

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 1st December, 2004

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Reports of the Departmental Committee on Finance, Trade, Tourism and Planning on the Finance Bill, 2004, and the Central Bank of Kenya (Amendment) Bill, 2004.

*(By the Chairman of the
Departmental Committee on Finance,
Planning and Trade (Mr. Kagwe)*

Report of the IPU Kenya Delegation on 111th Assembly of the Inter-Parliamentary Union held in Geneva, Switzerland, between 25th September to 1st October, 2004.

*(By the Assistant Minister for
Transport (Mr. Ligale) on behalf
of the Minister for Transport)*

NOTICE OF MOTION

ADOPTION OF THE 111TH IPU REPORT

The Assistant Minister for Transport (Mr. Ligale): Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the report of the 111th Inter-Parliamentary Union held in Geneva, Switzerland, between 25th September and 1st October, 2004 laid on the Table of the House on 1st December, 2004.

ORAL ANSWERS TO QUESTIONS

Question No.984

OCCUPATION OF SAMIA WOMEN'S
OFFICE BY AREA CHIEF

Dr. Ojiambo asked the Minister of State, Office of the President:-

(a) whether he is aware that the Chief of Ageng'a Location in Busia District has since 1987 been occupying by force an office built by Samia women; and,

(b) whether he could urgently return the office to the Samia Women to use it for their development programmes which include the fight against poverty and HIV/AIDS.

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

(a) I am aware that the office of the Chief of Ageng'a Location is currently at Ageng'a Dispensary. The Chief occupies one room at the health facility after the community had requested the dispensary management committee in August 1995 and the request was granted. The facility, although started by the women group, was taken over by the Ministry of Health in 1994, a year before Ageng'a Location was created.

(b) The chief will vacate the room at Ageng'a Dispensary as soon as a suitable alternative office is identified.

Dr. Ojiambo: Mr. Deputy Speaker, Sir, the Assistant Minister does not seem to know the whole story regarding that building in which the chief's office and the health centre are situated. The building was built by women, but the chief evicted them. He moved into one office and the rest were then given to the dispensary. However, those women want back their building. Since the chief is the only one in the area who knows the history, could the Assistant Minister ask him to give him the full report of that building; how it came about and if it can be reverted back to the women?

Mr. Deputy Speaker: Prof. Kibwana, that sounds interesting. Could you address it?

Prof. Kibwana: Mr. Deputy Speaker, Sir, the information that we had was that, actually, the community had asked the dispensary management committee in 1995 to make one room available for the chief. If the Chair can remember, this was a time when there was the prolific creation of locations, divisions and districts. Therefore, the community had asked for a chief without accommodation and they improvised one for him. I really think that if the community does not want the chief to stay in that particular building any more, it means, we, as a Ministry, will seek alternative accommodation without further ado.

Mr. Onyancha: Mr. Deputy Speaker, Sir, when teachers are hired they operate from a staff room. When civil servants are hired, for example clerks, they operate from an office. Chiefs are civil servants. What does the Assistant Minister have as his policy in securing offices for chiefs throughout the country?

Prof. Kibwana: Mr. Deputy Speaker, Sir, as I explained, there was a time in our history when there was an explosion of administrative offices and the demand was astronomical. That is what led to anomalies of this type. It is a fact that, in many parts of our country, assistant chiefs and chiefs do not have adequate offices. Therefore, in this particular instance, we are trying our level best to make this chief relocate. I thought that part of the discussions in terms of constitutional reforms is actually to reform the offices of assistant chiefs, chiefs and the Provincial Administration. So, actually, there might be no need to look for more offices.

Mr. Deputy Speaker: I think the fundamental issue here is that the chief is occupying Samia Women's building by force. Is he paying rent? That is the issue we want to address and we should not waste a lot of time on it because the property belongs to Samia Women Group. He cannot, therefore, stay there forcefully. He either pays rent, or goes out! What do you have to say, Prof. Kibwana?

Prof. Kibwana: Mr. Deputy Speaker, Sir, I thought I answered that question by saying that although the community initially needed to stay in that particular facility, it was a health facility. Only one room was given to the chief. It is not as if the chief occupied the whole facility. The facility was used to offer health services. I have also stated that the chief cannot stay in that building

if the community wants to use it. Therefore, my Ministry will look for appropriate accommodation for the chief.

Mr. Muiruri: Mr. Deputy Speaker, Sir, you can see the Assistant Minister is not very clear about what he is talking about! The Question is very clear! Since 1987 - that is 17 years ago - the chief has been occupying those premises by force and yet, the women group built it using their own finances for their own purposes. Could the Assistant Minister order the chief to immediately vacate premises? Could he also order for his arrest and prosecution for illegal occupation of other peoples' premises? Finally, could he order him to pay the rent for occupying those premises for 17 years since 1987? It is as simple as that!

(Applause)

Prof. Kibwana: Mr. Deputy Speaker, Sir, I am surprised that hon. Members on the Opposition side are very vocal, clapping and doing all sorts of things when actually, that happened during their watch. They should be remorseful because most of those complications arose as a result of their activities. Besides that, we have clearly said that, if the community does not want the chief to use that facility because of their health needs, my Ministry will, with immediate effect, facilitate the movement of the chief elsewhere.

Dr. Ojiambo: Mr. Deputy Speaker, Sir, the community is not involved in that case. We are talking about a women's group. The women were not there when the community was handing over that room to the chief. We are saying that the work of those women was stopped for 17 years! They had to look for alternative offices and paid rent. I request a ruling from the Chair. Could the Assistant Minister consider compensating the women for the years they paid rent to somebody else?

Secondly, the Assistant Minister should realise that those women have lost 17 years of development. That is why the people of that area are very poor. Today, over 70 per cent of the residents live below the poverty line. The Assistant Minister should apologise to those women.

Prof. Kibwana: Mr. Deputy Speaker, Sir, according to our information, the facility in question is used as a dispensary. It is a public facility. The understanding was that the chief, who is also a public officer, should be given a room to serve the men and women in that location. If the women no longer wants that facility to be a dispensary or to be occupied by the chief, they have the upper hand. That is their property. I do not know about the Ministry of Health but, as far as I am concerned, the Office of the President will look for alternative accommodation for the chief, so that the women can have their property back.

Question No.705

SHOOTING OF MR. MOSES
KIPLANGAT CHEPKWONY

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

(a) whether he is aware that Mr. Moses Kiplangat Chepkwony was shot dead on 15th August, 2003, at about 2.00 a.m. at Kaplelach village in Soin Location, Kericho District by officers from the Anti-Stock Theft Unit based at Awasi in Nyando District;

(b) what action has been taken to apprehend and charge those who were involved in the killing; and,

(c) whether the Government could compensate the family of the deceased.

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Deputy Speaker, Sir, the "crocodile man" is missing in action! That is why I am answering all the Questions. We normally help each other; we have worked very well.

However, I beg to reply.

(a) Yes, I am aware that Mr. Moses Kiplangat Chepkwony---

Mr. Omingo: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order, after coming to the House yesterday in pajamas, to give us a synonym for an hon. Member as a "crocodile man"?

The Assistant Minister, Office of the President (Prof. Kibwana): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for Mr. Omingo, who seems to relish in calling me names, to suggest that the national dress of Kenya is a pajama?

Mr. Deputy Speaker: Order, both of you! Both of you are out of order! Mr. Assistant Minister, you talked of a "crocodile man". This House does not know of a Member of Parliament called "crocodile man".

On the other hand, Mr. Omingo, the hon. Assistant Minister was not in pajamas yesterday.

Hon. Members: Yesterday!

Mr. Deputy Speaker: He was not in pajamas yesterday. Therefore, both of you are out of order! Now, Mr. Assistant Minister, you can answer the Question!

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Deputy Speaker, Sir, thank you for your protection. I meant "hon. crocodile man", but since that is not a known hon. Member, I was talking about my fellow Assistant Minister in the Ministry.

Hon. Members: Who? Who?

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

(a) Yes, I am aware that Mr. Moses Kiplangat Chepkwony, who was a suspect in a stock theft case No.60150/2003 died after he was shot by officers from the Anti-Stock Theft Police Unit on 15th August, 2003.

(b) An inquest File No.1203 was opened and forwarded to the Attorney-General. The file was ordered to be placed before a magistrate for a public inquest to be conducted. The Principal Magistrate's Court, Kericho, fixed the hearing of the case for 20th December, 2004, at 8.00 a.m. Witnesses have been bonded.

(c) The issue of compensation may only arise after the determination of the case by the court.

Mr. Too: Mr. Deputy Speaker, Sir, I have not been provided with a written answer to this Question, and I feel a little bit disadvantaged. However, you have heard the Assistant Minister say that the deceased was a suspect and not an accused. Was he found in possession of any cow?

Mr. Deputy Speaker: Mr. Assistant Minister, did you hear him?

Prof. Kibwana: Mr. Deputy Speaker, Sir, could the hon. Member repeat the question in the National Assembly of Kenya?

Mr. Too: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister say that the deceased was a suspect and not an accused. Was he found in possession of any cow? Why did they kill him?

Prof. Kibwana: Mr. Deputy Speaker, Sir, the deceased was, indeed, a suspect. When the police went to his house to arrest and question him, he refused to open the door. He was warned that the door would be forced open. He said that if they did that, he would make sure that he died with one of the officers. According to the information that we have, when the door was opened, the suspect was armed and the police proceeded to disarm him. But since that matter is a subject of an inquiry on 20th December this year, I will ask that we wait for that case to be determined. If there will still be pending questions, then the hon. Member could ask this Question again or discuss the matter with the Ministry.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Questioner in order

to take the Assistant Minister to task considering that, when he was the Director of Criminal Investigations Department (CID), he started killing suspects?

(Loud consultations)

Mr. Deputy Speaker: Order, Members! Let us be more focused as we deal with this issue. I really think that, that point of order was frivolous. Let us focus on issues only.

Mr. Mwanicha: Mr. Deputy Speaker, Sir, this morning we were informed that five people had been killed by policemen in my constituency. In another case, policemen used force to open a door to someone's house and killed him eventually. Could the Assistant Minister tell this House how long it takes to conclude cases such as the ones we have mentioned?

Prof. Kibwana: Mr. Deputy Speaker, Sir, all we can do is to prepare witnesses so that they can be taken to court. When the matter gets to court, the case enters another phase and I am not in a position to tell the courts how to work.

Mr. Rotino: Mr. Deputy Speaker, Sir, I think the Assistant Minister is being evasive by avoiding to answer the Question. Many Questions have been asked in this House about policemen shooting and killing innocent people. All the Assistant Minister does is to tell us that an inquest file will be opened. The Assistant Minister has not even answered part (b) of the Question as to whether the culprits have been apprehended. It is well known that the culprits are policemen. Could he be serious when answering Questions? He has not even said whether they are going to compensate the relatives of the deceased.

Prof. Kibwana: Mr. Deputy Speaker, Sir, I think it is also necessary for hon. Members to be serious when asking Questions because if a matter is pending to be determined by a court, we cannot take prior action before a resolution is made on that particular matter in court. Therefore, it is in order that we wait for this particular hearing which is scheduled to take place on 20th December, 2004. Thereafter, we will proceed on the basis of the court's ruling.

Mr. Deputy Speaker: Hon. Members, we have dealt with two Questions for almost 20 minutes.

Mr. Too: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Too, I want you to ask your last question.

Mr. Too: Mr. Deputy Speaker, Sir, before I ask my last question, could hon. Khalwale apologise for calling me a killer?

Mr. Deputy Speaker: Mr. Too, could you please elaborate what you want Dr. Khalwale to apologise for?

Mr. Too: Mr. Deputy Speaker, Sir, he called me a killer and I want the Chair to ask him to apologise.

Mr. Deputy Speaker: Hon. Members, earlier on I ruled that Dr. Khalwale was out of order. Really he had made a personal attack on hon. Too. I would like us to be more serious and avoid touching on personalities. So, Dr. Khalwale, what do you have to say?

Dr. Khalwale: Mr. Deputy Speaker, Sir, I am sorry if the hon. Member misunderstood me. However, I think I was very clear in pointing out that the policy of shooting suspects did not start when Prof. Kivutha Kibwana became an Assistant Minister. In fact, it started when the hon. Member was the Director of CID. In no way does that mean that he was a murderer. However, if some officers under him murdered suspects and he never took action, perhaps, this is an opportunity for him to apologise to Kenyans.

(Loud consultations)

Mr. Deputy Speaker: Order, Members! Order, all of you! That kind of exchange does not add anything to the dignity of this House. I would like that matter to end there. Certainly, Dr. Khalwale, you are being very unfair to hon. Too. He might have been in service, but you cannot say that he was responsible for whatever happened.

Mr. Ndile: But he was in charge of Nyayo House!

Mr. Deputy Speaker: Order, Mr. Ndile! Nevertheless, hon. Too, I wish that matter to be stopped. Please, ask your last question.

Mr. Too: Mr. Deputy Speaker, Sir, you heard the Assistant Minister say that they ordered the deceased to open the door to his house and he refused. The policemen forced the door open and shot him. He went further on to state that the deceased was armed and yet it was too early in the morning. How could they tell that he was armed? This is a straightforward case of murder and I do not understand why it was subjected to an inquest. Why can the policemen not be charged with murder?

Prof. Kibwana: Mr. Deputy Speaker, Sir, it is not true that police officers are supposed to shoot to kill. They can only do that when they are defending themselves. There is no law that says that the police should shoot on sight. The only time they can shoot people is when they are doing so in self-defence. Of course, with regard to the wrong things people did in the past, transitional justice will settle that.

Mr. Deputy Speaker, Sir, according to the information I have, the suspect tried to snatch an AK47 rifle from one of the officers. That is actually what led to a struggle and eventually the shooting of the man. However, as I have indicated, this matter will be a subject of an inquest and if it is found that the police officers shot the person illegally, then obviously the law will be applied without mercy.

Mr. Deputy Speaker: Next Question! I wish to ask Ministers to be economical with their answers. They should not hide any facts, but they should not read statements. It is now 3.00 p.m and we are still on the third Question.

Question No.930

ESTABLISHMENT OF CONSTITUENT COLLEGES
IN NORTH EASTERN PROVINCE

Mr. Abdirahman asked the Minister for Education, Science and Technology:-

- (a) when the Government will consider establishing a constituent education college of Kenyatta University at Garissa Teachers Training College which is currently underutilized to improve education research, teaching and learning in North Eastern Province and other educationally disadvantaged regions in the country; and,
- (b) what plans the Government has to establish a constituent livestock production college of Egerton University in Northern Kenya to promote, develop and improve livestock husbandry and related sectors.

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Speaker, Sir, I beg to reply.

(a) The Government has plans to establish a constituent college of Kenya University at Garissa Teachers College. Indeed, the college already serves as a regional centre for Kenyatta University distance learning education programmes.

(b) The Government has no immediate plans to establish a constituent livestock production college of Egerton University in Northern Kenya. However, that is not to say that this matter cannot be discussed. There are consultations going on between Egerton University and the relevant institutions.

Mr. Abdirahman: Mr. Deputy Speaker, Sir, lack of this kind of educational institutions has put this region in a disadvantaged position over time. Could the Assistant Minister, whom I very much respect, tell this House when this constituent college will be opened? He has not been specific in his answer.

Dr. Mwiria: Mr. Deputy Speaker, Sir, now that Kenyatta University and Garissa Teachers Training College are in agreement, the next step is for the Commission for Higher Education through the Quality Assurance Programme to ensure that everything is in place. However, what we have seen from the evaluation is that the teacher training college is strategically placed. I would like to reiterate the fact that it is in our interest as a Government that places like North Eastern Province and other areas that have been marginalised and do not have these institutions are supported. Maybe, we shall have an answer, with regard to when the college will open, in the next three to six months.

Mr. Abdirahman: Mr. Deputy Speaker, Sir, I want to make one more request to the Ministry. Could negotiations start with Egerton University in order to establish what we are asking for in part (b) of my Question? Could initial discussions kick off with support from the Ministry? People in that region depend on livestock and they will definitely benefit from such an opportunity.

Dr. Mwiria: Negotiations should start with the universities and an institution in the area. So, there is absolutely no problem because the sooner we start the discussions, the better.

Mr. Deputy Speaker: Next Question, Mr. Mwandawiro!

Question No.590

EXPLOITATION OF TENANTS BY
LANDLORDS IN URBAN AREAS

Mr. Deputy Speaker: Mr. Mwandawiro is not here?
Next Question by Mr. Ngozi!

Question No.699

OPENING OF RAMISI SUGAR FACTORY

Mr. Ngozi: asked the Minister for Agriculture when Ramisi Sugar Factory will start its operations.

The Assistant Minister for Agriculture (Mr. Kaindi): Mr. Deputy Speaker, Sir, I beg to reply.

As part of the Government's commitment to ensure that the country is self-sufficient in sugar production and following the recommendations made recently by the Sugar Conference in Nairobi, my Ministry in conjunction with the Kenya Sugar Board and the Coast Development Authority, is exploring ways of reviving the Ramisi Sugar Factory.

There are, however, constraints about squatters on the Ramisi land and the indebtedness of the company, which we intend to address as a Ministry before we do that.

Mr. Ngozi: Thank you, Mr. Deputy Speaker, Sir. First of all, let me thank the Assistant Minister for that answer, but it is now two years since this Government came into power with promises of reviving the stalled projects, Ramisi Sugar Factory being one of them. Now, the Assistant Minister is coming here to tell the House that there are some problems which need to be sorted out. Is the Assistant Minister telling this House that these problems were not known to exist when those promises were made?

(Applause)

Mr. Kaindi: Mr. Deputy Speaker, Sir, we need to be proactive on this matter. In 1997, the Cabinet recommended a number of things, among this one. The one which was not addressed at that stage was the revival of that factory. But they did indicate that the long term solution would be converting the squatters on the ground to be outgrowers. That is the line we are taking to see how best we can be able to revive that factory, taking cognizance of the potential of sugar growing, even within the environs.

Mr. Twaha: Mr. Deputy Speaker, Sir, there has been a lot of hue and cry lately about the proposed sugar project in Tana River, with many people rejecting the project. I wonder if the Assistant Minister is aware that Lamu has very similar soil and climatic conditions. If the people of Tana River District do not want the project, the people of Lamu West will welcome the project because we need jobs!

(Laughter)

Mr. Kaindi: Mr. Deputy Speaker, Sir, we want to address the deficit of 200,000 metric tonnes of sugar that this country is unable to meet. We are not able to produce that amount and, instead, we are producing 400,000 tonnes when the demand is 600,000 tonnes. Therefore, we are doing everything possible, by not only stepping up the production within the sugar factories but also addressing the potential within the other areas like Lamu and Ramisi.

Mr. Deputy Speaker: Last question, Mr. Ngozi!

Mr. Ngozi: Mr. Deputy Speaker, Sir, let me inform the Assistant Minister that the people of Kwale have enough land to produce sugar-cane and the way he answered my Question, he has not actually told the House when we are going to have that factory operational. If the problem is land, then we have enough land. Could he tell us when he is going to give us an investor so that we can produce that cane?

Mr. Kaindi: Mr. Deputy Speaker, Sir, taking the Government's divestiture programme into consideration, one of the measures we are taking as a Ministry is to also identify the possibility of a private investor. As a matter of fact, we held discussions with investors from Spain and Pakistan in that respect. We are doing what it takes to ensure that we address the problems of sugar-cane growing farmers from Kwale.

Mr. Deputy Speaker: Next Question, Dr. Adhu Awiti!

Question No.734

ELECTRICITY SUPPLY TO
KARACHUONYO CONSTITUENCY

Dr. Awiti asked the Minister for Energy:-

- (a) whether he is aware that 46 beaches, 13 health centres, 17 secondary schools, Kendu Mission Hospital, four water projects and *Jua Kali* stalls in Karachuonyo District need electricity in order to provide efficient services to the people; and,
- (b) what measures he is undertaking in order to provide rural electrification in Karachuonyo Constituency.

The Assistant Minister for Energy (Mr. Kiunjuri): Before I reply, Mr. Deputy Speaker, Sir, allow me to raise a point of order on whether the rules of this House have really changed, because the hon. Member for Baringo Central, Mr. Moi, has already been warming the chairs of the Shadow Cabinet Ministers while he is supposed to be seated at the Back Benches. This is the second year I am observing this.

Mr. Deputy Speaker: Order! Order! Order, Mr. Kiunjuri! Please, answer the Question! I do not see any point of order there!

The Assistant Minister for Energy (Mr. Kiunjuri): But Mr. Deputy Speaker, Sir, may it be noted that I used to be sent to the Back Benches whenever I sat there!

Mr. Deputy Speaker: As the Chair ruled the other day, I am really concerned about the fact that my right side is the Government side and its Front Bench, and my left side is the Opposition side and the Chair has lost track of where anyone sits. I think the Chair has lost track and is not interested any more. In my view, this is not a matter that should derail us.

The Assistant Minister for Finance (Mr. Obwocha): On a point of order, Mr. Deputy Speaker, Sir. Standing Order No.172 is very clear on who sits on the Front Benches and who sits on the Back Benches. The Front Benches on your left side should be occupied by the Shadow Cabinet Ministers and Heads of Opposition political parties. That is what it says; reading Standing Order No.172. The Chair---

Mr. Deputy Speaker: The point of order is being addressed to the Chair!

The Assistant Minister for Finance (Mr. Obwocha): I am not addressing--- In fact, Mr. Moi should be in prison, Mr. Deputy Speaker, Sir.

(Loud consultations)

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order! Order! Order, hon. Members! Order! The Chair does not have a list of the Shadow Cabinet. I may know who the Ministers are, but as of now, the Chair does not have a list of who is the Shadow Minister for what, sitting on my left hand side. Therefore, I do not even know whether Mr. Moi may have been given a seat recently. I am not aware of who is who. Therefore, that issue will not waste our time any more! Maybe, the Leader of the Official Opposition will, in due course, provide the Chair with a list of the Shadow Cabinet, but I do not have it with me.

Mr. Moi: On a point of order, Mr. Deputy Speaker, Sir. You heard this thing say that I should be in prison. I would like him to substantiate his point. How dare he say that?

(Laughter)

Mr. Deputy Speaker: Well, here we go again, hon. Members! Just a few minutes ago, I mentioned that we must be focused. Mr. Obwocha---

Mr. Kimeto: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! Will you sit down, Mr. Kimeto?

Mr. Obwocha, will you apologize to Mr. Moi for what you said?

The Assistant Minister for Finance (Mr. Obwocha): Mr. Deputy Speaker, Sir, you have been an hon. Member of this House for a long time. You know what is in the Public Investments Committee (PIC) and the Public Accounts Committee (PAC); it is an obvious thing and I do not think that it needs any substantiation from me.

(Applause)

Mr. Moi: I would like this thing again to withdraw and apologize. When have I been in PIC or PAC? Could he lay evidence on the Table here on when I was in PIC or PAC?

Mr. Deputy Speaker: Order, hon. Members! Order! Now we are turning the House into a circus of allegations here and there. Mr. Obwocha has said that I have been in the House for a long

time, and I agree. But he has also been in the House for an even longer period. Mr. Obwocha, that is a direct attack on an hon. Member, and I ask you to apologize.

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members!

The Assistant Minister for Finance (Mr. Obwocha): Mr. Deputy Speaker, Sir, what am I being asked to apologize for?

Hon. Members: Out! Out! Out!

The Assistant Minister for Finance (Mr. Obwocha): Mr. Deputy Speaker, Sir, I can only substantiate! The Chair can only ask me to substantiate my claims.

Mr. Deputy Speaker: What is your substantiation? This is not a court!

The Assistant Minister for Finance (Mr. Obwocha): Mr. Deputy Speaker, Sir, I had said that my substantiation is that, the records of this House are self explanatory. The PIC and PAC Reports have been laid on the Table here; how can I lay them on the Table again?

(Applause)

Mr. Sasura: Mr. Deputy Speaker, Sir, you just mentioned a few minutes ago that we were taking a lot of time on two Questions. I think hon. Obwocha, who is one of the oldest Members of this House, was very unfair to hon. Moi, who is a new Member of this House. Hon. Obwocha has been in both the Public Investments Committee and Public Accounts Committee before and he knows very well that on that side of Government, very many of them have been mentioned in the same reports that he is talking about. He has specifically picked on hon. Moi, which I think is frivolous. If the problem of hon. Kiunjuri is that he is not able to face hon. Moi, then he should reply to the Question from the Back Bench and we continue!

(Laughter)

Mr. Deputy Speaker: Mr. Obwocha, what do you have to say about that?

Mr. Kimeto: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! Hon. Members, the rules of the House require that if you want to bring a matter on a Member, you bring a Substantive Motion, otherwise, you are imputing improper motives. On that particular issue, Mr. Obwocha, when you talked about Mr. Moi like that, you were definitely out of order. Therefore, you will apologise. If you do not, I will make an appropriate ruling.

The Assistant Minister for Finance (Mr. Obwocha): Mr. Deputy Speaker, Sir, I am an old Member of this House. I can see Mr. Moi trembling with fear that I intend to bring a Substantive Motion about what I have said. To that extent, I wish to withdraw and apologise.

Mr. Deputy Speaker: Very well, the matter is over now! Mr. Kiunjuri you may proceed!

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that the mentioned facilities in Karachuonyo District need electricity in order to provide efficient services to the people, in line with the Government strategy of employment and wealth creation.

(b) Already, Ibaria and Maimunga beaches are programmed to get electricity supply under the anticipated French Credit II. In addition, Kosere District Headquarters, Gedia Water Works and Kendu Bay are programmed under the proposed Finland funding. Other beaches, trading centres as well as schools, will be considered later as other sources of funding become available.

Mr. Deputy Speaker: Dr. Awiti, I am sorry for delaying your Question. You may now proceed!

Dr. Awiti: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for that answer. Since these places have been suffering without electricity, how much is the French programme planned for Karachuonyo, and also how much is the Finland programme for Karachuonyo?

*(Applause as the Minister for Health
(Mrs. Ngilu) entered the Chamber)*

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, for the French programme, it is estimated that Kshs53 million will be used, but I do not have the figures for the Finland programme.

Dr. Awiti: Mr. Deputy Speaker, Sir, having already given the figures, and he does not have one for the Finland programme, could the Assistant Minister tell the House when these programmes are going to be operational?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, we are at the final stages of analysing the reports that we have been given. By around March next year, the programmes will be hitting the ground.

Question No.816

IMPROVEMENT OF FACILITIES
IN KISII GENERAL HOSPITAL

Mr. Manoti asked the Minister for Health:-

(a) whether she is aware that Kisii General Hospital has only one operating theatre, few congested wards and an old, dilapidated outpatient section;

(b) whether she is also aware that the hospital was expanded in 1992 but the new buildings have not been handed over; and,

(d) if the answers to (a) and (b) are in the affirmative, what she is doing to improve the situation.

The Minister for Health (Mrs. Ngilu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Kisii District Hospital has only one operating theatre, congested wards and an only outpatient department. There is congestion in both the outpatient and the wards due to high workload.

(b) I am also aware that in the year 1991, there was an expansion programme covering the general ward, amenity ward and operating theatre, which stalled in 1992 due to lack of funds.

(c) Through the World Bank assistance, expansion of the hospital was started in 1991, but the building was stopped in 1992, when it was 85 per cent complete. At the moment, my Ministry is planning to terminate the contract with the current contractor with a view to taking over the project. We are, therefore, in the process of negotiating with Japanese International Co-operation Agency (JICA) to improve the facilities in the hospital, as part of the projects in the area.

The Hospital Management Board and the District Health Management Board team have just completed a 60-bed ward using cost-sharing money. This will help to ease the congestion at the moment.

Mr. Manoti: Mr. Deputy Speaker, Sir, I thank the Minister for her good answer. But you have heard that the project stalled in 1992, which is 12 years ago. The permanent structures which are there were built in 1936; during colonial times. This hospital serves seven districts namely, Nyamira, Kisii Central, Gucha, Rachuonyo, Trans-Mara and Homa Bay. How long does it take for a

contractor to be moved out of site and get another one to finish the work?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, this hospital, in fact, handles well over 80,000 patients every year, and the operating theatre is small and, therefore, congested. We have initiated negotiations with JICA. The contractor who has been on site has done a very bad job. Therefore, we are bringing another contractor. It has taken a little long and I regret the delay, but it will be done.

Dr. Kibunguchy: Mr. Deputy Speaker, Sir, you heard the Minister say that the work was 85 per cent completed. How much money was budgeted for this project, how much was spent and how much is still remaining to be spent?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I do not have the figures with me, but I can get them later for the House.

Mr. Manoti: Mr. Deputy Speaker, Sir, the Minister has admitted that the hospital treats well over 80,000 patients per year. Could she undertake to finish the project and upgrade the hospital to provincial status?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, the policy that we are developing at the moment is not to have big hospitals as provincial hospitals, but to decentralise and ensure that we have the right services closer to the people, but giving the same services that are given at provincial hospitals.

Mr. Manoti: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! Mr. Manoti, I have given you three chances to ask supplementary questions. You may not be satisfied, but you can follow up the matter with the Minister. I cannot allow you to keep on rising on points of order. In any case, what is it?

Mr. Manoti: Mr. Deputy Speaker, Sir, part of my Question has not been answered. Is it in order for the Minister to tell us to wait for the remaining part of the project to be finished when our people are suffering? They are sleeping on top of one another!

(Laughter)

Mr. Deputy Speaker: Order, hon. Members! Let us listen to Mrs. Ngilu!

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I truly regret that, but I know patients are not sleeping on each other. However, I know that they are sharing beds and, indeed, others are even sleeping on the floor when the hospital is over congested. This is what we, as the Ministry of Health, are addressing. I am sure that in the coming years, we will be able to solve this.

Mr. Deputy Speaker: Next Question, Mr. Rotino!

Question No.440

REPAIR OF KITALE-LODWAR ROAD

Mr. Rotino asked the Minister for Roads and Public Works:-

- (a) if he is aware of the pathetic condition of the Kitale-Lodwar Road; and,
- (b) what plans the Ministry has to repair this important road.

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

(a) I am aware that there are sections of the Kitale-Lodwar Road which are in bad condition.

(b) My Ministry will repair the road this financial year by carrying out various works along sections in Trans Nzoia, West Pokot and Turkana Districts.

Mr. Rotino: Mr. Deputy Speaker, Sir, when the Assistant Minister says there are some sections of this road that are not good, he should know that it is the entire road which is completely worn out. Could he specify the various rehabilitation works they intend to carry out on that road?

There is no road!

Eng. Toro: Mr. Deputy Speaker, Sir, the road is there. Sections of the road are all in various stages of deterioration. They are not the same. The various works that will be carried out include base repairs of the road, pothole patching, drainage works, repair of road signs and guard rails. The Trans Nzoia section of that road also requires attention. It will cost about Kshs750,000 this financial year. The section in West Pokot District will require Kshs1.75 million. We will also spend Kshs39,540,000 in another section of this road to do various repairs.

Capt. Nakitare: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister explain the pathetic condition of roads in Trans Nzoia District. The Kitale-Lodwar Road originates from Road A104, which deviates 12 kilometres from Eldoret and passes through Moi Barracks to Lokichoggio. I would like him to tell us when the major works on this road will start so that transporters can save a lot of money.

Mr. Deputy Speaker: Order, Capt. Nakitare! I gave you an opportunity to ask a question, not to address the House. Did you ask the question?

Capt. Nakitare: Mr. Deputy Speaker, Sir, I have asked the question. I would like the Assistant Minister to tell us what plans he has for Road A104 which runs 12 kilometres from Eldoret Town to Lokichoggio. This road has heavy traffic that carries foodstuffs to Sudan.

Eng. Toro: Mr. Deputy Speaker, Sir, the Question that I am answering now is on the road from Kitale to Lodwar, which is about 265 kilometres. Capt. Nakitare is referring to a different road all together.

Mr. Ethuro: Mr. Deputy Speaker, Sir, the Kitale-Lodwar Road is part of the Trans Africa Highway that connects this country to Sudan. The section between Kainuk and Lokiche is a distance of about 100 kilometres---

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! I require that hon. Members consult quietly!
Mr. Ethuro!

Mr. Ethuro: Mr. Deputy Speaker, Sir, the work that the Assistant Minister is talking about is what they have been doing all along. They have been doing shoulders, drainage and clearing vegetation along that road. When will the Ministry tarmack this road because at one time this road was tarmacked instead of doing shoulders, or does he want the people in that area to organise another great trek?

Eng. Toro: Mr. Deputy Speaker, Sir, there is democracy in Kenya and they can always do another trek! The section of the road he is talking about, we paid a visit early this year and I know the condition of that road very well. However, before we can talk about a programme for tarmacking the road, we have to continue maintaining it. That is why I stated the amount of money that will be spent before the end of this financial year and the section of the road that the hon. Member is talking about I have said that we have already allocated about Kshs40 million to make sure that the road is motorable before eventually tarmacking is done. The programme for tarmacking is an expensive exercise, but it will come later.

Mr. Rotino: Mr. Deputy Speaker, Sir, the Assistant Minister says that Kshs40 million has been allocated for that section of the road. He says this will be done within this financial year. However, we are already half-way the financial year and the works have not even started. The sections of the road that need to be patched up have not even been identified. When will this be done? Eng. Toro, please, be serious!

Eng. Toro: Mr. Deputy Speaker, Sir, we are very serious about repairing this road and we

have about seven months before the end of the financial year. I am sure that within that period, we will do something on that road.

Dr. Manduku: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: I have not heard anything out of order!

Next Question, Mr. C. Kilonzo!

Question No.776

OVER-EXPLOITATION OF THIKA RIVER
BY DEL MONTE KENYA LTD.

Mr. C. Kilonzo asked the Minister for Water and Irrigation:-

(a) if she is aware that a multinational company, Del Monte Kenya Limited, in Thika District, has been over-exploiting the waters of Thika River in total disregard of the people of Yatta;

(b) what measures the Ministry will take to ensure fair use of water by the company; and,

(c) if the Ministry could consider constructing a water reservoir at the Yatta Canal intake.

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

(a) Yes, I am aware that Del Monte Kenya is abstracting water from Thika River in accordance with requirements of their water permit that has been issued to the company by my Ministry.

The water permits have been issued with due consideration of down stream water requirements, including the people of Yatta. The river is, therefore, not over-exploited. My Ministry monitors regularly the flow levels of all the rivers in the country, including Thika River, and for any abnormal low observed, remedial measures are taken to ensure the required dry weather flow is maintained.

(b) My Ministry has already taken the following measures to ensure fair use of water by the company.

(i) The water permits that have been issued to the company specify the amounts of water to be abstracted and the bulk water which is from flood flows, is stored in dams constructed by the company along the river which fill during the rainy season to be used during the dry season.

(ii) My Ministry carries out regular field patrols to ensure that allocated amounts of water in each permit are not exceeded.

(iii) My Ministry ensures that the company does not abstract all the water from the river during the dry periods. Some water must be left to flow in the river for downstream users and the eco-system.

(iv) In the extreme cases of dry weather periods when domestic and livestock water becomes scarce, my Ministry is empowered by the Water Act, 2002, to sustain all other non-essential uses of water in order to meet the demand for domestic and livestock use only.

Mr. Deputy Speaker: Mr. Sugow, how long will it take you to finish your response? Your response seems to be too long!

The Assistant Minister for Water and Irrigation (Mr. Sugow): Mr. Deputy Speaker, Sir, I am sorry about that. It was the nature of the Question. However, I am now responding to the last part of the Question.

(c) My Ministry has already completed a preliminary feasibility study for construction of a large dam at the intake works of Yatta Canal. The study recommends construction of a large reservoir with a capacity to hold up to 200,000 metric cubes of water for release to Yatta Canal during dry periods for a minimum period of two months.

The full design of the reservoir will commence soon to establish the cost estimate in order to facilitate in the sourcing of funds for its construction.

Mr. Deputy Speaker: I want to request Ministers to rephrase their written replies when they are answering questions.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for a fairly good answer. The permits to use this river were given out many years ago, when the population at downstream was still very low. After Del Monte Company was given permits, the Ndakaini Dam was constructed. I want to know from the Assistant Minister, if he can consider reducing the number of permits which were issued to Del Monte Company.

Mr. Sugow: Mr. Deputy Speaker, Sir, I agree with the hon. Member that the permits were issued many years ago. There is a possibility that after the construction of Ndakaini Dam, the water table downstream, has since gone down. Right now, it is not an alarming situation. However, the Ministry is ready to monitor the situation, consult the company and, if need be, probably put up more reservoirs to maintain the flow of water downstream.

Dr. Kuti: Mr. Deputy Speaker Sir, all over this country, large-scale farmers use water which becomes scarce downstream for small-scale farmers. What policy does this Ministry have to protect small-scale farmers who require it downstream, especially during drought periods?

Mr. Sugow: Mr. Deputy Speaker, Sir, each of these cases should be treated uniquely. Where there is a problem, it is good that an hon. Member consults the Ministry to ensure that downstream users of water are protected.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, the proposed construction of a dam on Thika River is supposed to cater for only Yatta Canal. Could the Assistant Minister consider having a larger dam to cater for the downstream parts of the river?

Mr. Sugow: Mr. Deputy Speaker, Sir, we will be ready to consider that after consulting with the hon. Member who has to bring in his Constituency Development Fund (CDF) money so as to solve the problem.

Question No.836

MOBILE TELEPHONE SERVICES
FOR SOTIK CONSTITUENCY

Mr. Kimeto asked the Minister for Information and Communications:-

- (a) whether he is aware that Mulot and Olulunga Divisions and Sagamian areas have not been covered by mobile telephone services; and,
- (b) when he will compel mobile phone companies to take telephone services to the people of these areas.

The Assistant Minister for Information and Communications (Mr. Were): Mr. Deputy Speaker, Sir, I beg the indulgence of the House so as to answer this Question on Tuesday next week. I had not received an answer at the time of coming to the House.

Mr. Deputy Speaker: Mr. Kimeto, did you hear what the Assistant Minister said? Could we defer the Question to next week Tuesday? Is that okay?

Mr. Kimeto: Mr. Deputy Speaker Sir, that is okay as long as he brings the answer.

Mr. Deputy Speaker: Mr. Kimeto, the Assistant Minister said that he will bring the answer. The Question is deferred to Tuesday next week.

(Question deferred)

For the second time, Mr. Mwandawiro's Question!

Question No.590

EXPLOITATION OF TENANTS
BY LANDLORDS IN URBAN AREAS

Is Mr. Mwandawiro still not here? That is very unusual of him! His Question is dropped.

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

MEASURES TO ENSURE TRANSPARENCY
IN POLICE RECRUITMENT

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

Could the Minister inform the House what measures he has taken to ensure that the recently-announced police recruitment exercise is fairly and transparently conducted to avoid problems associated with past recruitment?

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

Strict measures have been put in place to ensure fairness and transparency in order to avoid problems associated with past recruitment. The measures include, among others the following:-

(1) All candidates to be recruited must meet the minimum set down requirements for one to be enlisted into the Kenya Police Force as laid down by the law and the Police Force Standing Orders.

(2) The recruiting officers have been instructed to be fair and transparent, and all interested candidates should be accorded equal opportunity.

(3) All designated recruitment centres were publicised through both the print and electronic media to avoid any secrecy. Therefore, all interested candidates were informed to report to venues in their respective localities.

(4) Candidates and the general public have been warned against canvassing for vacancies in whichever way, and those found doing so will be automatically disqualified.

(5) Various interested groups have been asked to monitor the exercise in all centres, and are free to point out any anomaly without any fear of intimidation, and necessary action will be taken.

(6) Local leaders, including hon. Members, church leaders, and other organisations such as the media, are free to monitor the exercise and give their verdict.

(7) Members of the public and potential candidates have been warned against unscrupulous individuals, who may take advantage to extort money from them on the pretext of securing them a chance.

(8) Recruiting officers were instructed to be firm but fair during the exercise.

Mr. Mwanzia: Mr. Deputy Speaker, Sir, I thank the Assistant Minister for that answer, although it is one of the longest answers I have ever received. Whatever he has said has been said before in this House during previous recruitment. Recently, the Commissioner of Police said that 2,000 people would be recruited; 270 of them women and 1,730 men. There has been unfairness in past recruitment and some regions have been favoured more than others. Could the Assistant Minister tell us how many recruits will be picked from each district and constituency?

Prof. Kibwana: Mr. Deputy Speaker, Sir, I also want to share with the hon. Member the question of ensuring gender equity during the recruitment exercise. That is a matter that needs more scrutiny. The Ministry is looking into it.

The recruiting officers have been informed that, when conducting this exercise at the district level, consideration must be given to the constituency, division, location of their areas of jurisdiction, so that we balance the intake from every district. However, at this juncture, I do not have the figures with me showing how many recruits are required to come from each district. However, I know that the recruiting officers have been told that there should be equity in relation to the constituency, division and location.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Mr. Assistant Minister, the question is on allocation per district. If you do not have that answer, then you had better say. I am sure that all hon. Members who have stood up want to know that.

Prof. Kibwana: Mr. Deputy Speaker Sir I do not have the specific information about allocation per district. However, we must appreciate that the need for police officers differs depending on the districts. For example, Manderu District may not require the same number of police officers as required in Nairobi. I think this is a professional job. This House cannot do the work of the Police Commissioner. Even in the Draft Constitution we have stated that the Commissioner of Police will be independent.

Mrs. Mwendwa: Mr. Deputy Speaker, Sir, the Assistant Minister has said that the gender issue is going to be looked into. We are told 2,000 police officers are going to be recruited. Out of these, 1,730 will be male officers and 270 will be female officers. This is grossly unfair because the population of women is more than that of men. If this recruitment is based on qualifications, I am sure the girls also have the qualifications. I think the Assistant Minister is not ready with the answer. Could we defer this Question?

(Applause)

Mr. Deputy Speaker: Let Dr. Khalwale ask his supplementary question and then I will consider your request.

Dr. Khalwale: Mr. Deputy Speaker, Sir, nine times 210 equals 1,790. Since Parliament is higher than the position of the Commissioner of Police, could the Assistant Minister issue a statement from here directing that each constituency receives nine positions and then he leaves 210 chances for the Ministers on the Front Bench to use as usual?

(Laughter)

Prof. Kibwana: Mr. Deputy Speaker, Sir, as we all know, the issue of security is a serious one in this country. When police officers are being recruited, there is a professional approach to it. The Commissioner of Police must be able to recruit on the basis of need because he must be independent to the extent that he will professionally determine certain needs within the force. I think if Parliament were to begin to direct certain offices on what they must do, then I think Parliament will be going against the independence of other institutions.

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. The police recruitment exercise is on and you have seen the interest this Question has generated among hon. Members. The reason we are raising this Question is that there are already improprieties going on on the ground as we speak. Could we defer this Question until such a time that the Assistant Minister brings these statistics to do with how many officers are being recruited, in which districts and constituencies?

(Applause)

Mr. Deputy Speaker: Mr. Assistant Minister, you have said that the exercise is transparent. If the exercise is transparent there is no interference in you laying on the Table of the House the allocation per district. Therefore, we defer this Question in order for you to bring the information on allocation per district because that is transparent. So, the Question is deferred until Tuesday.

Prof. Kibwana: Mr. Deputy Speaker, Sir, I did not say that I am not ready to lay the figures on the Table of the House. I said that for purposes of answering the Question today, I did not have those particular figures. However, I think it is also important for the National Assembly to appreciate that there are certain things we cannot do. We cannot tell the Commissioner of Police how he must recruit because that is a professional job.

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

Mr. Deputy Speaker: Order, hon. Members! I do not think this House is going to tell the Commissioner of Police how to do his job. This House is just asking you to provide information on the allocation as the Commissioner of Police has already done. So, please provide that list on Tuesday.

Prof. Kibwana: Yes, Mr. Deputy Speaker, Sir.

(Question deferred)

Mr. Deputy Speaker: Next Question by Private Notice by Mr. Marende!

ALLOWANCES FOR MEMBERS OF LAND
DISPUTES TRIBUNAL/LAND CONTROL BOARD

(Mr. Marende) to ask the Minister for Lands and Housing:-

- (a) Is the Minister aware that members of the Land Disputes Tribunal and Land Control Board in Luanda and Emuhaya divisions of Emuhaya Constituency have not been paid their allowances since March, 2004?
- (b) Is he further aware that the mismanagement that afflicted the two institutions nationally are likely to recur with negative consequences on the land rights?
- (c) What urgent measures is the Minister taking to ensure that the allowances of

members of the Land Disputes Tribunals and Land Control Boards countrywide are paid promptly?

Mr. Deputy Speaker: Mr. Marende is not here? The Question is dropped.

(Question dropped)

Next Question by Private Notice by Ms. Mwau!

PROVISION OF POST-RAPE CARE
SERVICES IN DISTRICT HOSPITALS

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

(a) Is the Minister aware that most district hospitals lack post-rape care services?

(b) What plans does the Ministry have to ensure that all rape survivors are given Post Exposure Prophylaxis (PEF) to ensure that they do not contract HIV/AIDS, particularly at the current period when cases of rape are on the rise?

The Minister for Health (Mrs. Ngilu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that most district hospitals lack post-rape care services. However, my Ministry is at an advanced stage of developing policy guidelines for the management of such cases in hospitals. The same will be disseminated to health centres and dispensaries countrywide.

(b) My Ministry has put in place the following measures to address this matter: We are training health workers on principles of PEF following any form of HIV/AIDS possible exposure using anti-retroviral drugs (ARVs). The Ministry has also supplied hospitals with drugs that can be given as prophylaxis to victims of rape using a global fund. The first phase of this fund will procure drugs for 8,000 patients and in the second phase we will provide 4,000 patients with the drugs. The Ministry has developed guidelines for the administration of PEF. All centres providing ARVs will be provided with PEF for rape victims when drugs are made available.

Ms. Mwau: Mr. Deputy Speaker, Sir, I would like to thank the Minister for that answer although it is not adequate. This policy should have been in place earlier because every 30 minutes in this country a woman is raped, leading to a high HIV/AIDS infection rate in women. The Minister also says that drugs have been supplied to district hospitals. Could the Minister tell us which district hospitals have these drugs because I know most of them lack drugs? A case in point is that yesterday I had to bring two rape victims all the way from Makueni to Nairobi Women's Hospital where it is very expensive to get these post-rape care services.

Mrs. Ngilu: Mr. Deputy Speaker, Sir, yes, it is true that we had not supplied these drugs in district hospitals because, in fact, we had not even started training health workers on how to administer them. However, at the moment, we are training health workers to ensure they can undertake this work because these are not ordinary drugs like panadols *et cetera*. So, although we have drugs in these hospitals, we have not completed training personnel to handle the same. In fact, we are now developing a policy so that between us and the police we can educate people on the dangers of rape. We in the Ministry of Health will also be treating the victims.

Mr. Sasura: Mr. Deputy Speaker, Sir, last year, a Standard 8 girl from my constituency was raped by a policeman and we took her to Kenyatta National Hospital (KNH). She stayed there for about three days on a bed that the Minister described as "people sleeping together". We had to transfer her to Nairobi Women's Hospital basically because that is where these services are available. Now that the Minister has, more or less, admitted that there is nothing much on the

Government side, in terms of provision of post-exposure prophylaxis services for rape victims, what is the Ministry doing to supplement the efforts of Nairobi Women's Hospital? This will enhance its capacity to handle these cases that are on the increase.

Mrs. Ngilu: Mr. Deputy Speaker, Sir, first of all, we want to share the facility that exists. What all of us need to do is to educate people on the need that in the event this happens -it is happening all the time and it is a crime - they should seek medical care immediately. They should go to the nearest hospital and report that they have been raped. There is no gain made if we do not make this public. Education is, therefore, very important.

In the same token, we are also going to ensure that we have drugs in our district hospitals. They should soon be trickling down to sub-district hospitals.

Mr. Ethuro: Mr. Deputy Speaker, Sir, the Minister is not appreciating the importance of this Question. She is the one Minister I thought would really take this as a priority. She keeps talking about discussions between her and the Office of the President, and very soon she might tell us that there are discussions between her and the Treasury. That is not the point! My point is this: When is she going to make post exposure prophylaxis services available? We are not talking about the issue of treatment first.

Mr. Deputy Speaker: Ask your question!

Mr Ethuro: Mr. Deputy Speaker, Sir, when is she going to make these services available at district hospitals? All our people cannot come to Nairobi!

Mr. Deputy Speaker: Order, Mr. Ethuro! I have a problem with you, my friend. You ask a question and before it is answered, you ask another one. Could you now allow the Minister to answer your question?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, as I said, we have started intensive training, which is new. We have appreciated that there is a serious problem, and have started intensive training for our health workers. I agree that it is not possible to bring all cases that are happening out there to Nairobi Women's Hospital. We think that it is a very important service that needs to be put at the door steps of women.

Ms. Mbarire: Mr. Deputy Speaker, Sir, the Minister is not answering the question. The Question is: When is she going to make post-exposure prophylaxis services available at district hospitals?

Secondly, I have heard her talking so many times about anti-retroviral drugs (ARVs) that will go hospitals. When is this going to happen? People are dying, and are desperate for those drugs.

Hon. Members: When!

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I truly appreciate the urgency of this matter. As I said, we now have ARVs and are in the process of training health workers, who must undertake this work. One needs to be tested to establish the viral load in the body to know exactly what drugs they should be given. This cannot be undertaken by health workers trained at the Kenya Medical Training College (KMTTC), and we do not have adequate doctors to post to our sub-district hospitals. Some training is being provided at the moment, and I believe that in the next 15 months, we will have adequate drugs and health workers in our district hospitals.

Mr. Deputy Speaker: Last question! Hon. Members, this is a very important Question, and that is the reason why I have given it a lot of time. However, we must end it with Ms. Mwau.

Ms. Mwau: Thank you, Mr. Deputy Speaker, Sir. The Minister is actually not answering the question we are asking her. I would like her to be specific as a matter of urgency because in every 30 minutes, a woman in Kenya is being raped. So when is she going to ensure that Nunguni Health Centre, and others in this country, have post-rape care services? We cannot afford to see women die everyday! Yesterday was a case in point.

(Mr. Ndile stoop up in his place)

Mr. Deputy Speaker: Order, Mr. Ndile! You cannot do that. A question was asked and it must be answered.

Mrs. Ngilu: Mr. Deputy Speaker, Sir, first of all, we should not be thinking of treating the symptoms but the cause of the problem. We should fight crime so that rape does not continue. However, should it happen, then we will come in and solve the problem by availing ARVs. Meanwhile, although I appreciate the distances people have to travel to get to hospitals, it is important that if something happens, the victim should seek medical care at the nearest district hospital, even if it means travelling long distances. We are going to ensure that services are available.

Mr. Deputy Speaker: Next Question, Mr. Osundwa!

DEMOLITION OF FARMERS'
PROPERTY IN MUMIAS TOWN

Mr. Osundwa: Mr. Deputy Speaker, Sir, I beg to ask the Attorney-General the following Question by Private Notice.

(a) Is the Attorney-General aware that on 12th July, 2004 Messrs. Juma Mombo Opetu and Musa Ambaisi Ekombe obtained orders in Civil Case No.220 of 1995 in the High Court at Kakamega restraining the defendants and their agents from interfering with the plaintiffs' use of their land parcels in Mumias Town?

(b) Is he also aware that despite the order having been served upon the defendants, they disregarded the said order and demolished houses and uprooted crops on suit parcels Nos. S/Wanga, Ekero/659,472,473, 474, 475, 620, 624, 634, 635, 636, 637, 638, 640, 641, 642, 643, 644, 647, 648, 650, 651, 652, 653, 654, 656, 658, 660, 737, 741, 765, 775, 798, 802, 819, and 873?

(c) What action is he taking to ensure that the culprits are arrested and charged for contempt of court and that the farmers are compensated for their losses?

Mr. Deputy Speaker: Mr. Attorney-General!

(Mr. Githae stood up in his place)

Mr. Githae, is someone coming or do you have the answer?

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

(a) The Attorney-General is not aware as the Government is not a party to the suit.

(b) The Attorney-General is not aware as the Government is not a party to the suit.

(c) It is up to the advocate acting on behalf of the farmers to file an appropriate application in court of behalf of his clients as the Attorney-General is not named as a party in the cited case.

Thank you.

Mr. Osundwa: Mr. Deputy Speaker, Sir, I have a valid court order with me that shows that the Attorney-General is a party to this and, in fact, he is the first party. Therefore, I seek your guidance.

Mr. Deputy Speaker: Mr. Githae, you have heard that the hon. Member has a court order.

Mr. Githae: Yes, Mr. Deputy Speaker, Sir. I am aware of that, but this is a private matter between farmers and Mumias Municipal Council. It was in the process of trying to expand the town

and acquired pieces of land belonging to farmers. However, it never followed the right procedure. There was no Kenya Gazette notice allowing the Government to compulsorily acquire the land. Even the Ministry of Lands and Housing is not aware of what happened. Apparently, it was done at the local level without following any procedure. This should, therefore, be a private matter, and it is up to the owners of this land to institute contempt of court proceedings against Mumias Municipal Council, Full Gospel Churches and any other person who is on their land.

Mr. Billow: Mr. Deputy Speaker, in response to part (b) of the Question, the Assistant Minister said that, indeed, some people destroyed houses and crops of Kenyans without a valid court order. You have heard him say that, that is a private matter. Is he telling the House that Kenyans can take the law into their hands and demolish houses and uproot crops belonging to other people without any authority from the courts?

Mr. Githae: Mr. Deputy Speaker, Sir, I have said that what the defendants did was wrong, and that it is now up to the plaintiffs to institute contempt of court proceedings against the defendants for demolishing the structures that were on the land. This is a private matter. The Government cannot intervene in every private case. The farmers have a court order restraining the defendants from demolishing their structures, and the defendants defied it deliberately. It is, therefore, up to the farmers to institute contempt of court proceedings against the defendants, so that they can be jailed. We cannot support this kind of illegality.

Mr. Omingo: Mr. Deputy Speaker, Sir, I would be surprised if the Attorney-General was aware of this case. He is never aware of such matters. Having known that this happened, what is the Assistant Minister going to do to help these desperate Kenyans? The Ministry is the custodian of law and justice.

Mr. Githae: Mr. Deputy Speaker, Sir, the farmers are adequately represented by their advocate. My advice to them is to instruct their advocate to institute contempt of court proceedings against the Full Gospel Churches of Kenya and any other person who was party to the destruction of their property.

Mr. Osundwa: Mr. Deputy Speaker, Sir, the Attorney-General was served with this court order on 23rd July, 2004. Is the Assistant Minister advising the farmers to go to court and have the Attorney-General jailed for contempt of court, because he did not execute the order?

Mr. Githae: Mr. Deputy Speaker, Sir, as I said, although the Attorney-General was made a party to this case, he has no interest in the matter. This is a private matter between the farmers and Mumias Municipal Council. The council tried to expand Mumias Town without following the correct procedure and the law. Therefore, we cannot come to its defence. It is now for the farmers to institute contempt of court proceedings against Mumias Municipal Council, the Full Gospel Churches of Kenya and anybody else who is on their land. The land is rightly theirs.

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to insinuate that the Attorney-General is not interested in a matter where some people violated the rights of other people and disobeyed the law by uprooting crops of those people?

Mr. Githae: Mr. Deputy Speaker, Sir, as I said, the farmers went to court and obtained an order against the people who had invaded their land. The Government is not on that land. It is the Full Gospel Churches of Kenya, and other private people who are on that land. The mere fact that the Attorney-General was made a party to this case does not make him have an interest in that land. Mumias Municipal Council is an incorporated body, with powers to sue and to be sued. Therefore, if it has not followed the law, it should face the music. The Government will not interfere in private matters between parties.

Mr. Osundwa: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Osundwa, I have given this Question a lot of time. So, we must

move on.

Hon. Members, that brings us to the end of Question Time. I have requests from several hon. Members who want to seek Ministerial Statements. Let us start with Mr. C. Kilonzo.

POINTS OF ORDER

FUNDING OF FREE PRIMARY EDUCATION

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Education, Science and Technology.

Mr. Deputy Speaker: Order, Mr. C. Kilonzo! I cannot see anybody from the Ministry of Education, Science and Technology. Mr. Githae, please, take a brief for the Minister.

Carry on, Mr. C. Kilonzo.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, while answering a Question I had brought to this House on 5th August, 2004 the Assistant Minister for Education, Science and Technology told the House that cheques for two schools, namely, Kyaani and Mutwanthoo Primary Schools, were ready for collection. She said:-

"This anomaly has been rectified and the payments have been processed with cheques ready to be released to the schools."

However, since then, no payments of arrears have been made to the two schools, and parents are now considering closing down the school or moving their children elsewhere.

I would, therefore, like to know why the Assistant Minister misled the House, why cheques for the arrears have not been sent to those schools, and how many schools countrywide have not been receiving funds for the free primary education programme. Finally, I would like the Minister to confirm that the Government does not have financial problems in funding free primary education.

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Deputy Speaker, Sir, I will pass the information to the Ministry.

Mr. Deputy Speaker: For clarification, they can always refer to the HANSARD.

Mr. Omingo!

CORRUPTION ALLEGATIONS AT KENYATTA NATIONAL HOSPITAL

Mr. Omingo: On a point of order, Mr. Deputy Speaker. On Thursday last week, I sought a Ministerial Statement from the Minister for Health regarding corruption reports at Kenyatta National Hospital. The report of the task force that was constituted to investigate the matter is out, but I am not sure whether the Minister wants to respond to my request, or whether she is part of the practitioners of double standards in the application of the law.

Mr. Deputy Speaker: I will ask the Clerk of the National Assembly to note all the Ministerial Statements that have been sought, but not been issued, and remind the Ministers to bring all of them next week.

GOLDENBERG INQUIRY: GOVERNMENT'S POSITION ON COURT ORDER TO SUMMON WITNESSES SERVED WITH ADVERSE NOTICES

Mr. Ndile: Jambo la nidhamu, Bw. Naibu Spika. Ningependa kuomba taarifa ya Serikali kutoka kwa Waziri wa Utendaji Haki na Maswala ya Kikatiba. Utakumbuka kwamba hivi majuzi kulikuwa na uamuzi wa korti kuhusu tume ya kashfa ya Goldenberg, na ikasemekana kwamba watu watano peke yao waende wakatoe ushahidi mbele ya tume hiyo. Ningependa kujua mwelekeo wa Serikali kuhusu kesi hii. Kuna watu ambao wanawachochea wale waliotajwa wakataae kwenda kutoa ushahidi kwa tume hiyo. Tunataka kujua msimamo wa Serikali juu ya jambo hili. Bunge hili ndilo ambalo hutunga sheria, lakini kuna baadhi ya Wabunge ambao wanasema maneno ambayo hawastahili kusema.

Bw. Naibu Spika, itakumbukwa kwamba majaji waliotajwa katika ripoti ya kamati iliyobuniwa na Jaji Mkuu kuchunguza madai ya ufisadi katika Idara ya Mahakama walisimamishwa kazi ili madai hayo yachunguzwe. Kuna watu ambao wametajwa katika kashfa ya Goldenberg, wakiwemo Waziri wa Elimu, Sayansi na Teknolojia, Prof. Saitoti, Mabw. Musalia Mudavadi, Philip Moi, na Rais mstaafu, Daniel arap Moi. Je, inawezekana Serikali kumsimamisha kazi Waziri Prof. Saitoti ili achunguzwe kwanza?

(Applause)

Mr. Deputy Speaker: Umesikia, Bw. Waziri Msaidizi?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Deputy Speaker, Sir, we will issue the Ministerial Statement on Tuesday.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. You have heard Mr. Ndile mention adversely the name of an hon. Member of this House without bringing a substantive Motion. Is he in order?

Hon. Members: Aah! Sit down!

Mr. Ethuro: Mr. Deputy Speaker, Sir, we have to uphold the dignity of this House by adhering to the Standing Orders. I have no preferences whatsoever.

Mr. Deputy Speaker: Mr. Ethuro, I am having some difficulty agreeing with you, because the hon. Member has sought a Ministerial Statement on the matter he has referred to, and he mentioned the name of the hon. Member, among others. So, I do not see anything wrong in that, but when the Minister issues his Ministerial Statement, he will know how to handle it.

Hon. Members: Yes!

REINSTATEMENT OF NSHIF BILL
ON THE ORDER PAPER

Dr. Manduku: On a point of order, Mr. Deputy Speaker, Sir. I rise to register my appreciation to the House Business Committee for reinstating the National Social Health Insurance Fund Bill, which was unceremoniously removed from the Order Paper two weeks ago---

(Dr. Manduku resumed his seat)

Mr. Deputy Speaker: I am sorry, Dr. Manduku, I did not follow what you were saying.

Dr. Manduku: Mr. Deputy Speaker, Sir, I noticed that you were not following. That is why I sat down.

Mr. Deputy Speaker: Dr. Manduku, I did not follow what you were saying.

Dr. Manduku: Mr. Deputy Speaker, Sir, in fact, I stopped when I realised you were not paying attention.

I rise to register my appreciation to the House Business Committee for reinstating the National Social Health Insurance Scheme Bill which is appearing on the Order Paper today. Unfortunately it has been put at the bottom of--

Mr. Deputy Speaker: Order, Dr. Manduku! I was only giving a chance to hon. Members who wanted to request for Ministerial Statements. I really do not know where your point of appreciation comes in. Why do you not wait until it comes on the Floor, and then you can raise your issue and congratulate whoever you want to congratulate?

RAPE INCIDENTS IN
MAKUENI AND MT.ELGON

Ms. Mwau: Mr. Deputy Speaker, Sir, I rise to request for a Ministerial Statement from the Office of the President regarding two minors; pupils in Kapsokwony Primary School in Mt. Elgon who were abducted and defiled by two police constables on 26th and 27th last month, and two other survivors from Makueni, Kilungu Division at Kilome Police Station, where one young woman was raped by a police constable from 11.00 p.m., to 4.00 a.m., on 27th. These two cases have been reported both in the print and electronic media.

Mr. Deputy Speaker: Which Minister is taking note of that?

The Assistant Minister for Regional Development Authorities (Mr. Odoyo): Mr. Deputy Speaker, Sir, the information will be relayed to the Office of the President, and will be responded to within a reasonable time of two weeks.

Mr. Deputy Speaker: Order, Mr. Odoyo! Just pass on that information to the Minister, and say that the House requires a Ministerial Statement next week. We are just using you as a messenger.

The Assistant Minister for Regional Development Authorities (Mr. Odoyo): Mr. Deputy Speaker, Sir, it will be so done.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Angwenyi, you did not discuss with me that you wanted to request for a Ministerial Statement.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. Three weeks ago I asked for a Ministerial Statement on some urgent matter. We were promised that Statement within a week.

Mr. Deputy Speaker: Which one is this?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, it concerns the recruitment of teachers in Kisii Central District which was not approved by the District Education Board (DEB) in Kisii Central District. This is about three months ago. The Minister for Education, Science and Technology promised to give that Statement two weeks ago.

Mr. Deputy Speaker: Mr. Angwenyi, I agree with you. I was on the Chair. Now, could any Minister here inform the Minister for Education, Science and Technology that we would like to have that Statement by Tuesday?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): I will do that, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Next Order!

BILL

Second Reading

THE FINANCE BILL

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

Mr. Deputy Speaker, Sir, allow me to express my sincere thanks and gratitude to the hon. Members of this august House for the support they gave the taxation measures I pronounced during the Budget Speech in June. Last year, the Gross Domestic Product (GDP) grew by 1.8 per cent up from 1.2 per cent recorded in 2002. This was a clear indication that our economy was gradually recovering from one of the longest and most devastating recessions in recent history. This made the Government focus its policies to consolidate the already achieved economic gains and to accelerate growth.

Mr. Deputy Speaker, Sir, I specifically mentioned the fact that the three East African Community partner States of Uganda, Tanzania and Kenya had made significant strides in finalising arrangements for signing a Customs Union Protocol. This Protocol was signed on 2nd March 2004 by the three Heads of States. The Protocol, in fact, introduced three bumps of zero per cent, 10 per cent and 25 per cent which will be coming into force on 1st January, 2005. Although the implementation of the common external tariffs is going to mark the beginning of greater co-operation within the region, it is going to lead to loss of revenue for this nation. In fact, Kenya expects to lose at least, Kshs3.2 billion in revenue as a result of implementation of the common external tariffs. However, in order to approach development through integration, we pray that the common external tariffs will bring about many opportunities such as a wider market for goods produced within the union. This will have the potential for increasing the number of investors who will be coming to the East African region to take advantage of the larger economy.

Mr. Deputy Speaker, Sir, I want to emphasize the fact that measures proposed in the Finance Bill 2004, address key issues necessary to sustain economic recovery and aimed at achieving the theme of this year's Budget, namely: Enhancing Efficiency for Accelerated Growth. This requires commitment by all stakeholders and continued application of prudent economic policy. As discussed in the Budget Speech, the Finance Bill, 2004, contains various proposals relating to customs tariffs, Excise Duty, Value Added Tax, Income Tax and miscellaneous fees and other taxes. I will only highlight some of them this afternoon. I am sure hon. Members will have time to debate the entire Bill with all the proposals contained therein at the time of discussing specific clauses of the Bill.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, let me now say just a few words on the Customs and Excise Act. As stated during the Budget, this Act allows the Commissioner of Customs and Excise to sell goods which have been abandoned to the Customs through auction. When goods fail to be sold in the auction, the law was silent on whether a notice should be given in respect of the goods when offered for sale in subsequent auctions. A repeated publication of notices is expensive and of course holding such goods in the Port and in other Customs facilities leads to congestion. It is for this reason that the Bill before the House proposes to amend the Customs and Excise Act so that goods which are not sold after two public notices shall be offered for sale in subsequent public auctions without further notices.

Mr. Temporary Deputy Speaker, Sir, we have a serious problem of alcoholic drinks packed in sachets frequently finding their way into school bags. It is evident that drug abuse is one of the major causes of school indiscipline leading to poor academic performance and health. As part of our efforts to discourage packaging of alcoholic spirits in sachets, the Bill in front of the House makes it a requirement to limit the minimum packaging of alcoholic spirits to 200 millilitres.

Mr. Temporary Deputy Speaker, Sir, given the very serious problems which arise out of drinking impure *chang'aa*, I have, in separate discussions, challenged East African Breweries Limited (EABL) to manufacture a beer which would compete in price with *chang'aa*, but which would be safe to drink. I am glad to say that EABL is almost making a breakthrough, and that a new drink called "Senator" which will only be sold in *chang'aa* dens, will soon be available in the market, once we agree on what taxes will be paid.

Mr. Temporary Deputy Speaker, Sir, the introduction of withholding tax into the Value Added Tax (VAT) Act affects persons who are not eligible to register. In order to enable such persons to register and claim refunds where applicable, the Bill proposes to amend the VAT Act to allow any person who wishes to apply for registration, to do so.

Mr. Temporary Deputy Speaker, Sir, with regard to the Income Tax Act, I want to point out that Income Tax brackets have not been adjusted since 2002. Although inflation remained low, it was necessary to make some adjustments in order to protect low income earners from inflation induced bracket clip. In view of that, I propose to increase personal relief by 10 per cent and also, to widen the tax bracket by 5 per cent. The combined effect of those two measures raise the minimum income at which taxes apply from Kshs10,267 to Kshs11,135 per month. The Bill before the House proposes to bring about those amendments to the Act.

Mr. Temporary Deputy Speaker, Sir, in addition, the Income Tax Act, as it is today, requires persons making payments of specified income to withhold and pay the tax withheld to the Commissioner. Unfortunately, the law does not provide for penalties where the person paying fails to withhold and pay the tax. To correct that anomaly, the Bill before the House proposes to amend the Income Tax Act to provide for appropriate penalties, where the person deducting defaults. It also provides for appeals against such penalties, provided the principal tax is paid in full.

Mr. Temporary Deputy Speaker, Sir, as hon. Members will recall, the Civil Aviation Authority in Kenya had asked the Kenya Revenue Authority (KRA) to collect revenues for it. However, KRA was not able to issue an agency notice to collect money from those who failed to do so, nor was it able to attach property of the defaulters, making the enforcement of the collections extremely difficult. To address that problem, the Bill seeks to amend the Civil Aviation Act and the Petroleum Development Fund Act, as well as the Air-Passenger Service Act to enable KRA to appoint tax collection agents to collect taxes and levies through restraint actions.

Mr. Temporary Deputy Speaker, Sir, let me say that, for the first time in many years, revenue collection exceeded the targets during the last financial year. That indicated improved efficiency by the KRA and the renewed goodwill among our taxpayers. However, a number of Kenyans who were willing to comply and pay taxes remained outside the tax-net for fear of being heavily penalised on an disclosed amounts, should they reveal themselves. It is for that reason that I granted a tax amnesty on penalties and interests accruing under the three main revenue Acts namely; Income Tax, VAT and Customs and Excise Act, subject to full and voluntary disclosure of undisclosed amounts and payments of the same in full. The amnesty is ending on 31st December, 2004. Taxpayers have already started taking advantage of this amnesty and I urge more to do so. Those who will not take advantage will only have themselves to blame once the law catches up with them. KRA is aggressively undertaking restructuring and modernisation programmes, which will enhance compliance.

Mr. Temporary Deputy Speaker, Sir, in conclusion, let me say that the taxation measures contained in this Bill are, perhaps, some of the lightest we have had in many years. I made every effort not to give additional taxation to the Kenyan people, because they are already overtaxed. But I really would like to say that we have given major incentives to investors, both local and foreign. An indication of the extent to which investors have taken advantage of the allowance to import capital goods free of taxes, is the fact that, during the 2003/2004 financial year, we waived taxes amounting to Kshs14 billion. This year, during the last few months, we have already waived taxes amounting to Kshs17 billion for imports of capital goods. So, we expect that, once all the capital goods have been installed and become productive, the economy will show a definite upward turn, particularly in the industrial sector. I would, after making this statement, say that one should not really worry about loss of revenue because had we not given the incentives perhaps most of the people who wanted to improve and modernise their equipment would not have imported new equipment. As a result, there would be no revenue to be earned.

Mr. Temporary Deputy Speaker, Sir, once again, I want to thank hon. Members for the support they gave to the Budget Speech and I believe that they will discuss the Finance Bill candidly and give their support, recommendations and whatever amendments they may have, freely and openly.

Mr. Temporary Deputy Speaker, Sir, I beg to move.

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Temporary Deputy Speaker, Sir, I beg to second the Finance Bill which is a sequel to the Budget.

I think that the provisions of this Finance Bill are very straightforward in terms of amending the law relating to various taxes and duties. This also includes other incidental matters particularly in terms of Customs and Excise, VAT, Income Tax and Miscellaneous Taxes. Therefore, this hon. House will not have problems in terms of approving these measures because basically they are revenue measures.

The first Section of Part 2, Customs and Excise attempts to ensure that when goods are in transit that regime is tightened and it is not possible to experience the loss of revenue that we have been witnessing before. A good example is how the private operators of transit sheds will be regulated so that there cannot be any cheating by the KRA. I think those provisions are quite clear and straightforward.

The Minister mentioned the provisions of regulating packaging of alcohol. Those provisions now implement what the Minister had said during the Budget Speech, that it is necessary to regulate alcoholic beverages, given the havoc that they are creating within our country. It is a matter of worry that even after the Budget Speech and the injunction that the Minister made, there are some operators who are still trying to market alcohol in these sachets. Therefore, the co-operation with the private sector, for example, the Kenya Breweries Limited by making some affordable alcohol particularly for those citizens who are not able to desist from taking illicit liquor is an important matter that is sought by the Finance Bill. Just as in Tanzania there is *konyagi* or Uganda where there is *waragi*, even *chang'aa* can be packaged in a healthy way so that we do not have alcoholic beverages that harm our people in a very bad manner.

Another issue which the Minister had promised before and which will now be actualised through this Finance Bill is prosecution of people who issue bad cheques. When this Bill is passed, those people who give bad cheques knowing that they do not have money in their account, or those who give cheques and then stop them, which is illegal, will be eligible to punishment. It will either be a one-year imprisonment sentence or a Kshs50,000 fine. I think it is necessary that cheques are regarded as money when they are being issued.

In the business environment, trust is created so that people do not refuse cheques because

they think they will bounce. Although some people will think that this is a harsh provision, this is a very positive provision in terms of making sure that our banking system becomes even more effective.

Since this Bill is straightforward and the Minister seeks to get taxes and raise revenue, one cannot really quarrel with its provisions. The Commissioner-General of the KRA should be congratulated because, for the first time, we are beginning to have a situation where our revenue targets have been surpassed. One of the people in this country who need to be recognised in a tremendous way is the Commissioner-General, including his staff because it is teamwork. One hopes that we can actually utilise this revenue that has been collected without even borrowing a lot from foreign sources. It is my hope that the staff of the Income Tax Department will be considered in terms of remuneration so that they get incentive to collect more revenue.

The Minister has also talked about amnesty in tax collection. This is a very positive incentive for those who had not registered to pay taxes, in arrears or have problems to have the confidence that when they regularise their taxes they will not be penalised for past misdeeds. One must also reiterate that call from the Minister as well as the KRA that people should put their tax situation right. In the draft Constitution, it has been included as a duty to pay taxes. This is a positive move because all the services that we get must, in the first instance, come from our taxes.

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

(Question proposed)

Mr. Billow: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support the Finance Bill, 2004.

In general, I am satisfied with many of the taxation measures that have been included in the Bill, but on the outset, I want to mention that it is very important that we have a Budget office in Parliament. It is very difficult for most hon. Members to understand the tax measures which are contained in the Finance Bill and that is why there are very few hon. Members in the House when we are discussing finance matters. Since the Motion on the Budget office was passed almost a year ago, the Parliamentary Service Commission should move fast to set up a Budget office, so that hon. Members can have the capacity to analyse and understand similar Finance Bills, so that they can contribute effectively.

Mr. Temporary Deputy Speaker, Sir, I want to start off by talking about the tax administration. There is no need to over emphasise the fact that the Kenya Revenue Authority (KRA), as a matter of fact, has done pretty well in terms of meeting not only its target, but also generally dealing with tax administration matters. The Bill redefines the role of the Commissioner in all the three Acts, so that the Commissioner-General can be considered as a Commissioner under the Income Tax Act, the Value Added Tax Act and the Customs and Excise Duty Act. The Bill also gives the Commissioner-General authority to delegate some of his powers to a Commissioner and also the authority to merge departments and to appoint more Commissioners, in consultation with the Board.

While these measures are important for enhancing the effectiveness of the administration, we need to be cautious that the power to delegate be exercised very carefully. Otherwise, there is a risk of the Commissioner-General overriding decisions made by the Commissioners under the different Acts, specifically the Value Added Tax Act, the Income Tax Act and the Customs and Excise Duty Act. We need to improve the image of the department in certain areas. For example, the KRA Investigation Department needs to use public relations when dealing with customers. Businessmen are the KRA's clients. They are the KRA's customers and they are the ones who give

the KRA revenue. There is need to change the way we deal with them. It should not be a police versus a criminal kind of attitude. When dealing with businessmen, there is need to exercise a good relationship. We have seen instances where the KRA moves to attach bank accounts of businessmen before even advising them what it is wrong or even before demanding tax returns. I have seen a particular case where orders were issued to attach a businessman's bank account and the business was paralysed for more than three months and even pledges to put in title deeds and all kinds of documents were not accepted. It does not help when you frustrate the same businesses that are expected to generate revenue.

Mr. Temporary Deputy Speaker, Sir, the second item that I want to talk about is the tax amnesty. I want to laud the Minister for providing a waiver of penalties and interest on taxes that have not been declared and those who voluntarily come forward to declare their taxes. The response, as the Minister has said, has been good. I am in that industry and I feel that the deadline given is very short. If a company has not submitted its accounts or has not done its audit for many years, it takes quite a bit of time for it to prepare its accounts, to do its tax computation and pay the principal tax within the time that has been given between June and December. Quite a number of businesses have problems meeting that deadline. Since this has worked effectively and the response is good, I would like to appeal to the Minister to consider extending the deadline. We might bring a Motion in due course to extend the deadline to 30th June, so that we can allow more people to take advantage of the amnesty.

The Bill also provides for an agency notice, for example, the Civil Aviation Authority. In other words, the KRA can now issue agency notices. It can now appoint agents to act as revenue collectors on behalf of those authorities. Today, I was reading reports in the media that the KRA is being asked to collect revenue even on behalf of Nairobi City Council. While it is important to do so for the purpose of maximising revenue for those institutions, I think there is a risk that the KRA might fail to concentrate on its core activity. The core activity of the KRA is to collect the Income Tax, the Customs and Excise Duty and the VAT. If we expand the role of the KRA to cover many other activities, the risk is that the efficiency, which the KRA has today, will be reduced. So, there is need to minimise the expansion of the role of the KRA beyond its core activity.

The Bill also comes up with an important provision with regard to bouncing cheques and seeks to make it illegal for Kenyans to issue cheques when they know that they do not have sufficient money in their accounts, or when they know that those cheques will not be honoured. I am told that this provision has been brought to the House for many years and it has always been rejected. In today's world, if we have to continue looking to the future, and if we have to look at this country going beyond just cheques to smart cards and other electron transactions, we have to stop this kind of habit where people issue cheques to businessmen and the cheques bounce, and they put a lot of businessmen out of business because they are not able to recover their money. I want to support this provision strongly and I believe most hon. Members will this time round support the provision of Clause 62 that seeks to illegalise the issuance of bouncing cheques.

With regard to the Export Processing Zones (EPZs), the Bill has allowed the EPZs to sell their goods in the domestic market subject to a 2.5 surcharge. I find this unfair. Not only is the amount of the surcharge inadequate, but it is unfair to the manufacturers who are not within the EPZs because the EPZs enjoy a lot of benefits. They enjoy many tax allowances in the manufacture of their raw materials. They enjoy tax holidays of up to 10 years. To allow them simply to sell their goods in the domestic market at just 2.5 surcharge, is unfair to those who do not produce within the EPZs. I do not know why the Minister allowed this to happen. This is something that we need to look into next year. I am sure many of those who manufacture goods within the EPZs might find it more appropriate even to sell their goods domestically.

Mr. Temporary Deputy Speaker, Sir, the Excise Duty on hides and skins of 10 per cent, which is intended to discourage exports, I also find this troublesome. Those in the livestock industry who are engaged in hides and skins business do not have a good market locally. There is a risk that the few tanneries that we have in the country will exercise monopoly and, therefore, offer very low prices to those who are in this business. When there is no compensation on exports the local buyers will not have the incentive to pay a higher price and that competitiveness will be lost. I think the Government should reconsider its decision on this excise duty, so that the people who are engaged in the business of hides and skins really fetch good prices outside the country. Those who really have to use the hides and skins locally will have to pay for it.

Mr. Temporary Deputy Speaker, Sir, Value Added Tax (VAT) has been removed on LPG, I think, ostensibly, to encourage utilisation of LPG and discourage the use of charcoal or wood fuel. However, we have seen that the prices of the LPG have not changed. The benefits of the VAT elimination have not been passed on to the consumers by the industry and, therefore, there is no impact in terms of encouraging the use of LPG. In fact, today they are much more expensive than they were when the Bill was first published. Therefore, if the Government wants to discourage people from using wood fuel or charcoal, the first thing it need to do is to reduce taxes on kerosene because the majority of the people who use charcoal can only move from charcoal to kerosene. We cannot jump from the use of charcoal to that of LPG gases. It is important that in the next financial year, the Government should seriously consider eliminating taxes on kerosene because that will also address the concerns about poverty.

Mr. Temporary Deputy Speaker, Sir, the Bill also seeks to appoint withholding tax agents on VAT in Clause 37. However, I am just wondering whether there are provisions that will deal with failure to remit those taxes. If those new agents who are appointed under this clause do not remit taxes, I do not know whether the penalties that have been provided in the Income Tax Act and so forth, would apply, or whether there is need to provide for specific penalties for agents who do not remit taxes. When people collect money, on behalf of the Government, there is a tendency to delay remittance of such taxes to it.

When dealing with VAT, I want to express my concerns with the VAT deductions on supplies made by the Government. The Government today deducts money at 16 per cent VAT, if I am not wrong, on contractors who supply Government with services. But the way it is being done is a bit haphazard, particularly in the rural areas. If you are a supplier to the Government, there is no threshold requirement. I think without the requirement for threshold, it becomes very difficult. There is no equity in the way it is being done. In my own district, for example, the Government has hired transport contractors to transport relief food within the district. Now, you may be contracted to transport 20 tonnes of food from the district headquarters to somewhere within the district. The total contract sum may be, in fact, less than Kshs50,000 or even Kshs100,000 and the Government goes ahead and deducts 16 per cent VAT. Now, in my district, a Government department had been appointed as the lead agency to deal with relief food. In the neighbouring districts, it is the Non-Governmental Organisations (NGOs) that have been appointed as lead agencies. The money is paid by the World Food Programme (WFP), but it is channelled through the Treasury. So, when the NGOs contract the same transporters in the neighbouring district, they do not deduct VAT. But when the Government department contracts the same transporters again to distribute food within the same district, they deduct VAT. I think there is an element of inequity in this. Simply because it is the Government which is contracting a transporter, he has to pay VAT even if the money being used for transporting does not belong to VAT and the Government is merely a vehicle being used for the purpose of paying. It is not money that has been voted in Parliament. It is an emergency programme that is being funded. As I speak today, for the whole of the month of November, relief food has not

been distributed in Mandera District because the transporters have rejected the deduction of VAT from their contract sums. So, that is something that, perhaps, needs to be looked at and be addressed.

Lastly, I need to emphasize that the Government should design fiscal policies in such a way that it encourages investors and businessmen. At the same time, it should also be designed to alleviate poverty. I think without putting those two concepts into the process of designing tax measures, it will be very difficult for this country to get very far. So, when we are dealing with some basic **[Mr. Billow]**

commodities, we should deliberately avoid charging VAT and so forth, for instance, just to ensure that as many Kenyans as possible have access to those commodities.

Mr. Temporary Deputy Speaker, Sir, those are the few remarks I wanted to give on this Bill generally. I beg to support.

Mr. Kagwe: Thank you very much, Mr. Temporary Deputy Speaker, Sir. From the outset, I would like to support the sentiments expressed by the Shadow Minister for Finance, Mr. Billow, on the issue of the absence of Members of Parliament when we are discussing matters of finance. I am not sure that we should not even change the Standing Orders of this House, so that on daily basis, we start with the business of the House and then go back to Questions, rather than start with Questions and then go back to the business of the House.

This is because even as we blame the media for not highlighting very serious issues to do with this House, one of the reasons is because the media has to work on deadlines. By the time their deadline for the next day comes, we have only dealt with matters to do with Questions and, as you know, that is where all the excitement is. That is when we find the media writing that this House is not discussing serious matters. Therefore, I think the proposal should be, that the business of the House should start first and then Questions should come between 6.00 p.m. and 7.00 p.m. Then, we will really be doing House business.

(Applause)

Mr. Temporary Deputy Speaker, Sir, I rise to support the Bill and mention that the Committee on Finance, Trade, Tourism and Planning has been deliberating on this matter substantially. Indeed, we will move a couple of amendments which will be done by Mr. Oparanya, on behalf of the Committee. I think the Minister's attempt in this Bill to raise revenue and also focus on the fiscal and monetary policies of the Government will succeed. However, I do not believe that the Minister will succeed in balancing the Budget; at least, not this year and not in this Bill. I also do not believe that the Bill will go at great length as far as poverty reduction is concerned, not because it is the fault of the Minister, but simply because of the environment in which he is currently operating.

Mr. Temporary Deputy Speaker, Sir, amongst the issues we intend to raise on this Bill is, perhaps, to do with the Pensions Fund. Even though the Bill envisages a situation where we will expand the issue of the minimum taxable pension, my view is that pension ought not to be taxed in the first place at all. This is because we are talking about people who earned money for a very long time and presumably, were paying taxes during that time that they were earning this money. Furthermore, part of the money that they were paying had already been taxed. So, these are people whose income tax in most cases is not even being adjusted for inflation. Therefore, my view is that all payments to do with pension be exempted from income tax.

Mr. Temporary Deputy Speaker, Sir, you remember when we passed the pension scheme for retired Presidents the other day, it was exempted from tax. If we could exempt that fairly large

amount of money, it is only fair that we also do the same to small amounts from small workers.

(Applause)

I agree that we should criminalise bouncing cheques. I hope that when this matter comes before the House, and the Bill is brought here, we will support it. It is high time we grew up to be people of our own words. If we are going to be so, then we must also be people of our own writing. There are very many countries in the world where there is an innovation as far as cheques are concerned. The cheques are guaranteed by the banks. Indeed, the amount of the guarantee is clearly written on the cheques. I think we should encourage banks to consider noting the guarantees on the cheques that are issued to various banks.

Mr. Temporary Deputy Speaker, Sir, it is true that the budgetary process in this country is not dynamic. I am glad to see people from the Ministry here. Things have changed substantially. This is the time of electronics. We have E-Government. I hope the Ministry is rushing very quickly to make sure that every desk is networked to another. When we get the Budget Office, we will require more reports from the Ministry than we are currently receiving. Indeed, when the issue of the Budget Office comes--- I believe the discussions of the Committee on the Budget Office should also involve chairmen of important Committees of Parliament. We will require the Ministry of Finance to be in E-Government to give us all the reports to consider. When you put them in perspective, the Finance Bill, the Central Bank (Amendment) Bill and the Banking (Amendment) Bill will ensure greater efficiency in the Government.

Mr. Temporary Deputy Speaker, Sir, the issue of exporters paying duty upfront ties up funds. It also takes too long to get back the Rebates that they are supposed to. So, we should either move quickly to eliminate that requirement, or ensure that rebates are paid quickly. I would also like to raise the issue of pre-shipment fees which are too high, considering that, raw materials are not available in this country. Given that our neighbours in Tanzania have a 1.2 per cent IDF, and Kenya has 2.75 per cent, it is a bit on the higher side. Basically, that increases the manufacturing cost. Given the fact that, we are already on a relatively free zone with Uganda and Tanzania, it is only right that we move towards that area.

Mr. Temporary Deputy Speaker, Sir, this country has got an expenditure-oriented mentality. Even we as Parliament, we have got an expenditure-oriented mentality. What does that mean? What I am saying is that, we spend a lot of time discussing how to spend and squeeze money out of the Government! We spend very little time discussing how to get money! That is why we spend money that we do not have and, basically, living beyond our means. Among other factors, that is why we have the budget deficit.

(Applause)

Therefore, I believe that we must concentrate and think financially on how to put money in areas that we can get money from, rather than just spending in areas that have no returns.

Mr. Temporary Deputy Speaker, Sir, as the Minister has outlined, on the issue of the East African Community, and the losses that we are likely to suffer due to the cost of reunifying the East African Community, I think we should look at that positively! We should say: "Yes! It is not too large a cost to bear, to create a large economic unit for the manufacturers!" Many of those manufacturers are actually based in Kenya. So, when you think about the net effect of that manufacturing process, and the money that we are going to give, we will probably end up receiving the money back from increased business.

But, Mr. Temporary Deputy Speaker, Sir, there is a danger! The danger is not even the Kshs3.2 billion or Kshs7 billion that the Minister is referring to. To me, the danger is the movement of our manufacturing sectors from being Nairobi-based to Arusha-based, Dar-es-salaam-based or Kampala-based, to take advantage of their entry into Kenya duty-free. So, we must look for other ways of ensuring that manufacturers who are already in this country, have a suitable business environment. That can be done by keeping the cost of production down. That way, it may not be in their interest to move their industries from Kenya to either Uganda or Tanzania, and encouraging privately-owned bonded warehouses. The stipulations in the current Bill do not encourage private bonded warehouses.

Mr. Temporary Deputy Speaker, Sir, Excise Duty on water should be removed completely! Right now, the Bill envisages 10 per cent Excise Duty on water and other juices. Water is not a luxury. It is something that you cannot do without. It is something that you have to drink when the urge comes. Given the state of tap water, especially in Nairobi and other municipalities, it is no longer a luxury to buy bottled water. That is why even in this House, as you can see, we have bottled water right in front of us. It is not a luxury but a necessity. Therefore, I propose that water should be zero-rated on Excise Duty.

Mr. Temporary Deputy Speaker, Sir, as far as Value Added Tax (VAT) is concerned, we support the idea of removing our manufacturers from duty exempt status to zero-rating. Once we exempt them, they cannot be able to claim VAT on imports. What has been happening is that, when we exempt them, they became more expensive. A good example is the women's sanitary products which were exempted the other day. The sanitary products became more expensive than the imported ones. So, it is only fair and right to zero-rate them, rather than exempt them.

Mr. Temporary Deputy Speaker, Sir, I believe that many issues that I would like to talk about will be discussed at the Committee Stage. Many of them have been recommended by the Committee.

With those few remarks, I beg to support.

The Minister for Roads and Public Works (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, I would like to join those who have spoken before me, in supporting this Bill. The theme of this year's Budget is: "Enhancing Efficiency for Accelerated Economic Growth!" That should be our guiding principle as we move on to implement this year's Budget.

I am equally concerned, just like the hon. Member who has contributed before me that, when we are discussing the Finance Bill, which is the basis of the Budget itself - it is through this Bill that we are able to raise taxes to finance various activities in this financial year - that hon. Members should be out of this House. This is the most serious business before the House.

(Applause)

Mr. Temporary Deputy Speaker, Sir, hon. Members usually try to play to the gallery. That is the reason why Question Time attracts better attendance than when we are dealing with very serious business of the House. That needs to be changed. It is something that we need to discuss as hon. Members of Parliament. I think we are letting the people of this country down.

Mr. Temporary Deputy Speaker, Sir, I would like to support the Minister and thank him for granting tax amnesty to people with tax arrears. I would also like to appeal to him to extend the time from 31st December to 31st March, next year, in order to allow businessmen with tax arrears sufficient time to prepare their books.

(Applause)

The Kenya Revenue Authority (KRA) is the supreme authority charged with the responsibility of raising revenue to finance our budget. However, the authority must itself function within the law. In other words, the Commissioner, whom we have now baptised as the Commissioner-General, should understand that he or she is not above the law. Businessmen should be friends of the Government since they are the ones who pay money that is used to finance the activities of our economy.

Mr. Temporary Deputy Speaker, Sir, normally, the law begins by assuming that it is dealing with innocent people. But if somebody is guilty, he or she should be dealt with in accordance with the provisions of the law. The Commissioner-General, however, should never ever defy the ruling of a court of law. By doing so, he is himself violating the law. If, for example, the authority suspects that a certain business enterprise has been involved in some form of irregularities or improprieties and it has not been detected so, they have no right to close down somebody's business for days, weeks or months. By doing so, they render bankrupt innocent businessmen. I am saying that because there are cases where the Commissioner-General has issued orders to close godowns belonging to people without giving sufficient reasons. Those affected have gone to court and have obtained court orders to open their businesses. However, the Commissioner-General has, with impunity, decided to defy the court orders. This should not happen

Mr. Temporary Deputy Speaker, Sir, I agree also that those who issue bouncing cheques should face the full wrath of the law. Such people are actually crooks, thieves and robbers, stealing through the pen. I do not agree with a proviso in the Bill that allows for post-dated cheques. If I issue a post-dated cheque to you, I should ensure that by the time you are presenting that cheque to the bank for payment, there are sufficient funds in the account.

(Applause)

You should never write a cheque if you have no money because that is trying to obtain goods through false pretences. I would, therefore, like that provision to be removed.

Mr. Temporary Deputy Speaker, Sir, I would like to thank the Minister for Finance for removing VAT levied Liquefied Petroleum Gas (LPG). However, the price of LPG has not come down despite the fact that the VAT was removed. The purpose of removing VAT on LPG was intended to make it more available and affordable to the needy people. It would enable them move away from dependency on charcoal and firewood. The purpose was to protect our environment, but if as a result of removing the VAT, the price of LPG has not yet come down, it means that we are basically allowing businessmen to benefit from this gesture. I wish to propose that the Government should regulate the price of LPG. It should ensure that the differential of VAT is passed to the consumer and calculations done appropriately so that the price of LPG comes down proportionately.

(Applause)

The Minister also removed VAT on sanitary towels. This was a very welcome gesture and it was highly hailed by our women folk. Again, as is the case with LPG, the price of sanitary towels has never come down appreciably. I urge that measures similar to the ones I have proposed with regard to LPG be taken when dealing with the prices of sanitary towels so that they can be more affordable to our women folk.

Mr. Temporary Deputy Speaker, Sir, our intellectuals, academia and members of teaching staff at the universities are people who are doing selfless work for this country. I am saying so

because this country has in the past suffered from brain-drain from our institutions of higher learning. We have seen the exodus of many of our intellectuals going for greener pastures in southern African countries. If you go to Botswana, you will find very many Kenya lecturers. That is the case in Namibia, South Africa, Zimbabwe and Zambia. Brain-drain occurs because of the poor remuneration we offer to our teaching staff. We know that the state of our economy cannot allow us to raise the salaries of our lecturers to what they demand from us. However, there is something we can do and we have been doing it in the past. This issue has become contentious right now because lecturers have been going on strike frequently. I would like to urge that we find ways and means of accommodating their demands within the Budget and that we allow our lecturers to continue to import vehicles duty-free. I am saying this because once upon a time, in my other earlier incarnations, I was also a member of the teaching staff in the university. I, therefore, fully understand the plight of lecturers in our institutions of higher learning.

With regard to pension, it is not that I know I am approaching the stage of pension, but this is something that is inevitable. It is like death itself. It is something that is waiting and that is why Caesar wondered why men should fear death, knowing that, as a necessary evil, it will come when it will come. Let us all know that pension is going to come. We all shall be pensioners whether we like it or not. Pensioners are people who have spent very many years of their lives offering selfless service to the country. These are people who have reached a stage where the society needs to be more generous to them so that they can live the final stage of their lives in some kind of comfort.

Mr. Temporary Deputy Speaker, Sir, pensions are never reviewed regularly whenever salary scales for workers who are still in employment are reviewed. Those who are still in employment are capable of organising themselves, for instance, through strikes or making demands through trade unions. Pensioners, we know, are scattered all over the country and they have also reached a stage where they are infirm. Therefore, they cannot organise themselves to campaign for their comfort. I want to join those who said that we should not levy taxes on pension.

Mr. Temporary Deputy Speaker, Sir, I am also of the opinion that we should not levy duty on water because it is the source of life. Every human being requires a number litres of water on a daily basis. Water is essential for human life and it should be zero-rated so that there is no excise duty on it.

This Budget is a very progressive one because, this year, we introduced the Constituency Development Fund (CDF) and we have put into it, Kshs4.5 billion. This is the most revolutionary action that has been taken by this Government. It means taking money where the people are and it is the beginning of devolution. Devolution empowers the people to preside over their own development. It also ensures that resources are taken down to the grassroots, so that people can plan their own development. They can decide their priorities and say: "These are the roads we want to do this year; these are the health centres we want to upgrade, these are the schools we want to develop". That way, the people become part and parcel of development in the country. That is the reason why, by introducing the Constituencies Development Fund, we have begun the journey.

Mr. Temporary Deputy Speaker, Sir, we should not fear devolution. There is a lot of fear among some hon. Members of Parliament that devolution is going to deprive them of their power. I want to plead with them that, maybe, it is because of their fear of the unknown. I know that a human being is a very conservative animal who, most of the time, wants to remain on the beaten path; that this is the path that he uses when moving from his home to the water point. The moment you try to move him out of the path to the unknown, you will get a lot of resistance. So, we know that the resistance that we are experiencing from some hon. Members of the House is because of the fear of the unknown. But this is a road that has been travelled very comfortably by people of other countries, and it is a smooth road. If we go through with devolution, the people of this country

are going to be happier. It is going to liberate them from depravation, and this is going to be the fastest way to fight poverty and put money where it is most needed.

(Applause)

With those few remarks, I beg to support.

Mr. Kipchumba: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to support this Bill, but I want to make a correction on the understanding of the Minister for Roads and Public Works that, indeed, the price of Liquefied Petroleum Gas (LPG) went up after a tax was removed. The problem was that the price of petroleum has generally gone up and, therefore, it was difficult for the price of LPG, which is a by-product of petroleum, to go down. I also want to correct the impression that---

The Temporary Deputy Speaker (Mr. Ethuro): Are you doing so from some authority?

Mr. Kipchumba: Yes, from some authority.

The Minister for Roads and Public Works (Mr. Raila): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Minister! I have not given anybody the opportunity to speak.

The Minister for Roads and Public Works (Mr. Raila): I thought you did.

The Temporary Deputy Speaker (Mr. Ethuro): That is what you thought, but now you are given the opportunity to speak. Proceed!

The Minister for Roads and Public Works (Mr. Raila): The hon. Member is basically misleading the House. All that I was talking about was a reduction which is proportionate to the Value Added Tax (VAT) percentage that has been removed by the Government, and not the overall increase in prices of petroleum products.

Mr. Kipchumba: That is the misleading statement that I was trying to correct; that it is, indeed, difficult to quantify because, at the same time, the prices went up and, therefore, somebody should have taken time to calculate the differential. The impression created by the Minister is wrong, but I understand what he is saying.

Indeed, when hon. Members stand here and say that we should, indeed, look into the issue of taxes on water, I do not agree. The Minister should be telling us that the Government should be committed to giving Kenyans clean water, so that we can drink from the tap as opposed to encouraging manufacturers to give us bottled water. What will the rest of Kenyans drink if they cannot afford this bottled water? For information of those who do not know, we, in the town of Eldoret, drink water from the tap; we do not buy bottled water because the tap water is clean! Therefore, it is up to the Ministry of Water to ensure that there is clean water all over the country. That is not a very difficult task to achieve. It is very easy to achieve by forming the various companies that can manage the water resource. Therefore, the tax on water should, in fact, be increased, so that we can discourage people from buying bottled water which, in my own view, is only meant for the rich. The poor drink tap water and survive and they are very healthy.

Let me speak on the Bill. I find this Bill very encouraging. I want to agree with a few of my colleagues who have said that the amnesty period should actually be extended. But I would want to request the Government that the extension be up to 30th June, 2005. I think that will give businessmen ample time to pay up. We are not trying to penalize anybody, but we are trying to encourage as many people as possible to declare their taxes and, therefore, be included in the tax bracket. I think that, that is the objective of the Government.

Mr. Temporary Deputy Speaker, Sir, the best way to alleviate poverty in this country,

among others, is to increase the taxable bracket from Kshs11,135 to Kshs15,000. That is the cheapest way from which the Government can ensure that Kenyans who earn the lowest amount of income in this country will be able to spend an adequate amount of money in this economy. Therefore, in as much as I would appreciate what the Minister has done, I wish the tax bracket was increased from that figure to Kshs15,000.

I want to agree with the earlier speaker who said that while we appreciate the introduction of withholding tax, agents can now collect taxes, especially VAT on behalf of the Government, and that no penalty has been introduced on the same. We have introduced it on Income Tax and all the other taxes, but we have deliberately excluded this on VAT. That brings me to the issue of VAT itself. Previously, businessmen found it very easy to claim import tax on VAT. But since this Government took over, this has been made very difficult. I am not sure whether the Government is broke or whether they would like to collect all their money in advance, but measures should be put in place to allow businessmen to claim their import tax in the easiest way possible. If you are a supplier to the Government, as my colleague has put it earlier, 16 per cent will be deducted immediately. But for you to claim the same, it will take ages and it will be very expensive, especially if you are a supplier of very expensive goods such as petroleum. Therefore, I would like the Minister to look at that issue again; that those who claim import tax should be paid as soon as possible.

I want to talk briefly about the Kenya Revenue Authority (KRA). The KRA is actually the engine of the Government, because it is from the KRA that we can get milk to drink. But we allow the KRA to deduct only 3 per cent of all the revenue for administrative purposes. To me, that is very low, and I would like to request the Minister for Finance to look into that issue again so that we can increase the same from 3 per cent to about 5 per cent. That will enable the KRA to have adequate funds to enable it to collect more. We cannot demand from the KRA because we give them targets every year and keep on increasing the targets that they should collect more. But they cannot collect more if we do not allow them to have adequate funds to look for more money.

Therefore, I would like to kindly request the Minister to look into that issue again urgently, so that the amount allocated to the KRA for administrative purposes, and which we all depend on for all our bread including hon. Members of Parliament, can be increased. That would enable it to have adequate funds to be able to collect more money.

Mr. Temporary Deputy Speaker, Sir, I want to commend the KRA for doing a good job. It is not easy for anyone to collect revenue above their targets in this country.

The Assistant Minister for Regional Development Authorities (Mr. Odoyo): On a point of information, Mr. Temporary Deputy Speaker, Sir!

Mr. Kipchumba: I do not need information! It is not easy for companies to collect money and meet their targets.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Kipchumba! Although, of course, it is your right to agree or deny the Member the chance to inform you, you do not have to be necessarily hostile to extra information.

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, I hope the Chair is not forcing me to accept extra information which I do not require. The Standing Orders are very clear.

I was just saying that the KRA must be encouraged. I have seen the amendments that have been put, that the Commissioner-General can be given power so that he can create more departments, and that the Minister could appoint more Commissioners. It is only last year that another Commissioner was appointed. I am not sure of the name, but I think the department was called support services. I think we should discourage this business where, when we want to give out jobs to our friends and relatives, we sit down and create vacancies. We should restrict this. In as

much as we want KRA to do a nice job, I think it does not make a lot of sense to increase the cost of doing business. Therefore, the departments that were there, in my view, were adequate. Therefore, that clause that has been put there now, giving the Minister power to create various more departments or reduce those that exist, is unacceptable, and I think we should amend it, so that whenever that must be done, it must be done with the approval of other parties, such as the National Assembly.

Mr. Temporary Deputy Speaker, Sir, I have seen that the Capital Markets Authority (CMA) has been given some "teeth". That brings me to the issue that I have always talked about, the corporate bond that was issued by the Barclays Bank. I am not sure whether that has been sorted out to date. One year later on, Barclays Bank, which issued a corporate bond, has not received approval. Every time you ask the CMA, they will tell you that they have not received approval from Treasury, Central Bank of Kenya or the Minister. I have seen in this Bill that we are saying that CMA can give authority for the issue of the same with the approval and consultation of the Minister for Finance. This is the monkey business that we do not like. We would like things to be straightforward.

The CMA, in as much as they have that power, should be given all the power. If they are satisfied that the bond that has been issued by a company is backed by the necessary assets and securities, they should be able to give that company the necessary approval to issue the corporate bond that they would like to. This will prevent a situation where, if a Minister does not like you because of a disagreement, you will not be able to float a bond. That is the kind of business we should avoid. That is why Barclays Bank, to date, has not been given approval to issue a corporate bond, one year down the line. This Government talks of bringing investors to this country. I do not know what kind of investors they will bring if they cannot give a simple approval to a company like Barclays Bank to issue a corporate bond for Kshs3 billion, which is supposed to assist Kenyans in terms of borrowing to finance their housing business in this country. Therefore, the regulations that govern CMA should be brought to this House so that we can re-look at the Act more thoroughly and, therefore, make the necessary amendments.

Mr. Temporary Deputy Speaker, Sir, I have seen in this Bill that the Minister has talked of penalties for those who adulterate petroleum products. In as much as I appreciate the concern of the Minister, the penalties that have been introduced are not adequate. When petroleum products are adulterated, we have two problems. First, the Government loses a lot of revenue. Secondly, petroleum products that have been adulterated are always a nuisance to motorists, because they can even cause an engine knock. I would like to request that anybody who adulterates petroleum products must face stiffer penalties, so that we must be able to recover the duty. Since our vehicles could easily be damaged, such people should be made to pay dearly. Therefore, I want the Minister to amend that clause so that Kenyans who are fond of doing the same will be discouraged from doing so.

Mr. Temporary Deputy Speaker, Sir, there is the issue of packaging of alcoholic products. In as much as we appreciate that the Minister said that packaging now will be up to 200ml, business people now package in five-litre jerry cans. *Wananchi* will just consume the same. We wanted to discourage the youth, especially, from the consumption of alcohol. But this is packaged in five litres, it is drunk in glasses and from very small bottles. Therefore, part of the objectives for which we wanted this to be introduced, have not been met. I want to request that the Minister re-looks into this matter in the near future.

Mr. Temporary Deputy Speaker, Sir, the issue of transit, which has been reduced from 21 to seven days, to me, is quite unacceptable. This is a very short time for bulk goods. On the surface, that would not be a problem as all you need to do is to take about three or four days from Mombasa

to the border. But some products such as petroleum will take much more time because they have to go through the pipeline. It would even be very difficult to differentiate as to which of those products has really transited to the other country. Therefore, to me, the 21 days are still very reasonable. I do not understand why the Minister found it fit to reduce it to seven days.

On the issue of auction, the Minister has clearly said that it would not be necessary to issue another notice when goods are not sold in the first auction. That is unacceptable. The reason we issue notices when auctions are called is so that many people are informed and, therefore, attracted to participate in the same. If we now say that there will only be one notice and, therefore, if all the goods are not sold in the first auction, KRA has the discretion to sell the goods at its own time, then it means that we are not attracting competition that is necessary in an auction. I want to request the Minister to re-look at that issue, so that whenever there is an auction, a notice must always be issued. Notices are not very expensive. We are not saying one must necessarily put a notice on a newspaper or a radio. It can be put on a notice board somewhere, where you sell the goods, and people have access to that information. Therefore, the reasoning that this will be very expensive does not add up.

The Assistant Minister for Regional Development Authorities (Mr. Odoyo): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the hon. Member is misleading the House as to the intention of the Minister when he read the Budget Speech. This is because he was also present when the Minister was reading Budget Speech. I believe it is my right to correct him since he is flouting the rules of the House. Is he in order to imply that the publication of the notices on the auctions and customs are not provided for in the current law? They are there, except that the law is silent on what happens.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Odoyo! You are completely out of order!

Mr. Kipchumba, you may ignore that.

Mr. Kipchumba: Thank you, Mr. Temporary Deputy Speaker, Sir, for that gesture.

The Minister clearly said that one of the reasons is to reduce cost on the issue of notices. My argument is very simple; that we do not necessarily have to put a notice in a newspaper or any other media. We could advertise anywhere else, where *wananchi* would easily access it without necessarily incurring a lot of expenses. Therefore, we would like to discourage officials or friends of employees of the Kenya Revenue Authority (KRA) from being the only people with that information. We must re-issue notices whenever there is an auction. There is a reason why we always have to issue notices.

(Mr. Odoyo consulted loudly)

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, if you could protect me from Mr. Odoyo?

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Odoyo, every hon. Member has a right to be heard in silence!

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, I would like to mention something about the Export Processing Zones (EPZ). I am clearly happy that in the establishment of any EPZ, the KRA is consulted. This is encouraging because we do not want EPZs to be established without consultations with the KRA. The reason why we would like EPZs to be monitored by the KRA is so that goods do not get their way into the local market. The Minister has clearly said that from now on, EPZs will be encouraged to also sell goods locally at a surcharge of 2.5 per cent. However, I would like to agree with Mr. Billow that a surcharge of 2.5 per cent is still very low. That should be

increased to 5 per cent, so that we encourage as many companies as possible. The noble idea of establishing EPZs is not really to sell their goods in the local market. If we are not capable of exporting, really, then we cannot build a factory anywhere in this country just to sell our products locally. Why would we want to go to EPZs if, indeed, we want to sell their products locally? Therefore, the merit, in fact, of even opening it is not there. However, if those goods must be sold to this country at any cost, the surcharge must, therefore, be increased to 5 per cent.

Mr. Temporary Deputy Speaker, Sir, I would like to mention something, probably outside this Bill, but which touches on the KRA. That is about the scanner that cost this country a lot of money. We are now being told that the value of it is not being realised. Contents of various goods cannot be ascertained using it. I would like the Minister to re-look at this issue because that scanner cost this country a lot of money. We have had it for a long time, probably about one year, but it is non-functional. I am sure the guarantee period is not yet over. It should be returned so that we can get another scanner that really works.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to appreciate what the Minister did this year. He said that companies that pay their taxes excellently were rewarded with certificates. However, I wish more could be done to those companies. For example, whenever we issue tenders for supplies of various Government goods and services, that priority should be given to some of these companies that excellently pay taxes to the Government of the Republic of Kenya, as opposed to companies that evade taxes. Therefore, one of the incentives that should be given to some of these companies would be that those who received certificates of merit for excellently paying their taxes be rewarded; for example, they could be given priority in terms of supply of goods and services to the Government.

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

Mr. Omingo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to contribute to this Bill. I will say from the onset that I support this Bill. However, I would like to make the following comments, which are critical to the implementation of the legislation we are trying to pass.

This Bill seeks to tax the Kenyan public. These are the people who have given us the mandate. It is for this reason that I am looking for that day when hon. Members of Parliament, through taxational representation, will have an input to determine the rate and purpose of taxes through a parliamentary budget office. That is critical for this nation because we speak for the masses. It is critical that all inputs should be given by hon. Members of Parliament.

Mr. Temporary Deputy Speaker, Sir, I would also like to state, also from the onset, that Kenyans are the most taxed population in East Africa and, perhaps, in Africa. However, it is positive to tax our people and try to live within the tax bracket of the revenue collected, as opposed to taxing our people, squandering the money or misapplying the money, and depending on donor funds for support and survival. It is for this reason that most of our programmes are actually hampered by the fact that the donor community does really have a bearing in budget support. That is why, yesterday, I saw the Minister for Roads and Public Works being given some money from the Nordic Fund. The Minister for Finance also got some little money. If we use that money with humility, then, indeed, we could live within our means. This is a critical thing for purposes of maintaining the integrity of Kenyans. We do not have to look like beggars.

Mr. Temporary Deputy Speaker, Sir, Clause 35 recommends amnesty. I agree that it is important that the Minister brings everybody on board. Upon getting the amnesty, I would like to believe that from that time on, those who defaulted must, as a matter of necessity, be watched very closely. What will happen? The same defaulters may lag behind and, at the end of time, they are given another amnesty at the expense of prudent paying taxpayers who require some appreciation,

as was done this year. I would like to suggest that as much we forgive the offenders, it is critical that we also give some push of appreciation in terms of a tax holiday for big companies; for example, the British-American Tobacco (BAT). Although I know that will hamper or affect the balancing of the Budget, it is good to appreciate the best tax payer as we also persuade the defaulters to come on board. As much as this amnesty is positive, it does demoralize those who are actually good taxpayers. It is not fair in terms of equity.

Mr. Temporary Deputy Speaker, Sir, the definition of the term "Commissioner" has been redefined. I am glad to appreciate the fact that the Commissioner-General is actually being given voluntarily taxes to collect, including from the Nairobi City Council (NCC), where ordinarily you would expect fear and resistance. That suggests that the Commissioner-General or the KRA has proved worth its existence. However, it is important to note, and I am talking from a point of knowledge, that as much as you give the Commissioner-General these powers, there is need to have checks and balances. I would like to suggest that the kind of harmony we are trying to create here by separating the three departments; Income Tax, Customs and VAT, we are trying to create synergy of effort. There used to be parallelism in departments, and each one would be independent and autonomous of the other. This amendment is positive and is welcome. However, we must handle it with caution. One of my colleagues talked about creating positions for the sake of political expediency or favouritism. That must be checked. The members of the board who will be given authority to recruit heads of departments must be vetted.

The Commissioner-General of the Kenya Revenue Authority (KRA) can now appoint an agent to collect taxes from people. That would be good and would help in terms of efficiency in tax collection. We must develop checks and balances, so that the tax we collect through agents is not unduly kept instead of being passed to the Treasury, which is supposed to be its destination.

Clause 62 talks about bad cheques. I think that when we were talking about the Banking (Amendment) Bill, we should have put this issue into consideration. We cannot pretend to be living in the dark ages. If we do not punish offenders of bad cheques, we will be encouraging financial mismanagement. We will be encouraging matrix accounts because somebody cannot trust your cheques. Therefore, one ends up carrying hard cash in order to procure goods. When a Bill similar to this Bill was brought here sometime back, some hon. Members were out to shoot it down. I think, in all due honesty, we should treat cheques as good as cash. Therefore, I suggest that the Minister deletes the provision on post-dated cheques. A cheque is a form of commitment to make money available, failure to which one should be responsible for the consequences. I do not see why we should treat post-dated cheques preferentially. It is an ordinary cheque and on its due date, it should materialise to money. I support that Clause 62(2) be deleted.

We have an issue where people create companies and liquidate them upon making a big kill. They get away with taxes which had already been collected for the KRA. If a company is closed down, it must be followed to pay up taxes. I have a problem with Clause 43 where it is recommended that each trade must have a cash register. This is a tall order. As much as the Minister is trying to give rebate of VAT on cash register purchases, I think this requirement is a tall order for small economies, owing to illiteracy and other factors. Most of all, we will discourage traders who may not be able to afford this. I think this needs to be looked into or staggered over a long period of time, because I do not think that everyone can have a cash register, considering that cash registers are not cheap.

The Income Tax Act has been amended to dignify our profession. It is true that we have quacks representing taxpayers in the KRA. I think this amendment defining professionals as people who are practising is a welcome move. It will ensure existence of books of accounts, their submission and checking by people who will form internal organs of companies.

The KRA Act has been drastically trying to centralise the control of all the departments to the Commissioner-General's office, save for delegated authority. Again, this is an issue that we must check keenly so that we do not demonise the office of the Commissioner-General to an extent of making him efficient, that everything else is to be referred up. We are moving into devolution and I think some little delegation requires to be observed for purposes of motivation as it were, because, again, if everything must end at the apex, I am sure people will be demoralised in terms of reference back and delayed decision-making; or those with delegated authority may fear making rational decisions because they must have to refer back as to whether somebody is checking their backs. I think it is important that we actually give them some little autonomy. As we control, we must be able to motivate by delegation with equivalent authority.

Mr. Temporary Deputy Speaker, Sir, the issue of KRA taking control of all the taxes is a welcome move for efficiency and reduction of closed operation. I think it is critical that we also equip the KRA with staff, competent enough to handle these other additional responsibilities. I must also say that we should be able to, at least, reward or motivate staff. I would want the Minister, when responding, to come here, as a matter of fact, and state whether he still runs parallel payrolls in KRA, which really demoralise staff. He must tell, as a matter of fact, because if that is still happening, the staff will not be motivated. With additional responsibility, they either must earn the same or equivalent, commensurate with their training, backgrounds and experience, so to say. Therefore, the Minister, when responding, needs to state, as a matter of fact, that those parallel payrolls, executive versus middle-level managers--- We are not saying that they be paid the same. If you are trained to a particular level, the same scale should earn the same. I think the Minister should respond to that so that we can be sure that the people we have on board with additional responsibility are remunerated commensurate to their grades and not in a biased manner.

Mr. Temporary Deputy Speaker, Sir, on transit goods, I do not think there is a reason as to why anything meant for Uganda should lie in Kenya for more than seven days. I think it is immoral! It is completely unacceptable that between Mombasa, Tanzania or Uganda, for example, you must take more than seven days. In fact, further delay opens the loopholes for manipulation and somebody could even travel to Uganda, get the papers stamped, goods are delivered at Eastleigh and he has ample time of three weeks, which is sufficient to do the gimmicks like they usually do. So, seven days, indeed, is more than sufficient to have the goods leave our quarters.

Mr. Temporary Deputy Speaker, Sir, on EPZ, sometime this year, I did raise an issue in this House of encouraging people to produce goods at the EPZ, as one of my colleagues said, and this section of business has been abused. Today, some people are bringing in *mitumbas*. As a matter of fact, some of them are underpants, to launder them at the EPZs and pretend to export them. I think we are degrading our own system and we are not having some respect to an extent that we can give somebody a benefit to bring *mitumba* almost for free, and export them and most of those goods are sold locally. Now, if you encourage somebody who has laundered *mitumba* to sell them locally at a nominal penalty, you are saying that the purpose of EPZs is lost and we do not need them for that matter. If anything, there should be about 100 per cent penalty on whatever they bring out of the EPZs into the local market.

Mr. Temporary Deputy Speaker, Sir, this Government has lost colossal sums of money through the transit sheds. We have raised a lot of issues here and the Commissioner-General introduced some regulations, and it is high time we addressed the issue as to whether we require transit sheds. With efficiency at the Mombasa Port - we are made to understand that the scanner machines are supposed to be on board - we do not require somebody to carry loads from Mombasa and clear them at Athi River. They do this in somebody's backyard, with one police and one customs officer, who speak the same language and understand each other. They collude to defraud

the Government of revenue. These transit sheds should, as a matter of fact, be done away with.

There is an element of pre-shipment inspection through which, if the Ministry used its expertise, the scanner machines and competent staff at the port, it would save billions of shillings. What we pay for pre-shipment inspection is actually an insult to the Kenyan population. What we pay for it can computerise the entire Mombasa Port. I once said that there is a cartel. Somebody will ask: "What is there for me if everything is computerised at the port?" These are ventures in which people operate syndicates to defraud the Government of its revenue. The Minister must, therefore, of necessity address the matter of pre-shipment inspection, because it is one loophole through which we are losing substantial amounts of money. To prove that there is a syndicate involved, one pre-shipment inspection company was exempted from payment of tax. After it collected tax, it was supposed to pay it over, but because it was owned by the "who is who", it was exempted from tax payment preferentially.

I want to say from the outset that for us to maintain our integrity as a nation, I plead with the Minister for Finance - I am sure that Mr. Obwocha, who is the Assistant Minister for Finance, is here and, thank God, he is an accountant - to let us try and live within our means for purposes of the integrity of this nation and its population.

With those few remarks, I beg to support.

The Minister for Lands and Housing (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I wish to support this Bill, that emphasises efficiency not just in the raising of revenue, but also in the utilisation of resources. I agree totally with all those who have spoken of the need to conserve the resources of this country and to live within our means. I can almost assure them that, that is exactly what this Government is aiming to do. It intends to live within the resources that are being collected from the people.

May I take this opportunity to congratulate the Kenya Revenue Authority, and all our revenue collection officers in various departments for the work they are doing in collecting revenue and surpassing the targets that we have set for them. I know that there have been issues about the harshness of the KRA and its Commissioners. Perhaps they are exceeding their powers. However, we must appreciate the problems they have in dealing with people who are reluctant to pay taxes. I would like to look at the positive side and recognise the rapport that has been built between the KRA and taxpayers. We have seen cocktails and receptions that have been held for taxpayers. They have a recognition of the large taxpayers and creation of units for them. This has ensured that the taxpayers are not harassed but respected.

We recently saw the recognition awards that were given to this House and people who have been paying their taxes well. We need to recognise taxpayers as major stakeholders in this country. This is the only way in which we can improve our tax collection.

Mr. Temporary Deputy Speaker, Sir, I would like to congratulate the Kenya Revenue Authority for being appointed the revenue collection agency for local authorities. I believe that, for once, the KRA will bring in all the money that was previously left uncollected. I also wish to report that we have also been discussing with the KRA on the collection of Stamp Duty and land rent. I believe that Kenyans have now become transparent enough to say what properties they own not just for tax and rates purposes, but for land rent and other transaction purposes. Hopefully, we will seal the tax evasion loopholes that have hitherto led to loss of revenue for this country.

Talking of collection of land rent and Stamp Duty, in the last financial year, the Ministry of Lands and Housing surpassed its target by over Kshs1 billion. This was purely as a result of the enhanced efficiency on collection of this revenue. That was, really, the aim of those measures. Because of those measures, we were able to collect so much money. One wonders where all this money has been going. The KRA has been collecting an upward of Kshs30 billion in excess of

previous tax collection. That shows you the amount of money that this country has been losing over the years, and the potential that this country has under the wise leadership of the President and the NARC Government.

We are committed to bringing about efficiency and ensuring that all the income that is due to the Government is collected and used to provide services for the Kenyan people. A lot has been said about our dependence on donor aid. However, if Kenyans agree to pay the taxes that are due to the Government, we will not need to go begging and humiliate ourselves by accepting harsh donor conditions. We should raise enough revenue to enable us deliver services, and only borrow what is necessary because of the commitment that the international financial institutions expect from us.

Mr. Temporary Deputy Speaker, Sir, looking at the measures outlined in this Bill, I see them only as part of wider reforms for revenue generation and protection. I believe that the full effect of these measures will be seen in the long-term as the various loopholes are sealed. I am encouraged by the provision barring insider trading by the KRA officers through auctions. The introduction of Section 227A will make the auctions more transparent and deter the cartels that are currently operational at the Port of Mombasa. When items are advertised for auction, only a few people, with inside information, take advantage of the situation, to the exclusion of everyone else. I believe that this section will help to seal that loophole and enable us have a fair value from auctioned items.

The issue of bouncing cheques has been debated in this House for many years. Fortunately, this House now has professionals and people with integrity, who want to see the problem of bouncing cheques brought to an end. I am encouraged by the various hon. Members who have spoken on this subject. I hope nobody will oppose these measures, so that, for once, we can bring back integrity in financial transactions. We can bring the confidence that we see in other countries. Most of the hon. Members of this country have travelled abroad. They have seen that, out there, if you offer to pay somebody even £100 in cash, everybody wonders whether you are a drug dealer. That is the situation we want in this country.

Once we re-introduce the cheque as the payment method of choice, walking around with a lot of cash and thereby attracting thugs will be a thing of the past. The problem of people being encouraged by traders to pay in cash for goods and services, so that they can evade paying VAT and other taxes, and that of bouncing cheques, will be solved. His Excellency the President has called on Kenyans to turn this country into a working nation. I believe that a working nation is one where people pay for what they get, and get just returns for their sweat. That way, nobody will have to pretend to have wealth when he has none and issue a cheque that eventually bounces.

Mr. Temporary Deputy Speaker, Sir, I now wish to comment on VAT. I know that, just as with all other revenue measures, there has been concern about delays in claiming input VAT, particularly on Government-funded projects. I want to look at the flip-side of it and look at the mess we have been in, where Government has been paying VAT to certain contractors who do not even remit back that VAT. We have several cases, and I believe a few were laid on the Table at some point, showing some lawyers who collected VAT on dealings with NSSF and other Government bodies, but up to now, that VAT has never been remitted although it was paid. I believe that measure of the Government, at least, stopping itself from losing VAT or paying VAT to itself and holding us while waiting for people to claim their input VAT, is not only helping the Government to preserve the money, but ensuring that the people themselves do claim VAT and declare the source of their goods. I believe we should extend this further to every Government procurement. I see no sense why the Government should be paying VAT or excise duty to itself. We should actually be advocating for a situation where all Government procurement should be nett of all these taxes, and people can know what is the actual amount that the Kenyan public is paying.

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

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

Mr. Temporary Deputy Speaker, Sir, a quick mention on the taxation of alcoholic spirits. I am aware the Minister for Trade and Industry has gazetted the minimum sizes for the packaging of alcoholic drinks to avoid the sachets that were in the market and were being used by schoolboys and other people who we need to protect from such temptations. I am also aware that with the introduction of those measures, the people who have been dealing in the *Kumi Kumi* drinks, and others have moved to packaging it in what they are calling the family pack; the five-litre which is packaged in a jerrican and dispensed through glasses and tots. I believe that we perhaps need to be bold enough as the House and recommend to the Minister that it is time we increased the taxation on these drinks and imposed a specific social tax on these drinks so that the people who are now affording and paying for these drinks can now be taxed heavily, and we put that money into the national revenue, including funding the National Social Health Insurance Fund, so that the ills that are associated with this can be taken care of.

Mr. Temporary Deputy Speaker, Sir, I believe that is, perhaps, the surest way of protecting our young people and those people in the countryside who we all find lying on the roadside because they have had their drink and cannot do any meaningful work. They are a burden to their families and a disgrace to society because of partaking those drinks, whereas, on the other side, we have a few people in the society benefiting from the sale of these human killers. I believe a social tax would do, and I would like to urge the Minister to really consider it, and this House to give him full support in the imposition of a social tax on all these spirits, so that those who consume pay heavily, not just to discourage the drinking but to ensure the public receives commensurate tax to use in terms of sorting out the ills associated with that.

Mr. Temporary Deputy Speaker, Sir, I believe the Bill is self-evident in terms of its intentions, and I would like to stop there, to give more hon. Members time to contribute.

With those few remarks, I beg to support.

The Assistant Minister for Regional Development Authorities (Mr. Odoyo): Mr. Temporary Deputy Speaker, Sir, I wish to add my voice to some of the positive points that have been raised by hon. Members who have spoken today. Today, we are in the fourth stage of the budgetary process. The first stage was when the Minister read the Budget in June. Thereafter, we discussed some budgetary allocations for some key Ministries. Then we applied the guillotine procedure, and today, we are discussing a Bill that will become an Act on 1st of January, 2005. That will be the last stage for this particular financial year, apart from the Supplementary Estimates which come up in March or April.

Mr. Temporary Deputy Speaker, Sir, the Budget remains a very important tool for the Minister for Finance to intervene in the economy, and to ensure that resources are directed at those areas which he is particularly keen to influence. I believe the theme of "Enhancing Efficiency for Accelerated Economic Growth" is an objective that has partially been met by some of the interventions that the Minister has brought to this House. The Minister has two main tools; that is, the fiscal and monetary policy. We have already discussed the monetary policy when we discussed amendments to the Central Bank (Amendment) Bill. Today, we are discussing the fiscal or the taxation aspects that will become an Act from 1st January, 2005.

Mr. Temporary Deputy Speaker, Sir, the financing gap, which is the difference between the

revenue collected and Government expenditure, was estimated at Kshs9.9 billion. That financing gap is bridged partly by borrowing, and also by introducing new taxes. Today, we are discussing those new taxes that fall into four major categories; that is, the Customs Duty, Value Added Tax (VAT), Income Tax and Miscellaneous Taxes.

Mr. Temporary Deputy Speaker, Sir, let me point out that, of all the taxes that we shall discuss, the Ministry expects to raise approximately Kshs2.2 billion. It, therefore, means that a substantial part of the policy initiative in this economy up to July, 2005 will be affected by the borrowing that will be done by the Minister for Finance. That is because Kshs2.2 billion less Kshs9.9 billion is about Kshs7.7 billion. That is the figure that the Minister expects to borrow from the market, if and when other revenue shortfalls do not arise.

As I pointed out earlier, there are inherent risks in the current Budget of the Minister. For example, he expected to raise a substantial amount of the money from the licensing of the third mobile phone operator and second a fixed-line operator, both of which have not been forthcoming. We are all aware that, currently, the Minister for Information has cancelled those licences. That means that the revenue source may be not be forthcoming. I am sure that the Treasury barons are already ticking which of the Votes are going to be chopped off. For the sake of rural development, which is the future of this country, I urge the Treasury not to touch the budget of the Ministry of Regional Development Authorities because, therein lies the future of this country.

Mr. Temporary Deputy Speaker, Sir, coming to specific issues, especially on the Customs Duty under Section 22 of the Bill, I commend the Minister for saying: "No customs officer may now purchase, buy either directly or by proxy, any item that has been put up for auction." That has been a major problem through insider trading. That has already been pointed out by Mr. Kimunya. Those people were colluding. I will come back to the issue of funding of the security section.

Let me move to the issue of officers from the Customs and Excise Department. This should be extended to include the Treasury barons, especially those who are in the Fiscal and Monetary Department who give approvals before some of these things are put on paper, or are ready for auction. I believe that in view of the close working relationship between the Kenya Revenue Authority barons, we should also refuse the Treasury barons to buy anything that has been put on auction by any department within the Treasury. This way, we will ensure that we continue to seal the loopholes that exist currently in Section 22 of this Bill.

Mr. Temporary Deputy Speaker, Sir, Section 16 of the Customs and Excise Act has increased the penalties for those who provide false information to the Commissioner of Customs. The penalty has been increased to Kshs1.5 million. The sugar barons are importing sugar worth billions of shillings which is taking food from the mouth of our people who are in the sugar-growing areas in Western Kenya. If we impose a penalty of Kshs1.5 million on these sugar barons, that is worth nothing to them. I am sure that Prof. Olweny will concur with me that these sugar barons continue to exploit our people.

Let me refer to the issue of VAT. The Minister has expanded the base of the VAT and this is a positive move. I know that the revenue from the VAT has increased, particularly through the system of appointing agents that has been introduced by the Government. This was a valuable initiative from the Minister for Finance, and it is the way forward as we expand the tax base so that in future we can lower taxes. The tax base has been expanded so much, but the revenue that we get from this grant will be adequate to meet our daily expenditure.

Like it or not, the taxation structures and percentages are coming down because of the East African Community (EAC). The EAC has brought general taxation from 35 per cent to 25 per cent. We are moving towards a structured tariff rate for the three countries. This will include everything from exemptions, tax on beer, sugar, excise duty, customs duty and VAT. This means that the

Minister for Finance, and especially the Treasury barons, have to change their role and know where the future lies. The President has already put a timetable so that by the year 2013, we should expect to have hon. Kibaki as the first President of the East African Federation.

There is need for us to start sensitizing our business people. This is important since we will have a tax regime that will no longer be controlled from the Treasury, but from the headquarters of the East African Federation on the economic side, which will be based in Kisumu.

The Assistant Minister for Foreign Affairs (Mr. M. Kariuki): Kisumu City!

The Assistant Minister for Regional Development Authorities (Mr. Odoyo): Thank you, Mr. M. Kariuki, for reminding me that Kisumu is a city. A city should have a cathedral and a university. Kisumu now has Maseno University and a very big cathedral among other things. I know Mr. M. Kariuki, as an Assistant Minister for Foreign Affairs, supports this initiative.

Mr. Temporary Deputy Speaker, Sir, again, the Minister has widened the tax bracket, so that the minimum taxable income is now Kshs11,135 per month. This is good for the formal sector. However, the Minister has not found a way to receive taxable income from the informal sector. There is a need for us, as a Government, to start investing in the informal sector, so that we can tax informal businesses. I had the opportunity of going to Turkey, where there is an indirect tax called the micro-enterprise tax, which is a 1 per cent tax on all goods and services that are sold in the country. The Government uses this tax to enhance the informal sector because that is where the future lies. The Minister's objective and theme is to enhance efficiency. However, we cannot enhance efficiency unless what we are already doing, we are doing it better, which the KRA revenue purports to be doing. The second part of the theme is to accelerate economic growth. We cannot have economic growth unless we tackle the largest parts of this country, which are both the informal and the agricultural sectors.

Mimi kama Waziri Msaidizi ambaye anahusika na mambo ya mashamba---

The Temporary Deputy Speaker (Mr. Poghiso): Order! What are you doing?

An hon. Member: What language is that?

The Assistant Minister for Regional Development Authorities (Mr. Odoyo): Mr. Temporary Deputy Speaker, Sir, are we allowed to change midstream the language we are using as long as it is parliamentary language?

The Temporary Deputy Speaker (Mr. Poghiso): You cannot! You are completely out of order! Once you start in a language, you continue using it to the end.

The Assistant Minister for Regional Development Authorities (Mr. Odoyo): I apologise, Mr. Temporary Deputy Speaker, Sir.

As an Assistant Minister in the Ministry of Regional Development Authorities, I am of the firm view that development in the rural areas is where the future is. Many policy papers about urban-rural migration and bringing industrialisation to the rural areas have been done by the Ministry of Planning and National Development and the Treasury. All these things point to the need to develop our rural areas. I believe that the need for an additional budget for the rural sectors in this country, especially those that are being run through the multi-sectoral approach, or being pursued by the Ministry of Regional Development Authorities, should be given emphasis in the future.

Mr. Temporary Deputy Speaker, Sir, we have a serious unemployment problem in this country. This morning, I attended the World HIV/AIDS Day. As an hon. Member representing a rural constituency, I see poverty in its naked form and the impact of HIV/AIDS on our people. We will not be able to move forward until the rural population is better off than the urban population, so that people will find it better to go back to the rural areas rather than stay in Mathare Valley. We must create opportunities in the rural areas. I believe that the only way to have accelerated economic growth in this country is to ensure that development in the rural areas is given priority.

Let me talk about the miscellaneous taxes. The Minister has issued several miscellaneous taxes. Some are reflected in the Schedule, but I have not had time to study the Schedule in detail. I believe that many manufacturing firms are praising the lowering of duty. I wish to add my voice to the fact, although the Value Added Tax on Liquefied Petroleum Gases (LPGs) has been reduced, it has not resulted in reduction of the prices. I wish to add my voice to some of the positive aspects that the Minister has brought, particularly, lowering VAT on sanitary towels. I have a Paper here on Viagra---

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghio): Order! Mr. Odoyo, you will have 15 minutes next time.

Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Thursday, 2nd December, 2004, at 2.30 p.m.

The House rose at 6.30 p.m.