (1) of the Act, two and a half percent of the gross amount received.

(b) in item 5—

(i) by inserting the words "made after the expiry of fifteen years or on the attainment of the age of fifty years or upon earlier retirement on the grounds of ill health or infirmity of body and mind" after the word "withdrawal" in subparagraph (i);

(ii) by inserting the word "a" before the words "registered individual";

(iii) by renumbering subparagraph (ii) as subparagraph (iii) and inserting the following subparagraph immediately before it—

(ii) in respect of a withdrawal before the expiry of

fifteen years from a registered pension fund, registered provident fund, the National Social Security Fund or a registered individual retirement fund in excess of the tax free amounts specified under section 8 (4) and 8 (5) in any one year, and provided that tax has not been deducted under section 37—

10% on the first Shs.116,160
 15% on the next Shs.109,440
 20% on the next Shs.109,440
 25% on the next Shs.109,440
 30% on any amount over Shs.444,480 of the amount in excess of the tax free amount;

(c) in paragraph (f)—

- (i) by deleting the expression “ten percent” appearing in subparagraph (i) and substituting therefor the expression, “five per cent”;
- (ii) by deleting the expression “five per cent” appearing in subparagraph (ii) and substituting therefor “three per cent”.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 38 as amended agreed to)

(Clauses 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53 and 54 agreed to)

Clause 55

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

THAT clause 55 be deleted and the following clause substituted—

Insertion 55. The Retirement Benefits Act is amended by inserting the of new following section immediately after section 58—
 section 59
 in Act No 3

of 1997.

Exemption 59. The Minister may, by order published in the
 from Gazette-
 compliance (a) exempt any person or class of persons from
 with (b) extend the time for compliance with any specified provisions of this Acts; or
 provisions of (b) extend the time for compliance by any person with any
 this Act. specified provisions of this Act.
 Provided that nothing in this section shall apply in respect
 of any of the provisions of Part III of this Act.

(Question of the amendment proposed)

*(Question, that the words to be left out
 be left out, put and agreed to)*

*(Question, that the words to be inserted in
 place thereof be inserted, put and agreed to)*

(Clause 55 as amended agreed to)

(Clauses 56 and 57 agreed to)

New Clause

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

THAT, the Bill be amended by inserting after Clause 57 the following Clause
 58

Amendment of 58. Section 311 of the Companies Act is amended-
 Section 311
 of Cap.486

(a) in subsection (1)(e) by inserting the words "or the Retirement
 Benefits Act" after the words "Fund Act".

(b) in subsection (2) by deleting the words "four thousand" and substituting
 therefor the words "twenty thousand".

(Question of the new Clause proposed)

(New Clause read the First Time)

*(Question, that the new clause be read a Second
 Time, proposed)*

*(Question, that the new clause be read a Second
 Time, put and agreed to)*

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill,
put and agreed to)

First Schedule

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

THAT, the First Schedule be amended-

(a) by inserting the following matter in proper numerical sequence-

<i>Head-ing No.</i>	<i>H.S.Code</i>	<i>Tariff No.</i>	<i>Amendments to</i>	<i>Import Duty</i>	<i>S.I.T.C.</i>	<i>Unit of Quantity</i>
			<i>CHAPTER 20</i>			
			<i>Delete all references to tariff</i>			
	2009.19		<i>---Other</i>			
		2009.19.10	<i>---Of a brix value exceeding 50.</i>	35%	05912010	Kg
		2009.19.90	<i>---Other</i>	35%	05912090	Kg
	2009.29		<i>---Other</i>			
		2009.29.10	<i>---Of a brix value exceeding 50</i>	35%	05929010	Kg
		2009.29.90	<i>---Other</i>	35%	05929090	Kg
	2009.39		<i>-- Other</i>			
		2009.39.10	<i>---Of a brix value exceeding 50.</i>	35%	05991910	Kg
		2009.39.90	<i>---Other</i>	35%	05939090	Kg
	2009.49		<i>---Other</i>			
		2009.49.10	<i>---Of a brix value exceeding 50.</i>	35%	05991910	Kg

<i>Head- ing No.</i>	<i>H.S. Code</i>	<i>Tariff No.</i>	<i>Amendments to</i>	<i>Import Duty</i>	<i>S.I.T.C.</i>	<i>Unit of Quantity</i>
		2009.49.90	---Other	35%	05991990	Kg
	2009.69		---Other			
		2009.69.10	---Of a brix value exceeding 50.	35%	05992910	Kg
		2009.69.90	---Other	35%	05992990	Kg
	2009.79		---Other			
		2009.79.10	---Of a brix value exceeding 50	35%	05994910	Kg
		2009.79.90	---Other	35%	05994990	Kg
	2009.80		---Other			
		2009.80.91	----Of a brix value exceeding 50	35%	05995910	Kg
		2009.80.99	----Other	35%	05995990	Kg

b) by inserting the following matter immediately beneath the heading “CHAPTER 21”—

			<i>Insert the following National Notes</i>			
	2106.90		--Other food			
		2106.90.40	---of a kind used in the	25%	11243000	Kg

(c) by inserting the following matter in proper numerical sequence in the matter appearing under the heading “CHAPTER 39”—

		<i>Delete tariff No.</i>				
	3923.50.00	-stoppers, lids, caps		25%	89319500	Kg

(d) by inserting in proper numerical sequence the following matter—

		<i>CHAPTER 70</i>				
		<i>Delete all references</i>				
7019.90	7019.90.10	---Glass fibre		5%	66495910	Kg
	7019.90.30	---Circular fibre		5%	66495930	Kg.

(e) by inserting the word “not” between the words “thickness” and “exceeding” in the matter appearing under the heading “CHAPTER 76”;

(f) by deleting the heading “CHAPTER 99” and all matter included

thereunder.

(b) by inserting the following matter immediately beneath the heading

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(First Schedule as amended agreed to)

Second Schedule

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

[The Minister for Finance]

THAT, the Second Schedule be amended-

(a) by inserting in proper numerical sequence the following tariff numbers, descriptions and rates of duty

SECOND SCHEDULE

That the Second Schedule be amended—

(a) by inserting in proper numerical sequence the following tariff numbers, descriptions and rates of duty—

<i>Tariff No.</i>	<i>Tariff Descriptions</i>	<i>New rate of Import</i>
2009.19.10	Orange juice of a brix value	15%
2009.29.10	Grape fruit juice of a brix value	15%
2009.39.10	Juice of any other single citrus fruit of	15%
2009.49.10	Pineapple fruit juice of a brix value	15%
2009.69.10	Grape juice and Grape must juice of a	15%
2009.79.10	Apple juice of a brix value exceeding	15%
2009.80.91	Other juice of a brix value exceeding	15%
2106.90.40	Other food preparations of a kind	5%
2106.90.90	Other food preparations	25%
3302.10.00	Mixtures of odoriferous substances of	5%

(b) by deleting the matter “5%” wherever it appears opposite the matter relating to tariff numbers 2833.19.00 (Other sodium sulphates) and 2833.22.00 (Sulphates of aluminium) and substituting therefor the matter “15%”.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Second Schedule as amended agreed to)

(Third Schedule agreed to)

Fourth Schedule

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

THAT, the Fourth Schedule be amended-

(a) in the matter included under item (1) of the proposed amendments to Part I, by inserting the following tariff numbers in proper numerical sequence—

2106.90.70

2207.20.00

(b) in the matter included under item (2) of the proposed amendments to Part I—

(i) by inserting the following tariff numbers, descriptions and rates of duty in proper numerical sequence—

(b) in the matter included under item (2) of the proposed amendments to Part I—

(i) by inserting the following tariff numbers, descriptions and rates of duty in proper numerical sequence—

<i>Tariff No.</i>	<i>Tariff Descriptions</i>	<i>New rate of</i>
2009.19.90	Other orange juice	10%
2009.29.90	Other grape fruit juice.	10%
2009.39.90	Other juice of any other single	10%
2009.49.90	Other pineapples juice.	10%
2009.69.90	Other grape juice (including grape	10%
2009.79.90	Other apple juice	10%
2009.80.99	Other juice.	10%
2202.90.00	Other non-alcoholic beverages.	10%

(ii) by deleting the expression “Shs.24 per litre” where it appears opposite each of tariff numbers 2206.00.30 and 2206.00.90 and substituting therefor the expression “Shs.49 per litre”;

(c) by deleting the proposed amendment to Part III.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Fourth Schedule as amended agreed to)

(Fifth Schedule agreed to)

Sixth Schedule

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

THAT the Sixth Schedule be amended—

- (a) by inserting in the matter included under item (1) in Part I the following tariff number and description in proper numerical sequence—

4902.90.00 Other newspapers, journals and periodicals appearing at least four times a week.

- (b) by deleting tariff number “0802.90.11” appearing under the heading “*Tariff No.*” and opposite the words “Other macadamia nuts” in the matter included under item (2) in Part I and substituting therefor the tariff number “0802.90.19”;

- (c) by inserting in the matter included under item (2) of Part I the following tariff number and description in proper numerical sequence—

4902.90.00 Other newspapers, journals and periodicals whether or not illustrated or containing advertising materials.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Sixth Schedule as amended agreed to)

Seventh Schedule

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

THAT the Seventh Schedule be amended—

- (a) in the matter included under item (1) by inserting the following tariff number and description in proper numerical sequence—

4902.10.00 Newspapers, journals and periodicals
 appearing at least four times a week.

- (b) in the matter included under item (2)—

- (i) by deleting the words “Others coffee” appearing under the heading “*Tariff Description*” opposite tariff number 1901.11.90 and substituting therefor the words “Other coffee”;

- (ii) by inserting the following tariff numbers and descriptions in their proper numerical sequence—

2818.30.00 Aluminium hydroxide
2833.22.00 Sulphates of aluminium
4902.10.00 Newspapers, journals and periodicals
 whether or not illustrated or containing
 advertising materials, appearing at least
 four times a week.

(Question of the amendment proposed)
(Question, that the words to be left out be
left out, put and agreed to)

(Question, that the words to be inserted
in place thereof be inserted, put
and agreed to)

(Seventh Schedule as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Committee doth report to the House its considerations of The Finance Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

[The House resumed]

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

**REPORT, CONSIDERATION
OF REPORT AND THIRD READING**

THE FINANCE BILL

Mr. Khamasi: Mr. Deputy Temporary Speaker, Sir, I beg to report that a Committee of the whole House has considered The Finance Bill and approved the same with amendments.

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 Report.

The Assistant Minister for Finance (Mr. Katuku) seconded.

(Question proposed)

(Question put and agreed to)

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

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, I would like to second the Bill. Next time, if there were any records to be put. It is a shame about the number of Members of Parliament who are here in this sitting.

(Question proposed)

(Question put and agreed to)

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

Second Reading

PUBLIC PROCUREMENT AND
DISPOSAL BILL

(The Minister for Finance on 2.12.2003)

*(Resumption of Debate interrupted
on 2.12.2003)*

Mr. Khamasi: On a point of order, Mr, Temporary Deputy Speaker, Sir I thought that the next Order is the Public Audit Bill, which we were supposed to resume---

The Temporary Deputy Speaker (Mr. Ethuro): Exactly, Mr. Khamasi. That is what my concern was. I was consulting with the Clerk! Is Mr. Kajwang not here?

QUORUM

Mr. Maore: On a point of order, Mr. Temporary Deputy Speaker, Sir. Are you satisfied with the number of Members of Parliament here? There is no quorum.

The Temporary Deputy Speaker (Mr. Ethuro): No, we do not have a quorum. Ring the Division Bell.

ADJOURNMENT

The Temporary Deputy Speaker

(Mr. Ethuro): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 9th December, at 2.30 p.m.

The House rose at 6.30 p.m.