

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 31st October, 2006

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

### QUESTION BY PRIVATE NOTICE

#### DISPENSING OF ARVs AT KHWISERO HEALTH CENTRE

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

(a) Is the Minister aware that HIV-positive patients in Khwisero Constituency cannot access ARVs because the drugs are being dispensed at the Kakamega District Headquarters which is very far away?

(b) Could the Minister make arrangements to have the drugs dispensed at Khwisero Health Centre?

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

(a) I am aware that currently, there are two centres that offer ARV drugs in the district. The first one is at St. Mary's Mission Hospital in Mumias Constituency. This is about 30 kilometres from Khwisero Constituency. The second one is at Butere District Hospital in Butere Constituency which is about 13 kilometres from Khwisero Constituency. Patients from Khwisero Constituency access the services at Butere District Hospital or St. Mary's Mission Hospital. However, patients from the constituency who border Kakamega District access the services from Kakamega Provincial General Hospital.

(b) The scale up of ARV services have been taking a step-wise manner, whereby the provincial and district hospitals are first considered followed by the lower level facilities. However, plans are underway to scale up the services to Manyala Sub-district Hospital and Khwisero Health Centre in the district by December, 2006.

**Mr. Arungah:** Thank you, Mr. Speaker, Sir. I must express my gratitude due to the fact that the Government is providing the ARVs free of charge. However, in the case of my people, they still have to cover the said 13 kilometres to access the ARVs. First, it takes them the whole day and, secondly, they incur a transport cost of up to Kshs300. Could the Assistant Minister consider effecting the dispensing of the ARVs at Khwisero Health Centre? Could he also arrange to conduct the CD4 Count test which costs in excess of Kshs4,000? This is way out of reach for most of the people.

**Dr. Kibunguchy:** Mr. Speaker, Sir, we will consider providing those services at Khwisero Health Centre. I have said in my reply, that we will scale up the services to Manyala Sub-district Hospital and Khwisero Health Centre by December this year. As you know, we have to establish the VCT centre which is extremely important and also train health workers in the diagnosis and treatment of HIV/AIDS patients. We emphasise on treatment because we use drugs that are sometimes toxic. These services will be close to the people by December, 2006.

**Prof. Olweny:** Thank you, Mr. Speaker, Sir. Many Kenyans are infected with HIV/AIDS. In order for them to live longer, ARVs are important. They need to be counselled properly before they take ARVs. This is what is lacking in many places.

Mr. Speaker, Sir, what is the Government doing to train officers to counsel such patients? I know that many medical personnel are very hostile to patients who suffer from HIV/AIDS.

**Dr. Kibunguchy:** Mr. Speaker, Sir, I do not agree with the last statement the hon. Member has made; that, medical personnel are hostile to HIV/AIDS patients. In fact, most of our medical personnel are extremely sympathetic. In this country, HIV/AIDS is taken as any other disease right now.

May I also add that we have done very well as a Ministry. This is because we currently have about 90,000 patients who are on ARVs. Our target this year is to provide ARVs to 140,000 patients. We are optimistic that we will reach the target by the end of the year.

**Mr. Arungah:** Thank you, Mr. Speaker, Sir. We know that for the administration of ARVs to be effective, it has to go hand in hand with nutrition. This is because you cannot give people ARVs and fail to provide them with adequate food. What is the Ministry doing to help the patients who are infected with HIV/AIDS to access the right food so that the medicine can be effective?

**Dr. Kibunguchy:** Mr. Speaker, Sir, I agree with the hon. Member that nutrition is extremely important in the management of patients with HIV/AIDS. One aspect of the counselling that we do before and after testing and finding people are suffering from HIV positive, is about nutrition and the type of food they need to eat. That is a very important aspect in the counselling that we offer.

## ORAL ANSWERS TO QUESTIONS

### *Question No.483*

NACC FUNDING FOR KENYA  
STUDENTS CHRISTIAN FELLOWSHIP

**Mr. Speaker:** Is Mr. Gitau not here? He is not here! His Question is dropped!

*(Question dropped)*

### *Question No.403*

CLEARANCE OF DEBT OWED TO MR. BAGHAZAL BY CENTRAL POLICE STATION

**Mr. Speaker:** Hon. Members, I will defer this Question to Thursday!

*(Question deferred)*

### *Question No.544*

SURVEY/DEMARCATON OF LAND  
IN MARAKWET EAST CONSTITUENCY

**Mrs. Kilimo** asked the Minister for Lands when he will survey and demarcate land in Tirap, Tot and Tunyo divisions as a measure to alleviate poverty in Marakwet

East by promoting economic activities.

**The Minister for Lands** (Prof. Kibwana): Mr. Speaker, Sir, I beg to reply.

Demarcation and survey work has already been started in Sambirir and Koibatek Adjudication Sections of Tirap Division. Kipchumwa and Tuturung sub-locations in the same Tirap Division will be declared adjudication sections as soon as funds are available. There are a total of nine sub-locations in Tot Division and seven sub-locations in Tunyo Division targeted for declaration as adjudication sections when funds are available.

**Mrs. Kilimo:** Mr. Speaker, Sir, I expected a better answer from the Minister, considering the fact that Marakwet East Constituency was curved out of Keiyo District over ten years ago and we do not have any Lands Officer. The officer we have currently is stationed in Eldoret Town. How does the Minister expect the Lands Officer to serve Keiyo and Marakwet districts. We also do not have the Lands Registrar in my district. That officer is in Iten. He does not have a vehicle. He has give us only a surveyor who cannot move around in Marakwet District. My people in Marakwet East Constituency cannot access loans because of lack of title deeds. Could the Minister give me a definite answer so that I can know when we can access loans?

*(Mrs. Kilimo sat on the Government side)*

**Prof. Kibwana:** Mr. Speaker, Sir, I am happy to see the hon. Member sitting on the Government side.

*(Applause)*

To answer the supplementary question, I am aware of the fact that there is no Lands Officer and Lands Registrar in Marakwet District. Because we have employed new land registrars, I will be more than delighted to ensure that there is a Lands Registrar and Lands Officer in that district so that people can be served well. We are in the process of making sure that those officers report to their requisite districts.

On the demarcations that are on-going, I have instructed that they be completed forthwith. The ones that we have itemised will also be considered when funds are available.

**Mr. Khamisi:** Mr. Speaker, Sir, this Minister has been hiding under the cliché; "when funds become available". He says that every time he rises up. The Questioner wants survey and demarcation work to start. Could the Minister tell this House when those funds will be made available to do that work?

**Prof. Kibwana:** Mr. Speaker, Sir, if the hon. Member was listening carefully to my answer, I indicated that demarcation and survey works have already started in Sambirir, Koibatek and sections of Tirap Division.

Mr. Speaker, Sir, the other two sub-locations will be declared adjudication sections. Land in many areas in this country has not been adjudicated since Independence. To adjudicate land in those areas, Parliament will have to vote money for that purpose.

However, it is unfair for the hon. Member to say that when money is available we do not do our work.

**Mrs. Kilimo:** Mr. Speaker, Sir, the Minister is misleading this House by saying that demarcation is taking place in Sambirir and Koibatek. That was done before Independence. We do not have a Lands Office in Kapsowa.

All demarcation certificates were stolen late last year. They are now re-demarcating the land. Therefore, no work is being done in my constituency.

**An hon. Member:** You are on the wrong side of the House!

**Mrs. Kilimo:** Mr. Speaker, Sir, I was voted in this House as Government hon. Member. So, it does not matter where I am sitting.

**Prof. Kibwana:** Mr. Speaker, Sir, the hon. Member has admitted that there is on-going work in the sections that I have mentioned. This matter was brought to me before and I said that the work should be completed.

*Question No.547*

REHABILITATION OF MAI  
MAHIU-NAROK ROAD

**Maj-Gen. Nkaiserry**, on behalf of **Mr. Bett**, asked the Minister for Roads and Public Works:-

- (a) whether he is aware that the section of the road between Ntulele and Narok on the Mai Mahiu-Narok Road is now a source of danger and frustration to motorists; and,
- (b) what plans he has for this road.

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

(a) I am fully aware that the section of the road between Ntulele and Narok on the Mai Mahiu-Narok Road is full of potholes and is now a source of danger and frustration to motorists.

(b) All the necessary plans have been put in place for the reconstruction of the above mentioned section of the Mai Mahiu-Narok Road. The work for the Mai Mahiu-Narok Road has been awarded to M/s Maitauro Adriano Joint Venture at a contract sum of Kshs3.8 billion for complete reconstruction.

The reconstruction works are scheduled to commence by the end of this month. The contract period is 30 months. At the moment, my Ministry has allocated Kshs24 million from the Fuel Levy Fund for the road's maintenance until the reconstruction works start.

**Maj-Gen. Nkaiserry:** Mr. Speaker, Sir, I have just received the written answer from the Assistant Minister. Part (a) of the answer indicates that the Minister is very much aware that this section of the road is a nightmare to motorists. This is the main supply route to Narok, Trans Mara, Bureti and Kisii districts. It also serves an area with great potential for tourism. Why has the Government allocated funds from the donor community instead of allocating its own money?

**Eng. Toro:** Mr. Speaker, Sir, the fact is that the road reconstruction is going to begin. It is neither here nor there whether the Government did or did not allocate the funds. Since negotiations started, about four years ago, there was a commitment from the Governments of Germany and France that they were going to fund the reconstruction of the road.

There have been delays, especially in the designing of the road. That is why it has taken long for the reconstruction work to begin. There was a dispute between the consulting engineers who had tendered to design the road. It took over one year to resolve the dispute between the consulting engineers.

However, since the contractor has already started mobilising his equipment, the hon. Member should now rest assured that all is going to be well.

**Mr. Salat:** Mr. Speaker, Sir---

*(Laughter)*

**Mr. Speaker:** Why are you laughing?

**Mr. Salat:** Mr. Speaker, Sir, they love me! I am a regular user of this road. The Assistant Minister has said that some funds have been set aside for the reconstruction of this road. This road will connect with the Narok-Kaplong Road, which is brand new. I would like the Assistant Minister to tell us what is the axle load for this particular road. The Narok-Kaplong Road was meant for light trucks. Currently, trucks that are not supposed to be using this road are using it.

When did the Ministry change the policy and decided to allow heavy trucks to use the Narok-Kaplong Road?

**Eng. Toro:** Mr. Speaker, Sir, there has not been any change. It is only that transporters have been defying traffic rules. All the way from Mombasa, even where we have weighbridges, transporters are constantly over-loading their trucks and bribing their way through the weighbridges.

The design for this road will ensure that 10 tonne axle load will be taken care of. I am sure that the problem that hon. Salat has talked about will be history.

**Maj-Gen. Nkaiserry:** Mr. Speaker, Sir, in the last part of the answer, the Assistant Minister has said that the reconstruction of this road was scheduled to start at the end of October. Today is the end of October. Could he tell the House whether the works have started?

**Eng. Toro:** Mr. Speaker, Sir, the contractor has already set a site at Suswa. Currently, he is negotiating with the Narok County Council for the provision of an appropriate quarry, so that he can start **[Eng. Toro]**

excavation works. Until the camp is set up and the contractor knows where to get ballast and quarry stones, he cannot start the works. Until the Narok County Council allocates a quarry for the contractor, there is very little that he can do to start the road works.

*Question No.221*

OPERATIONALISATION OF DISPENSARIES IN  
MAKUENI DISTRICT

**Mr. Ndambuki** asked the Minister for Health:-

(a) whether he is aware that over 21 dispensaries in Makueni District are not operational; and,

(b) if the answer to (a) above is in the affirmative, when they will be operationalised.

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

(a) Yes, I am aware.

(b) My Ministry is in the process of operationalising eight dispensaries, namely, Kavumbu, Mumbuni, Musatala, Kwale, Mutituni, Itumbule, Athi-Kamunyuni and Yimwa in Makueni District. Five of these eight dispensaries have already received drugs. These are Kavumbu, Mumbuni, Kwale, Athi-Kamunyuni and Yimwa dispensaries. The other three are in the distribution list.

The above batch of dispensaries have been fully operationalised. The other dispensaries should be operationalised as soon as personnel become available.

**Mr. Ndambuki:** Mr. Speaker, Sir, in the Question, I have stated that there are more than 21 dispensaries in the entire district. However, the number has really increased. We might be talking of more than 40 dispensaries.

In almost every constituency, more than five dispensaries have been put up. If you look at the number of dispensaries that the Ministry is going to operationalise, you will find that they are

very few.

Even if the said dispensaries are operationalised, the Ministry is only posting one nurse to a dispensary. When the nurse is not there, the dispensary is closed. What method will the Assistant Minister use to make sure that all the dispensaries in Makueni District are operational? How soon will they be operationalised?

**Dr. Kibunguchy:** Mr. Speaker, Sir, the question the hon. Member is asking is one that every hon. Member is asking in this country because the problem we have is that we have a shortage of personnel. As a Ministry we can say that right now we have enough drugs to go round but we are short of personnel. We will operationalise 600 facilities throughout the country that were put up by the community and the CDF. As soon as we have operationalised these eight dispensaries in Makueni District before the end of this coming month, we will go to Phase Two where we will operationalise another 11 dispensaries. These dispensaries are in Iiani, Kali, Kiangili, Mwanja, Kyusini, Kavata, Kathiaka, Ngiluni, Kanyungu and Kayani. Those are in Phase II. After that we will go to Phase III where we hope we can be able to bring all the other facilities on board.

**Mr. Arungah:** Mr. Speaker, Sir, I appreciate what the Assistant Minister has said that he has a serious shortage of staff. What advice is he giving to the Member of Parliament because, right now, we are busy building health facilities all over the place and yet at the end of the day they will be white elephants since we do not have the manpower to run them? What would he advise Members of Parliament to do? Does he need us to get clearance from him before we start construction of any health facilities where we come from?

**Dr. Kibunguchy:** Mr. Speaker, Sir, hon. Members should not get clearance from me. The District Medical Officer of Health and the District Public Health Officer are the officers that every Member of Parliament should liaise with before starting any new facility. At the moment, we have constraint of workers and, therefore, I would advise hon. Members that they can get together as a community and employ one or two workers who will be paid for by the community. As a Ministry, we would like to guarantee that as soon as that is done and we are made aware of it, we shall supply drugs and equipment to that facility.

**Mr. Ndambuki:** Mr. Speaker, Sir, you have heard the Assistant Minister say that the Government intends to open 600 dispensaries. He has also said; that the Government has a shortage of staff. Is the shortage being caused by lack of trained personnel or is it because the Ministry cannot afford to hire new personnel? I would like to correct the Assistant Minister. This dispensary he called "Musatala" is called Musalala. There is another one he has called Kavata, but it is called Kavata-Nzeu. I would like the Assistant Minister to correct that and tell us why we are having this serious shortage when the Ministry is getting the bulk of the money from the budget.

**Dr. Kibunguchy:** Mr. Speaker, Sir, first of all, I will make the corrections that the Member of Parliament who is my friend has proposed. Secondly, this year the Ministry of Health got 9 per cent of the total Budget. In order for us to be able to optimally function, we need at least 15 per cent. The 600 facilities that we will open and operationalise are scattered throughout the country. The Ministry has trained enough health workers in this country. The problem has been employing them because we need funds to do that. We have had to go to donors to enable us employ about 3,800 health workers because as a Ministry we do not have enough funds to employ health workers.

*Question No.307*

REMOVAL OF ICDC/CDC AND IDB DIRECTORS  
FROM SONY SUGAR BOARD

**Mr. Ochilo-Ayacko** asked the Minister for Agriculture:-

(a) Why ICDC, CDC and IDB representatives are in the board of directors of Sony Sugar Company Ltd,

(b) how much the said directors have earned for the last three years; and,

(c) whether he could remove them with immediate effect.

**The Assistant Minister for Agriculture** (Mr. Kembi-Gitura): Mr. Speaker, Sir, I beg to reply.

(a) The ICDC, CDC and IDB are no longer represented in the board of directors of Sony Sugar Company Limited.

(b) The said directors have earned Kshs4,590,917.50 for the last three years.

(c) The Minister removed them from the Board vide Gazette Notice No.4521 of 14th June, 2006.

**Mr. Ochilo-Ayacko:** Mr. Speaker, Sir, part "a" of the Question has not been answered. Part "a" asked why the ICDC, CDC and IDB are represented in the Board. I think the Assistant Minister should tell us the interest they had that made them be eligible for directorship.

**Mr. Kembi-Gitura:** Mr. Speaker, Sir, the answer to that is historical. The ICDC, CDC and IDB had always been minority shareholders with the Government of Kenya holding the majority shares. It is for that reason only that they were appointed to be represented in the Board of Directors. As soon as the company finished paying the loan that was owed to the CDC the person who was representing the CDC in the Board of Directors resigned but the ICDC and CDC did not resign although they held only 0.99 per cent of the shareholding in the company, prompting the Minister for Agriculture to gazette their cessation as members of the board of directors.

**Mr. Ochilo-Ayacko:** Mr. Speaker, Sir, it is common knowledge that the ICDC, CDC and IDB in majority of parastatals where they own less than one per cent or an amount less than Kshs 1 million are appointed to be members of the board. They end up earning millions of shillings which are by far more than they shares that they own. Could the Assistant Minister confirm or deny whether they are still directors in other companies or parastatals in the Ministry of Agriculture?

**Mr. Kembi-Gitura:** Mr. Speaker, Sir, I cannot confirm or deny that, at this moment in time. All I can confirm to the hon. Member is that they are not in the Board of Directors of Sony Sugar Company.

#### *Question No.112*

#### DISAPPEARANCE OF MR. DISMUS OMWENGA

**Dr. Manduku**, on behalf of **Mr. Mwanicha**, asked the Minister for Water and Irrigation:-

(a) whether he is aware that Mr. Dismus Omwenga, P/No.80071227 (old P/No.52167) disappeared from his work station in Mandera on 27th June, 1992 and has since not been seen;

(b) what efforts the Government has made to trace him; and,

(c) if he could consider paying death gratuity to the family.

**The Assistant Minister for Water and Irrigation** (Mr. Wanjala): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Mr. Dismus Omwenga Ogache, who was employed as a subordinate staff in my Ministry was reported missing from his work station in Mandera on 27th June, 1992.

(b) The Kenya Police opened an inquiry file immediately the matter was reported and investigations commenced on 30th June, 1992. The District Commissioner, Mandera and the entire

Government authorities in the district embarked on the search, tracing and investigations into the whereabouts of Mr. Omwenga but all the efforts were fruitless.

(c) Mr. Omwenga was a subordinate staff and according to Government regulations the survivors of Mr. Omwenga can only qualify for benefits payable by the National Social Security Fund (NSSF). My Ministry has advised the survivors accordingly.

**Dr. Manduku:** Mr. Speaker, Sir, Mr. Omwenga disappeared 16 years ago. It took a long time to declare him dead. According to the law one should be declared dead after seven years. During all this time the family has been going to the Ministry to try and get benefits but they are not being helped. The court has declared him dead. Whenever his family goes to claim his benefits they are asked to produce a death certificate. Where will they get the death certificate so that they can get these benefits and yet this man disappeared and has been declared dead by the court?

**Mr. Wanjala:** Mr. Speaker, Sir, according to the law, one can only be presumed dead after seven years. That is exactly what the PS in my Ministry advised Mr. Omwenga's family.

Mr. Speaker, Sir, the next of kin Mrs. Alice Okenyori Peter who is Mr. Omwenga's wife was issued with a court order on 30th August, 2005 presuming her husband officially dead. She went to our Ministry and she was advised that after getting the death certificate she should get the documents from court. She got the documents by 5th April, 2006.

**Mr. Manoti:** Mr. Speaker, Sir, Mr. Omwenga was a civil servant who was working for the Government. In the last 15 years, the dependants of Mr. Omwenga have been living in agony. How much has the Ministry prepared as the final dues for Mr. Omwenga to pay to his beneficiaries?

**Mr. Wanjala:** Mr. Speaker, Sir, the late Mr. Omwenga was only a subordinate staff and it is only the National Social Security Fund (NSSF) that can calculate his dues. That is what my Ministry wrote in the letter dated 5th April, 2006 and we believe that they received this letter, advising them to go to the NSSF to get their benefits.

**Dr. Manduku:** Thank you, Mr. Speaker, Sir. The Assistant Minister has given us some misleading information. When the wife of the deceased went to see the people in his office, they told her that they wanted to see the death certificate so that they could calculate her husband's gratuity. They did not tell her to go to the NSSF! That is why they are bothering to go to the Ministry to get gratuity. Could we know whether Okenyori will be paid gratuity or not? Why should he not get gratuity and he was a Government officer? Yes, he was a subordinate officer, but he was a permanent worker!

**Mr. Wanjala:** Mr. Speaker, Sir, I have been very clear that, it is the Ministry which advised the family of Mr. Omwenga on how to go about it and get the death certificate. We have also been very clear that since Mr. Omwenga was only a subordinate staff, according to the regulations, he qualifies for survivors' benefits only, payable by the NSSF. We also advised the family on the same.

**Mr. Speaker:** Very well! Next Question by hon. Oparanya!

*Question No.319*

LATF-FUNDED PROJECTS IN  
BUTERE CONSTITUENCY

**Mr. Oparanya** asked the Minister for Local Government:-

- (a) how much has been remitted to Butere/Mumias County Council from LATF since the Fund's inception; and,
- (b) what projects have benefitted from LATF in Butere Constituency and how much was spent on each project.

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



(a) The County Council of Butere/Mumias has, to date, received Kshs192,334,464 since the inception of LATF.

(b) The projects which have benefitted from LATF in Butere Constituency and their cost are listed here. The list is long so---

**Mr. Speaker:** You can lay it on the Table!

**The Assistant Minister for Local Government (Mr. Tarus):** Yes I will lay it on the Table.

*(Mr. Tarus laid the document on the Table)*

**Mr. Oparanya:** Unfortunately, Mr. Speaker, Sir, I do not have the written answer. I do not know if the Assistant Minister can give me a copy of the written answer so that I can ask a supplementary question.

**Mr. Speaker:** Mr. Oparanya, the Chair wants to be fair. If you do not have that document, then you are disadvantaged! You were supposed to get this document earlier and, I will, therefore, defer this Question to Thursday. Mr. Tarus, please, hand over a copy of the document to the hon. Member.

**Mr. Oparanya:** Thank you, Mr. Speaker, Sir.

*(Question deferred)*

**Mr. Speaker:** Very well! Next Question by hon. Kamotho!

*Question No.511*

#### COUNTRYWIDE REVIVAL OF CATTLE DIPS

**Mr. Kamotho** asked the Minister for Livestock and Fisheries Development:-

(a) whether he is aware that most cattle dips countrywide collapsed during years of stagnation in the dairy industry; and,

(b) what plans he has on the revival of the cattle dips to revitalise the industry.

**The Minister for Livestock and Fisheries Development (Mr. Munyao):** Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that quite a number of cattle dips in the country collapsed after they were handed over to the communities way back in 1991. I am very happy that the hon. Member has stressed that they collapsed "During years of stagnation in the dairy industry". He knows who was in the Government then.

(b) The Ministry is undertaking a countrywide survey to compile comprehensive data to identify key factors which led to the collapse of cattle dips and target areas in dire need of cattle dip services. This will allow the Ministry to review the current policy on privatization of dips in order to revitalize the industry.

May I also urge hon. Members to support the revival of cattle dips through the Constituencies Development Fund (CDF) and the LATF. Meanwhile, I thank hon. Members because I am aware that many cattle dips have been rehabilitated using the CDF money. My Ministry will continually support our farmers by training them on the importance of dipping their animals using effective acaricides.

**Mr. Kamotho:** Mr. Speaker, Sir, while I thank the Minister for the answer, I would like to ask him to tell the House whether the Ministry has any plans whatsoever to assist the small-scale farmers to restock, because as a result of the collapse of the cattle dips, a lot of the small-scale farmers lost their animals. Also, because of the increased cost of acquiring new animals, the small-scale farmers are unable to restock.

**Mr. Munyao:** Mr. Speaker, Sir, the Government has got that request in mind, and it is not only on the small-scale farmers because small-scale farmers sound like they are living on an island.

The Government is considering the ASAL areas, where a lot of poor families lost their only livestock. We are considering seriously how best we are going to get them back to life again. When this programme is operational, it will answer this query.

**Mr. C. Kilonzo:** Thank you, Mr. Speaker, Sir. The management of cattle dips is complex and scientific. The fact is that, our communities cannot manage them. The CDF is currently revising its stand. Could the Ministry consider the management and provision of drugs to cattle dips?

**Mr. Munyao:** Mr. Speaker, Sir, that may sound impossible, but like I said earlier, if the hon. Member was listening, in the current realization and the kind of evaluation we are making, all those requests will be considered and whatever is possible will be done.

**Mr. Owino:** Mr. Speaker, Sir, the question I wanted to ask has been asked by my colleague, but I want to confirm to the Minister that the reason why cattle dips have failed in the entire country is because the Government left them in the hands of the poor Kenyans to handle and manage them. If you privatize them, how are you going to make sure that the private owners do not overcharge the communities?

**Mr. Munyao:** Mr. Speaker, Sir, I do not know whether the hon. Member was listening when I referred to hon. Kamotho, who was the Secretary-General of a certain party. It was not this Government which has done all that, and we are doing all we can to revive the cattle dips and assist the poor farmers to go back to their operations.

**Mr. Kamotho:** Mr. Speaker, Sir, before I ask my last question, I would like to inform the Minister that I was the Secretary-General of KANU and, therefore, it is not just another party which he does not know, because he was once a Member of Parliament in this House on a KANU ticket.

**Hon. Members:** You were his boss!

*(Applause)*

**Mr. Kamotho:** Mr. Speaker, Sir, could the Ministry or the Government consider introducing a scheme which will help farmers insure their livestock? In this country, today, insurance companies have schemes of insuring livestock against such tragedies as diseases and drought.

**Mr. Munyao:** Mr. Speaker, Sir, as I undertake to answer those questions, may I also assure my good, hon. J.J. Kamotho, that, that is the reason why I left KANU, because at that time, I could see the oppression done by KANU.

**Mr. Speaker:** Order! Order!

**Mr. Munyao:** Mr. Speaker, Sir, as I said earlier, my Ministry and the Government as a whole is going round evaluating some of these cattle dips and collecting data. So, those points which have been raised by our colleagues will be considered and they should be available to give their views to our team when they go round.

**Mr. Speaker:** Very well! That is the end of Question Time. The Member of Parliament for Molo Constituency wanted to seek a Ministerial Statement.

Proceed!

## POINTS OF ORDER

### LEAKAGE OF KCSE EXAMINATION PAPERS

**Mr. Mukiri:** Mr. Speaker, Sir, I rise to request for a Ministerial Statement from the

Ministry of Higher Education. We all know that excelling in exams in this country determines who you will be in life. Exams are also an issue of competition. If there are those who are cheating---

**The Assistant Minister for Local Government** (Mr. Tarus): On a point of order, Mr. Speaker, Sir. If I heard the hon. Member right, he made reference to the "Ministry of Higher Education." Is he in order to do so, when we do not have such a Ministry?

**Mr. Speaker:** It does not exist!

**Mr. Mukiri:** Mr. Speaker, Sir, I think the Assistant Minister knows that there is a Minister who is in charge of Education in this country. That is where I am directing my request for a Ministerial Statement.

Mr. Speaker, Sir, we know cheating in exams kills competition. Could the Minister confirm to this House whether there are students buying examination papers or not? Is it true that there are people taking advantage of the very poor students who cannot buy the examination papers?

**Mr. Speaker:** Very well! Anybody from the Ministry of Education? The Leader of Government Business will convey the message to the Ministry. I hope we will get a Ministerial Statement in the course of the week, because the issue is causing some anxiety among students, teachers, parents and generally interested members of the public.

#### ARREST OF MR. SWALEH MDOE

**Mr. Khamisi:** On a point of order, Mr. Speaker, Sir. Last week, the Government promised to bring to the House a Ministerial Statement relating to the arrest of the television broadcaster, Mr. Swaleh Mdoe. However, I do not know what is happening regarding the issue.

**Mr. Speaker:** Mr. Kingi, you were away at the time. But what do you have to say?

**The Assistant Minister, Office of the President** (Mr. Kingi): Yes, I was away, Mr. Speaker, Sir. However, I will find out about it. I may be able to address it tomorrow.

**Mr. Speaker:** Very good! But, Mr. Kingi, it will be good for you to read the HANSARD, so that you know what transpired in the House.

#### COMMUNICATION FROM THE CHAIR

##### LISTING OF BILLS ON THE ORDER PAPER

**Mr. Speaker:** Before we go to the next Order, I wish again to revisit the issue of Bills being presented to the House. I raised the same issue about three weeks ago. I said there is actually a scarcity of Bills being presented to this august House.

Hon. Members, you will notice that right now, there is only one Bill listed on the Order Paper. The rest are Motions. But the House will be interested to know that 18 Bills have already been published and are awaiting discussion in this House. Eight of them have only been read for the First Time. Three of them are on the Second Reading Stage. Five of them, are in Committee Stage. Unless we deal with these matters expeditiously, we may not finish them all during this Session. I, therefore, encourage the Ministers, first of all, to ensure that these Bills are listed on the Order Paper. They should also be prepared to present them before the House.

Secondly, most Bills that are in the Committee Stage - and this is becoming problematic - are held back because the requisite amendments have not been refined. That is not a happy state of affairs. I think we need to deal with these things expeditiously. Otherwise, there is no point of publishing Bills that we have no intention of discussing! So, I hope every hon. Member has taken note of that. Particularly the Bills in Committee Stage should be brought before the House in the next two weeks, so that we deal with them.

**Mr. Balala:** On a point of order, Mr. Speaker, Sir. Given the problem that you have just mentioned now, do you not think it is important for us to change the composition of the House

Business Committee and its role, to be in conformity with the multiparty democracy of the House, rather than the Executive?

*(Applause)*

**Mr. Speaker:** I do not think the problem lies there! From what I understand, it lies with the line Ministries. If the line Ministries are scared of their own Bills, what do you want the House Business Committee to do? So, I encourage Ministers not to be scared of their own Bills. There is really nothing dramatic in moving your own Bills!

*(Applause)*

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

**Mr. Speaker:** Order! We will not make this a debate now. We will listen to the Assistant Minister for Health and then move on to the next Order!

**The Assistant Minister for Health** (Dr. Kibunguchy): Mr. Speaker, Sir, I would like to concur with what you have said. We, as the Ministry of Health, have severally asked the House Business Committee to list the Tobacco Control Bill on the Order Paper. But for some strange reasons, it has not been listed on the Order Paper. We are ready to move that Bill. So, really the problem is not with the Ministries because we are ready to move that Bill!

**Mr. C. Kilonzo:** On a point of order, Mr. Speaker, Sir. The Assistant Minister says that, indeed, the problem does not lie with the line Ministries, but it lies with the House Business Committee. Should we believe the Chair or the Ministers?

**Mr. Speaker:** Obviously me!

*(Laughter)*

**Mr. C. Kilonzo:** Thank you, Mr. Speaker, Sir. Could the Assistant Minister then apologise?

**Mr. Speaker:** As a matter of fact, there are two Tobacco Bills, which should not be the case. There is one from the Ministry and another one by Mr. Sungu. How you can have two Bills on the same subject at the same time, is incomprehensible. I think that issue should be sorted out. As stated in the Standing Orders, my own opinion is that the Government has priority of business. I think the Government Bills takes priority. So, if the Ministers can have them brought to the Floor, we will be happy. But whoever is keeping them away from this House must bring them forthwith. That is end of the matter!

Next Order!

## BILL

### THE FINANCE BILL

*(The Minister for Finance on 26.10.2006)*

*(Resumption of Debate interrupted  
on 26.10.2006)*

**The Minister for Finance** (Mr. Kimunya): Mr. Speaker, Sir, as I continue moving this Bill, I wish to confirm that I had requested the House Business Committee to provide this day specifically for the Finance Bill. I did not want to interrupt it with any other Bill because of the

importance we attach to the Finance Bill.

**Mr. Speaker:** Order! That will not go down well with the Chair. What happens if there are no contributors and the Bill is concluded? There must be another Bill waiting in the wings. That is what I am saying!

Proceed now!

**The Minister for Finance** (Mr. Kimunya): Thank you, Mr. Speaker, Sir. Before the close of business on Thursday, I had several proposals targeting farmers in terms of zero-rating agricultural tractor tyres, tractors and semi-trailers for agricultural tractors. I also proposed to zero-rate the transportation of unprocessed agricultural and agro-forestry produce.

Mr. Speaker, Sir, I wish to confirm to this House that we will make some further amendments to include other items that may not have been included in that list, but that are relevant to farmers. Following the presentations by hon. Members in the course of debate, and following the interventions by members of the public, I will make some further amendments.

Mr. Speaker, Sir, in order to support the fishing industry, I will bring an amendment to the Finance Bill to zero-rate non-commercial fishing vessels, floats for fishing nets, fishing rods, fish hooks and other fishing items like landing nets, butterfly nets, similar nets, decoy bags, refrigerating and freezing equipment for those who undertake dairy farming and fishing. I am sure that will go down very well with both our fishing community as well as---

*(Loud consultations)*

**Mr. Speaker:** Order, Mr. Minister! Order, Eng. Toro! I do not know whether hon. Members appreciate the importance of the Finance Bill? Do you know what it does? It increases taxes to Kenyans whom you represent! If you cannot listen, and that is the basic tenet of Parliamentary democracy - no taxation without representation---

So, will you, please, represent your people on this task?

**The Minister for Finance** (Mr. Kimunya): Mr. Speaker, Sir, I have just released some very good news. I hope hon. Members got the news, if they were not lost in the loud consultations! That proposed amendment is extending VAT and other tax benefits to dairy farmers and fishermen.

Mr. Speaker, Sir, as I indicated earlier, we all know that the Government introduced the Sugar Development Levy. It was to be levied on sugar-cane growers. However, the then Kenya Sugar Authority imposed levies on the ex-factory price of sugar, thus making it a consumer tax. Consequently, the situation presented two problems of incorrect Sugar Development Levy base (SDL) and having a tax imposed on the general consuming public; but the tax not being collected in accordance with the law by the Ministry of Finance. To address the first problem, I had proposed to shift the SDL base to the correct point - that is on the cane farmers. That is nothing new. Stakeholders in the coffee, tea, pyrethrum and horticultural sub-sectors pay such levies. However, due to the numerous misinterpretations of my intentions, I propose to delete Clauses 60 and 61 of the Finance Bill, 2006.

*(Applause)*

Further, I propose to address the second problem by requiring the Kenya Revenue Authority to continue collecting the Sugar Development Levy, and remitting the same to the Exchequer. Subsequently, the money will be appropriated to the Ministry of Agriculture for onward disbursement to the Kenya Sugar Board.

*[Mr. Speaker left the Chair]*

*[The Temporary Deputy Speaker]*

(Mr. M'Mukindia) took the Chair]

Mr. Temporary Deputy Speaker, Sir, when presenting the Budget Speech for this year, I had proposed to raise the bank guarantee payable by insurance brokers from Kshs1 million to Kshs5 million. I had also proposed to require that, that guarantee be deposited with the Central Bank of Kenya (CBK). Those measures were aimed at encouraging only genuine brokers to transact business in the insurance industry. However, subsequent to consultations, it has come to my knowledge that increasing the guarantee fees to Kshs5 million will not only be quite substantial to the brokerage industry, but will also substantially tie up funds with the CBK. I am also encouraged by the compliance with the cash and carry and, perhaps, we do not need as much money being tied up as guarantee by the insurance brokers. It emerges that requiring guarantee to be operated by the CBK will require brokers to maintain an account with the CBK. I, therefore, propose to lower the guarantee fees from Kshs5 million to Kshs3 million. The guarantee will, however, be deposited with the commercial banks as was the case before.

Mr. Temporary Deputy Speaker, Sir, in order to support the *Jua Kali* sector, I will also be proposing an amendment to the Finance Bill to zero-rate welding machines and locally assembled water pumps which were not included in the budget earlier this year.

Mr. Temporary Deputy Speaker, Sir, a lot needs to be done to enable our country reap the full benefits of Information Communication Technology (ICT). In that regard and, in order to facilitate fast growth of that sector, create employment opportunities for our youth and make our country a regional leader in ICT, I did propose to remove the VAT on computer equipment, computer parts and accessories.

Mr. Temporary Deputy Speaker, Sir, we also know that young parents do incur a significant proportion of their income on child care and upbringing expenses, and to ease the family burden of raising children, I proposed, during by Budget Speech, to zero-rate baby diapers, napkins and feeding bottles. I am encouraged that traders have responded by reducing the prices on those items.

In order to enhance the contribution to the Exchequer by the well-to-do drinkers in the society, I proposed a modest increase of Excise Tax per bottle of beer at Kshs3. On the other hand, to make some beer products affordable to the poor and, hence, stop them from resorting to dangerous and illicit drinks, I proposed to remove Excise Tax on un-malted beer sold in keg. Those two measures have gone a long way to ensure equity. The rich now contribute more towards financing our development priorities compared to the poor, while they enjoy their drinks. The taxation of wine products has been complicated, leading to low compliance. To simplify and enhance compliance with the taxation of the said products, I proposed to increase the Excise Duty on wines from 45 per cent to a hybrid rate of Kshs54 per litre or 65 per cent, whichever is higher.

Similarly, to improve the compliance of Excise Tax lost under the spirit industry and to ensure equity in our tax system, I proposed to increase Excise Tax on spirits from Kshs100 per proof-litre or 65 per cent to Kshs120 per proof-litre, whichever is higher. Those measures have now created a level playing ground for the alcoholic beverage industry by having all wines and spirits taxed at the same maximum rate of 65 per cent.

Mr. Temporary Deputy Speaker, Sir, some cigarette smokers incur less cost to enjoy their puff. In order to address that inequity among the cigarette smokers and raise more revenue, I propose to increase the Excise Tax on Category B and D by 10 per cent to Kshs780, Kshs1,690 per mill, respectively.

Mr. Temporary Deputy Speaker, Sir, some sub-sectors of our economy have been enjoying their earnings for long without contributing to the needy Exchequer. In order to ensure equity in our tax system and to make those who derive income from capital gains contribute to the Exchequer, I proposed to lift the suspension and introduce the taxation for capital gains and transfer of properties, vehicles and marketable securities. I am aware that this has generated a lot of debate and I would like to urge this House to remember that we are here looking at the profits that have been

made by people selling properties that have appreciated in value from the time it was bought to the time it was sold. I would like us to remember that the people who are buying and selling properties are the people who enjoy the upper levels of income; the rich in this country and not the poor. As we tax the poor people when they are buying a bag of beans or a cow and selling them to make a profit, I think we should consider the inequality in incomes and ask that the people who are benefitting from sale of property pay tax so that we can use that money to uplift the poor people who are suffering from poverty in our country. I would like to urge this House to bear that in mind, as we discuss this Bill.

Since 1985, when the capital gains regulations was suspended, the property market has had 20 years to recover. We have seen tremendous growth coming out of them. It is perhaps time we introduced the capital gain tax, see how it works as we ensure that more people are contributing to the Exchequer from the gains they are getting. We can then review it in the future to see if we need to relax or amend it. We have realised the need to own property to improve the living standards of our people through mobilisation of personal savings. In this regard, I proposed to exempt from the income tax the interest earned on deposits of up to Kshs3 million by a depositor who uses the plan for the first time, for purposes of owning a permanent House. These measures need to be looked at in terms of what we are taxing some and giving incentives to others so that we promote ownership of property rather than trading in property.

The private sector, worldwide, has been recognised as the engine of growth. In furtherance of the private public sector partnership in development expenditure, I propose to make the cost of construction of a public school, hospital, road or similar kind of public project to become income tax deductible, when such expenditure is incurred, with prior approval of the Minister of Finance. To further promote the private sector participation in the rehabilitation and maintenance of our infrastructure, I proposed to exempt from Income Tax, the interest income earned by investors who buy listed bonds and assets with bank securities, as well as special purpose vehicles created for the purpose of redeeming the bonds on its maturity, provided the securities are for the purpose of developing the infrastructure.

When presenting my Budget Speech for this year, I also proposed, to introduce withholding tax of 15 per cent on payments made on finance leases. This is important for the House. When we looked at that rate, we thought it was too high and might result in net refunds, thus creating administrative difficulties for the tax authority. I, therefore, propose to reduce the rate from 15 per cent to 3 per cent to the lessor. In terms of motor vehicle insurance, we have, for a long time, been experiencing problems which emanate from insurance brokers who hold premiums collected on behalf of insurance companies 60 days, while the the insurer is expected to assume the risk immediately - the premium is paid to the brokers. To address this and reduce the cost to the industry, I proposed to amend the Insurance Act to provide that in respect of motor vehicle and fire insurance business, the broker should remit the premium at the time the cover is provided. This cash and carry measure has improved, not only the liquidity of the insurance companies, but has also minimised risk and the cost of doing business for the insured.

In pursuit of more jobs in the insurance industry, and for the many talented school and college leavers, I proposed to amend the Insurance Act to remove the restriction on insurance agents to act for a maximum of three insurers. This is consistent with a liberalised economy. I know that there has been a lot of debate about this issue. Some people have been saying that we are opening up the market. However, I need to assure this House, that the responsibility of appointing an insurance agent still remains with the underwriter. It is the underwriters who will appoint the agents they believe can represent them best. It is not just anyone who wakes up in the morning and calls themselves an agent who will be licensed. They will need to provide evidence to the Commissioner of Insurance that they have been appointed by an underwriter and authorised to carry out business, for them to be registered. I believe that the misunderstandings which have been there have been clarified. We have had discussions with the industry. I urge hon. Members to take

it in good faith; that, this was to open up the space and not to offer any advantage or disadvantage to any one person.

We are all aware that competition in our banking sector has not been high enough to lower the interest rates. To promote a healthy competition in this important industry, we believe there is need to allow for a more differentiated array of banking products and services. In addition, our Muslim colleagues cannot participate in conventional banking system without violating their deeply held principles of their faith. To address these shortcomings, I propose to amend the Banking Act to allow for the introduction of new banking products, subject to the approval by the Minister for Finance. Here, we are thinking of Islamic Banking and the introduction of all other products that are currently forbidden by the current Banking Act. This, I believe, will create competition in the Banking Sector and lower our lending rates.

This Bill has been with us since 15th June. Hon. Members and members of the public have had the opportunity to look at it. They made their representations to the Treasury and to the Committee on Finance, Planning and Trade. I also had the opportunity to discuss the issues with the Committee; a very productive discussion, I must add. I believe that we could discuss and have this Bill moving to the Committee Stage so that we can bring in the necessary amendments and pass them, so that we can give Kenyans the law they need to have business certainty in terms of knowing the rates that will apply between now and next year. Right now, we are in a situation where people do not know whether this Bill will be passed or not. The faster we do it, the better for our economy.

As I indicated, the issues which have been of concern like the Sugar Development Levy, insurance brokerage, fishing community, dairy refrigeration equipment and jua kali welding equipment which had been left out has all been taken into account and factored in. I hope that we will fast-track this process so that we move into the Committee Stage, make this Bill into law and create a good environment that we need for this economy to grow even further. As I said, this is a straightforward Bill. I look forward to the House giving us the necessary support we need so that we go through the Bill as fast as possible.

I beg to move and ask hon. Mungatana to second the Bill.

**The Assistant Minister for Justice and Constitutional Affairs** (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, in seconding this Bill, I would like to congratulate the Minister for Finance for all the proposed measures he has brought before this House. He has created an environment that is good for all Kenyans and for the development of this country. As you may be aware, the Government has been on the fore-front, urging Kenyans and everyone else who lives in this country to pay their taxes. These specific measure are being taken in very good faith and it is in keeping with the general spirit that we encourage the payment of taxes by all Kenyans.

Mr. Temporary Deputy Speaker, Sir, I want to specifically congratulate the Minister on some specific measures that are contained in this Finance Bill. The zero-rating of the fishing equipment is something that I want to single out as beneficial to the communities that live within large water bodies; the Coast Province, the lake region, Turkana and other areas. I will not forget to single out the addition that the Minister has put for welding machines and locally-assembled water pumps to be zero-rated. This will directly assist our growing *Jua Kali* sector that has become a major source of employment for many young Kenyans who are coming out of school and are unable to secure employment.

Mr. Temporary Deputy Speaker, Sir, a lot of times, whenever taxation measures are proposed in the Finance Bill, for the raising of taxes on such consumables like wines and spirits, a lot of murmurs come up. We want to encourage that it is all in good faith. We are all trying to look for a balance. I think, on the whole, the balance that the Minister for Finance has managed to secure for the proposals contained in the Finance Bill is to be supported. I would urge this House to support what has been put before us and ask that we unanimously pass this Bill.

With those remarks, I beg to second.



*(Question proposed)*

**Dr. Oburu:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. As it was stated by the Minister in his remarks this afternoon, this is the most important Bill that is being debated by Parliament. Taxation measures are one of the reasons why Parliament was created. Parliament was created to interrogate the Budget and particularly taxation measures. The principle of no taxation without representation is very cardinal to our presence here as Members of Parliament.

Mr. Temporary Deputy Speaker, Sir, the various measures that have been introduced by the Minister are very positive. I would want to encourage him to continue improving on the taxation measures. Some of the fruits of these measures have been seen in the amount of revenue being collected by the Government now as opposed to previous years. We hope that the measures being introduced will continue to improve tax collection, because that is the money that is needed for the Government to provide services to the people.

However, we would like taxation to be fair. It should not be used as an instrument of punishment of certain sectors of the economy against the others. We know that this is possible. Because of this, we would like to scrutinise this very thoroughly. The Departmental Committee on Finance, Planning and Trade, which I chair, has discussed some of the issues with the Minister. We do not want to repeat those ones, because we are going to see them in the amendments in the areas where we have agreed, which will be presented before the House. If there are areas where we are not quite satisfied, we are going to introduce those amendments before the House.

Mr. Temporary Deputy Speaker, Sir, one of the issues which we have been debating is in relation to Central Bank (Amendment) Act, which is in Clauses 55 to 56, Cap.491. This is in respect to the introduction of the position of Chairman of the Central Bank of Kenya. Our concern is that unless the roles of the Chairman and the Governor are carefully described and defined, it is going to create the possibility of conflict. Both the Chairman and the Governor are appointees of the President. Unless you draw a clear demarcation of their responsibilities, this is clearly going to create conflict. Our concern was that, in most African countries, because of the importance of the position of the Governor of Central Bank in management of the financial sector, the Governor is also the Chairman. In fact, there is almost no single African country where the Governor is different from the Chairman of the Central Bank. The Minister has tried to convince us that this is good for corporate governance and so on. But we are recommending that there should be a clear definition of the roles to avoid possible conflict of interest.

Mr. Temporary Deputy Speaker, Sir, the other area of concern is the Sugar Act. The movement of the sugar development levy from the consumer to the farmer is of great concern, and it is creating turmoil in the sugar industry, particularly in Western Kenya. We are happy that the Minister is considering to remove this and I hope that will be a reality so that we can go back home happy that our people will not be adversely affected.

Sugar is a very important commodity in this country. We are quite concerned that when the other crops are being treated fairly, we have felt that sugar has not been given proper treatment. When the other crops like coffee and tea have had loans written off for the farmers, this has not happened in respect of the sugar industry, despite the fact that the President has been to Western Kenya on many occasions and recommended the same. We hope that the Minister will effect this Presidential directive, that the sugar growing farmers should also benefit from the write-off of loans which were acquired but for various reasons, including drought, they were unable to service them. The sugar-cane farmers should be allowed to start on a clean slate just like the coffee and tea farmers.

Mr. Temporary Deputy Speaker, Sir, the licensing which was done yesterday has not been concluded. There are a few issues which we want to discuss in relation to that.

Mr. Temporary Deputy Speaker, Sir, we are also happy that the Minister has seen it fit to

remove or amend some of the concerns which were raised in respect of insurance, particularly in relation to the amount of money to be paid by the brokers which was proposed to be Kshs5 million and this was actually going to affect a lot of brokers. It is going to put a lot of people out of business and we are happy that the Minister is giving consideration to that aspect.

Mr. Temporary Deputy Speaker, Sir, we are also very impressed that the Minister is introducing a law which will now allow the Islamic Bank to be introduced. This country has been quite concerned about the interest rates and bank charges. We have been very angry on the Floor of this House that banks are charging exorbitant and illegal charges to customers. It is because of these charges that many Kenyans have gone bankrupt and yet there is no remedy to those who have been made bankrupt by those illegal charges by the banks. The Islamic Bank is going to create some sanity in our financial sector because it is going to introduce a practice where those illegal charges will not be entertained and where charges will stagnate once they exceed the original capital advanced. This is going to be like the *In Duplum Rule* which is still stuck here in Parliament and not passed.

Mr. Temporary Deputy Speaker, Sir, we were concerned, and we are still concerned, about the amendments to the remuneration of constitutional offices. The Constitution of Kenya says that: "No law shall be introduced which will affect the remuneration of the salaries of the constitutional offices". We are not sure whether the amendment brought here by the Minister is not going against the Constitution of Kenya because if the effect of taxing the house allowances or other allowances of those constitutional offices will have the effect of reducing their benefits, it is quite possible that this will infringe on the Constitution. I am not a lawyer but we would not want to introduce any amendment in the Finance Bill which might fundamentally even affect the Constitution.

Mr. Temporary Deputy Speaker, Sir, we are also concerned that some of the amendments which are brought here are amendments which refer to specific issues like insurance. The Insurance (Amendment) Bill is before this House. Our concern was that perhaps it would have been better to bring some of these issues in the Insurance (Amendment) Bill so that the House could debate them thoroughly rather than sneaking them through the Finance Bill where people might not have a possibility to interrogate and debate them thoroughly.

Mr. Temporary Deputy Speaker, Sir, the same applies to constitutional offices. Constitutional offices are very important offices for democracy and protection of human rights. It is unfortunate if we pass any law which might affect their morale and remuneration without having thoroughly debated and scrutinised them.

Mr. Temporary Deputy Speaker, Sir, I am happy with the clarification which the Minister has given us in respect of the Kenya Revenue Authority Act (KRA) Act because KRA has improved on their revenue collection methods and they have done a good job. So far, they have increased revenue collection and we would not like to introduce any amendments to the Act which will not give them sufficient resources to continue doing their job. We were informed that the Act now says that they are now supposed to be given by the Treasury 1.5 per cent of the monies they collect for the administration of tax collection. The Minister was proposing to increase it to 2 per cent but we are told that even the 1.5 per cent has not been given, that actually what they get is between 0.6 to 0.8 per cent. The Minister has clarified that and we are concerned about discretion. We do not want to give the Minister too much discretion.

Mr. Temporary Deputy Speaker, Sir, we will raise all these issues also at the amendment stage but there are two issues which I want to bring to the attention of this House. This is in relation to fairness in levying tax on local industries. It is very important that we encourage local industries in this country. We are not saying that we do not want multinationals to invest in this country. We are saying that we want investors to come and we should give them incentives to do so. However, while we do that, we are not going to encourage multinational investors at the expense of our own local industries.

Mr. Temporary Deputy Speaker, Sir, this is in respect of a schedule in taxation of cigarettes

where a local industry has petitioned our Committee saying that the brand of cigarettes which they produce has been targeted for increase in taxation whereas the brand of cigarettes which is produced more by the multinational companies is not targeted for that kind of increase in taxation. This is going to kill the local initiative. We are saying that there should be taxation and the increase of taxation in cigarettes is supported by us. We support that it should be there but we want that increase to be across the board. It should not be discriminatory. It should not isolate certain categories and then leave the others untaxed because we do not know the criteria used in applying this kind of taxation. Year in, year out, this kind of taxation has been done across the board and it has not been discriminatory. We are wondering why there is now discrimination in targeting certain type of cigarettes and not the whole of them.

The same applies to wine and spirits which the Minister talked about here on the Floor of the House. We know that there are a lot of illicit drinks being consumed in this country. We know that the people who consume the illicit drinks which are lethal are people who drink *chang'aa* and if we want to move these people out of that lethal drink, we must introduce a drink which is well prepared and which will satisfy the appetite of those who drink those hard stuffs. Uganda has done well by introducing one drink called *waragi*. Tanzania has also done well since it has introduced another one. I have forgotten the brand name. Here, we have an industry called Keroche which was producing what they call fortified wine which has an alcohol content of 24 per cent. We went to that industry and found that there are actually no lethal elements in those drinks. We went to the Kenya Bureau of Standards (KEBS) to check whether these people are producing something which is lethal to *wananchi*. We do not want an industry to be killed through taxation. If an industry is producing lethal products, the Government should close it the same day. There is no reason why industries producing lethal products should be allowed to do so but if they are producing products which are not lethal, taxation should not be used as a means of killing those industries. Here is a case where the prices of products produced by that particular industry which is actually catering for that group consuming that lethal drink called *chang'aa* are being made prohibitive through taxation.

Mr. Temporary Deputy Speaker, Sir, I think these are some of the issues which should be looked at when we are looking at taxation so that it is fair, not punitive and must not be used to encourage the multinationals to continue with their monopoly at the expense of the local industry.

With those few remarks, I beg to support.

**Prof. Saitoti:** Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to make my contribution to this very important Bill. It is true that this Bill is very important. This is the Bill that formally and legally entrenches the measures announced by the Minister for Finance during his Budget Speech. If this Bill is not passed by 31st, December, there would be a very serious problem as far as revenue collection is concerned.

I think it is appropriate to commend the Minister for Finance. First of all, the Budget that he presented way back in June demonstrated a very clear sensitivity to the welfare of Kenyans. Several tax reliefs were offered to Kenyans. But much more important were the other measures that were announced to boost the economy of this country. Indeed, we have seen a great deal of improvement as far as revenue collection is concerned. The increase in revenue collection has had a very positive effect on the economy of this country. Rather than the Minister floating other monetary instruments to raise expensive money in the market, he has depended on the revenue generated to finance Government projects. The Minister deserves commendation for the manner in which he has handled an extremely difficult Ministry. I speak from hindsight and experience.

Mr. Temporary Deputy Speaker, Sir, to be in a position to ensure that substantial resources are being mobilised domestically is an important step in our developing country. That is because several other developing countries are forced to rely on external in-flows like donor assistance, grants and loans. Indeed, if one looks at many economies, especially in Sub-Saharan Africa, a number of them are not able to finance their Recurrent Expenditure. I do not want to mention

names. But a number of our neighbouring countries have continuously depended on external grants to finance their Recurrent Expenditure, including the salaries of their civil servants. It is a great step and achievement. Because of the good performance on revenue collection today, this country is able to pay salaries of all civil servants and officers in the Armed Forces. But much more important, it has been able to have resources - which are domestically generated - to finance projects. That includes the Constituencies Development Fund (CDF).

Mr. Temporary Deputy Speaker, Sir, the CDF is an important vehicle for development in terms of trickle-down effect. The resources that we have through the CDF have been generated internally. They are not borrowed. That is an important thing. So, when we talk about the achievements that we have made as a Government, we must take cognisance of the fact that, at least, we are able to finance our own projects and Recurrent Expenditure. One has to be intellectually candid of those major achievements.

I am also very happy to note - as has just been announced by the Minister for Finance - that he is considering moving some amendments to the Finance Bill in order to give relief to sugar-cane farmers. We are very happy about that. I was once an Executive Chairman of Mumias Sugar Company. I am very happy that today, that company is able to generate substantial resources, make profits, pay dividends and, even much more important, supply sugar to all Kenyans. That recognition is important, as far as the sugar industry is concerned. A large number of Kenyans depend on sugar-cane for their livelihood. It is important to understand that, that is an important industry. If assisted, as proposed, we, as a country, can register substantial sugar output. Even much more important is what is being done at Mumias Sugar Company, although in a very modest manner. It is generating small amounts of electricity. We know the difficulties we are facing as far as energy is concerned. However, it has been demonstrated by Mumias Sugar Company that the sugar industry can make substantial contribution to the energy sector by burning bagasse. That can only happen if the sugar-cane farmers are encouraged to grow more sugar-cane, and see the industry as an important means of subsistence. That is very important. But even more important is the major contribution made in terms of employment creation and poverty reduction. The people in the rural areas should be assisted.

Mr. Temporary Deputy Speaker, Sir, I am very happy to hear from the Minister that some tax relief is being given to the fishing industry. That is very important! Kenya has a substantial reservoir of fish. We can play a very major role in the international market. That can be done by encouraging more people around the lake region and near the Indian Ocean to participate in that important and income-generating industry. Fish can be exported abroad. That has been done before. We are earning substantial foreign exchange from the fishing industry. We could still earn much more by assisting that industry. More resources and assistance should be given to fish-mongers to have storage facilities. That is one of the biggest problems. We should provide several cold storage facilities that could be paid for later, using the money earned from the sale of fish. Kenyan fish is extremely popular abroad. Employment opportunities will also be generated.

It is also significant to note that the Minister has announced some relief in the insurance industry. That relates to the insurance brokers. It is important to have competition in the industry. There should not be dis-incentives which can negate competitive activities. That is extremely important.

Mr. Temporary Deputy Speaker, Sir, in his Budget Speech, the Minister for Finance gave relief to those who are in the business of importing computers. This is a recognition of the fact that today's economies are backed by knowledge. It is also a recognition of the fact that computers, today, are an important component of economic development of this nation. Any country that wishes to be part of globalisation has no alternative, but to embrace Information and Communications Technology (ICT). If we do not comply with these facts, we shall be marginalised globally and our competitiveness will be reduced.

Indeed, it should be appreciated that today most of the orders are normally placed on the

internet. Selling of various products and services is done through the internet. Therefore, a country that lacks ICT knowledge will find it extremely difficult to operate in this modern world. I am very happy that the Minister has recognised the vital role of ICT in the development of this country.

Mr. Temporary Deputy Speaker, Sir, however, Mr. Temporary Deputy Speaker, Sir, we still have a long way to go as far as ICT is concerned. In our country, computers are still very expensive---

*(Mr. Okemo consulted loudly)*

**Mr. Sungu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Are you satisfied that the hon. Member is in order to consult loudly?

**The Temporary Deputy Speaker** (Mr. M'Mukindia): Hon. Okemo, You are totally out of order!

**Prof. Saitoti:** Mr. Temporary Deputy Speaker, Sir, I was talking about ICT and I am very disturbed that my colleague cannot listen to what I am saying.

If we really need to develop this nation, we must embrace ICT fully. I was trying to state a few things that we need to do. First, we must be committed to ensuring that all our schools, especially secondary schools are fully equipped with computers. That is very important. Many countries of the world have committed themselves to ensuring that, at least, 70 per cent of those leaving secondary school are ICT literate. We also have to do so because the computer is the language of the 21st Century. We have to ensure that the youth who complete secondary school are ICT literate.

In order to do this, the Minister should look ahead and think of how this country can improve its computer infrastructure. What is more, he should be able to help Kenyans obtain computers and their hardware cheaply so that they can be easily accessed to students in our secondary schools. In the developed world today, even primary school students are computer literate and teaching is done through the computer. We have to move very quickly and ensure that computers are obtained cheaply. This can only be achieved if more resources are made available.

Secondly, even if computers are available, there are other two very important things. We should be able to provide electricity to our schools and also access the internet. Connectivity is one problem and accessing electricity is another one. Providing electricity to schools which lack it is not a waste of resources. Indeed, it is an investment that will benefit us in the future. However, I commend the Minister for Finance for recognising that fact. I wish to urge him to prioritise the need to have computers in all schools in this country in the next Budget.

In the Minister's Budget Speech, he also recognised--- I am sure that the resources we have set aside are being generated through the revenue measures. I have in mind the setting up of the Youth Fund. If, indeed, there is a time bomb that we need to avoid in this country, then, it is unemployment among the youth. Whether we like it or not, it is a time bomb. The only way we can be safe is by addressing this problem immediately before it explodes on us.

Hon. Members will agree with me that whenever we visit our constituencies, we find several young people looking for jobs. Most of them are out there looking for hand-outs. We are happy that the Youth Fund has been set up. However, I would like to urge the Minister that in making future taxation proposals, he should ensure that a taxation measure is put in place in order to generate sufficient funds that will enable the country have a sizeable Youth Fund. The Kshs1 billion that we have now is only a drop in the ocean that cannot address the magnitude of problems that we have with regard to our youth. However, it is a recognition of the problem and a good sign. We, therefore, need to explore other ways through which we can be able to raise substantial resources. That is only through taxation.

In the case of education, we need to focus ahead and know how to finance it. We need to

increase the amount of money offered as bursary. Currently, the Government only offers Kshs800 million in form of bursary for our secondary schools. Many countries are known to have established sources of revenue for purposes of funding education. A substantial amount of resources raised can finance free primary education and even secondary education. When we talk of universal education, it means basic education. In many countries that terminology also covers secondary school education. This is an imaginative thinking, but I know the Minister is not wanting as far as financial imagination is concerned. I, therefore, urge him to look into that matter.

Mr. Temporary Deputy Speaker, Sir, women have also been recognised. I commend the Minister for that. This is because women are a very important dimension in the development of this nation and we should continue to increase whatever resources that have been made available for their entrepreneurship. Only then can we be able to counter the difficulties that we experience in this country. We must be ready to work with women. We must also empower them so that they can address the problem of unemployment and poverty.

Mr. Temporary Deputy Speaker, Sir, many years ago, I had the pleasure of suspending capital gain tax. The rationale behind my action at that time was the fact that there was very little activity in the capital market. As a matter of fact, the capital market had almost come to a halt. The thinking then was that if, indeed, capital gain tax was suspended, this would be an incentive to investment in the capital market and thereby reviving it. Since 1995 up to now, there is no doubt that the capital market has become an extremely active destination for investment. This was fairly demonstrated when there was the Initial Public Offering (IPO) of shares by KenGen. Kenyans have now embraced the fact that they can actually invest their money in these stocks. This was unheard of many years ago. It is true that the capital market has, indeed, come of age.

I am happy that the Minister has not thought of re-introducing the capital gain tax. It is important that things remain as they are now so that the capital market becomes even more active than it is now. It is true that we have the most active capital market in our region. However, we need a little bit more of sensitisation as the capital market continues to grow.

In fact, the best thing the Minister did in this Budget was to make it clear that, indeed, through the capital markets the Government, and even the parastatals, can raise development money. This is what should have been done before. I believe that in future, instead of raising money from Treasury Bills for purposes of financing consumption, we should raise that money from specific projects. This is a step in the right direction. The only way in which we can get substantial resources is by creating confidence in our stock exchange. However, I know the Minister has gone into great length to argue in favour of retention of Capital Gains Tax as far as properties are concerned. I do not know whether while raising the revenues the Minister spoke about, this will not make it more expensive to own land and other properties. It may very well work the other way round.

This is an issue that I think the Minister should look into properly. He may experiment with it this year and revisit it in the next Budget when he will have had some experience about it. What I am really saying is that it might cut both ways. In the medium-term the Exchequer may get more revenue, but on the other hand it may make ownership of properties more expensive. It may eventually even deny the poor the chance to own property. So, this is something that I am concerned about. Other than that, I would like to commend the Minister for this Bill.

With those few remarks, I beg to support.

**Mr. Kipchumba:** Thank you, Mr. Temporary Deputy Speaker, Sir. I want to support this Bill. I want to start with the issue of the Kenya Revenue Authority (KRA). I am happy that the Minister has increased the retention rate from 1.5 per cent to 2.0 per cent. But that is not even sufficient. We have been told here today that even the 1.5 per cent is not being given to KRA as it should be. We are all aware of the noble role played by the KRA. We must encourage the "cow" that gives us milk. I would, therefore, suggest to the Minister to increase this rate to 2.0 per cent. He has encouraged the receiver of revenue to retain part of the money it collects. I would like to

request him to also allow the collector of revenue to retain 2.0 per cent of the revenue it collects.

In that way, the KRA will not have to collect money and give all of it to the Treasury. I know that it is difficult to determine the level of the retention because the amount of the rate has to be calculated. But it can be worked out in such a way that the KRA retains a certain amount of money that it requires for its operations. It will be very unfair for KRA to submit all the revenue that it collects to the Treasury, because its operations may grind to a halt due to lack of funds. The KRA may even not be able to plan, because it will not be sure of how much money it will be allocated by the Treasury. I would, therefore, request the Minister to explore the possibility of allowing the collector of revenue to retain 2.0 per cent of the revenue. Two-and-half per cent is a very low rate for an institution that collects revenue. We must encourage it to do a good work.

We are aware that previously there were a few problems in the KRA. Its employees were being paid different salaries. I am happy that, that problem has since been sorted out.

Currently the Government gets only 5 per cent of its revenue from external sources, and this is very encouraging. In fact, I want to encourage the Minister to reduce this to zero per cent.

Mr. Temporary Deputy Speaker, Sir, I am aware that the insurance industry has been fleeced by lawyers, who claim millions of shillings from it. Whenever there is an accident, the first people to contact the victims are lawyers, who know that they can make quick money from claims arising from accident covers. The fact that accident claim proceeds have been reduced to a maximum of Kshs3 million will, in my view, benefit the insurance industry. I want to commend the Minister for this move. But that figure should be re-looked into, because Kshs3 million is still very high.

I also want to talk about the Central Bank of Kenya. Sometime back, I mentioned in this House that we are concerned about the Governor of the Central Bank of Kenya being also its Chairman. I mentioned this in this House and you can refer to the HANSARD. I do not think there is anything wrong in what the Minister has proposed. The only problem is that we must define the operational role of the Governor *vis-a-vis* the role of the chairman. The chairman plays a non-executive role on a daily basis. That is very critical. I expected an amendment to the Central Bank of Kenya Act. In my view, merely providing for a chairman in this Bill is not sufficient. What is proposed here is just to substitute "chairman" for "Governor" wherever the word "Governor" appears. This is very basic. This is a very sensitive matter.

I expected the Minister to propose a far reaching amendment to the Central Bank of Kenya Act. In such an amendment, we can spell out the role of the Governor. I have heard various arguments that, indeed, a chairman for the Central Bank of Kenya can curtail the powers of its Governor. He cannot curtail them if the role of the Governor is put in black and white. For instance, the chairman should not be able to dictate to the Governor on interest rates or closure of commercial banks. Such interventions are contentious. If this is allowed, the chairman could wake up one morning and order this or that bank to be put under statutory management. So, the roles of the Governor and the chairman must be put in black and white. Even though we may pass this Finance Bill as it is, the Minister should go further and spell out the various roles of these very important personalities, who will be running our most important financial institution.

Mr. Temporary Deputy Speaker, Sir, I have seen some very scary penalties in the Finance Bill. For example, Section 153 states that anybody who makes false or fraudulent claims will be entitled to a penalty of two times the amount. Let us not create laws that will scare away investors who would want to make certain claims. We are not saying that the Kenya Revenue Authority (KRA) is perfect. What happens if the KRA gives you a false invoice? What is the businessman supposed to do yet he is scared by this provision? I would have expected that if we have this provision in the Bill, we should say that the KRA must also be penalised for the same. Indeed, if it is proved that KRA invoiced you on a wrong basis, they should also bear the burden. However, I do not think the KRA is ready to bear that burden. I know that KRA will not want issues that will be taken to court. I know people would like to evade paying taxes. We are aware of this! However,

we must give business people an opportunity for arbitration. We must give them an opportunity to claim what they think is an infringement on their part. We must not scare Kenyans to the extent that they are afraid to prove that their claims are wrong. Man is to error! Therefore, I want to request the Minister that if, indeed, he wants to punish the business people, he should also be willing to punish the KRA. However, I would not want the KRA to be punished because I want them to give me the services. I want to request the Minister to re-look into that issue.

Mr. Temporary Deputy Speaker, Sir, I was happy that when the Minister was moving the Bill, he said that he has reduced the deposit that is required from Kshs5 million to Kshs3 million. I expected him to go down to even Kshs2 million. I do not know why he cannot reduce it to Kshs2 million. If you reduce deposits on banks and insurance brokerage firms, the effect, if, indeed, those brokers and insurance companies are honest, will go to the consumers. We want to encourage competition. If you want to encourage competition in this country and, indeed, if there were many banks in this country competing for the few customers that we have, the interest rates would easily come down. However, the industry is controlled by a cartel of very few institutions. Therefore, if we want to encourage competition in the insurance industry, the insurance and brokerage and banks must be as many as possible. That is the easiest way so that every year, we should not be lamenting about high interest rates and costs. I have heard many people complaining about high prices on fuel and other commodities. The solution is to ensure there is fair competition and as many players as possible in the industry. I would, therefore, still encourage the Minister to come down by another Kshs1 million so that we encourage as many Kenyans as possible to enter the markets.

The other issue was on the difference in taxation. We must ensure fairness in taxation. I heard the argument advanced by my colleague, Dr. Oburu, about taxes on cigarettes and wine. I think that is very basic. If we said that there should be a level playing field, I think we will not be asking for too much. If a product does not conform to the standards, we should ban it all together. However, if a products conforms to the required standards, we must ensure that there is fairness. For example, malt beer has been reduced to Kshs48 per litre while the others cost Kshs54. We must look at fortified wines. I do not think that we would like to run a country where taxes are not equitable.

Mr. Temporary Deputy Speaker, Sir, I am happy that we are encouraging the formation of an Islamic Bank. There have been complaints from our Muslim brothers that they want an institution that will assist them.

We must always not include very many amendments in the Finance Bill. The reason why many hon. Members are discouraged is because we are aware that there are so many Bills that are pending in the House yet we want to sneak in many of those issues through the Finance Bill. If you look at the issue of Very Small Aperture Terminal (VSAT), the Minister intends to charge companies a tax of 5 per cent and Value Added Tax (VAT) yet most of these companies do not operate in this country. I am yet to understand from the Minister how he is going to enforce some of these regulations. Some of these companies that give us these facilities are not in this country. The satellite facilities are run from outside Kenya and some of them are paid from outside. How does the Minister intend to enforce these regulations? Let us not make laws that we cannot enforce. Why would we want to pass legislation which we cannot enforce? I know that for a company like DSTV, you can charge it from the payments that we make in this country because you can easily determine the revenue. The Minister is talking about gross revenue but this is too high. I would have expected him to talk about gross profit. If you talk about gross revenue, you are discouraging investments in this country. Therefore, I want to encourage the Minister to re-look at the issue of telling us that he will charge 5 per cent on companies that do not operate from within this country. There must be a mechanism, but I do not know which one he is going to put in. However, I am sure that he is an intelligent Minister and he will give us some of these details.

Mr. Temporary Deputy Speaker, Sir, I am happy that bonds that will be used to develop infrastructure will be exempted from duty. That is very welcome.



Overall, this Finance Bill has given us a lot of incentives. The Minister has also said that in terms of deposits for mortgage, they will be exempted up to Kshs3 million. However, Kshs3 million is very little. I do not think you can get a house for Kshs3 million. The Minister should consider this so that he can increase it to probably Kshs5 million. We are not asking for too much because Kshs3 million is very little money.

In Clause 32(a), the Minister clearly says that the Central Bank of Kenya (CBK) may from time to time, where it deems necessary to do so, carry out an assessment of the professional and moral suitability of persons managing or controlling institutions. That is very dangerous! If today we are told that the CBK is going to carry out an assessment on the ability of the manager of a certain bank, what would the public think? What will happen tomorrow? People will immediately run to the bank to withdraw their money. Even the idea alone of investigating a bank manager will create panic. I would like the CBK to introduce stringent measures before the person is appointed to that position. Let us not do this kind of business midway because it will cause a lot of panic. If today you are told that the Governor of CBK is being assessed, what will happen in this country? Therefore, I want to encourage the Minister to reconsider removing this matter from this Bill. I do not see the essence. If we think that somebody has misbehaved midway, the only option would be to remove him all together through other laid down mechanisms. However, let us not go into the business of saying that we are going to assess the moral suitability of somebody at the middle of business when, indeed, the company is performing well.

Mr. Temporary Deputy Speaker, Sir, I have also seen the amendment that the Minister intends to bring; that no institution shall open a branch or establish a subsidiary outside Kenya except with the prior approval of the Minister. I do not oppose that proposal, but I would like the Minister to explain to me, in simple terms, when he replies to this debate, why he wants to approve all this. As we are all aware, we are now forming the East African Community. Therefore, to require the Minister to approve such moves by financial institutions is not appropriate. I think the Minister should just be informed of such an intention.

In the recent past, the Kenya Commercial Bank (KCB) opened a branch in Southern Sudan. The same bank has also established a branch in Tanzania. Why would we want to introduce another level of bureaucracy by requiring banks to seek approval from the Minister whenever they wish to establish branches outside Kenya? Probably, the Minister owes me, if not this House, an explanation as to why he wants companies to go through such a process. In my view, a bank just needs to inform the Minister of its intention to open a branch outside this country after satisfying itself that it is doing well in Kenya.

Mr. Temporary Deputy Speaker, Sir, if I heard the Minister right, he has withdrawn the requirement that insurance brokers should deal with only a maximum of three insurance companies. I am happy he has done so. We are now operating in a free market economy. Therefore, insurance brokers should be allowed to deal with as many insurance companies as they can. We cannot be restricting businesses in some sectors and giving a free hand to companies in other sectors.

I am happy that the Minister has acceded to the argument that introducing a sugar-cane levy would increase the production costs of sugar-cane, and thus erode the farmer's earnings. The Minister has finally seen the essence of encouraging the growth of agriculture in this country. Therefore, the withdrawal of the sugar-cane levy is, indeed, welcome.

Mr. Temporary Deputy Speaker, Sir, while agreeing with the proposal to have the receiver of revenue retain some of the repayments, I would like this to be done in consultation with the Minister. A receiver of revenue cannot, at the stroke of a pen, reduce the amount of money from repayments. There should be some kind of consultations with the Treasury, so that whenever the receiver of revenue retains the money, the Treasury will be informed.

*(Several Ministers were consulting)*

**Mr. Sungu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. This is one of the most important Bills that this House can ever be called upon to debate. You can see what is happening on the other side of the House. Even the Minister for Finance has walked out. Are we, really, taking this debate seriously? Could we have your guidance?

**The Temporary Deputy Speaker** (Mr. M'Mukindia): Mr. Sungu, you know very well that, that is not a valid point of order! There are other Ministers here. Indeed, the Minister for Finance had the courtesy of coming to tell me where he was going. So, I am aware of his whereabouts.

Continue, Mr. Kipchumba!

**Mr. Kipchumba:** Mr. Temporary Deputy Speaker, Sir, I agree with you. Indeed, other Ministers are here. More importantly, the technocrats from the Ministry of Finance are with us here. Those are the people we rely on when it comes to technical matters.

Mr. Temporary Deputy Speaker, Sir, I was talking about the receiver of revenue. There is no point of the receiver of revenue transmitting money to the Treasury, and thereafter receiving back part of that amount. The receiver of revenue can retain a certain portion of it. However, there must be a forum at which the Treasury is informed of level of retention.

Similarly, with regard to the proposal contained in Clause 64(b), we have had problems with Appropriations-in-Aid (A-in-A). I am happy that from now onwards, expenditure of A-in-A will be audited and any excess collection forwarded to the Treasury. That is very important, because many receivers of revenue have in the past just received money. I am happy that it has now been recognised that, indeed, monies appropriated by Parliament should be deemed to be money provided for a particular purpose. That gives the institution of Parliament the motivation it requires to perform its functions even more effectively.

As I have said, this is generally a good Bill. I want to support it, but I would like the few suggestions I have given to be taken on board. I want the Minister to, probably, before the appointment of the chairman of the Board of the Central Bank of Kenya (CBK), table before this House the duties of the chairman of the Board and those of Governor. The reason for giving this suggestion is that, while we accept the fact that the chairman of the CBK's Board can be appointed by the President, we would want to look at his/her credentials. That is why we are saying that it would have been prudent for the Minister to bring to this House a Bill to amend the Central Bank of Kenya Act, so that we can know the kind of personalities to be appointed to those posts.

The CBK is not just any other institution. It is an institution that oversees the running of other financial institutions in this country. The reason as to why I previously said that there must be a chairman is because we have had problems with the tendering procedures. We are all aware of the fact that as a human being, when one is the Governor of the CBK or the Board chairman, one can easily have problems in terms of furthering personal interests in running the affairs of the institution. We have witnessed such problems and we must cure them. The most mischievous scenario is to have a person who has interest in the tenders awarded by the institution, occupying the office of the Governor.

With those few remarks, I beg to support.

**Mr. Wambora:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this debate. May I start by commending the Government in general, and the Ministry of Finance in particular, for the very prudent fiscal and monetary policies they have developed. At the same time, I would like to commend the implementing agency of those policies - the Kenya Revenue Authority (KRA) - for its very effective operations. That is why we are enjoying an additional revenue collection of more than Kshs100 billion, which could not have been realised by previous regimes.

Mr. Temporary Deputy Speaker, Sir, having said that, I would like to go straight to the issue of taxation and start with the issue of Capital Gains Tax, which has now been re-introduced

after many years. Personally, I feel that this was a mistake because, property owners were already being over-taxed through Income Tax and Stamp Duty. To me, that is quite adequate.

It is a fact that we have a big shortage of housing units, and more so low cost housing units, in this country. With the introduction of this tax, we will not be able to meet the demand for housing in this country. This new tax makes it more difficult for property developers and property owners to put up more units. Therefore, I would like the Minister to consider doing away with this tax all together, so that we can proceed in the manner we have been doing. The boom that we have realised in the property industry has been as a result of the non-existence of the Capital Gains Tax, and the prudent policies that have been in place. However, the Minister has now put a spanner in the works, and that will spoil everything.

The second issue that I would like to talk about is the additional tax the Government has introduced on petroleum fuel, which was intended to fill the revenue gap created by the abolishment of the road licence fees. Again, I think we have replaced a very straightforward form of taxation, which was easy to apply and which was also very equitable. Previously, if you had a bigger vehicle, you would pay more money. If you had a small vehicle, you would pay less. The poor person, who had no vehicle, was not taxed. That is what we call equity in taxation.

The Government has now replaced that equitable taxation measure with an inequitable taxation measure by increasing the tax on petroleum fuel, which is, in fact, inflationary. This measure hurts the poor more than the rich, because the poor now pay the same amount of money as rich people. There are multiple negative effects of this taxation measure on the economy from a rise in the costs of production and service delivery. We have seen that clearly in the transport sector. The cost of travel by public service vehicles (PSVs) has increased significantly as a result of this additional tax on petroleum fuel. We have also seen that the energy sector has also been affected. I do not oppose that proposal, but I would like the Minister to explain to me, in simple terms, when he replies to this debate, why he wants to approve all this. As we are all aware, we are now forming the East African Community. Therefore, to require the Minister to approve such moves by financial institutions is not appropriate. I think the Minister should just be informed of such an intention.

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**Mr. Wambora:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this debate. May I start by commending the Government in general, and the Ministry of Finance in particular, for the very prudent fiscal and monetary policies they have developed. At the same time, I would like to commend the implementing agency of those policies - the Kenya Revenue Authority (KRA) - for its very effective operations. That is why we are enjoying an additional revenue collection of more than Kshs100 billion, which could not have

been realised by previous regimes.

Mr. Temporary Deputy Speaker, Sir, having said that, I would like to go straight to the issue of taxation and start with the issue of Capital Gains Tax, which has now been re-introduced after many years. Personally, I feel that this was a mistake because, property owners were already being over-taxed through Income Tax and Stamp Duty. To me, that is quite adequate.

It is a fact that we have a big shortage of housing units, and more so low cost housing units, in this country. With the introduction of this tax, we will not be able to meet the demand for housing in this country. This new tax makes it more difficult for property developers and property owners to put up more units. Therefore, I would like the Minister to consider doing away with this tax all together, so that we can proceed in the manner we have been doing. The boom that we have realised in the property industry has been as a result of the non-existence of the Capital Gains Tax, and the prudent policies that have been in place. However, the Minister has now put a spanner in the works, and that will spoil everything.

Mr. Temporary Deputy Speaker, Sir, the second issue that I would like to talk about is the additional tax the Government has introduced on petroleum fuel, which was intended to fill the revenue gap created by the abolishment of the road licence fees. Again, I think we have replaced a very straightforward form of taxation, which was easy to apply and which was also very equitable. Previously, if you had a bigger vehicle, you would pay more money. If you had a small vehicle, you would pay less. The poor person, who had no vehicle, was not taxed. That is what we call equity in taxation.

The Government has now replaced that equitable taxation measure with an inequitable taxation measure by increasing the tax on petroleum fuel, which is, in fact, inflationary. This measure hurts the poor more than the rich, because the poor now pay the same amount of money as rich people. There are multiple negative effects of this taxation measure on the economy from a rise in the costs of production and service delivery. We have seen that clearly in the transport sector. The cost of travel by public service vehicles (PSVs) has increased significantly as a result of this additional tax on petroleum fuel. We have also seen that the energy sector has also been affected.

Mr. Temporary Deputy Speaker, Sir, if I may now focus on the issue of the Road Maintenance Levy (RML). In fact, I was talking about it a while ago. However, I would like to look at it at a different angle. There is a tendency for the Government to over-rely on the RML. In the recent past, the Departmental Committee on Finance, Planning and Trade toured China, Singapore and the United States of America. We observed that these countries do not over-rely on the RML.

It is interesting to note that this country not only uses the RML to maintain roads, but also to put up new roads. We need to decide not to over-rely on the RML. The RML is a good initiative because we use it to maintain our roads. However, we should ask the Minister to apply the new instrument which he introduced in the Budget Speech. This is the Infrastructure Development Bonds (IDB). There is no sign of it being applied to date. I am really concerned about it. We praised him for introducing this very important instrument. A long term bond has been used effectively in other countries. When we visited the states of Georgia, California, Texas, Washington DC, and even observed the federal government roads, we saw that they are all built using the Infrastructure Long Term Bond (ILT). When we visited the United Kingdom in 2004, we discovered that they had changed their policy. From 2003, they do not use the bonds for recurrent expenditure, they use them for capital development. That is the route Kenya should go. It is a fact that by the year 2030, Britain will overtake Germany because its economic growth rate is overwhelming. They are likely to be second strongest economy in the world. I do not see why we cannot follow these success cases. We must now institutionalise in law the Infrastructure Development Bonds. We must implement them to put up new roads throughout the country. That will be the beginning of development. If we are to achieve the development vision of 2030, we must implement some of these financial instruments.

Mr. Temporary Deputy Speaker, Sir, finally, I want to talk about the Rural Electrification Programme (REP). This is a very critical area with very little development. Electric power connection is so expensive such that we are not ready to use the Constituencies Development Fund (CDF) to do so. The transformers, poles and other items are very expensive.

*(Ms. Ndung'u sat at the Clerk's Table)*

**Prof. Olweny:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I wish to seek your guidance as to whether hon. Members are allowed to sit at the Clerk's Table.

**The Temporary Deputy Speaker** (Mr. M'Mukindia): Prof. Olweny, the hon. Member is consulting.

**Mr. Sungu:** But is she in order?

**The Temporary Deputy Speaker** (Mr. M'Mukindia): Proceed, Mr. Wambora!

**Mr. Wambora:** Mr. Temporary Deputy Speaker, Sir, I was saying that we need to remove the taxes that are affecting the REP, so that this programme benefits the rural poor.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to support the debate on the Finance Bill.

**Mr. Okemo:** Thank you, Mr. Temporary Deputy Speaker, Sir. I will make very brief comments on the Finance Bill.

First of all, I would like to make an observation that there are a number of clauses that are included in the Finance Bill that should not really be there. This has been a problem over the years. We have, for example, issues to do with insurance. That clause should be deleted from the Finance Bill and taken to the Insurance (Amendment) Bill.

We also have clauses relating to the Central Bank of Kenya (CBK) about the creation of a chairman and so on. This is really trying to introduce amendments to existing statutes through the window. This should be done properly. The Central Bank Act should be amended. We should not use the Finance Bill as a bridge to try and do it faster than we would otherwise do.

I do not agree with what is provided for in the Finance Bill as far as the creation of the position of a chairman is concerned. Directionally, the world over, central banks are meant to be autonomous and independent. Therefore, that means we must delink the CBK from influence of the Treasury. I have been in the Treasury and I know the amount of intrusion and influence that the Treasury wields over the CBK. I do not, for example, see the rationale for the Minister for Finance to sign an approval for a bank to close, or even for the renewal of a licence of a bank. He should be involved in slightly more important activities than pedestrian things like signing a licence renewal, which is really a routine matter. He should ideally be involved in policy matters. He should be involved in directing whether to increase competition in the commercial banking sector or not, and looking at the overall health of the financial sector. He is moving in the wrong direction. That chairman will be an appointee of the President. The Governor and the Deputy Governor of the CBK are appointees of the President. These three people will be answerable to one appointing authority. They are all in that system. Each one of them, trying to outsmart the other. We can all imagine what kind of a CBK we will have. My suggestion is that this clause be deleted. It should be brought as a substantial amendment to the Central Bank Act. We should look at the entire Central Bank Act and let other amendments be there which try to reinforce the autonomy and independence of the CBK. That is the direction other countries are moving. I do not see why Kenya should be the exception.

Mr. Temporary Deputy Speaker, Sir, I do not support the inclusion of the Sugar Development Levy (SDL). Why was the SDL introduced? It was meant to be money contributed by farmers to a fund. That fund would be used by the same farmers to develop sugar-cane farming. A little bit of it was also to be used to maintain sugar factories. At the moment, the farmer is not benefiting from the SDL as it is being administered by managers of sugar companies. Most of the

money is actually going into maintenance of factories. There is very little that is actually benefitting the farmer. In my view, the farmer will not lose anything if the SDL is removed all together. It should be removed because it does not benefit the farmer. It is benefitting sugar factories. The sugar-cane farmer is being overtaxed. If we look at the number of taxes that the farmer has to pay, really this is punitive. If we compare that with farmers of coffee, tea and milk producers, we find that the sugar-cane farmer is heavily taxed. In order to try and help the farmer to get a decent return on his investment, some of these taxes must be removed.

I would like to suggest that the Sugar Development Levy, rather than being pushed back to the sugar companies and imposed on the sugar consumer, should be removed completely because it has very little benefit to the ordinary sugar-cane farmer.

Mr. Temporary Deputy Speaker, Sir, I wish to comment on the Capital Gains Tax. One of the earlier contributors here mentioned that the Capital Gains Tax was suspended about 20 years ago. There was a reason for that. The same reason that applied then has not changed. The Capital Gains Tax on real estate is going to stifle the property market. A lot of Kenyans are struggling to improve their homes. So, once you impose this tax, it is going to stifle the effort of somebody who has a property and wants to sell it in order to buy a better one.

In my view, the Capital Gains Tax should continue to be suspended until the property market is fully developed. When I was looking at the provision in the Finance Bill, I found out that the aim is to raise revenue. Surely, the place to raise this revenue is from the stock exchange. It is very curious that the Capital Gains Tax has not been introduced in the trading of shares and stocks, but has been re-introduced on real estate. If you want to help this economy and the ordinary Kenyan, I would rather that the Capital Gains Tax is imposed on stock exchange. All of us will buy shares. We are trading and doing business. If you are in the business of buying and selling properties, then you will have to pay Corporation Tax. It will be reflected in your profit. So, do you want to introduce another tax on top of that? I would really urge hon. Members not to support the re-introduction of the Capital Gains Tax.

Mr. Temporary Deputy Speaker, Sir, there is a clause in the Finance Bill that relates to various aspects of the insurance industry. This is something to do with agents and brokers. There is something to do with the period which a broker must take when he has collected premiums to remit the money to the insurance company. Again, this is an attempt by the Minister to introduce amendments to the Insurance Act through the back door. As I said, there is an amendment to the Insurance Act that will be introduced. Why can we not get those provisions away from the Finance Bill and put them in the Insurance (Amendment) Act.

I would like to end by saying that overall, the Bill is okay subject to the observations that I have made. One of the speakers here has mentioned that the Kenya Revenue Authority (KRA) should retain the 1.5 per cent which is supposed to be paid to the staff as a result of collecting tax on behalf of the Government. That is not implementable. The rule is that any money that is collected must first go to the Consolidated Fund before it comes out.

I would like to tell the Minister that KRA is doing a great job. It needs to be encouraged. I think the Government is not giving as much support to the KRA as it should. If you look at how much the officers are being paid for the work done, you will find that it is less than 1 per cent. The officers are doing a good job. We have seen an increase in revenue, which is good for everybody. Why can they not be encouraged by making sure that every remittance that they make and that goes to the Consolidated Fund, as soon as the money is received, the 1.5 per cent should automatically be paid to them, for them to operate efficiently and effectively.

With those few remarks, I beg to support.

**The Minister for East African Community** (Mr. J. Koech): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to join my colleagues in commenting on the Finance Bill.

First and foremost, I would like to commend the Minister for Finance for working so hard

to improve the economy of this country. The economy is now growing at more than 5 per cent per annum. This is a major achievement considering the fact that for some time, we have had an economic stagnation. I would like to encourage him to continue with these efforts, so that we can have a higher economic growth rate, which can trickle down to the common people in order to reduce poverty.

Mr. Temporary Deputy Speaker, Sir, I would also like to commend the Minister for Finance for the prudent management of the fiscal and monetary policy. This has enabled us to have a stable currency for a long time. This has been reflected in the prices of imported goods, especially in regard to oil prices. If it was not for the prudent fiscal and monetary management, the prices of oil today would be so high. This is a very big achievement.

I would like to request oil companies in this country to ensure that when the prices of oil go down in the world market, they reciprocate by reducing the prices locally. These oil companies should have a "heart" for the common *mwananchi* in this country. They are making a lot of money and it is only logical for them to reduce the prices of oil. If that is not going to happen, I believe the Minister for Finance will have to introduce some controls to oil prices. If the dealers will not cooperate and want to continue earning so much money at the expense of Kenyans, that is not fair. I would urge the oil companies to reduce the prices of oil. Indeed, they are reaping a very high profit from the high prices of oil.

Mr. Temporary Deputy Speaker, Sir, I would also like to commend the Minister for ensuring that farmers, especially the pyrethrum growers, the dairy and the sugar-cane farmers, have been paid their dues, which have been outstanding for a long time. Due to the payments, the 5.8 per cent economic growth rate is beginning to be felt in the rural areas. We should be grateful for that. This means that the common man can now enjoy the fruits of his labour. This is a very big encouragement and we should commend the Minister for Finance for paying the farmers.

On taxation, I would like to congratulate the Minister for Finance for ensuring that duty on imported goods is increased, so that the local industries are promoted. I am happy with this as the Minister for the East African Community. With the coming up of the Common External Tariff through the Protocol on the Customs Union, in the East African market, East African products will be preferred to products which are produced elsewhere. Quite a good number of goods which are manufactured in this country are now beginning to access markets within the East African Community because of the Common External Tariff. Goods like milk are now beginning to access the Tanzanian and Ugandan markets. This is very good for our farmers.

I would like to encourage our farmers and our people to make use of the East African Community. I am very happy to find that our local farmers, especially at the borders, are beginning to make use of the removal of taxation or duty on the common market. Soon we shall be negotiating on the protocol on the common market. This, of course, will bring into being free movement of persons and services and the right of resident in this country. Our people should take advantage of the situation which is prevailing in East Africa. I would be very unhappy, as the Minister for the East African Community, to see that it is only members of the big business community who are benefiting from the common market.

I want to request hon. Members that, wherever they are in their constituencies, they should talk to their people about the benefits of the East African Community and the common market, which we are now enjoying in this region. Already, the people in the border areas, like Busia, are enjoying these benefits, because they are trading freely with Ugandans. The same applies to our common border with Tanzania in Namanga, and also in Langalanga, where they are now beginning to feel the usefulness of the East African Community.

Mr. Temporary Deputy Speaker, Sir, I am also happy that the Minister has looked into the issue of supporting Common External Tariff System, which is aimed at reducing duties on goods, as I have always said. This will go a long way in ensuring that the business community in this country is encouraged to produce even more.



Mr. Temporary Deputy Speaker, Sir, on agricultural products, I find that the Minister has also sanctioned the reduction of taxation on agricultural products. This will also go a long way to ensure that farmers produce better yields and increase their inputs in agricultural development. What we need to do in the rural areas is to ensure that farmers actually benefit. If the income of farming community is increased, it will be an engine of growth because it will also encourage a lot of industrialization in this country. In that way, we will have a spiral effect which is going to touch on the youth of this country.

Mr. Temporary Deputy Speaker, Sir, I also want to thank the Minister for Finance for coming up with the Youth Enterprise Fund. If the Kshs1 billion, which has been allocated for the youth, will be used properly, it will go a long way to ensure that our youth get some gainful employment. I hope that when this money will be released, it will not be used for political reasons. I think that all of us, as hon. Members, should educate our youth to come up with viable projects, because the thinking in some quarters is that the Government is going to give out this money as donations or hand-outs to the youth. This money should be used to develop our youth through well-planned, viable and sustainable projects and which should be able to improve their welfare. By doing that, the Fund will really assist the youth of this country.

Mr. Temporary Deputy Speaker, Sir, the Finance Bill has given the *Jua Kali* sector a boost through the reduction of taxation on their products. The *Jua Kali* industry will be a very important area because it will create gainful employment for our youth. I want to revisit the question of employment. Truly speaking, since the NARC Government came into power, employment opportunities have increased. But, sometimes, the common *mwananchi* has been misled by some politicians, who are asking: "Where are the jobs?" Honestly, where do you expect the Government to get the jobs? Government jobs are static because the number of public servants is not going to be increased much more than it is, and we all know that. The only area where employment will be generated is through the private sector. So, the Government is encouraging the private sector and areas like the East African Community, which is going to give rise to more industrial development in this country which will eventually create job opportunities for young people. If we have a lot of investment in this country, it will mean that the young people will benefit through many economic activities like small businesses, which will give them some gainful employment. We should give the right signals. With more investments in this country, more informal employment opportunities are being created which are benefitting the young people of this country. Therefore, for us to stand up and say that no jobs have been created, I think that is very unfair! Where did you expect those jobs to be created in the first place? You do not expect the Government to come and announce that there will be 2 million vacancies in the Civil Service. That is not possible! But the fact that there will be more investments in the country and improved economy, this will create employment opportunities for quite a good number of our people.

Mr. Temporary Deputy Speaker, Sir, with an increase in revenue collection, which has been extremely good for this Government, it also means that the amount allocated to the Constituencies Development Fund (CDF) has also been increased, because the amount allocated to the CDF is also proportional to increased revenues. So, if the Kenya Revenue Authority (KRA) has collected more money, it means that we, as hon. Members, are going to have more money in our constituency accounts. If this money will be used properly, it is going to create a lot of employment opportunities in the rural areas. This is one way in which the Government has invested in local areas and it is already bearing some fruit, because there are more employment opportunities in the rural areas.

Mr. Temporary Deputy Speaker, Sir, as I end my speech, I want to appeal to hon. Members to talk less and do more. The biggest problem we have ever had in this country is that, there has been more politics, especially from the politicians, rather than encouraging economic development. We should now get down to the basics and find out how we are going to make our people get something to eat. What measures are we going to introduce to ensure that our people improve their

livelihoods? How do we spend the money in the CDF to ensure that we improve the lives of our people and reduce poverty? These funds are in our hands, as hon. Members, and we cannot blame anybody now. This money is in our constituencies, how are we using it to increase employment opportunities and also to reduce the poverty levels in our areas? Instead of coming here and saying that this Government is doing nothing, I think so much has been done and we should be very appreciative. Let us come out with more ideas to ensure that this country is developed. When some of us, who travel out of this country, think of home, we become very happy because so much is going on in our country than in many other countries.

With these few remarks, I beg to support.

**Mr. Sungu:** Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to commend the Minister for bringing this important Bill to the House. I would like to reiterate the importance of this Bill. If anybody would care to go into history, they would know that Parliament started in Old England in those early centuries, and the maxim then was: "No taxation without representation". We represent the people of Kenya and we should be allowed to make sure that we debate fully all measures to do with taxation and all financial policies effectively and properly, and no attempt should be made to hurry this House. It will also be important and prudent for hon. Members, especially those on the Government side, instead of coming as voting machines, they should listen to debate from both sides so that we can decide for this country as one people, because this affects us, whether we are in the Opposition or in the Government.

Mr. Temporary Deputy Speaker, Sir, this Bill addresses important issues; it has taxation measures, Customs and Excise duties, Value Added Tax (VAT), Income Tax and other miscellaneous taxes. In fact, it gives legal effect to those things that we have looked at in the Budget. Let me comment on a few items only. I come from a background of insurance. Before becoming an hon. Member, I was an insurance loss adjuster. So, I am well versed with what goes on in the insurance industry. It does not matter much whether the Minister reduces the deposit for brokers from Kshs5 million to Kshs3 million or not. What is important is that there ought to be rules. Those rules must be followed so that when a broker receives money from a client or an insured person, then that money should be remitted automatically to the insurer. Many people have suffered at the hands of brokers and insurance agents. When you are paying, they say that they are the agents of the insurer, but when there is a claim, they tell you that they were just your agents. So, the insurer is using the broker as a convenient way of avoiding direct contact with the insured, with the result that many people suffer after paying their money to the broker. If the money is not remitted, then that money is lost and no claim is paid. That is what we ought to look at.

I want to commend the Minister because after listening to a lot of complaints and consulting widely with the leaders from sugar belt and those who care about the sugar industry, he finally agreed to make the necessary amendments to the Sugar Act. If we charge the Sugar Development Levy (SDL), it will literally destroy the sugar industry in this country. That is not acceptable because the sugar industry supports over 10 million Kenyans. These Kenyans, through ballot box, have the power to vote us out of this House. So, we must support them. I would urge the Minister to keep his word and ensure that he does what he has promised this House.

Mr. Temporary Deputy Speaker, Sir, the Bill also touches on amendments to other areas like the Government Financial Management Act of 2004. It is good that other professionals are being included here. Again, I would like to say that it would have been really nice if this was brought in the form of an amendment to a particular Act rather than through the Finance Bill. Questions are begging this Ministry with regard to the sourcing of the second national telephone operator in the telecommunications sector. We would like to know whether this system is now above board, transparent and accountable to the people of Kenya. Why, for example, did the Communications Commission of Kenya (CCK) agree to license the Econet Wireless at a cost of Kshs27 million and yet, the Kencell and Safaricom were asked to pay Kshs55 million respectively? There are many other questions begging for answers. These are the issues that we should be

looking at in terms of the Finance Bill, rather than all those other mundane issues. We know, and I am sure questions will be asked at the opportune time, that we, as Parliament, have to look at these matters. This is because getting a second national telephone operator should not be taken lightly. It should not be done through the under-hand method where the procedure of tendering is not fair and transparent.

Mr. Temporary Deputy Speaker, Sir, with regard to the Banking Act, some banks have been used to siphon out millions of shillings from poor Kenyans. We need to look at cases of Euro Bank, Trust Bank, Trade Bank and so on. We ought to be serious about these matters. I really would like to know from the Minister, when he replies, what is happening in the banking sector.

The Departmental Committee on Finance, Planning and Trade has given the Charterhouse Bank an okay to go on with their business. However, the Government says the opposite. Which is which? We would like to know the truth. The law must be clear and simple. It should be like a straight lane from Miwani, where Prof. Olweny stays, to Kibos and Kisumu, where we cannot see the end of the road. We need to be clear on some laws. It is important that when we are amending the Banking Act as well as the Central Bank Act, we look at those issues.

There is also the issue of employment. We need to be fair. I am still asking why Mr. Mullei was removed from the office. It is a shame that he had to be sacked and replaced with another person. Maybe tomorrow whoever replaced him will also be sacked. Why do we not just follow the law and make sure that whatever we are doing is right regardless of which tribe one comes from? Of course, we also should reduce the reliance on financial aid from our development partners, to ensure that we manage our economy effectively.

*[The Temporary Deputy Speaker  
(Mr. M'Mukindia) left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, there is something that is very close to my heart; I want to talk to the moguls of finance, through the Minister. When they increase the tax on beer, they should do it double-fold. That will be good taxation. One will not die if he does not take beer. Of course, we are aware of the number of accidents that occur because of the influence of beer. However, the worst are the cigarettes which do not do any good to anyone. There is a Bill which will come before this House to check the use of tobacco products. Of course, there are some people who want to frustrate it, so that it does not come before this House. According to the records in the Government hands, we get only about Kshs5 billion and Ksh6 billion in form of taxes from cigarettes. We also know from the medical personnel that we spend more than Kshs18 billion to treat diseases caused by the use of cigarettes and other tobacco products in this country. A cigarette has over 400 different chemicals. It also causes cancer and many other kinds of diseases. Why can we not increase tax on cigarettes and other tobacco products, so that those smokers meet the expenditure on diseases related to their habits? Why should we over-tax other areas which we really need to encourage to come up? These are some of the ways which can help the common man. This is something which has, in fact, been agreed on by the World Health Organization (WHO).

Mr. Temporary Deputy Speaker, Sir, some of my colleagues have also referred to Section 5, Cap.423, of the Constitutional Offices Amendment. My only appeal is that we really need to address that particular law. If we bring these matters in the Finance Bill, it is tantamount to, at least, going through the back door.

Mr. Temporary Deputy Speaker, Sir, with respect to the Capital Gains Tax, my concern is that if we are going to proceed along the same line that is suggested in the Bill, it means that those

who come from the lower and middle income brackets will never rise on the social ladder. Most people, because of lack of access to enough money, rely heavily on loans. They take loans and buy small houses. In other countries, the tendency is that once you have bought one house, that is a starting point. You then sell that house to raise a deposit for a bigger one. That way one can rise the social strata. This tax should have been levied on the people who are building big mansions in Kileleshwa and Ngong Road. They are destroying the planning of Nairobi because they have more money than other people. As we claim to have gained a growth rate of 5.8 per cent, we must say also that, in fact, the gap between the poor and rich is ever getting wider. The gap is ever getting wider. That growth rate is suspect because it only applies to a certain privileged section of our community.

Mr. Temporary Deputy Speaker, Sir, there is a proposed amendment to the Kenya Revenue Act. Let us ask KRA to remember that it is a Kenyan organisation. As a Member of Parliament who represents the City of Kisumu, I would like to say that I have noticed with concern that our people are being removed from KRA, and we are also taxpayers like other Kenyans. Let KRA serve Kenyans. We support it. We want it to collect more taxes. We will support it with all the legislation it requires. But, also, let it be fair. Do not treat it as an ethnic thing. Do not keep only one ethnic community there. It is not that community that owns Kenya. We are all Kenyans. We want Kenya to belong to all. Please, do not keep our people on the brims and sack them unnecessarily, without lawful cause.

Mr. Temporary Deputy Speaker, Sir, I am glad that the Stamp Duty Act is being amended. That will include expenses on public, social and educational institutions. That is commendable. With regard to Cap.485 - Capital Markets Act - I only want to make sure--- The Capital Markets Authority will not appear before this House. The Minister for Finance is their boss. They are supervised by all the other Government agencies. This Bill is applicable to them. But we want things to be done in a fair and transparent manner.

*(Mr. M.Y. Haji entered the Chamber  
without bowing to the Chair)*

**The Temporary Deputy Speaker** (Mr. Poghio): Order, hon. M.Y. Haji. You have to go back there and bow to the Chair!

*(Mr. M.Y. Haji bowed to the Chair)*

**Mr. Sungu:** May I proceed, Mr. Temporary Deputy Speaker, Sir?

I raised a very fundamental issue, and that must go on record! KenGen released its initial public offer at a certain rate and, overnight, the rate doubled. East African Cables issued some shares at a certain rate. That rate doubled overnight. Could anybody, with all the financial knowledge, explain to me how that occurred, particularly to specific companies bought by specific individuals? My better judgement tells me that there is something afoot there. The Capital Markets Authority must act above board because that market relies on confidence. If confidence is eroded and there is any doubt whatsoever, that market can fall. We know of markets which collapsed during World War II. It is important that we exercise caution when we are dealing with those issues because, today, we may be in power and control things, but tomorrow, we may not be. When that time comes, you will want those laws to be fair to everybody. I would like to support this Bill, but with some amendments.

With those few remarks, I beg to support.

**The Assistant Minister for Local Government** (Mr. Tarus): Mr. Temporary Deputy Speaker, Sir, thank you for giving me this chance to contribute to the Finance Bill. While supporting this Bill, I would, first of all, like to thank the Minister for Finance for doing a

commendable job, particularly in turning around the economy. It is very encouraging that, today, Kenya can rely on its resources for both Development and Recurrent Expenditure. For a long time, Kenya had got used to relying on foreign aid. We have increased and improved the collection of revenue. It is now possible for Kenyans to gain esteem again. We can be proud of the revenue collected. We must also be proud of the fact that, Kenya does not rely on borrowing. The improved economic growth and revenue collection is, indeed, very useful. But we still have a lot of work to do, particularly with regard to employment creation. I say so because many of our people get a lot of hope when we tell them that the economy has improved. However, one of our greatest challenges is to make that improvement noticeable among the population.

Mr. Temporary Deputy Speaker, Sir, the other issue has to do with poverty alleviation. As a country, we need to work very hard to make sure that the economic growth is translated into better lives among the people of Kenya. I want to commend the Minister for the proposals he made regarding the lowest cadres of society. When you ask yourself who the poor people are in Kenya, you will realise that, clearly, the majority of them constitute the women, the youth and people, the majority of whom do not have land and cannot access credit facilities. The Finance Minister's proposals or allocation of resources to target investment among the youth and women is an important aspect in the management of our economy. The youth are our greatest resource. If only we can build on this perspective, we would be mobilising our resources very well.

The allocation of this fund, if properly managed, will help in eliminating inequalities. There will be investment among the youth, particularly if we do not ask them for securities when we are lending them money from the fund. While we are thinking about how to disburse this fund, I hope we will go down to the location level and develop frameworks for training of young people, particularly those that have to do with business ventures and micro-finance business for the purpose of seeing real productivity, so that come the next financial year, we can say that the Kshs1 billion that was invested in the youth fund has multiplied, maybe, to Kshs4 billion. That will encourage support by taxpayers for investment in that area.

The other proposal I would like to applaud the Minister for is the one on solar equipment. We have solar energy in abundance and we know that electricity generation is not adequate. We have a gap to fill. However, we have abandoned energy from solar. Therefore, the Minister's decision to remove duty on solar equipment will allow exploitation of one of the greatest resources that this country enjoys. There are areas where it has not been possible to expand electrification, mainly because of distance or the nature of the terrain in those areas, yet we have schools, health centres and homes which want to utilise the benefit of that energy. That is very important, and I hope that the Ministry of Energy will sensitise the country on how to utilise that source of energy. This is important, particularly for the poor people and low income earners because the expenses on this investment are not as much as those for electrification.

Mr. Temporary Deputy Speaker, Sir, I would also like to thank the Minister for zero-rating agricultural equipment and unprocessed products, because that goes ahead in providing profitability in the agricultural sector. Ever since the Government targeted investment in the agricultural sector by providing credit through the Agricultural Finance Corporation (AFC) and the removal of duty on agricultural products, farmers are now investing heavily in the agricultural sector. This is an area which will provide the greatest opportunity for employment to our young people. The Minister is lauded for this.

It is also encouraging that we have also zero-rated fishing equipment. When you look at all these proposals, they are going to assist the common man. For a long time, the fishing industry, despite its great potential, had not improved. I, therefore, hope that the zero-rating of fishing equipment will attract investment in this particular field for purposes of increasing quality and quantity of products.

Kenya is a wonderful country; a wonderful economy. If all these areas were able to function without any interruption, they would generate a lot of employment opportunities and foreign

exchange for our country. We need all these sectors to function for us to move towards full employment. In this country, we are yet to utilise our resources fully. Kenya is said to enjoy one of the highest investment in skilled manpower in the region. You go to every country in Africa and you do not fail to get a Kenyan working there. But we need this manpower utilised locally. Therefore, we need to put in policies that will allow investment in our manpower to stay home and avoid unnecessary brain drain.

Mr. Temporary Deputy Speaker, Sir, I would also like to talk about the issue of the Sugar Development Levy. This has been the most controversial issue, given the fact that the sugar sector contributes immensely to our economy. I am encouraged that the Minister for Finance is opening up consultation for purposes of abolishing this particular tax. I am sure this will help the farmers by reducing the cost of sugar production. I also hope we will look into other ways of modernising technology for sugar production.

I think the main problem that we have in this country has to do with lack of equipment, technology and management. Therefore, we find sugar production in the region being expensive and punitive to our farmers. So, I also hope that while we do this review by the Government to ameliorate the farmers from the costs through tax, we also invest in modernisation. This has shown that in the last few years, since the Government moved in to streamline the management in sugar factories, those taxes are now making profits and they can make even more profits. Therefore, we need to continue on the path of improvement of this sector because we really need every sector to function, and I am sure with improved management of the sugar sector, the much needed revenue will be obtainable.

Mr. Temporary Deputy Speaker, Sir, I also know that the Minister has thought of reducing the amount required to be deposited with the Central Bank of Kenya by insurance brokers. My worry initially was that we were going to reduce those participants to a few and, therefore, create a near cartel type. So, this is also going to open avenues for Kenyans, and as an hon. Member said, we still need to look at this amount that has been reduced; whether it is still not excluding participation of other participants in this particular sector.

It is also encouraging that the Minister has reviewed where the money is going to be deposited, instead of the Central Bank, to the commercial banks because in the CBK, as earlier said, it was just going to hold this money and that was not going to be fair to the participants in this particular industry.

The other issue that is encouraging is the thought also of zero-rating equipment for the *Jua Kali* sector. We have noted, and this I have slight information about, that people in the lower cadre of the economy are more vibrant and versatile, and always want to invest their little money.

In fact, in terms of credit, the reports that we hear, particularly from the farming sector, is that those who really observe the law to the letter in repaying their loans are the ones in the lower cadre. If you come to the farming sector, those who take loans amounting to Kshs50,000, Kshs100,000 and Kshs200,000 are very prompt in their repayment.

Therefore, encouraging this sector of *Jua Kali* also by zero-rating the importation of this equipment is surely allowing those who could not gain formal employment to also participate. It also encourages the manpower we produce from technical institutions like polytechnics to also participate in this particular sector, and if there is any source of industrialisation, it is this particular sector. The more we invest in this area, the more we improve the chances of our country moving towards an industrialised economy.

Mr. Temporary Deputy Speaker, Sir, for a long time, our muslim brothers have never utilised loans provided by banks. But we have thought of encouraging banks to offer products that encourage our muslim brothers to use those facilities. That is part of integrating society and opening opportunities to all.

Mr. Temporary Deputy Speaker, Sir, on the issue raised by one hon. Member that Kenya Revenue Authority (KRA) retains 2 per cent of revenue collected, my fear: What will it do with

that money? We badly need that money to run our economy.

With those few remarks, I beg to support.

**Mr. Billow:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute. Some of the issues that have been raised in this Finance Bill are remarkable. I want to spend my time on those that I think the Minister should have re-considered.

I want to start off with Section 17. On that Section, there is an attempt to tax the gains and profits arising from "call centres". There is a trend where countries in Europe and the United States of America (USA) are using Third World countries for transmission of telecommunication equipment.

In my view, introducing taxes on gains and profits arising from that business, at this very early stage when the industry is being introduced, would act as a dis-incentive. We are looking at employment creation and investment that is coming in through those "call centres", and through the use of the internet by non-residents or companies that are based outside the country.

Mr. Temporary Deputy Speaker, Sir, many countries, including India and others, are earning huge sums of money out of that. Employment is also being created. I think it would be a bit un-competitive, if we start taxing the gains or profits arising from businesses of that nature. In my view, the Minister needs to be cautious on that.

Mr. Temporary Deputy Speaker, Sir, Section 20 is on companies that wish to list on the Nairobi Stock Exchange. The Minister has allowed for capital expenditures and legal costs. That, I think, was intended to encourage more companies to be listed on the Nairobi Stock Exchange (NSE). But one of the concerns that I wanted to express is: It appears that most of the companies which are listed are owned by the Government.

Many private companies that are listed on the NSE have a very small portion of their total share capital in the hand of Kenyans. About 80 per cent of the shares are held by the owners of the companies. So, you find a company like the Nation Media Group listed on the NSE. However, when you look at the percentage of the total share capital that is listed on the NSE, it is negligible! The same thing happens with many other private companies.

Therefore, it would appear like all the players in the capital market only wait for Government companies to float their shares. I think that is wrong and there is need for the Government to not only encourage people to invest in shares, but also set limits so that if a company wants to list its shares on the Nairobi Stock Exchange and it wants to benefit from incentives such as being allowed capital expenditure, legal costs and so on, then the company has to off-load a certain minimum amount of shares, say, 40 per cent or 50 per cent of its share capital to Kenyans. That is something that we need to do so that we encourage more people to invest in some of the private companies that are performing very well in the stock exchange.

There is also need to overhaul the operations of the Capital Markets Authority (CMA). We do not want to be faced with a situation similar to the one that happened to Uchumi recently. CMA is an organisation that has the responsibility of monitoring the performance of companies which are listed on the stock exchange. There are rules for listing and there is compliance to corporate governance under the CMA. It is important that the CMA strictly ensures that companies restrict themselves or comply with the requirements of corporate governance as required by law, so that members of the public who invest in those companies are not defrauded, thereby losing their money.

Mr. Temporary Deputy Speaker, Sir, you have seen the incentives that I have mentioned being given to companies that want to list on the stock exchange. There are also many other incentives which are given to what are called "companies in the modern sector". The incentives include anything from duty waiver to VAT waiver whenever there is importation of equipment, raw materials and so forth. However, the same incentives are not given to the Small and Micro-Enterprises (SMEs). In spite of the fact that we passed a policy paper on the SMEs last year, much of the provisions on SMEs policies that we passed here are not being reflected in the Minister's

Budget Speech. The only one that I need to mention, and is positive, is the introduction of a turnover limit of Kshs5 million. I truly find that to be remarkable.

This means that if your company's turnover is less than Kshs5 million, then you only need to pay an income tax of Kshs150,000 or 3 per cent whatever is lower. That is, indeed, a remarkable principle. For a long time, we have been agitating for a different tax regime for SMEs. You cannot have the same taxation regime for a small businessman in Kariokor or River Road whose turnover is only Kshs3 million or Kshs4 million and a company the size of BAT or East African Breweries Limited. It is not fair to subject them to the same level of income tax percentage payable or the same level of VAT or PAYE payable. You really cannot have that kind of thing. We need to have a different taxation regime for SMEs so that we can encourage our companies to grow.

We have a situation where SMEs do not grow because they have no incentives. They do not have a lobby group. Big companies like the Kenya Association of Manufacturers have lobby groups. Other big firms have similar lobby institutions that lobby for them, but SMEs in the rural areas have nobody to lobby on their behalf, and yet they pay the same 16 per cent VAT. In fact, they used to pay the same amount of tax. I am actually happy that the Minister was able to limit the threshold of the turnover to Kshs5 million. I am equally happy that he was able to increase the VAT threshold to Kshs5 million. I still think that, that is grossly inadequate. Imagine a firm whose turnover is Kshs5 million and it is subjected to the same tax requirements as a company whose turnover is Kshs50 billion or Kshs60 billion. A good example is Safaricom. I think that is not fair and it is high time we introduced significantly lower tax regimes for the SMEs. At the same time we need to introduce incentives to the SMEs so that they can employ people. If a company can employ five people or ten people, then it should be given a certain type of tax exemption.

I think this kind of incentive will encourage small enterprises to employ more people. We must appreciate that the fastest growing sector in our economy is the small and micro enterprise. It is not the large companies. The so-called modern sector does not contribute or employ more than 10 per cent of the total labour force of this country. Eighty per cent of employment in this country is in the small and micro enterprise. Yet, we focus all our attention and incentives on that small modern sector, because it has got the might to lobby.

I would like to also appeal to the Minister to, in the introduction of the electronic tax registers, consider small enterprises. We should not force them to introduce tax registers in the same way we expect supermarkets to instal those registers. Some supermarkets are not paying taxes. I have given an example of the largest supermarket in this country that was not paying taxes. It was using briefcase companies to import goods on its behalf. Those briefcase companies do not pay VAT. You will find that the goods such companies import find their way into supermarkets that do not pay tax. Yet, you ask the small micro enterprises in Karatina, Nyeri and other small villages to introduce tax registers, so that you make sure that they pay tax on every penny that they make. I think it is important to introduce a tax regime for small enterprises, so that we encourage our small industries to grow.

I have also a problem with the introduction of the Capital Gains Tax. I appreciate that the Minister needs to raise taxes, but for a long time we have not had this tax in this country. One of the reasons why I find it unacceptable is that it is going to retard real estate growth. One of the major challenges that we have is lack of housing. How are we going to encourage growth in the housing sector if we introduce the Capital Gains Tax? How shall we reduce the cost of acquiring of houses to make it affordable to civil servants and other Kenyans if we introduce the Capital Gains Tax? These are some of the issues we need to look into. I think it may not be the most appropriate thing to do. It is important to realise that, with the increasing poverty and cost of living, we do not burden Kenyans with additional taxation, particularly in the housing sector.

Mr. Temporary Deputy Speaker, Sir, under Clause 25A, the Minister provides that if you file a claim for a refund fraudulently, you have to be penalised by being made to pay twice the amount of the claim that you have made. I find this a bit arbitrary because of the manner in which it



will be worked out. I also find it a bit unfair. First of all, if you are going to claim any refund, it must be subjected to audit by professional audit firms. Secondly, even if you make that mistake, it should be noted that the KRA makes many more mistakes when it assesses taxes. Many times, the KRA over-charges people because of errors it makes in the assessment of taxes. Yet, no liability arises against the KRA, neither is it charged the same penalty. It does not even pay any interest. In addition, VAT refunds from KRA take more than six months, or even nine months in some cases, to be paid, and yet it is not required to pay interest on money that it delays to refund. So, I find it unfair to introduce this penalty. In taxation, there has to be equity and fairness. You should not always overburden the taxpayer. The taxpayer is the goose that lays the golden egg. You should not just penalise the taxpayer all the time for mistakes made by the KRA. It is important to look into that.

The Minister also proposes that unclaimed dividends which remain in an account for seven years have to be surrendered to the Capital Markets Authority. I find that a bit strange because such money belongs to companies. It should thus be ploughed back to the companies concerned.

The Most important issue that I want to raise is on the Central Bank of Kenya. In Clause 32, the Minister proposes that there should be vetting of commercial bank officials with regard to their professional and moral qualities. This is a very important proposal. As a matter of procedure, for the last very many years, the Central Bank of Kenya (CBK) has been carrying out what they call "fit and proper" kind of audit. You submit your papers if you are going to be appointed as one of the directors and they would vet to see whether you are fit and proper to become a director. The Minister now says that they need to also look at the moral qualities in terms of integrity and other matters. All this is well. However, what happens in reality is that in spite of the fact that all these things are there, a number of people who do not even fit to run a kiosk are allowed by the Central Bank of Kenya (CBK) to become directors in banks. The law is very clear that, for example, if you have been convicted of any crime before, or if you have been responsible or been a director in a failed bank, you cannot subsequently be appointed as a director, yet we have seen many directors who have been involved in banks that have failed before and fleeced Kenyans being re-appointed. We are saying that in spite of the fact that there is a provision here provided by the Minister, the issue of enforcement---

*(Mr. Kimunya consulted with Ms. Karua)*

The Minister does not listen as usual, but we will talk because other Kenyans are listening.

On the issue of enforcement, although these provisions are there---

**The Temporary Deputy Speaker** (Mr. Poghio): Order, Mr. Billow! It is so partly because some of the things you say, I thought the Minister would react to them.

**The Minister for Finance** (Mr. Kimunya): The other officials are listening!

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): We will have the HANSARD!

**Mr. Billow:** Mr. Temporary Deputy Speaker, Sir, the Government is listening for him.

The point I am making, with due respect to what Mr. Speaker has said, is that with regard to the vetting of bank officials, which is an important provision, the main problem is enforcement. The CBK officials do not often really restrict themselves to those qualities that are required. You will find people who have failed banks before being appointed as the directors. That is why you find a lot of these problems we are having in the banks. This is why we have seen problems in our banking sector. We have seen the CBK give them reports regularly. He knows very well, as most of us do, that there are dozens of banks which are involved in money laundering and tax evasion. These reports are given to them regularly. So, I think the reasoning is because the quality of the people who are running these banks is not the best. This is why I am happy that he was able to introduce requirements for professional and moral qualities. However, I think the issue of

enforcement is something that he needs to look at very seriously.

Some banks are run very well and there is no doubt about that. We have to mention indigenous banks that are being run professionally. In this regard, I want to specifically mention a bank like Equity Bank. I feel very proud when I read about it; that it is one of the fastest growing banks with one of the highest turnovers. There are banks which are run very well in this country. However, there are also banks which are there merely for the purpose of syphoning money out of the country. We know it very well! I think the Minister needs to deal with this matter so that we do not have the kind of problems we had in 1996 when over 36 banks collapsed in one single year because of all manner of reasons.

Mr. Temporary Deputy Speaker, Sir, there is also the issue of the Chairman of the CBK. Under Section 55, the Minister is introducing the appointment of a chairman of the board by the President. I find this absolutely unacceptable. We have discussed this matter at many fora. I think this is not only unacceptable, but it is absolutely unnecessary. The board of the CBK is not just like a board of any other corporate entity. Here, it is the issue of corporate governance. The CBK Board has one fundamental responsibility of monetary policy. It is to determine the monetary policy of the country. It is not like the other corporate entities which deal with personnel matters and other issues so that you have to get an independent chairman from the chief executive. I think we are mixing issues. In countries, like the UK, where there is a chairman of a board of a CBK, it is because there are two separate responsibilities. The monetary policy is strictly headed by the governor, and other mundane issues of the bank; staffing and other issues of the bank which another chairman or somebody else can run. However, I think in our case of the board of the CBK, which is the one that is dealing with the monetary policy and everything, it is important that we have the Governor retained as the chairman. It does not really make a lot of sense to have somebody else appointed by the President. What will happen is that the independence of the Governor, which is provided for in the Constitution, will be undermined.

If the independence of the Governor of CBK is undermined, then what will happen is that tomorrow that chairman can give directions: "We need Kshs1 billion to be printed!" He is the chairman of the board appointed by the President and he can direct the Governor in the board meeting to print money. We should remember that all the directors of the board are also appointed by the President. He can direct: "We need money printed!" What is the Governor going to do?

So, it is important that we leave the Governor to be as independent as possible. We have had that situation for many years, and we have never had a problem. Why are we having a problem today with the Governor? If the Governor is not performing his duties effectively, the Constitution provides for a tribunal to be set up, so that he can be dealt with. Therefore, the suggestion contained in this Bill is not necessary. I think we are trying to circumvent the provisions of the Constitution regarding the independence of the Governor by appointing somebody as the chairman. I think we will see in this country---

**The Minister for Finance** (Mr. Kimunya): On a point of order, Mr. Temporary Deputy Speaker, Sir. I have heard the shadow Minister for Finance constantly referring to the Governor of the Central Bank of Kenya as a constitutional office holder. Is he in order to mislead the House that the Governor is actually protected by law through the Constitution, whereas we should be referring to the Central Bank of Kenya Act? In fact, the Governor is not a constitutional office holder.

**The Temporary Deputy Speaker** (Mr. Poghiso): Order! Order! It is up to you to raise the point of order, but let us not go beyond that point. That is enough.

**Mr. Billow:** Mr. Temporary Deputy Speaker, Sir, the point has been made. There is an attempt by this Government to try and undermine the independence of all the institutions that are actually intended by law, be it through the Constitution or by an Act of Parliament, to be independent. That is common knowledge. Honestly, the Government should stop this. We are seeing attempts being made all the time to undermine the independence of the Central Bank of Kenya, the Kenya National Commission for Human Rights, the Kenya Anti-Corruption

Commission, *et cetera*. All this is happening under the guise of accountability.

The Government says that it cannot allow a rogue institution, and that all institutions have to be accountable. That is fine, but Parliament is the institution that is required to make those institutions accountable. The institutions are supposed to submit their accounts to the Minister for Finance, who should then table them before this House. We are the ones to determine, as a House, whether such institutions have become rogue or they are not accountable.

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! Order! Mr. Billow, did the Minister raise a valid point of order when he said that you were misleading the House?

**Mr. Billow:** Mr. Temporary Deputy Speaker, Sir, he did not raise a valid point of order. He raised a point of argument. He may re-visit it when he replies to this debate.

**The Temporary Deputy Speaker** (Mr. Poghisio): Mr. Billow, I am referring to the matter he raised on the Governor of the Central Bank of Kenya; on whether he is a constitutional office holder. I was listening to hear whether you would say that he is basically right.

**Mr. Billow:** Mr. Temporary Deputy Speaker, Sir, what I am saying is that the Governor of the Central Bank of Kenya is protected by law. That is the fundamental point. It is not a question of---

**The Temporary Deputy Speaker** (Mr. Poghisio): Very well, proceed. That is what I wanted to hear.

**Mr. Billow:** Yes, and I think you have got the point!

Mr. Temporary Deputy Speaker, Sir, I will now move to the issue of collection of revenue, which is captured under Clause 64 of this Bill. Under this clause, the Minister seeks to allow collectors of revenue to spend some of the money they collect, in terms of defraying some costs, *et cetera*. I have a bit of trouble with this provision, whether the revenue collector in mind is the Kenya Revenue Authority or any other collector of revenue.

Mr. Temporary Deputy Speaker, Sir, the Constitution, under Section 199, requires that all revenue collected must be paid into the Consolidated Fund. The Constitution also empowers this House to appropriate money for the purpose of expenditure by the Government. So, to the extent that this clause seeks to allow some institutions to spend some of the money they collect, it contradicts the provisions of the Constitution. So, I have a problem with the proposed provision under Clause 64. It undermines the role of Parliament as the institution responsible for appropriation of all public funds. So, this clause is, really, unnecessary.

Mr. Temporary Deputy Speaker, Sir, you will recall that last year, we raised an issue regarding the Governance, Justice, Law and Order Sector (GJLOS) reform programme. This is a programme which uses money that is pooled together by donors. We raised the issue here at one time when the GJLOS reform programme sought to procure some items internationally. It is strange that money in billions of shillings is being provided every year by donors through that programme, but is not in one way or the other factored in the Budget. Even hon. Members are not in a position to approve the expenditures for which that money is spent. We only ended up seeing an advertisement in the newspapers for the procurement of bullet-proof vests. This procurement was worth Kshs3 billion. We requested to be shown where this was provided for in the Budget, so that this House, which has the mandate to approve all expenditures, could approve it. It is important that all money, including that kind of money, be paid into the Consolidated Fund. I think that is the law. We should, as much as possible, restrict ourselves to that for purposes of accountability.

Mr. Temporary Deputy Speaker, Sir, on Clause 35 on Insurance Claims, the Minister is capping the claims to Kshs3 million. I understand his rationale perhaps, that there is too much burden on the insurance companies. However, the point to note is that insurance companies take many years before they pay people. During this period they actually make a lot of gain from claims. If you, for example, submitted a claim of Kshs1 million because you were involved in an accident, by the time you are paid five or ten years later, these insurance firms would have made Kshs2

million or Kshs3 million out of that money. It really does not make sense, in my view, to cap the limit of a claim by insurance companies to Kshs3 million. This is because we are benefitting the insurance companies double because they delay the amount of money to be paid. We are also limiting it. I did not find the rationale for that.

Mr. Temporary Deputy Speaker, Sir, I also want to understand the rationale by the Minister when he says that for banks which are opening branches outside the country, such branches will have to be approved by the Minister. I did not quite understand the rationale for that. The Minister said that if any of the banks want to open a branch in Uganda or Tanzania, for example, they need his approval to do so. I thought in this liberalised market, we may not need to restrict enterprises to that kind of thing.

Mr. Temporary Deputy Speaker, Sir, lastly, on Clause 20, we may need to expand to include donations to sports so that we encourage the growth of this area.

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

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, I want to begin by saying that we, as hon. Members, have to decide on what we want and stop engaging in double-speak. If we want all funds that are utilised in this country discussed by this House, we must discuss the Constituencies Development Fund (CDF) and the Budget of Parliament in minute details. Let us not choose just certain areas. It is time that we revealed in what manner we should discuss monies expended. It is time we looked at what our law provides for in terms of---

**Mr. Billow:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister mentioned the CDF. The CDF is included in the Printed Estimates, which are tabled in this House and debated. The Governance, Justice, Law and Order Sector Reform Programme (GJLOS) funds are not included in the Budget and are not debated.

**Mr. Sungu:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, if the hon. Members could let me make my point--- Hon. Members appear quite intolerant! However, let me make my point. The CDF funds are discussed---

**Mr. Sungu:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Poghismo): Mr. Sungu, what is it?

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, I have not even finished responding to the first point of order.

**The Temporary Deputy Speaker** (Mr. Poghismo): Proceed, Mr. Sungu!

**Mr. Sungu:** Mr. Temporary Deputy Speaker, Sir, the Minister is an hon. Member of the House Business Committee, which allocates time to all the Votes to be discussed, including Bills. It is within her priority to give us things to be discussed, not us!

**The Temporary Deputy Speaker** (Mr. Poghismo): Mr. Sungu, what is your point of order?

**Mr. Sungu:** Mr. Temporary Deputy Speaker, Sir, is "he" in order to insinuate in this House---

**The Temporary Deputy Speaker** (Mr. Poghismo): Order, Mr. Sungu! You are out of order. Proceed, Ms. Karua!

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, may I begin by reminding the hon. Member that I am not "he".

Secondly, I will continue by saying that on the CDF, we only discuss the amounts, not the uses. We have not had a report back to Parliament to discuss the Controller and Auditor-General's report.

Mr. Temporary Deputy Speaker, Sir, on the GJLOS, the monies that are given by the Government are discussed and passed by this House. It is donor funds outside the Budget that are not subjected to scrutiny by Parliament. So, let us decide on a policy. If we want any money utilised by the people of Kenya discussed here, we need to pass such a law. We should not engage in

double-speak, that what we do not want discussed, we do not discuss, and what we want to follow up, we follow up.

I want to say that---

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Ms. Karua! I do not think there is need to follow up on this matter, but are you suggesting that there is no such law? That is the gist of the matter.

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, I am saying that no law has been flouted. No money earned by the taxpayer fails to pass through this House.

I wonder whether it is in order for hon. Members to force their arguments during my time instead of utilising their own time.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Ms. Karua! We have no time left; you will pick up from there when debate on this Motion resumes. Hon. Members, it is now time to interrupt the business of the House. This House, therefore, stands adjourned until tomorrow, Wednesday, 1st November, 2006, at 9.00 a.m.

The House rose at 6.30 p.m.