

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 29th June, 2005

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

The Report of the Select Committee on the Review of the Constitution of Kenya together with Appendix IV of the Naivasha Accord on the Constitution Review Process.

(By the Chairman, Parliamentary Select Committee on the Constitution Review (Mr. Nyachae)

NOTICES OF MOTIONS

ADOPTION OF PSC REPORT ON CONTENTIOUS ISSUES AND THE NAIVASHA ACCORD

The Minister for Energy (Mr. Nyachae): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Select Committee on Review of the Constitution of Kenya on contentious issues identified in accordance with Sections 27(1)(b) and 27(2) of the Constitution of Kenya Review (Amendment) Act, 2004, as contained in Chapter 4 - Citizenship; Chapter 6 - Bill of Rights; Chapter 11 - The Legislature; Chapter 12 - The Executive; Chapter 13 - Judicial and Legal Systems; Chapter 14 - Devolved Government; and Chapter 18 - Constitutional Commissions; together with the Report of the Select Committee popularly referred to as "the Naivasha Accord" as detailed in Appendix IV, laid on the Table of the House on Wednesday, 29th June, 2005.

CENSURE OF THE SPEAKER OF THE NATIONAL ASSEMBLY

Mr. Midiwo: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, noting with concern that the Speaker of the National Assembly, hon. Francis ole Kaparo, EGH, MP. has and continues to denigrate the character and the ability of hon. Members of this august House through making of contemptuous, malicious and unfounded allegations against them; aware that the said allegations have eroded collective dignity, esteem and honour of Members of Parliament in and out of the

House, concerned that the Speaker in so doing has failed in his constitutional duty to protect the dignity, honour and integrity of Parliament; this House expresses its displeasure and disappointment in the conduct of the Speaker and censures him.

(Applause)

POINT OF ORDER

MOTION TO CENSURE SPEAKER NOT BALLOTTED

The Minister for Energy (Mr. Nyachae): On a point of order, Mr. Speaker, Sir. I am a Member of the House Business Committee. The Motion that Mr. Midiwo has given notice of has been brought to the House without the Committee balloting it. It is unusual that the hon. Member has given notice of this Motion!

Mr. Speaker: You are putting me in a very difficult situation. I cannot be a judge in my cause! Therefore, I will not make any judgement on whatever has happened.

Mr. N.M. Nyagah: On a point of order, Mr. Speaker, Sir. We realise that you will not make a decision on this matter. Be that as it may, yesterday, the House Business Committee, in which I am also a Member, did not ballot on the Motion that Mr. Midiwo has given notice of. Therefore, we do not expect him to give Notice of that Motion in the House today.

Maybe, balloting on the Motion by the House Business Committee will be done on Tuesday next week. How can the hon. Member give notice of this Motion, and yet it has not been balloted by the House Business Committee?

(Several hon. Members stood up in their places)

Mr. Speaker: Order, all of you! Could you sit down?

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

Mr. Speaker: Mr. Sungu, this Motion is not directed to you but to the Speaker of the National Assembly, who happens to be me. Therefore, listen to what I will say about this matter. What is being raised is a fundamental issue of procedure, which is that Motions are sent to the Speaker and he approves them. After that, they are taken to House Business Committee for balloting. Finally, Notices of the Motions are given before the House. I have consulted the Clerks-at-the-Table and it has been confirmed by the hon. Members who sit in that Committee that, indeed, that Motion was not balloted.

Mr. Midiwo, you will have to wait until it is balloted and then you come and give the notice!

(Mr. Midiwo stood up in his place)

Mr. Speaker: Is it personal, Mr. Midiwo? You had better follow my ruling!

Mr. Midiwo: Mr. Speaker, Sir, the Vice-President and Minister for Home Affairs said that Notice of this Motion can be given today and the Motion is debated tomorrow. He also said that the Speaker has approved the Motion.

(Mr. Muturi applauded)

Mr. Speaker: Mr. Muturi, I can see that you are applauding. You are a Member of the House Business Committee. You are part of the decision which was made yesterday and you know this! Anyhow, we will not debate this matter! The procedure is that any Motion will go to the House

Business Committee for balloting before its notice is given. Since that procedure was not followed, for legal purposes, it is not before the House!

Hon. Members: No! No!

Mr. Muturi: Mr. Speaker, Sir, I rise because you have pointed at me. I am forthright. What is the legal position because I have not come across one where the House Business Committee fails to ballot Motions which are before it?

(Applause)

Mr. Speaker: Order! Mr. Muturi, go and ask the House Business Committee that question because you are a Member!

Mr. Sungu: Councillors!

Mr. Speaker: Order, Mr. Sungu! You either hold yourself with dignity or---

Hon. Members: Apologise! We are not councillors!

Mr. Speaker: Order, hon. Members! That is not how we are supposed to hold ourselves in this House. You should hold yourselves with dignity while in this House. That is the ruling of the Chair!

Next Order!

*(Mr. Wanjala consulted loudly
with Mr. Ligale)*

Order, hon. Members! The Member for Budalangi, you are requested to keep yourself orderly. If you do not, the requisite Standing Orders will apply to you!

Hon. Members: Aaah! Councillors!

QUESTIONS BY PRIVATE NOTICE

ASSISTANCE TO KCPE CANDIDATES DISPLACED FROM NAROK

Mr. Kimeto: Mr. Speaker Sir, I beg to ask the Minister for Education, Science and Technology the following Question by Private Notice.

(a) What measures has the Minister taken to assist school-going children who have been evicted from schools in Sagamian, Ormegenyo and Sisiyan areas of Narok District?

(b) What specific measures have been put in place for this year's KCPE candidates who have been displaced in the evictions from Chepitet, Losagam, Kitoben, Kebeneti, Koitabai and Olesuhunye Primary Schools?

(c) Could the Minister further consider including the pupils currently camping at Sogoo Primary Schools in the school feeding programme?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Speaker, Sir, I request that I answer this Question on Tuesday next week. This is because my Ministry has already sent a team to Narok District to assess the situation.

We are also holding discussions with other partners to see how best we can address the problem. I have spoken to the hon. Member and I think he is in agreement with my proposal.

Mr. Speaker: Mr. Kimeto, have you agreed with him?

Mr. Kimeto: Mr. Speaker, Sir, could the Assistant Minister answer the Question tomorrow because it is urgent?

Mr. Speaker: Mr. Assistant Minister, is it possible for you to answer the Question tomorrow?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr.

Speaker, Sir, we would like to give a comprehensive answer because we have taken this matter very seriously. Tuesday next week will be more realistic. I request Mr. Kimeto to agree to my proposal.

Mr. Speaker: Mr. Kimeto, is that okay with you?

Mr. Kimeto: Mr. Speaker, Sir, that is okay as long as the Assistant Minister brings an answer which will assist the people of that area.

Mr. Bett: On a point of order, Mr. Speaker, Sir. While I appreciate what the Assistant Minister has said, the KCPE examinations are five months away, and yet those candidates do not have a place to do their studies.

The Ministry should pay more attention to the candidates who will sit for their KCPE examinations in five months, time while it is making arrangements to sort out that problem.

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Speaker, Sir, we need to take care of those young people. So, we will address both issues on Tuesday.

(Question deferred)

ELEPHANT MENACE IN MWATATE

Maj. Madoka: Mr. Speaker, Sir, I beg to ask the Minister for Tourism and Wildlife the following Question by Private Notice.

(a) Is the Minister aware that a lone elephant has gone into Chawia Forest in Mwatate and is threatening the community and destroying cattle dips and crops?

(b) What urgent measures is he taking to ensure that it is removed immediately?

(c) Could he also confirm that the Ministry is putting into place measures which will end this menace for ever?

(Loud consultations)

Mr. Speaker: Order, hon. Members! This House has to conduct business. Hon. Members must facilitate the ability of the House to conduct business. Could you, please, consult quietly?

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

(a) Yes, I am aware.

(b) The said elephant was a bull that strayed into the forest from Tsavo West. A team of rangers from Tsavo East managed to escort the bull away from the settlement and it is now in Lumo Wildlife Sanctuary, under the watchful eye of KWS rangers and guards from the sanctuary. A mobile team of rangers drawn from across the country is also in the area to assist the Tsavo team.

(c) Human and wildlife conflicts in most parts of the country are seasonal and mainly occur when crops are ripening. In realisation of this, the KWS has instituted a mobile problem animal control team which is strategically placed to address emergent conflict issues as they arise countrywide. The KWS also has a team of problem animal control rangers in Voi, Bura and Mwakitau to address cases from the said areas and its environs. Concerted efforts are also being made by the KWS to sensitise local communities on animal behaviour and on how to benefit from wildlife which is found in abundance in the area.

Maj. Madoka: Mr. Speaker, Sir, I would like to thank the Assistant Minister for his answer. It is most unfortunate that he has to give the answer, because he neighbours my constituency and he knows that the Government has completely failed to control the elephant menace. Could he tell us when they will start culling these elephants? There are far too many elephants, and I think, there is need to cull them so that *wananchi* do not continue suffering.

Mr. Mganga: Mr. Speaker, Sir, there are no plans to cull elephants. As the hon. Member is aware, fencing has been done between Bura and Mwakitau, that is the south of the Taita Hills and all

the way from Ndara to Ndi, that is to the east and north. Plans are at a very advanced stage to acquire funds to fence off the remaining part between Ndi to Mwakitau. This should be able to contain the animals where they should be. These are the plans that the KWS has.

Mr. Cheboi: Mr. Speaker, Sir, as per the Question, this elephant has gone into Chawia Forest. Is it the elephant to be culled or the people to be culled because the elephant has gone where it belongs; into the forest?

Mr. Mganga: Mr. Speaker, Sir, I am not quite sure what the hon. Member means. As I said earlier, the elephant strayed from Tsavo West to Chawia Forest. But it has since been herded back and it is now being contained at the Lumo Community Wildlife sanctuary where it is being guarded by the KWS rangers and guards of the sanctuary.

Dr. Shaban: Bw. Spika, Waziri Msaidizi huyu anaweza kutuelezea ni kwa nini ndovu hawa wamewasumbua wananchi mpaka wakawa maskini? Watu wote wa Taita-Taveta hawana chakula kwa sababu ya ndovu wale ambao wanawavamia kila wakati, hasa wakati wa kuvuna chakula. Hivi ninapozungumza, ni vigumu kwa watoto kuenda shuleni asubuhi, kwa sababu ndovu wako kila mahali. Je, Serikali hii inathamini sana ndovu kuliko binadamu wa Kenya?

Mr. Mganga: Mr. Speaker, Sir, it is quite true that human-wildlife conflict has been a big problem in a number of places in this country where humans border parks. Be that as it may, it cannot be said that the Government puts more emphasis on animals than human beings.

Mr. Speaker, Sir, a few years back, the Government made efforts to fence off these areas. Unfortunately, the areas were not fenced completely. Now we are making all efforts possible to ensure that all these elephants are contained where they are supposed to be. We do regret the destruction of crops, injury and death of people. This is unfortunate but something is being done to contain the animals.

Maj. Madoka: Mr. Speaker, Sir, what the Assistant Minister is saying---

Mr. Mwandawiro: On a point of order, Mr. Speaker, Sir. This Question should not be answered casually. As we talk now, the Assistant Minister, who comes from Voi in Taita-Taveta knows very well that there are plans to bring 400 animals to Taita area again. He is answering this Question casually as if he does not come from that area. Is he in order to mislead this House that something is being done by the Ministry?

(Laughter)

Mr. Speaker: Order, hon. Members! I think the hon. Member for Wundanyi, frankly, knows that he has not risen on a point of order. He wanted to hijack the opportunity to make a point and that is out of order! Could we, please, stick to the rules of the House?

Maj. Madoka: Mr. Speaker, Sir, the Assistant Minister has said something we have heard year after year. Time will come when we will no longer be able to contain the Taita people. They will take bows and arrows to kill these elephants and we will not be able to control them. Could the Assistant Minister give us the time frame within which he will have this electric fencing done?

Mr. Mganga: Mr. Speaker, Sir, the hon. Member is quite right when he says that we have heard this story year after year. But those were years when this Government was not in power. I want to assure the hon. Member---

(Loud consultations)

Mr. Billow: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister, who is a member of KANU, to say that this Government was not in power and yet he was part of that Government? He should cross to this side of the House.

*(Several hon. Members stood
up in their places)*

Mr. Speaker: Order, hon. Members! I think the hon. Member is talking as a Minister of this Government.

(Laughter)

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

Mr. Speaker: Yes, what is it, Dr. Ali?

Dr. Ali: Mr. Speaker, Sir, the hon. Members are very annoyed, and the Motion to censure the Speaker was brought to the House because of something you said concerning hon. Members a few days ago. Mr. Speaker, Sir, now, the Assistant Minister is being dishonest with the House, because he was a Deputy Secretary in the KANU Government, and is still a Member of Parliament on a KANU ticket. Is he in order to mislead the House?

*(Several hon. Members stood
up in their places)*

Mr. Speaker: Order! Order! Order, Members! I think you can ask him whether he was a Minister in the KANU regime.

(Loud consultations)

Order, hon. Members! Could we, please, continue with the Business of the House?

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

Mr. Speaker: What is it, Mr. Bahari?

Mr. Bahari: Mr. Speaker, Sir, in 2003, I asked a very similar Question, and that time this Government was in power. I was given the same answer Maj. Madoka is being given right now. Is the Assistant Minister, therefore, in order to mislead this House by referring to the KANU regime in which he was a Deputy Secretary?

Mr. Mganga: Mr. Speaker, Sir, I was not a Minister any other time before now. I want to tell hon. Members---

(Loud consultations)

Mr. Speaker: Order! Order! Order, Members! What I exactly mean is, let us be serious with the House Business! That is exactly what I mean. Let us give this House the honour and dignity that it deserves!

Could we now proceed with serious business?

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

Mr. Speaker: What is it?

Mr. Wanjala: The answer that has been given by the Assistant Minister is a wrong one.

Mr. Speaker, Sir, in his Budget Speech, which he read here early this month, the Minister for Finance said we should concentrate on the future and not waste time talking about the past.

Is the Assistant Minister in order to continue referring to the past when he served in the last Government? He even sang "*Tawala Kenya Tawala!*"

(Laughter)

Mr. Speaker: Order! Order, hon. Members! That is the end of the trivialities! Now, we must come to serious business. All trivialities are now out of order!

Next Question by the hon. Member for Bomet!

ORAL ANSWERS TO QUESTIONS

Question No.351

EDUCATION OF KENYANS ON DETECTION/PREVENTION OF BREAST CANCER

Mr. Salat asked the Minister for Health:-

- (a) how many Kenyans have died as a result of breast cancer in the last five years;
- (b) which parts of the country have been greatly affected by the disease and why; and,
- (c) what steps the Ministry is taking to educate Kenyans on detection and prevention of the disease.

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

(a) For the last five years we have recorded only 36 deaths in our health facilities as a result of breast cancer. This does not include those who died at home.

(b) According to available records, Central and Eastern Provinces are the most affected areas. Central province has 31.2 per cent recorded cases of breast cancer, while Eastern Province has 18.5 per cent recorded cases because cultural practices in Central and Eastern Provinces do not stigmatize surgical treatment of breast cancer. Many Kenyans, are therefore, suffering within their communities due to cultural myths about loss of breasts as a result of surgery to treat the disease.

(c) The Ministry has put in place the following measures to educate Kenyans on detection and prevention of breast cancer. The Ministry has integrated breast cancer screening for women into the cervical cancer screening programme, so that women can benefit from both types of screening at the same time. This programme has been extended to our provincial hospitals, and is currently being expanded to include district hospitals. In partnership with the Kenya Breast Health Programme, the Ministry has been informing the public, especially women, of the need for self-breast examination, and regular check-ups by our health workers. We are also conducting a training for our health workers in provincial hospitals to be able to identify signs of early breast diseases.

We are also conducting regular free breast screening exercises in conjunction with the Kenya Breast Health Programme, but many Kenyans are shy to have this done regularly. Through the School Health Programme, information regarding early detection, especially for the girl child is being passed on. This will help girls to grow up knowing the importance of regular breast examination.

Mr. Salat: Thank you, Mr. Speaker Sir. The Assistant Minister's answer to part "a" of the Question, that in the past five years we have only had 36 deaths--- In my research work to find more about breast cancer, I browsed the internet. According to *Imagines*, which is the best health resource, the cases reported in the East and Central Africa, which includes Kenya, as of the year 2000 were 13,615. Out of those, the deaths caused by the disease in this region were 6,119. For the Assistant Minister to tell us that we have only had 36 death cases in Kenya is not true. I would like to ask him to take the issue very seriously. Kenyans are dying and he cannot tell us that in five years, only 36 people have died. Could he tell us where he got his figure of 36 from?

Mr. Konchella: Mr. Speaker Sir, I do not know why the hon. Member had to search in the internet for information regarding East Africa and not Kenya. He is talking about the Eastern and Central African region, but I can only answer a question regarding Kenya. According to information by the registry which is in Nairobi, between the year 2000 and 2004, those people who were screened

were 487. People from all over the country come for screening whenever the need arises. We assume that the figure of 487 comprises of people who have been screened and are from all over the country. So far, those who are still alive today are 451, although 36 of them have died. Many people are dying of the disease in the rural areas because they fear to have their breasts touched during the examination. We ask women to ensure that they check themselves every month. I dare say that hon. Members who have wives should take their women for breast examination at least once every month. This would enable them to know when they have an abnormal growth.

Dr. Manduku: Mr. Speaker, Sir, breast cancer, its management and treatment, depends on early detection. It is a curable disease. If detected early, surgery is done and our women's lives are saved. However, that requires availability of facilities for early detection. Does the Ministry have any facilities anywhere so that we can detect this disease at its early stages?

Mr. Konchella: Mr. Speaker, Sir, I said that the best way to have early detection is by personal examination. A woman, or her husband, should check her breasts to find out whether there is an abnormal growth.

*(Several hon. Members stood
up in their places)*

Please, let me answer the question!

Mr. Speaker: Order, hon. Members! There is no way we can make progress if we cannot hear answers to the end, without interruption. Let us first hear what he has to say, then you can question him.

Mr. Konchella: Mr. Speaker, Sir, to have hon. Members listen to me, I have to tell them that 479 of the detected cases were females while the remaining eight were males. I want to urge this House that we de-stigmatise the whole issue and tell Kenyans to go for screening. Many people fear that their breasts may be removed if they are found to be having problems. However, there are many ways of treating the disease as long as it is detected early. We have the chemotherapy and the surgical methods.

Mr. Boit: Thank you, Mr. Speaker, Sir. Since the Assistant Minister said that men also suffer from breast cancer, could he specify which breasts he is talking about? Men have some breasts below the legs and are also attacked by prostate cancer. Could he---

Mr. Speaker: Order! Order! Order! hon. Members! You have heard what Mr. Boit has said. Did you hear it? Please be serious!

(Loud consultations)

Dr. Galgallo: Mr. Speaker, Sir, protect me, please! Hon. Members are consulting very loudly!

Mr. Speaker: Order, hon. Members! We cannot conduct the business of the House the way we are doing now. The hon. Shadow Minister for Health wishes to ask a question but he cannot be heard! If we cannot hear one another, what are we doing here?

So, please, let us listen!

Dr. Galgallo: Mr. Speaker, Sir, hon. Manduku asked a question about provision of equipment used for mammography and the Minister said that husbands should go and palpate their wives' breasts so that they can detect the disease early. By the time a cancer becomes detectable through palpation, and my brother Manduku knows it, the patient would be dead. That is why I am asking for provision of equipment for mammography so that the disease is detected early. This happens in most civilised countries. Could the Assistant Minister provide mammography equipment so that this cancer is detected early?

Mr. Konchella: Mr. Speaker, Sir, despite the fact that the hon. Member is a medical doctor, what he has said is not true. I think the examination is something which can be carried out in hospitals

or even through self-examination. It is an individual who can detect an abnormal growth in the body. The Ministry, at the moment, has a registry in Nairobi. At Kenya Medical Research Institute (KEMRI), we are training at least four people every year so that we can have registries in other hospitals in the country. At the end of this year, we will open a registry in the Rift Valley and the Coast provinces. The other provinces will follow suit later because it takes a year to train registry personnel who can offer services. At the moment, we cannot buy or install mammography equipment in screening areas because we need people who are trained to handle and examine patients as well.

Mr. Speaker: Hon. Members, yesterday, I deferred several Questions and we must now move on. Last question, Mr. Salat!

Mr. Salat: Mr. Speaker, Sir, the answer given by the Assistant Minister is not adequate. We cannot have all women and men with breast cancer in this country coming to Nairobi for treatment and information. We should avail these services at the village level.

The equipment used for detecting breast cancer in New Nyanza Provincial General Hospital broke down 10 years ago. What is he doing to have that equipment repaired? What is he doing also to have all other hospitals within the country get personnel who can educate men and women on the causes and early detection of this disease?

Mr. Konchella: Mr. Speaker, Sir, the breast cancer problem is very encompassing. It is not just the issue of treatment and equipment for detecting this terminal disease, but it is also an issue of medicine which is extremely expensive. Only a few institutions stock the medicine. At the moment, it is only Kenyatta National Hospital (KNH) which stocks this medicine. However, once we have trained personnel who can manage the equipment in the rural areas, we will avail it at very selected points. This is because it is an expensive equipment and it needs specialised care.

Secondly, when patients know that they have breast cancer, and that they are likely to lose one or both of their breasts, they run away. Many ladies in the rural areas fear having their breasts removed and, therefore, they eventually die at home. So, we want to educate people at the provincial district hospitals to handle the stigma.

Mr. Speaker: Next Question, Mr. Karaba!

Question No.184

SCHEME OF SERVICE FOR
PRIVATE SCHOOL TEACHERS

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

- (a) if he is aware that private primary schools in Kenya contribute more than 75 per cent of Form One students to national schools;
- (b) if he is further aware that teachers in some of the private academies are poorly paid and even go without pay for a long time; and,
- (c) what measures he is taking to ensure that teachers in those private schools have a scheme of service and their pay standardized.

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

(a) Yes, I am aware that private primary schools in Kenya contributed 59 per cent or almost 60 per cent and not 75 per cent of Form One students to national schools in 2004, which is quite worrying.

(b) I am not aware that teachers in some private academies are poorly paid and some go without pay for a long time. This is because the Ministry has no role in recruitment and payment of salaries to teachers in private institutions. Therefore, the Ministry is not taking any measures to put in place a scheme of service for teachers in private academies because our concern is just with public institutions. The salary delay and poor pay can only be handled by the Ministry of Labour and Human

Resource Development depending on the terms of service between these teachers and the management of private academies.

Mr. Karaba: Mr. Speaker, Sir, I thank the Assistant Minister for that answer. It is true that students in public schools in Kenya are enjoying free primary school education services where the Government has put in a lot of money. It is also true that the Government is channelling very little funds, if any, to private schools. As a result, private schools poach students who are about to sit for national exams, especially KCPE, from Standard Seven, so that they can sit for exams in those academies. Could the Ministry give us an assurance that, from now henceforth, public schools will continue registering students sitting for exams who will then proceed to national schools as it was the case before?

Dr. Mwiria: Mr. Speaker, Sir, first of all, I would like to say that it is illegal for private academies to send their pupils, when they get to Standard Eight, to public schools in remote parts of the country, so that they take advantage of opportunities. This has been happening. However, we have discovered it and we are insisting that pupils should be registered for KCPE in the school in which somebody has been.

Prof. Oniang'o: Mr. Speaker, Sir, the fact that private academies send majority of their children to national secondary schools which are funded by taxpayers makes a mockery of the public education system in this country. Could the Assistant Minister tell us what policy direction he is putting in place to ensure that the free primary education programme benefits the very children, so that they can proceed to national secondary schools?

Dr. Mwiria: Mr. Speaker, Sir, I have been on record as one who has complained about this inequality. There are several ways of addressing the issue. In addition to supporting the improvement of our public institutions, we need to establish good schools that we can support in every district of this country. The Sessional Paper has recommended that we have two centres of excellence; one for girls and another one for boys. However, there is nothing else that can really solve the problem unless we have some kind of proportionate allocation of places to national schools and top provincial schools. For example, if private academies candidates comprise only 10 per cent of the KCPE population, they take only 10 per cent of their students to top national public schools.

In fact, the situation is so serious that because of so many academies, especially in Rift Valley, Nairobi and Central Province, a lot of places that would normally have been taken by children from those provinces are being taken by outsiders because people with resources have found ways of taking advantage of those schools. So, it is really a serious matter and I would like to ask this House to begin thinking seriously about how we can come up with a policy that is more affirmative in action as we do other things that will promote the quality of public school education. **Mr. Onyancha:** On a point of order, Mr. Speaker, Sir. In answering the question by Prof. Oniang'o, he says that he has been complaining about this status quo and is now asking other Kenyans out there, to think of how to sort out the problem, yet he is in charge of this Ministry. Is he in order to do so?

Dr. Mwiria: Mr. Speaker, Sir, there is nothing wrong with accepting there is a mistake somewhere. It does not matter if one is heading that respective Ministry or not. I have said this is a problem and just because I am in that Ministry that does not take the problem away. Therefore, people in the Ministry, and hon. Members of Parliament, must address this problem.

Mr. Speaker: Last question, Mr. Karaba! After that we mark the end of Question Time because I would like the Minister for Finance to address an issue which was raised by the Shadow Minister for Finance.

Mr. Karaba: Mr. Speaker, Sir, given that we have a high number of students enrolling in institutions of higher learning from private academies, and also public schools taking very few local students, does the Assistant Minister consider that it is true for Kenya's education system that the majority of students will be condemned to certain schools, and will never get an opportunity of joining national schools? What policy does the Ministry have to make sure that those in public schools have access to university education?

Dr. Mwiria: Mr. Speaker, Sir, I made the point when the question was asked by the Shadow Minister for Education, Science and Technology; that we are thinking of ways of trying to ensure that there is more equity in terms of the way we distribute these places to national schools as well as to universities. A lot of those who go to national schools and top provincial schools take the best degree programmes in our universities. I acknowledge the fact that it will be terrible for this country to continue intensifying inequalities that are as a result of our own advantages. Therefore, let me strongly say that we, as a Ministry, are doing our best to ensure that we have a more equitable system. Since the quota system is not doing so, because it is not really doing so effectively, we are also exploring other opportunities to ensure that good education does not continue to be a privilege of the wealthy in this country.

*(Several hon. Members stood
up in their places)*

COMMUNICATION FROM THE CHAIR

NON-COMPLIANCE WITH FINANCIAL REGULATIONS IN BUDGET MAKING

Mr. Speaker: Order, hon. Members! As I said, that marks the end of Question Time.

Yesterday afternoon, you will recall that the Shadow Minister for Finance raised an issue concerning the current format of the Printed Estimates which is a departure from what has been in the past. You will also recall that yesterday, I told the Shadow Minister that he would make a detailed presentation to the House this morning so that we are able to understand what was worrying him. This morning in obedience to the direction of the Chair, he raised what I considered to be substantial issues relating to the current format and presentation of this year's Printed Estimates.

The Chair, this morning, asked the Minister for Finance to respond to the issues raised by the shadow Minister for Finance to enable the Chair to make an informed decision on the matter. Matters relating to Printed Estimates and finance are very weighty issues. In fact, the primary reason why Parliament was created in the first place was to authorise taxation and the use of those taxes.

(Applause)

That was the primary reason why Parliament was created in the first place. That remains the central function of Parliament. I would like to hear from the Minister if he is there.

An hon. Member: He is standing at the Bar!

Mr. Speaker: If he is there, he is listening. So, he can stand there very carefully listening to me. I would like to hear this from the Minister so that we can make a ruling on this issue before we begin discussing the Ministries' Votes.

Mr. Muturi, you had something to raise!

POINT OF ORDER

THE CHAIR DEEMS NOTICE OF MOTION OF CENSURE TO HAVE BEEN GIVEN

Mr. Muturi: Mr. Speaker, Sir, I rise to draw your attention to the provisions of Standing Order No.40(1) and (2) regarding the procedure to be followed by hon. Members in giving Notices of Motions before the House.

Mr. Speaker: As I said, I do not really want to be dragged into this issue.

*(Several hon. Members stood
up in their places)*

Order, hon. Members! This is what brings disrepute to this House and that is unquestionable. We must obey the rules. We must have decorum and respect. That is the only way this House will remain respectable, as I said yesterday. You are my witness that I have approved that Motion. In fact, I pleaded with your Committee to have the Motion heard tomorrow. I never blocked it! In fact, I wanted it to be heard tomorrow! If I wanted that, what is the big deal of giving the notice of the Motion? It is so small. I will deem the notice given by Mr. Midiwo to have been given. That should end the matter! Let us proceed and do better things.

(Applause)

Can we give the Minister for Finance a chance to respond?

The Assistant Minister for Finance (Mr. Katuku): Mr. Speaker, Sir, it is true that this morning I requested to be given time to respond to what Mr. Billow raised. The matter that he raised is fundamental and we have sought a legal interpretation from the Attorney-General's Office. However, by the time I came in here, that interpretation had not yet been received in my office. I would, therefore, like to plead with the House to allow me to respond tomorrow so that we can make the right decision.

(Dr. Godana stood up in his place)

Mr. Speaker: Very well! Dr. Godana, do you want to say something about that?

Dr. Godana: Mr. Speaker, Sir, it is well and good that the Assistant Minister has said that they have written to the Attorney-General to seek his opinion. We know that the Attorney-General of the Republic is the chief legal adviser of the Government. Without prejudice to their right to seek legal opinion, if the Ministry decided consciously to depart not just from the established tradition but law in the Statutes - the tradition is built on the letter of the provisions of the Government Financial Orders - I just hope that the search for legal opinion is not to play some hide and seek game with us. They must have had a reason for departing from the law. We will wait for that legal interpretation but we hope it is not used to buy time to put us in a fix when the Printed Estimates debate starts.

Mr. Speaker: Order, hon. Members! I do not think we need to take time on this. All of you who were present here yesterday will recall that the Chair said that the matters being raised by the shadow Minister for Finance were matters of great concern. I did not want to hurry him up. You will remember that I said: "I do not want to hurry you up!" Parliament is not supposed to be a place to block the business of the nation. We should all make an attempt to facilitate the business of the nation. However, that facilitation must be within the law, established provisions and rationale of Parliament being there. Therefore, the Assistant Minister understands me very clearly that, that matter touches on the very foundation of the creation of Parliament and its continued existence. We will be looking forward to hear from him tomorrow. I will now give him the time because I want him to get as much time as I gave to the shadow Minister. I do not want a situation where when the Minister of Government comes, then he is hurried for lack of time because I want to hear the full story. If you are convinced, Mr. Assistant Minister, after you have got your legal opinion, that you require half an hour or 15 minutes, let me know in advance so that I can facilitate you to get sufficient time to convince this House on your course of action. Thereafter, I shall make a ruling. For the time being, I am not making a ruling!

(Mr. Billow stood up in his place)

Mr. Billow, I thought you had raised the last point on that issue.

Mr. Twaha: On a point of order, Mr. Speaker, Sir. They decided not to be transparent. Should they have not sought the legal opinion before they made the decision or should they seek it now?

(Applause)

Mr. Speaker: What is the final point, Mr. Billow? I want to give to Mr. Mwandawiro an opportunity.

Mr. Billow: Mr. Speaker, Sir, on Tuesday next week, debate on the Printed Estimates will start and we want to finalise this matter tomorrow.

Mr. Speaker: Order, Mr. Billow! You are saying what I have just said!

Mr. Billow: Mr. Speaker, Sir, let him give an undertaking that he will do so tomorrow.

Mr. Speaker: Please, sit down, Mr. Billow! You do not have to repeat what I have said. I have already ordered that he responds tomorrow because the debate on Ministries' votes will begin on Tuesday. We want to have a ruling before that time. I hope to make that ruling, if I can, within tomorrow. However, it may not be possible but I have to make it before Tuesday. Can I now end this matter? Mr. Mwandawiro is the one who saw me on this.

POINTS OF ORDER

THEFT OF LIVESTOCK IN KATIKOMOR

Mr. Moroto: On a point of order, Mr. Speaker, Sir. On Wednesday last week, I asked the Minister of State, Office of the President a Question by Private Notice about the livestock that were stolen by raiders from Uganda. When answering the Question, the Assistant Minister told the House that 75 head of cattle had been recovered. He promised to lay on the Table the names of the people who were given the 75 head of cattle. There are no cows!

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. C. Kilonzo! You have not consulted me on any point of order! There is no time!

Hon. Member for Wundanyi!

ELEPHANT MENACE IN TAITA-TAVETA DISTRICT

Mr. Mwandawiro: Bw. Spika, mimi naomba Taarifa ya Waziri kutoka Wizara ya Utalii na Wanyama Pori kuhusu ndovu wanaohangaisha watu katika sehemu yangu ya uwakilishi Bungeni. Katika nyanda za chini za Wilaya ya Taita-Taveta, ndovu wametoka katika maeneo ya Tsavo Mashariki na Tsavo Magharibi na kuvamia Wundanyi, Kishushe, Mulilo, Baranga, Mwakitau na sehemu zote za Wilaya ya Taita-Taveta. Wamesababisha njaa kubwa sana. Wanang'oa mimea kama mihogo, mahindi na hata kuhatarisha maisha ya watu. Kuna habari kwamba ndovu 400 watatolewa kutoka sehemu zingine na kuletwa---

Mr. Speaker: Order! Your time is up. I believe the Minister has heard. Could we have a response? Indeed, the hon. Member for Kapenguria is right. There was an undertaking by the Minister of State, Office of the President to table the names of the recipients of the recovered cattle. But he has not done so. So, could he do it tomorrow?

Very well! Next Order!

*(Deferred Question put on
priority Basis)*

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. Around 14th May, I asked a Question in this House and it was deferred. Today is the 15th Sitting and it appears it is going to be deferred again. You gave a ruling that Questions which are deferred should be given priority.

Mr. Speaker: I have said that many times. I hope the Clerk's Office is---

Mr. C. Kilonzo: I want your guidance because your ruling was not followed.

Mr. Speaker: Order, Mr. C. Kilonzo! I have made that ruling several times. I hope those who are scheduling these Questions will do as directed by the Chair. Finally, all the Questions that were supposed to be answered today are deferred. Hon. Members can liaise with the Clerk of the National Assembly. The Questions should be given priority because they should have been dealt with today. So, could those Questions be put on a priority basis for discussion by this House? That is the end of Question Time.

ORAL ANSWERS TO QUESTIONS

Question No.476

MANAGEMENT STATUS OF
RONDININ COMMUNITY MUSEUM
(Question deferred)

Question No.213

TERMINAL DUES FOR MR. WAMBUA

(Question deferred)

Question No.278

NUMBER OF IMMIGRATION
OFFICERS EMPLOYED SINCE 2003

(Question deferred)

Question No.315

INCREASE IN TICK POPULATION IN
WASO NGIRO NORTH GRAZING BELT

(Question deferred)

Question No.050

TERMS OF CONTRACT FOR MUHORONI
SUGAR FACTORY RECEIVER MANAGER

(Question deferred)

Question No.453

MEASURES TO SAVE MR. KARIUKI'S
PROPERTY FROM AUCTIONEERS

(Question deferred)

Mr. Speaker: Next Order!

COMMITTEE OF WAYS AND MEANS

(Order for Committee read)

MOTION

APPROVAL OF TAXATION MEASURES

THAT, the proposals relating to:-

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

Contained in the Financial Statement for the year of Account 2005/2006 be approved.

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

*(The Minister for Finance
on 28.6.2005)*

*(Resumption of Debate interrupted
on 28.6.2005)*

(Second Allotted Day)

Mr. Speaker: Who was on the Floor? Was it the hon. Member for Tharaka? You have five minutes!

Mr. Kagwima: Mr. Speaker, Sir, thank you for allowing me to continue from where I left yesterday. I was on the topic of *mitumba*. If I heard the Minister right, he said that the duty on *mitumba* has been reduced to 45 per cent. I plead with the Minister to ensure that any other taxation should encourage production of cotton and manufacture of textile materials inside the country. We should reduce tax on materials used in ginneries, so that the prices of clothes are cheaper or even be at the same level with *mitumba*.

Mr. Speaker, Sir, we should set aside money that is raised from taxation on *mitumba* to develop our textile industry. That way, we will slowly move away from *mitumba* and buy new clothes that will be produced in the country.

Mr. Speaker, Sir, I request the Minister for Trade and Industry, together with the Minister for

Co-operative Development and Marketing and the Minister for Finance, to put their heads together and introduce modern textile technology to produce cheap textile products. That technology should be bought by money raised from taxation on *mitumba*.

The Minister for Finance should ensure that the new taxation measures are administered carefully and intelligently. After the Budget, we expected some goods to be cheaper. Unfortunately, unscrupulous traders have increased the prices or maintained the old prices to make a kill in terms of profits. The Ministry of Finance should ensure that taxation measures are properly administered. I am not asking the Minister to punish the people. But he should ensure that they are properly educated to embrace taxation and trade within the law.

Yesterday, I referred to the issue of rising prices of petroleum products. I said that, in the year 2003, when the NARC Government took over power, the prices of petroleum products--- If I may refer to diesel, for example, the price was Kshs42 a litre. But, surprisingly now, it is at Kshs64. That is an increase of about 47 per cent. I hope taxation has nothing to do with that phenomenal increase.

If taxation is the cause, then I urge the Minister to look at it again and ensure that he does not continue adding taxes on petroleum products quietly, without us knowing. Transport and electricity costs will rise up. We require some petroleum products to produce electricity. Otherwise, the prices are becoming unbearable.

Mr. Speaker, Sir, I know that the Minister is trying to collect tax at the entry point of petroleum products. But the people who import fuel have also added interest to the money that they are going to borrow to buy petroleum products. They have passed that cost to consumers and, therefore, indirectly, the prices have gone up.

Mr. Speaker: Your time is up!

Mr. Kagwima: With those few remarks, I beg to support.

Mr. Speaker: Any further interest? The hon. Member for Bondo!

Dr. Oburu: Mr. Speaker, Sir, thank you very much for giving me this opportunity. Taxation measures are fundamental to the Government because they enable it to provide proper services to the people. Whereas I agree with the Minister that taxation measures should go down in order to have a wider tax base, having a wider tax base is important because it also---

COMMUNICATION FROM THE CHAIR

ACCEPTANCE OF NOTICE OF MOTION BY MR. MIDIWO

Mr. Speaker: Order, hon. Members! I want to make a clarification on a matter that is coming to me, and which may have been misunderstood. It is in relation to the Notice of Motion that was brought by Mr. Midiwo. I said, and I repeat: Let the notice that was given by the hon. Member stand. I understand there is a misunderstanding that I have ordered that it may be debated tomorrow. That is not what I said. What I said is: At the House Business Committee meeting, I pleaded with the Committee to slot the Motion for debate tomorrow. The House Business Committee did not accede to my plea.

So, it is still upon the House Business Committee to decide a date when it will be debated. So, I hope that is understood properly.

Proceed, Dr. Oburu!

(Resumption of Debate on

Committee of Ways and Means)

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

Mr. Speaker: Not on that. Now, what is this policing of the Chair all the time? Order, Dr. Khalwale! I have made a clarification and I hope it is very clear.

Proceed, Dr. Oburu!

Dr. Oburu: Mr. Speaker, Sir, I would like to make my contribution with regard to Excise Duty which is one of the measures proposed by the Minister. Excise Duty is important for revenue collection in this country. However, as we go into the East African Customs Union, it is very important that this duty is made uniform with that of other countries.

This morning, the House debated a very serious incident where a number of people have died because of taking an illicit drink. I want to opine that one of the reasons why people take illicit drinks is because there is too much taxation on alcohol which is properly brewed in this country. Excise Duty on alcohol in Kenya is about 150 per cent whereas in Uganda it is only 70 per cent. If this Excise Duty is calculated, then in Uganda where alcohol is properly brewed, comes out at Kshs97 per litre, whereas in Kenya it comes to Kshs247 per litre. This is completely inaccessible to the ordinary Kenyans and, therefore, either they do the smuggling or resort to consumption of illicit drinks.

So, the proposal that this Excise Duty be increased is actually not auguring well because, first and foremost, we are in the Customs Union where we now need to harmonise Customs measures and also non-tariff barriers. This Excise Duty is one of the non-tariff barriers. So, either we harmonise it with others or we make sure that we put it in line so that our people do not resort to consumption of illicit drinks or smuggling which is completely injurious to the business community.

As I speak now, there are over 40 trucks which have been impounded in Kisumu by the Customs because they are suspected to be smuggling alcohol back into Kenya by pretending to export it to Uganda. I think the Minister will take this comment seriously and perhaps look into ways and means of harmonising these measures.

Mr. Speaker, Sir, I also want to take an issue with the duty on *mitumba* which has been reduced. While I agree that *mitumba* helps the ordinary Kenyans because of the level of poverty in this country, I would also like the Minister to take into consideration the fact that part of the reason why the textile industry has collapsed in this country is because of *mitumba*. The textile industry is a big contributor to job creation in this country and we should look for ways and means of reviving it so that we do not continue keeping our people using second-hand clothes of dead people in Europe.

(Applause)

The measures of taxation on *mitumba* benefit only a few people. Our textile industries in Kisumu, Thika and Eldoret have collapsed and the amount of unemployment created by the closure of these vital factories is completely unfathomable. I, therefore, hope that the Minister is going to seriously consider raising the taxes on *mitumba*.

The argument that *mitumba* helps a lot of poor people might hold some water but we do not want to lament on poverty and keep our people poor forever. We want to empower them by creating employment for them and we can only do that if we revive our cotton industry and our collapsed textile industries.

With those few remarks, I support.

Mr. Biwott: Mr. Speaker, Sir, thank you for giving me this opportunity to contribute to the Motion on the Approval of Taxation Measures. As it is, this Budget was well balanced, organised and thoughtful. However, in preparing the taxation regime, there was an attempt to move in the right direction which is reduction of taxation in order for the entrepreneurs and taxpayers to save for future

growth. However, when one looks at the combined efforts of the taxes which are levied under different items, you will find that the incidence is such that it is so high that the savings cannot stir economic growth.

There was a time in the past when if you combined the Income Tax, VAT, Excise Duty and so on, the taxation exceeded 100 per cent and that actually put a great pressure on the economy. First of all, it exerts pressure on the consumers and services that are being produced because they pay beyond their means considering the low-income and dichotomy in our own economy where only a very small proportion of our community are in direct productive activities or employed service. The bulk of the people are unemployed or under-employed and they are the ones who suffer most and those are the ones who are putting more pressure on the poverty line.

Mr. Speaker, Sir, in other words, every year the number of people living below the poverty line is increasing. That is not good. I think what the Minister for Finance should do is to continue with the downward reduction of taxes in order to allow at least those who are contributing to the growth of the economy to have enough savings in order to invest and create more jobs. He should also allow those who are in the consumption side of the equation to utilise whatever they have to consume at least some of the good services in order to lead a better standard of life. The good thing that the Government has done is to make it transparent especially the zero-rating of the foodstuffs so that there is clarity as to what has been exempted in order to enable those who would like to see the actual benefits see them clearly.

Mr. Speaker, Sir, the other innovation which the Government has started of taxing at the source is a good idea even though it is severe for many companies, but it stops smuggling. However, it has at least stopped the smuggling of goods. In fact, it puts a stop to those who are used to interfering with the flow of tax revenue to the Consolidated Fund. I will be speaking more about the format shortly because I think that also needs to be dealt with so that we can actually see where the money we are taxed goes to.

Mr. Speaker, Sir, perhaps, what the Minister for Finance should also consider in the Committee Stage is to put in place measures that will ensure that the taxpayers in the Small and Medium Enterprises (SMEs) pay just enough tax so that that particular sector can be allowed to grow. These people need to be encouraged. Low taxes should be imposed on them and they need to be facilitated with soft loans at less interest rates so that they can grow and create more employment. This sector is dynamic and it embraces a great proportion of Kenyans. Currently, they are required to remit 30 per cent of their earnings in form of tax. I think that should be reduced to 10 per cent.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, we should set a greater incentive to the farmer in order to stop the perennial occurrence of famine despite the fact that we have a country which can actually produce surplus. We need to focus more on agriculture and more so concentrate on growing food crops that benefit our people instead of depending on aid that we get from other countries. In fact, in most cases, the food that we are given as aid is food that has been in stores for a very long time.

Other than that, I wish to congratulate the Minister for Finance for coming up with a friendly Budget which is also considerate to our own economy. The Budget could be termed as our own because it relies on our own resources as opposed to foreign donations. However, the Minister should also consider requesting for the write-off of debts. The argument being advanced at the moment is actually misplaced because we cannot ask to be included in the list of poor nations so that we can

claim donations. People are now trying to come out of poverty. Nobody has told Kenyans that the poverty line is actually drawn arbitrarily. It is normally based on the per capita income. So, you are either above the poverty line or below it.

Some countries find themselves above the poverty line when their per capita income goes up. Others find themselves below the line when their per capita income goes down. We need to ask for a write-off of our debts as a result of positive utilisation of the resources we have borrowed. We also need to ask the donors to allow us to utilise the money we are supposed to pay back to them to promote campaigns on HIV/AIDS, child and maternity services, famine relief and to invest more in the *Jua Kali* sector where more of our people are engaged. We need to improve the *Jua Kali* sector so that we have good quality standards there.

We also need to invest more on research in the food industry so that we can get rid of problems such as aflatoxin-laced maize. Our people need to be educated so that they can know what is wrong with the maize. We should be arguing that we get a reduction in debts so that we can get an opportunity to use the money to do all these things. By doing so, we will help our people to come out of poverty, enjoy better services and promote a healthy society obtained through working hard.

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

Mr. Owino: Thank you, Mr. Temporary Deputy Speaker, Sir. We must commend our Government and especially the Kenya Revenue Authority (KRA) for the effort they have made to collect so much revenue by way of tax. The Government's efforts have yielded remarkable tax collection. However, I have a few observations to make.

First, the levels of domestic investments have been sinking as is reflected by the tax collected. In the last financial year, the Budget indicated that the levels of domestic investment had declined by about 13 per cent. In the next financial year, it is expected that it could come down to about 12 per cent. This means that even though the Government is increasing its revenue base, there are no rising levels of investment. The worry is that this could limit the taxman's revenue base in the future.

Mr. Temporary Deputy Speaker, Sir, what has been going on for sometime now is that whereas we have had very good results in terms of revenue collection, one glaring fact is that our level of savings and private investment has gone down. The reason why this is happening is that the Government has been relying a lot on the easy money obtained from domestic borrowing. This is a practice that has been increasing and this time round it is expected to increase from Kshs22 billion to Kshs25.3 billion. The effect of this is that the private investor is denied the finance that it would use to invest. In the end, the tax base will not be widened. That is not the only reason why we should look for investment from both local people or foreigners. There are other reasons such as creation of employment opportunities. The Minister, therefore, as a matter of urgency, should work a way out to ensure that our infrastructure is taken care of. He needs to improve our roads, railways, telecommunications and provision of power especially in the rural areas. The problem of insecurity needs to be taken care of too so that investors are attracted to this country and our tax base widened.

Mr. Temporary Deputy Speaker, Sir, the Minister has done quite well by reducing the Value Added Tax (VAT) levied on commodities consumed by poor Kenyans. What remains to be seen, is whether that reduction will have an effect on the prices of those commodities. During the Budget of the current financial year, the Minister did the same, but according to the latest Economic Survey Report, the poor person never felt the effect of this adjustment in VAT. The prices never went down. The aim of zero-rating VAT on some commodities is to ensure that the prices of those commodities, especially those consumed by poor people, go down.

However, to-date, we have not seen any effect of this adjustment. The consumer is still paying the same amount of money he used to pay last year. As the Minister recently said, the reason for this could be that the stocks on the shelves were the same ones of the previous year. Let us ensure that when the previous stocks have been consumed, we feel the effect of the Minister's action.

Mr. Temporary Deputy Speaker, Sir, I come from a sugarcane growing area. We are pleading with the Minister to ensure that, in future, he thinks of sugar as a food product, so that he zero-rates VAT on sugar. Doing so will enable sugar factories to raise some money to assist them off-load their financial burdens. The sugar factories are financially burdened. The Minister is aware of that fact. We do not understand why sugar is the only food product that is taxed in this country.

Mr. Temporary Deputy Speaker, Sir, when levying VAT on commodities, we should ensure that VAT has been levied on the ingredients of those commodities. If we only levy VAT on the final product, a lay person may not know that he is actually paying VAT on the ingredients and not on the final product.

Let me conclude my contribution to this debate by saying that the Minister should seriously think about domestic investment. I am sure that, that is the area from which he could in future raise much more revenue.

With those few remarks, I beg to support.

Mr. Bahari: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion. I would like to support this Motion and also express some concerns, particularly in the area of the East African Community.

We know very well that there are some treaties which the East African Governments have signed. We know that there is no going back on the issue of the East African Community. I am particularly concerned about the Common External Tariffs, referred to as the CETs, where a number of our local manufacturers will be adversely affected by the introduction of the CETs. As a result, their revenue base will be affected. Also, employment in some of those industries will be adversely affected. My concern is what the Minister is doing to cushion those companies which will be affected as a result of the Government's signing of these agreements.

Mr. Temporary Deputy Speaker, Sir, I know that the Government itself is, perhaps, vulnerable on this issue. It has an exposure of nearly Kshs7 billion loss in revenue as a result of signing these agreements. So, it is my concern that, perhaps, employment and revenue for a few investors in this country will adversely be affected as a result of this. So, I hope that the Ministry will do something about it.

Mr. Temporary Deputy Speaker, Sir, there are certain regulations which affect the business transactions in this country. I will give the example of transportation of livestock, which is not allowed at night. The police arrest and harass transporters of livestock. They are made to pay unofficial fines to be able to reach the livestock market. When they reach the markets and business is transacted, livestock transporters pay some rates to local authorities, among other taxes. So, the Government generates the much needed revenue.

However, some authorities within the Government put in place some obstacles which make it difficult for business people to operate. Transporters of other agricultural products destined for the airport also face similar problems. There is normally a lot of interference by police officers. Instead of looking out for criminals, they chase around small-scale transporters who ferry their fruits and vegetables to markets in Nairobi. It is very unnecessary for the police to ask for small monies from these people. Therefore, the Ministry needs to liaise with the Police Department to ensure that small-scale business people are not unnecessarily harassed, so that they can earn a living and pay taxes to the Government.

Mr. Temporary Deputy Speaker, Sir, there are also manufacturers who are loyal in terms of paying taxes. These companies are really compliant. It is high time the Ministry gave incentives to those investors who are compliant, so that they can be encouraged to continue doing so, so that others can know that by complying, they can also gain. It is very important to do so, and the Ministry should look into it.

There are times when companies pay less tax than they should, and they are dealt with harshly

by the Kenya Revenue Authority (KRA). I agree that penalties must be levied on companies which deliberately evade paying taxes. At the same time, there are some understandable errors which are committed by some of these companies, and we should not, unnecessarily go out of our way to harass them. Some cases of harassment cannot be that visible. You may present some documents to the KRA today to explain your case and then you are asked to send the same documents again the following day. These are things which are not very visible. The Minister may not be able to see them happening. However, it is extremely important that the system is cleaned up, so that we encourage our investors.

Mr. Temporary Deputy Speaker, Sir, in the same vein, investors who are quite loyal and compliant should be given incentives. That must be made known to them. It must be quite visible. A ceremony of some kind should be conducted, where those companies which have consistently complied in tax payment are recognised by the Ministry.

Mr. Temporary Deputy Speaker, Sir, I would like to join my colleagues in congratulating the KRA and the Ministry of Finance for being straightforward on this matter, and for collecting taxes much more effectively. We know that Kenyans are among the most highly taxed people in Africa and beyond. It is, therefore, extremely important that this issue be continuously addressed, so that it does not encourage tax evasion. As the Minister keeps on saying, there is need for Kenyans to have value for the taxes they pay. It is the Government's responsibility to ensure that we get services commensurate to the taxes we pay.

Mr. Temporary Deputy Speaker, Sir, perhaps the only thing that I would want to correct in the Budget is what I am hearing about cost-sharing, particularly in the Ministry of Health. I fail to understand, who are the Kenyans sharing costs with? This is because at the end of the day, even the initial payments and costs have been met by Kenyans through taxation. So, it is extremely important that they get proper wording for that because this is just an additional tax we are paying at the end of the day. So, the right wording must be found because I do not think that "cost-sharing" is really appropriate when referring to the Ministry of Health, because Kenyans fully meet the cost of medical services.

With those few remarks, I beg to support.

(Applause)

Mr. J.M. Mutiso: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me time to contribute to this important Motion about the Budget. We know that the Government cannot survive without raising various taxes to enable it service its expenditure.

Mr. Temporary Deputy Speaker, Sir, on the outset, I would like to congratulate the Minister, together with the Kenya Revenue Authority (KRA), for the splendid work they have done in the financial year 2004/2005 by exceeding the tax collection target by almost Kshs70 billion. I remember one time when we were discussing Government revenues, and we contrasted this with the amounts of revenue which we are able to collect locally with the thin or very slim tax base, and we came up with a statistic that in almost every financial year, the Government makes about 50 to 60 trips to Washington, shuttling to go and meet development partners. These are either the World Bank or the International Monetary Fund (IMF), to convince them to give this country some money. We made a very conservative estimate about these 50 or so trips. If a Minister plus his Permanent Secretary have to travel with two or three other support staff, and each of them is actually having a ticket worth Kshs250,000, plus *per diem* of about Kshs500,000; we ended up estimating that the trips to Washington cost the Exchequer almost 50 per cent of the money the Government goes to borrow in Washington.

Therefore, our bone of contention was this; that the statutory provisions of the KRA mandate the Minister to provide at least 1 per cent of the revenue collected by the authority to service its

operations. But one of the general weaknesses in tax collection has been that the KRA has been ill-equipped to the extent that in the last, maybe, two years, it has not been able to collect taxes as provided. But I am happy to note that, at least, the Minister mentioned that this financial year, he has made sufficient provisions, including refunds, to enable the KRA function to its capacity. Besides that, the structural weakness in the KRA was in its computerization structure. The infrastructure as far as the computers or the information system is concerned was archaic, outdated, and Pre-Cambrian. I do not know the status at the moment, but the system which the KRA uses in collection of revenue, even at the ports, is very archaic.

There is one French company which charges the KRA a maintenance consultancy fee of Kshs9 million per month, and the KRA seems to be held to ransom by this firm. The system is such that they cannot freely restructure the system or change certain information whenever the need arises, and if at all they have to make those changes, they have to revert to this French company. This is another scandal which I think the Minister should address in order to free the KRA from the clutches of this French firm, which actually steals Kshs9 million per month from taxpayers. I do remember that in one of the consultancy fora with the KRA, it had been opined that we have a very good system from the Senegalese Government, which can be used with a lot of ease and, therefore, enhance the capacity of the KRA. Therefore, I will also be expecting the Minister to address this issue as far as the KRA is concerned.

Mr. Temporary Deputy Speaker, Sir, regarding the issue of Customs Duty, the Minister made very good recommendations and I think the reduction on second-hand clothes from 75 per cent to 45 per cent was a very welcome move. The *mitumba* industry is just complementary to the cotton industry and I do not see any contradiction at all in the reduction of Customs Duty. All other measures which were mentioned under the duties, for example, the removal of import duty on pharmaceutical products, sanitary pads, Liquefied Petroleum Gas (LPG), speed governors, splint for manufacture of matches and media containing computer software were also meant to spur the different sectors, particularly the health sector. We know that this country is having a problem with HIV/AIDS and also other malignant diseases like malaria. Therefore, that was a very important pronouncement.

Mr. Temporary Deputy Speaker, Sir, my area of concern is the Excise Duty on cigarettes and beer, which I would call, "the sign taxes". I think the increase by 10 per cent was not very timely at this point. I am not a very ardent supporter of smokers or the people who drink, but I think we can see the manifestation of the illicit brews by the deaths of about 52 Kenyans and many more who have become blind. The Minister should think about this issue, by re-activating the Traditional Liquor Act to allow the brewing of traditional liquor under hygienic conditions. No matter how much we say, even in theocratic states where we have the rule of religion, we have people who drink and we cannot actually assume that people do not want to drink. So, the Minister has to be modest when he is formulating a policy on this issue.

Regarding the issue of Value Added Tax (VAT), we are very grateful that the Minister was able to withstand the pressure to increase the VAT. In fact, some manufactures had withheld some goods in anticipation of rise in prices. There was also a feeling that there should be harmonization within the East African region in raising the VAT, and I think the Minister has really demonstrated maturity in this sense, and I think we need more compliance that defaultment.

Regarding the aspect of Income Tax, we expected much, particularly on the amnesties. We have not been able to get much when it comes to Budget deficit. We have not been realizing the amounts of money we need to finance our deficits, and sometimes the big banks and the big boys have been colluding to deny the Minister the amount of money he requires to finance expenditure. Therefore, the last amnesty was very timely because it shored up the financial base in terms of borrowing by the Government from the financial markets. Therefore, I think the amnesty should be made a permanent feature in his Budget. Therefore, he should also rethink about this because we

were able to raise the shortfall. When the auction was not able to raise the amount which was required, the amnesty was there handy.

Mr. Temporary Deputy Speaker, Sir, I would like also to urge the Minister to consider having a voluntary tax disclosure scheme, where someone who comes forward and declares his income and taxes is not actually exposed to penalties. This is a feature in most of the developing countries. We need our people to come forward. There are people who have been doing businesses, but they keep on changing them from one form to another; disguising themselves to evade taxes. I would like the Minister to consider a voluntary tax scheme to have more people coming in.

Again, I would like the Minister to consider having plea-bargaining, particularly when it comes also to the amounts which the Government has to recover from any individual taxpayer. Although I know there is a liberal approach in terms of collection of taxes, I think this being also a policy directive, it will go a long way in helping our people to pay taxes.

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

The Assistant Minister for Lands and Housing (Mr. Mungatana): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to also make contribution on this Motion. I want to start by also joining the many hon. Members who have spoken before me to congratulate the Minister for Finance on most of the measures that he has taken and the proposals he has made on the Excise duties, Value Added Tax (VAT), Income tax and all the taxes.

Mr. Temporary Deputy Speaker, Sir, the attempt to harmonise taxes within the East African Community is laudable. Therefore, the Ministers for Finance for the three countries must be congratulated. We hope, in future, to create the political confederation. We all know that it will need some money to operate. As we have seen from other countries that have come together, essentially, it is the financial aspect of the co-operation that begins first. Later on, other things follow, including the political aspects of the confederation. I, therefore, want to, particularly mention that this was a good move. It is important that it continues in future, so that we can bring our countries together.

Mr. Temporary Deputy Speaker, Sir, on the question of the increase in the taxation on beer and cigarettes, I want to differ slightly with those who have said that the 10 per cent increase was not appropriate. I think that it should have even been more than 10 per cent. My belief is that, those who go out of their way to partake these luxurious items must be heavily taxed. This is because, in my opinion, they are not really essential towards the survival of the human race in this country. So, I would support those measures. As a matter of fact, in this country, we have been brought up in the general system that, every year, there would be an increase in the taxation of the basically luxurious commodities. I believe this is a good idea because it discourages too much consumption. We know the danger of consuming these items. So, the tax should have even been more. This is because we have some taxable items that we can rely on.

Mr. Temporary Deputy Speaker, Sir, as far as the collection of income tax in the country is concerned, I had the opportunity to visit some countries and noticed that income tax in Italy, for example, has been elevated to a level where there are actually income tax police. These are the people who are dressed properly in police uniform. They arrest any person involved in tax evasion or fraud. While I congratulate the Kenya Revenue Authority (KRA) for the good work they have done so far, I would urge that serious measures be put in place to make income tax collection even more serious. It is important to pay our taxes. Even as these serious measures are being implemented, we need to work together with the other countries in the East African Community, so that people are not able to evade tax. It is from this, as the Minister noted in his initial Speech, that we will obtain true independence within our country.

Mr. Temporary Deputy Speaker, Sir, one of the things that I have found a bit difficult to accept from the proposals that have been made is the fact that the Minister, for reasons that he may wish to explain to us, has refused to activate the control of prices for essential commodities. I am

aware that it is true that people have moved towards liberalising the economy. But we, as a Government, have a responsibility to protect poor people in this country. I believe the Minister did not go all the way. He only zero-rated the LPG gas, sanitary towels, maize flour, milk and kerosene for VAT purposes. This was a commendable thing because he stated very clearly, in his proposal, that this was meant to make these essential items more affordable to Kenyans. But the truth of the matter is that we live with these Kenyans in our villages and other places. What has happened is that, in none of the shops that I know, have they effected or even attempted to pass the benefits to the consumer. So, in the Monopolies and Price Control Act, as far as I recall from our statutes, it is very clear that once the goods are included in the schedule, then the Minister can exercise price controls over those goods. The section of the Act that is relevant towards enabling the Minister for Finance to effect price controls has never been changed by this Parliament. All that has happened in that particular law is that, the commodities that used to be under the schedule, what the Minister did through a gazette notice is to remove those commodities from price control. But the section of the Act that gives him the power to effect price control remains unchanged. Effectively, the Minister has full power, in fact, to ensure that the Kenyans whom he intended to pass this benefit of the zero-rating for VAT purposes, benefit. So, I would urge the Minister not to take half-measures as far as that is concerned. The Minister is within his powers and rights to control the prices of commodities. I say that because many Kenyans live below the poverty line expected to have an impact as far as the prices of goods are concerned. But we have gone to various parts of our constituencies and we have not seen those benefits trickling to our people.

Mr. Temporary Deputy Speaker, Sir, every Government that is for the people - as this one because it was elected by the people - has a responsibility to protect its weaker parts. I would emphasise that there is no harm--- Kenyans will be behind the Minister if he took bold steps and ensured that the prices of those commodities are effectively reduced. He has the powers! There is nothing that should stop him from effecting those changes and let us benefit from what he intended.

The merchant class has decided to take full advantage of these proposals and yet, they were benefitting them even before. If Value Added Tax (VAT) is removed from goods that you already have, the benefit is transferred to you. It will not go to the people who are buying those goods. That is exactly what has happened. That has left many Kenyans wondering: Who was supposed to benefit from those proposals to remove VAT? I would urge the Minister to consider re-activating that. Whatever happens, I think a time has come when the people of this country matter more than the donors. We have seen that in many other countries where Ministers have gone out of their way to protect the lower class. It has been positive. Other people can talk about their own countries, but we also have a responsibility for our country.

Otherwise, I add my voice in support of the proposals that the Minister has given. I urge him to consider the requests that I have made in this House. We should re-activate that Act. It is the only way we can help our people to feel the benefits. Otherwise, there would be no point of making such suggestions because it is the Government that is losing revenue. It is only the merchant class that is getting that revenue.

With those few remarks, I beg to support.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, in supporting this Motion, I would like to make the following observations for the benefit of the Minister. Tax measures are used to achieve certain defined objectives in our economic growth. Therefore, the Minister needs to balance certain varying interests. For example, he has to take care of the interests of the consumers. When you reduce VAT, you are looking after the interests of the consumers. Mr. Temporary Deputy Speaker, Sir, there is also the issue of creating employment and encouraging small and medium-scale businesses. In major economies that have gone through transformation, the engine has been small and medium-scale businesses. Taxation measures are not just about raising taxes and spending the money that you have

raised. There has to be policy, deliberately created and targeted at encouraging small-scale and medium-scale businesses. Those are the largest employers in the economies that are functioning well.

Mr. Temporary Deputy Speaker, Sir, caution has to be given here. One gets the impression that, in this country, there is too much emphasis on collection of revenue without the corresponding responsibility of encouraging the people from whom you are collecting those revenues. By that, I mean small and medium-scale businesses. Do not kill the goose that lays the golden egg. You cannot over-milk a cow without feeding it. You want a lot of milk from the cow, without the corresponding responsibility of feeding it properly. If you feed it properly, it can continue giving you many litres of milk that you are looking for. One gets the impression that too much emphasis is on the collection of revenue. Every year, we hear from the Commissioner of Kenya Revenue Authority (KRA) that it has exceeded its estimates. One does not get the impression that sufficient emphasis is given to taxation policies that are going to encourage small and medium-scale businesses. Let me give an example.

We have very many small-scale textile industries. There are some people, particularly women, who employ tailors to make clothes and dresses locally. They buy the machines and, therefore, they are important employers. But when you are levying VAT, it is uniform. It is, therefore, cheaper to import ready-made clothes and pay the 16 per cent duty. The local entrepreneur who employs those tailors pays duty on the materials that he imports to make dresses locally. When they make and sell those dresses, they have to pay the same VAT again. You are killing those small-scale businesses. They cannot make it. We need to come up with policies that are going to encourage small and medium-scale businesses. If you do not do that, you are going to over-tax small and medium-scale businesses. KRA will be happy for three or four years for exceeding its estimates. But in the fourth year, you will reach the apex. There will be nothing more to milk and revenue collection will start coming down. If businesses start closing - and they are closing and others re-locating to other countries - the revenue that you will be collecting will dip and begin to come down. So, the Minister needs to balance those different interests to encourage economic growth. That is pivotal!

Mr. Temporary Deputy Speaker, Sir, even if you are not able to collect as much as you may want, but you are encouraging the small and medium-scale businesses, they will employ more people. Those people will spend their salaries on other things and, therefore, the Government will still be getting its money indirectly as VAT. They will buy bread for their children, sugar and cooking fat. That income will go to the Government indirectly. So, let us not just look at how much revenue we are collecting. If you listen to small-scale businessmen in town, they say that, in fact, during the time of the former regime, things were stable. The collectors of VAT would go to their businesses--- It was understood that no business could afford to pay 16 per cent VAT, disclose all its sales and still make a profit. So, there was a quiet understanding that, if those revenue people went and collected their bribes, they would allow those small-scale businesses not to disclose their entire income. These days, the bribes are still being collected, but the taxman still wants to collect everything in terms of the full disclosure of what the business is making. There are a lot of cries. I ask the Minister to do his own investigations. He should get his own spies to go and listen to the cries of the small and medium-scale business people, and they will open your eyes. All is not well in as far as they are concerned. The Minister should go out of his way and find out about their needs because they are there.

Mr. Temporary Deputy Speaker, Sir, what I am saying, in a nutshell, is that the tax proposals should contemplate, not just on the collection of revenue or consumer, but also on the people who are producing, and with special emphasis to small and medium-scale business, because that is where the engine of our growth is going to come from. For heaven's sake, if the Minister wants to collect more money, he has to understand that the cost of energy in this country has to be reduced. Let him carry the burden of reducing the cost of electric energy. Even if he is going to have a Budget deficit, so be it. But for our businesses to be competitive; for agriculture, irrigation, *et cetera*, to be competitive, we have to bring down the cost of energy. If you do that, three or four years down the road, we will

collect more money because we will be exporting more. Our goods will be more competitive and more will come in. So, what we lose in the initial years will be re-cooped in the fourth, fifth or sixth year.

Mr. Temporary Deputy Speaker, Sir, I wish to support the issue raised by hon. Mungatana. Sometimes, there is too much emphasis on what the donors want, including, sometimes, adjusting the way we do our Budget in order to comply with international standards. In the other countries, it is unheard of for a Minister, simply because a Vote for his or her Ministry does not contain the details, to take that money and spend it for a purpose which is not specified. So, even where they are given a global figure, it is understood that the breakdown will be in accordance with what the Ministry of Finance has done. Is that the position here? Why can we not have our own local standards? We cannot use the international format simply to be in line with the international community.

We need to factor in our own local situation, which is that, we do not want to leave any Minister with a global figure. We want this Parliament to know how every shilling given to each Ministry is spent, so that we can follow to see whether it has been spent accordingly. Public opinion in the international community is very mature. The Ministers there know that if they are caught having diverted money from one course to another, they would be in for it. But that, necessarily, may not be the situation here. So, I am saying, let our own situation take precedence over those other international concerns.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Ethuro): Order! Hon. Members, there being no other Member interested in contributing, I will call upon the Minister to respond.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, let me start off by commenting on the points made. But before I do so, may I thank all the Members who contributed for the very positive comments.

Mr. Temporary Deputy Speaker, Sir, since hon. Muite is here and he has made some comments, I will start off by responding to them. One of the points he made is that we are putting too much emphasis on revenue collection and forgetting promotion of businesses which yield that revenue. I want to differ with that point. Maybe, we have talked about improved revenue collection. The collection of revenue has improved because we have stopped the practice whereby officers of KRA used to go and agree on how to share the revenue with the taxpayer. There is still some of it going on, and as I stand here, I can tell this august House that only last week, KRA sacked six senior officers from the operations in Mombasa because they were involved in corrupt practices.

Mr. Temporary Deputy Speaker, Sir, during the last three years, I have taken measures to promote growth and help businesses grow. One of them was allowing anybody who wants to invest in Kenya; for example, those who wanted to bring in capital goods or machinery, and all that it takes to establish or refurbish an industry, to bring them into the country free of duty. That is still continuing. For the small and medium enterprises, I specifically lowered the threshold of the value of machinery that can come in duty-free so that we could begin growing and developing an African group of entrepreneurs who must be the base for our economy in this country.

I have also looked at agriculture. Last year, for example, I allowed people who have to pay auction fees in Europe after they have exported their horticultural crops like flowers, to do so without paying. I exempted those amounts from payment of tax. This year, I have also allowed people who export floricultural and horticultural products to Europe, because of the very strict rules and regulations which have been imposed on our products, and who must have their crops tested for amount of sprays, not to pay any taxes. In fact, I have waived the taxes which were being paid on them.

Mr. Temporary Deputy Speaker, Sir, several hon. Members have spoken about the Kenya Revenue Authority (KRA). Hon. J. M. Mutiso raised the question of computerising the Customs Department, on which large sums of money were being paid, and on which we really did not have any

right, whatsoever, to change the programmes. If we wanted the programmes changed, we had to get the company to come and change them. If for any reason we failed to pay, the computers would be switched off the next day. I am happy to report to this House that we looked around Africa and found that Senegal had the best customs computerisation programme. After talking to them, we paid a small amount of money and the programme becomes ours. We can change it as and when we want. In fact, we can make it do whatever we want without any further payment.

Most importantly, it is very good for me to say that we have two African countries sharing expertise and agreeing that they can continue developing this expertise for the benefit of the African Continent in future. Today, I believe that the system has been tested and it belongs to the KRA. It is ours and we can do whatever we want with it. We do not have to pay anything else to anybody. So, I would like the hon. Member to rest on that.

Mr. Temporary Deputy Speaker, Sir, I have heard hon. Members talk about the new classification that we have introduced. Since hon. Muite is here and he mentioned this, although I will make a statement to respond to Mr. Billow tomorrow, the new classification is good and we have accepted it because it makes it possible to compare Kenya to other countries in the world. The finance classification which we have adopted is being used everywhere. However, because we want hon. Members to see how the money that has been appropriated is being shared out between districts, we have already sent out a circular to Ministries asking them to split their budgets into district allocations. By the end of July, that information will be brought here for the information of hon. Members. So, there will be really nothing lost. I will come back to that and respond fully after I have got all the information. I have even gone to the extent of seeking the legal opinion of our Attorney-General, and I am sure he is going to agree with me that in no way have we violated the legal requirements of this country.

Some hon. Members talked about the delay in making the Value Added Tax (VAT) refunds. I just want to re-state what I said in the Budget Speech, that during the year commencing 1st July, 2005, I have made enough provision to the KRA to enable it to clear the backlog and for every month thereafter, I have increased the amount I have been giving the KRA, so that it will be able to re-pay VAT every month without fail.

Another issue which has been of interest to the hon. Members has been the payment of the Petroleum Tax upfront. We are asking the people who import petroleum products to pay taxes when they land their goods. We used to allow them to pump their products up to their depots in Nairobi, Nakuru, Eldoret and Kisumu, stop the goods there and then pay as they move them out of the depot. Every other importer pays duty at the point of importation. We had made this special exemption to petroleum products, but we feel that the time has come for all importers in this country to be treated alike. We have received requests from companies. One hon. Member, in fact, said that we will be penalising the poor African importers of petroleum products who are just beginning. I want to assure the House that our interest is to promote African businessmen and not to kill them. So, should this turn out to be correct, we will review our position on this matter.

Mr. Temporary Deputy Speaker, Sir, there is the question of tax waivers. Let me say two things about tax waivers. The Commissioner-General of the KRA and his staff have been given mandate by this House to waive several items when the amount does not exceed Kshs500,000. But I want to tell the House that I am confident that the system is really not as discretionary as one would want to make it. When, for instance, we authorise, in law which is passed by this House, people to bring in machinery for industrialisation without paying taxes on it, before they bring the machinery, they have to apply and say what they want to do, where they are going to invest, how much it is going to cost, and ask for a tax waiver. When either the KRA or the Minister for Finance approves that waiver, it is not discretionary. It is in law. The person is applying for a right which is granted in law. There is only one area where one can say that there is discretion, and this is on land. But even there,

there is normally good consultation. At least, my Ministry consults with the Attorney-General before we grant any land waivers, and this can be proved from facts.

I appreciate the comments of the hon. Members regarding the goods which I zero-rated and which are still selling at the prices they were selling at before they Budget day. I just want to make one comment on this matter and say that when a good is zero-rated, it is a little more complex than when you waive duty on an item.

Mr. Temporary Deputy Speaker, Sir, if you take a simple item like milk in a company like the KCC or any of the other companies which process milk, they require electricity to prepare packing material that is the tetra pack. They also require water and other items which they pay Value Added Tax for. When they make their products, all those items are costed. It is for this reason that their product is exempt from duty. When it comes out of the plant, it has got the cost of electricity, VAT on tetra pack paper, water and other inputs.

When I said that I was zero-rating duty chargeable on milk, I meant that even the VAT paid on electricity, paper and everything is removed. The problem which I think the manufacturers are experiencing is how to calculate these things. I have already got a team of Ministry of Finance people working with manufacturers and explaining this to them. As soon as they begin claiming that VAT, I will expect them to pass it on to the consumers. We will not refund the VAT unless the producers pass the benefit on to the consumers. I want to give you that guarantee.

Mr. Temporary Deputy Speaker, Sir, I have not increased taxes since I took over, because I felt that Kenyans were fairly highly taxed. I think it is not correct to say that Kenyans are the most highly taxed people in the world. We need only to look at our neighbours, Uganda and Tanzania. We had discussions just before the Budget day, and I can tell you that VAT is at 20 per cent in Tanzania, 18 per cent in Uganda and we are down at 16 per cent.

This year the Tanzanian Minister for Finance increased the amount of money an individual earns before he or she can start paying income tax, from Tshs60,000 to Tshs80,000. The Tshs80,000 is equivalent to Kshs6,700. Here the limit is Kshs11,250 which is nearly twice what Tanzania is allowing. I wanted to demonstrate that we have done our best not to overtax our people while at the same time we are encouraging them to do business.

Mr. Temporary Deputy Speaker, Sir, let me complete my comments by talking about two items. The first one is the cost of electricity. There is no doubt in my mind that the cost of electricity in Kenya is one of the most expensive anywhere in the world. In the African continent we lead the way, but the Government is not satisfied with that position. The Government is taking steps to make sure that this cost is brought down. We have done several things since we took over the Government. The first one was to re-negotiate the agreement with the independent power producers. There were three of them. All of them without exception were charging Kshs10.60 per kilowatt hour. When you compare this to the Kshs2.60 per kilowatt hour charged by KENGEN, it is very high. We have already re-negotiated the agreement and brought the charges down.

Mr. Temporary Deputy Speaker, Sir, equally important, in some of the agreements we were supposed to pay for the capacity, whether we used their electricity or not. We inherited a difficult situation. We have re-negotiated and they have come down. Secondly, we have asked KENGEN to lower its charges to KPLC and they lowered it by 60 cents. Altogether, the cost of electricity has come down.

Looking into the future, we are talking with our neighbours, Tanzania and Uganda. We are making arrangements to bring the electricity grid from the south, so that we can get electricity as far as from Zambia. We are also talking to Uganda to see whether we can develop power from the River Nile jointly, so that we can get cheaper power.

Mr. Temporary Deputy Speaker, Sir, finally hon. Mutiso talked about the *Kumi Kumi* drink which has killed a lot of people in this country. I want to inform the House that this matter has been

given considerable thought. In fact, before the Budget of last year, I had challenged the Kenya Breweries Limited to see whether they could buy *chang'aa* from all the *chang'aa* brewers, purify it, bottle it and sell it when it is pure and clean, so that it does not kill anybody. Unfortunately, they said that, that would not be good business for them. Instead, they plan to produce a cheap beer which will cost Kshs20 per glass. That will be sold in kegs and it will not be sold in the normal bars. It would only be sold in Kibera, Mathare and places where people depend on *chang'aa*. I understand they have already started doing that, and it is selling well. It is actually replacing *chang'aa* in most of those places.

Mr. Temporary Deputy Speaker, Sir, let me appeal to our Kenyan brethren, who would do almost anything to make money, that it is immoral to take raw methylated alcohol and give it to people. That is what is killing people and turning them blind. I know this matter has been discussed at the Cabinet level. We have also looked at the possibility of allowing our people to drink their normal brews. This will, perhaps, mean that many of them will not be drinking *chang'aa* any more. It is my hope that we will have done this for our people before the next Budget.

With those few remarks, I beg to move.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members. There being no other business, it is now time to interrupt the business of the House. The House stands adjourned until tomorrow, Thursday, 30th June, 2005, at 2.30 p.m.

The House rose at 5.10 p.m.