

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 1st November, 2006

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Report of the fact-finding visit to the Kingdom of Spain to inspect the Oceanographic Survey Vessel on September, 24th to 28th, 2006.

(By Mr. G.G. Kariuki)

Report of the Departmental Committee on Finance, Planning and Trade on the Finance Bill, 2006.

(By Mr. Oparanya)

NOTICE OF MOTION

ADOPTION OF REPORT ON
OCEANOGRAPHIC VESSEL

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

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the fact-finding visit to the Kingdom of Spain to inspect the Oceanographic Survey Vessel, laid on the Table of the House on 1st November, 2006.

ORAL ANSWERS TO QUESTIONS

Question No.053

DISTRIBUTION OF RELIEF FOOD
IN SAMBURU DISTRICT

Mr. Lesrima asked the Minister of State for Special Programmes:-

(a) how much relief food was given to Samburu District between August, 2005 and February, 2006; and,

(b) whether he could consider allowing Oxfam and Red Cross to be food distribution agents in the district.

The Minister of State for Special Programmes (Mr. Munyes): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Between August 2005 and February, 2006, the following food quantities were given to Samburu District: Maize - 30,000 bags of 90 kilogrammes; beans - 3,150 bags of 50 kilogrammes; beans - 6,150 bags of 90 kilogrammes; vegetable oil - 9,960 cartons; milk powder - 2,500 cartons; rice - 600 bags of 50 kilogrammes. The district also benefited from the emergency operations that were spearheaded by the World Food Programme with the support of the Government. Over the period, the district received the following foodstuffs: Cereals - 1,521 metric tonnes; pulses - 142 metric tonnes; vegetable oil - 65 metric tonnes; corn soya beans - 1,888 metric tonnes.

(b) The Oxfam and the Kenya Red Cross Society have not shown interest in the distribution of food relief in the district. That is why they were not considered for the task by the District Steering Group (DSG).

The current lead agency, Ramati, is a reputable organisation which is well established in Samburu District. Its performance in food distribution has been commendable. Changing it in preference to Oxfam or the Kenya Red Cross Society will disrupt the IMO which is in progress.

There has been no complaint against the agency to warrant the DSG to engage Oxfam or Kenya Red Cross to distribute relief food in the district.

Mr. Lesrima: Mr. Deputy Speaker, Sir, I do not have the written reply to this Question. What percentage of the population was covered at that time and what percentage of population is covered up to the recent review?

Mr. Deputy Speaker: Mr. Minister, could you also address yourself to the issue of supplying an hon. Member with a written answer in advance because this is a requirement and it is in the Standing Orders?

Mr. Munyes: Mr. Deputy Speaker, Sir, I do not have the current and the past figures, but I have the amount of foodstuffs delivered and the amount in value spent in Samburu District. I do not have the figure with me.

Capt. Nakitare: Mr. Deputy Speaker, Sir, I would like this Minister to tell the House why they import food for relief when Trans Nzoia produces nutritious food for the whole country. It produces food like beans, oils and other foods.

Why does the Government spend money to import food when we are able to grow food locally?

Mr. Munyes: Mr. Deputy Speaker, Sir, we do not import food. We buy our food locally. Nevertheless, sometimes we have to receive donations.

Mr. Kagwima: Mr. Deputy Speaker, Sir, the Government is saying that supply of relief food is a short-term measure. What is the long-term measure being taken by the Government to address this problem?

Mr. Munyes: Mr. Deputy Speaker, Sir, in conjunction with Arid Land Programme, we negotiated with the World Bank last week for a loan of Kshs4.8 billion to start drought mitigation programmes and poverty reduction programmes in over 30 districts.

I think these programmes will go a long way in ensuring that this problem is resolved.

Mr. Khamisi: Mr. Deputy Speaker, Sir, what is the rationale of using foreign agencies to distribute food in the country when we have local NGOs that can do this job effectively?

Mr. Munyes: Mr. Deputy Speaker, Sir, humanitarian activities are best suited if they are

done through Government and non-governmental organisations.

We always encourage the use of local organisations like Ramati for Samburu, and the Kenya Red Cross. These issues are decided by leaders in districts. We have the District Steering Groups which decide which NGO to use.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, this is the same Ministry which is supposed to give planting seeds to farmers. The rains have started and the Minister has not told this House what he intends to do to give farmers some seeds.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I am just a conduit as far as seeds are concerned. We will get funds and give them to the Ministry of Agriculture, which purchases the seeds and distributes them.

Mr. Deputy Speaker: Mr. Minister, the hon. Member is saying that the rains have started. Do you purchase the seeds after the rains or before the rains?

Mr. Munyes: Mr. Deputy Speaker, Sir, I hope by now the Ministry of Agriculture has done that. That is not my role. My role is only to give funds to the Ministry of Agriculture, which we did. We gave up to Kshs800 million which was used to purchase seeds. I think by now there should be enough seeds in the country.

Mr. Lesrima: Mr. Deputy Speaker, Sir, I want to thank the Minister for stopping the leakages of foods between the National Produce and Cereals Board in Nairobi and *wananchi* in my constituency. A bag used to leave here weighing 90 kilogrammes and reach the constituency weighing 50 kilogrammes. I must commend the Minister for correcting that problem.

I would like to request the Minister to increase the amount of food for the 50,000 people who have been displaced due to evictions from Laikipia. They are now trying to settle between the boundary of Laikipia and Samburu. Could the Minister consider increasing food for the displaced people as they settle in Samburu?

Mr. Munyes: Mr. Deputy Speaker, Sir, I have taken note of that. We will conduct an assessment in those areas, including West Pokot. There have been cases of food shortage in West Pokot because of migration into Uganda, but people are now coming back. We will do an assessment to get the right figures in order to deliver food to those areas.

Question No.329

RETIREMENT OF MR. DANIEL MUCEE

Mr. Kagwima asked the Minister of State, Office of the President whether he could consider retiring Mr. Daniel K. Mucee (P/No.96115974) in public interest as he was acquitted of court charges.

The Assistant Minister, Office of the President (Mr. Kingi): Mr. Deputy Speaker, Sir, I want to apologise that my answer to this Question is not ready as I have not received some important information from the ground, such as the court proceedings that would allow us to make an appropriate decision. Kindly allow me to bring an appropriate answer next week on Tuesday.

Mr. Kagwima: Mr. Deputy Speaker, Sir, I hope the Assistant Minister will consider the fact that this young man---

Mr. Deputy Speaker: No. I have only asked you to comment about deferring the Question because you will raise that issue when the Question is substantively asked.

Mr. Kagwima: Mr. Deputy Speaker, Sir, that is agreeable. I was only going to appeal that I get a positive answer next week.

Mr. Deputy Speaker: I do not know whether the answer will be good or bad, but the Question is deferred to Tuesday next week. Let us hope for the best.

(Question deferred)

Question No.496

ILLEGAL COLLECTION OF FUNDS BY
ENOOSUPUKIA DISPLACED GROUP

Mr. Muiruri asked the Minister for Lands:-

(a) whether he is aware that a group known as "Enoosupukia Displaced People Group" of PO Box 73104, Nairobi, has collected monies from the public on false promises that the group had land to settle the landless; and,

(b) if the answer to the above is in the affirmative, what action the Ministry has taken to protect the public from the group.

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

(a) I am not aware that a group known as Enoosupukia Displaced People Group of P.O. Box 73104, Nairobi, has collected monies from the public on false promises that the group has land to settle the landless.

(b) Since I am not aware of the group and its activities, I have not taken any action to protect the public from it.

Mr. Muiruri: Mr. Deputy Speaker, Sir, I will make the Assistant Minister aware of the group now. I have a receipt from the group, which bears their postal address, mobile numbers and their membership fees. The group also collects people's identity card numbers and none of them exist in the true sense. The only thing I want to do is to make the Assistant Minister aware of it.

Could he promise that he will take appropriate action since my people have lost a lot of money after being promised land in Subukia?

Mr. Kamama: Mr. Deputy Speaker, Sir, I thank the hon. Member for that new information. I want him to forward it to our offices and to the CID Headquarters so that it can be investigated and brought to a conclusion. I also want to point out that we have a task force which was established by the Head of Public Service and Secretary to the Cabinet, that investigates cases of people who have been displaced from the Rift Valley, Coast Province and other regions.

Once we are through with the investigations, we will settle the people who are landless. I need that information as soon as possible and it should also be taken to the CID Headquarters for appropriate action.

Mr. ole Ntimama: Mr. Deputy Speaker, Sir, is it in order for the Assistant Minister to deny that there is a group of people who continue to tell everybody that they are from Enoosupukia when they are not, in order to destroy and tarnish the name of Maasais? I think we must find out exactly what is happening. I think hon. Muiruri is right.

Mr. Deputy Speaker: Have you asked a question Mr. Ntimama, or you have just made a statement?

Mr. ole Ntimama: Mr. Deputy Speaker, Sir, I asked whether it was in order for the Assistant Minister to deny?

Mr. Kamama: Mr. Deputy Speaker, Sir, we did not have sufficient information. However, now that hon. Muiruri has promised to bring the information to our office and also forward it to the CID Headquarters, we will get to the bottom of it and arrest the culprits.

Mr. Muiruri: Mr. Deputy Speaker, Sir, I am satisfied with the answer. The Assistant Minister has promised to take some action. I have some documented evidence that this has been going on.

Mr. Deputy Speaker: Order, Mr. Muiruri! Your first sentence, that you are satisfied was enough. Thank you, Mr. Assistant Minister for supplying the hon. Member with a satisfactory

answer.

The next Question is from Mr. Mureithi. It came to the Floor of the House, as you may recall, last week, when I was on the Chair and deferred it because I was an interested party. I will defer it again to Tuesday, next week, having agreed with Mr. Muriithi, when, hopefully, someone else will be on the Chair.

Question No.550

TABLING OF AUDITED ACCOUNTS
OF NATIONAL FUND FOR DISABLED

(Question deferred)

Question No.528

ALLOCATION OF INFRASTRUCTURE
FUNDS TO TESO SCHOOLS

Mr. Bifwoli, on behalf of **Mr. Ojaamong**, asked the Minister for Education:-

(a) whether he is aware that lists of schools submitted from Teso District for Kenya Education Sector Support Programmes for the year 2005/2006 were not allocated funds for infrastructure development; and,

(b) how much money had been earmarked for each school and when it will be availed to the various school management committees.

The Assistant Minister for Education (Mrs. Mugo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that the lists of schools submitted from Teso District for Kenya Education Sector Support Programme for the year 2005/2006 were not allocated funds for infrastructure development. The Ministry has, however, allocated funds to four primary schools and one secondary school in Teso District under GOK/OPEC project.

(b) Kshs2.1 million was earmarked for each of the five schools and has already been disbursed to the schools and construction works are ongoing. More schools will be considered when funds become available.

Mr. Bifwoli: Mr. Deputy Speaker, Sir, you heard the Assistant Minister say that there are four primary schools and one secondary school which have been allocated funds. What are the names of the schools?

Mrs. Mugo: Mr. Deputy Speaker, Sir, I have the list for all the schools in Amagoro Constituency which had applied for the fund; they are 15 in total. The names of the specific schools where work is ongoing is information I can avail to the hon. Member later.

Mr. Arungah: Mr. Deputy Speaker, Sir, about a year ago, the District Education Boards (DEBs) were asked by the Ministry to identify some primary schools and a secondary school for funding through the GOK/OPEC project. In the case of Khwisero, nothing has taken place. Could the Assistant Minister give us an update of the progress and if the funding will come at all. I have omitted the schools that are already listed in my constituency out of the CDF, thinking that they would get funding through the GOK/OPEC or ADB.

Mrs. Mugo: Mr. Deputy Speaker, Sir, I am aware of that. We asked for the information from all the districts and the districts were rated according to their needs. The programme is supposed to take five years and work is ongoing on the first category now; in two districts per

province. Unfortunately, Teso district is ranked in the third phase and that is why no work has started there. Mount Elgon and Busia districts are rated ahead of Teso District. The issues we look at include the gap in permanent classrooms in the schools in the district. We look at how many classrooms are missing and also the poverty index, as well as the number of children who are not enrolled in schools because, maybe, there are not enough schools or classrooms. That is how the rating was done, and that is how we know which districts come first; which ones come second, and which ones will be in the third phase.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, in my constituency, teachers call this the Free Primary Education (FPE) Programme money. Over the last two terms, head teachers, especially of primary schools, have said that they have not received the money. Therefore, they are at a loss to get money to support certain programmes in the schools. Could the Assistant Minister explain to us what has caused the delay in disbursing money to primary schools through the FPE Programme, which is equivalent to what she is talking about?

Mrs. Mugo: Mr. Deputy Speaker, Sir, we do not have such a fund. We have different funds in the Ministry which support different programmes. I think the question now is not about the infrastructure development. The question I was answering is about the money we had set aside for infrastructure.

Mr. Deputy Speaker, Sir, for tuition purposes, through the FPE Programme, we have already disbursed the money to the schools. However, if there is an individual school which has not yet received money because of a certain hitch, the District Education Officer (DEO) should let us know about it immediately, so that we can check as to where the bottleneck is. However, the money has by and large, been disbursed.

Mr. Bifwoli: Mr. Deputy Speaker, Sir, you remember the Assistant Minister was unable to answer my question when I named the 55 schools. Instead, she is naming 15 schools that were submitted. I simply wanted the names of the schools they are funding. Which contractors has the Ministry identified to construct the buildings of the five schools?

Mrs. Mugo: Mr. Deputy Speaker, Sir, that question is not part of the original Question. The hon. Member had asked: "How much money had been earmarked for each school and when will it be availed to the various management committees? I have said that the money has already been disbursed to the schools, which are free to deal with the contractors. If there is any problem, it can come to us through the DEO.

The other question is whether I was aware that a list was submitted, and I have said that I am aware of it. I have a list of 15 schools from that area. I said that I will bring the list of the five schools which are being constructed. Those schools were not part of the original Question.

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

Mr. Deputy Speaker: Mr. Bifwoli, you have been answered generously.

Mr. Bifwoli: Mr. Deputy Speaker, Sir, my question has not been answered. She has not read the names of the five schools.

Mr. Deputy Speaker: But the Assistant Minister has repeatedly said that she has the names of the 15 schools that were submitted. However, she does not have the names of the five schools. She has said that she will avail the list of the five schools to you if you want. Is that not what you said, Madam Assistant Minister?

Mrs. Mugo: Mr. Deputy Speaker, Sir, the hon. Member is mixing the Question, maybe, because he is not the original Questioner. The five schools are being funded by OPEC. The Question was about the KESSEP funding, which I said is going on in phases. We are now at the preparatory stage where we are training the staff. That programme will be implemented in three phases. The other schools are being funded by OPEC.

*Question No.565*INCREASE OF RENT FOR NCC
HOUSES IN EASTLANDS

Mr. Ndolo asked the Minister for Local Government:-

- (a) what criteria was used to increase rent for City Council houses in Eastlands; and,
- (b) when the houses were last rehabilitated.

The Assistant Minister for Local Government (Mr. Shaaban): Mr. Deputy Speaker, Sir, the answer I have to this Question is insufficient. I would like to seek the indulgence of the House to answer this Question appropriately on Wednesday next week.

Mr. Deputy Speaker: Mr. Ndolo, what do you have to say?

Mr. Ndolo: Mr. Deputy Speaker, Sir, that is okay.

Mr. Deputy Speaker: Very well! The Question is deferred to Wednesday morning.

(Question deferred)

*Question No.156*FOOD INSECURITY IN BUTULA
CONSTITUENCY

Prof. Mango asked the Minister for Agriculture:-

- (a) whether he is aware that Butula constituents are suffering from food insecurity; and,
- (b) what plans are in

place to increase food production and ensure food security.

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

(a) Butula constituents have suffered from food insecurity as a result of the recent prolonged drought that affected most parts of the country.

(b) The Ministry has undertaken the following activities to increase food production and to ensure food security in Butula Constituency.

(i) Enhanced extension services to farmers in the area through staff deployment and provision of necessary logistics. Four more officers have been deployed to Butula Constituency and provided with one more motorcycle.

(ii) Revitalization of cotton industry in collaboration with the Nambale ginnery.

(iii) Promotion of groundnuts farming to commercialized levels.

(iv) Provision and distribution of drought-recovery seed; Three tonnes of maize; 800 kilogrammes of beans, and 1.2 tonnes of sorghum have been provided for the short rains season.

(v) Enhanced capacities of Busia FTC and Butula AMS to educate farmers on new farming techniques.

(vi) Promotion of sugar-cane farming through provision of credit, labour, seedcane, fertilizers and extension services to farmers by the Mumias Sugar Company.

(Loud consultations)

Prof. Mango: Mr. Deputy Speaker, Sir, I thank the Assistant Minister for that very

elaborate answer. He has talked about the necessary logistics. He has said that one more motorcycle has been provided to the four officers.

How can the Assistant Minister provide one more motorcycle without fuel to run it?

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, I am not quite sure that I followed her question because of loud consultations. However, I got the last part of her question where she said that the motorcycle has not been provided with fuel. However, I would like to assure her that our Ministry gave and delivered a new motorcycle to Butula Division under the National Agriculture and Livestock Extension Programme (NALEP). The registration number for the motorcycle is GK A284L.

Prof. Oniang'o: Thank you, Mr. Deputy Speaker, Sir. Food security means ensuring food of the right quality and quantity to everybody at all times. I do not see how a motorbike will put food on the table.

Could the Assistant Minister tell us what immediate measures he has put in place for the people of Butula? I do not even know whether it is classified under the arid areas or not. What measures has he put in place to ensure that the people of Butula have food in the meantime?

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, food security is a general subject and we can discuss it from now until the closure of business of the House today. However, I am quite surprised by the hon. Member who has asked what a motorbike has to do with food security. To me, that exposes that, maybe, she has not been to the people to see the efforts the Ministry and the Government is making to ensure that there is food security. Food security, as the hon. Member knows, is not about physical food. Food security is about enabling the citizens of this country either to have the physical food from their farms to eat, or to have money in their pockets to buy food. These are the efforts that the Government has made. The important thing is to appreciate whether or not any effort is being made---

*(Prof. Oniang'o stood up
in her place)*

Mr. Deputy Speaker: Prof. Oniang'o, you are out of order to remain standing when the Assistant Minister is answering your question. When you stand on a point of order and the Chair does not agree, you sit down. It is like you are intimidating the Chair when you stand up. The Chair does not want to be intimidated! What is your point of order?

Prof. Oniang'o: Mr. Deputy Speaker, Sir, I have no intention of intimidating you and I cannot do that. The Assistant Minister is insinuating that I am ignorant when I am not. We are talking about immediate food security for Butula Constituency. I am not talking in generality. That is what my question was all about.

Mr. Deputy Speaker: That is not a point of order!

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, it is not in my place to say whether or not the hon. Member is ignorant on the issues we are discussing here. However, the point I am making is that the issue is one of whether or not we are making progress in the right direction to create food security to all the people in this country so that they have food on their table from time to time.

Mr. Osundwa: Mr. Deputy Speaker, Sir, I am surprised that the Assistant Minister has told this House that the Government is promoting, among other crops, sugar-cane farming in Butula Constituency when we know very well that the factory has not taken off for the last 20 years. Why is the Assistant Minister promoting sugar-cane growing in that constituency when there is no factory in Busia?

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, we are promoting the growing of sugar-cane in that area. If the people do not appreciate or do not want to grow sugar-cane, I do not know what we, as a Ministry, are supposed to do. However, we are making every effort to give the people a

chance and ability to grow the crop that can earn them cash so that they can put food on their table in due course.

Prof. Mango: Thank you, Mr. Deputy Speaker, Sir. My Question was specific. It reads: "What plans are in place to increase food production and ensure food security?" How will revitalization of cotton-growing enhance food production? Sugar-cane is one of the crops that has made the people of Butula Constituency insecure in food production. How will Sugar-cane growing enhance food production in that constituency? According to the poverty index, 70 per cent of the people in Butula are poor. The Assistant Minister is misleading the House. He has not told us how the Ministry will enhance food production in that constituency. By promoting the growing of cotton and sugar-cane, the Ministry is not putting food on the table of the people of Butula!

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, the question about food insecurity is very important. I appreciate where Prof. Mango comes from. The point I am making is that the Government, through the Ministry of Agriculture, is making an effort in the right direction. In Butula Constituency, for instance, the Government has given and provided planting seeds during the long and short rains. The intention of the Government is not to create a dependency syndrome. Even in giving the planting seeds, it is in appreciation of the fact that there has been drought in that constituency and people have suffered. However, we have provided beans, maize and sorghum seeds in Butula Constituency. I think I have made that clear in my answer. We have continued to expand the extension services in the agricultural sector to help the farmers in Kenya to produce more in order to be food sufficient. In a nutshell, there are many things that the Government has attempted to do towards that direction. That is contained in the answer I have given to this House. However, it is not the intention of this Government to create a dependency syndrome. The intention of this Government is to help the citizens of Kenya to break the vicious cycle and be self-sufficient in food production.

Question No.384

TENDER AWARD FOR SUPPLY OF DRUGS
FOR RURAL HEALTH PROJECT

Prof. Anyang'-Nyong'o, on behalf of **Mr. Omingo**, asked the Minister for Health:-

- (a) what procedure was used to award tender No.SD/KEN/RUR-HEA-2/98/25/15 for the supply of start-up drugs for Rural Health Project II; and,
- (b) how many companies bid and which was awarded the tender.

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

(a) The mode of procurement of drugs for Rural Health Project II was international shopping, which was stipulated in the known agreement No. F/KEN/RUR-HEA-2/98/25 between the Government of Kenya and the African Development Bank.

(b) A total of 13 firms were proposed and procured the tender document. Only 11 firms returned their bids; four bids were non-responsive. Out of the seven firms, the lowest and most responsive bidder was M/s Don International Kenya Ltd. The cost of the drugs was Kshs28,961,153.60.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, could I ask the Assistant Minister to lay on the Table the document he has referred to; both the tender documents and bid documents of the company that won the tender? Could he also supply to this House the extent to which that Kshs28.9 million has been used to supply drugs for Rural Health Project II?

Dr. Kibunguchy: Mr. Deputy Speaker, Sir, I was not requested to bring the tender documents. If I was requested to do so, I would have brought them. But the Question does not ask

me to lay the tender documents on the Table. So, I do not have them, but if you gave me time, I can avail them to the House.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, can the Assistant Minister assure the House that he can, by tomorrow, lay those documents on the Table? Last week, I asked for documents to be laid here---

Mr. Deputy Speaker: They were laid this morning!

An hon. Member: Where were you?

Prof. Anyang'-Nyong'o: I was late because of the rain, Mr. Deputy Speaker, Sir.

(Laughter)

Dr. Kibunguchy: Mr. Deputy Speaker, Sir, I will not be able to lay them on the Table tomorrow, but give me up to next week.

Mr. Deputy Speaker: Very well, lay the documents on the Table on Tuesday next week.

Question No.061

SUPPLY OF WATER PUMPS
TO NYAKACH WOMEN

Mr. Sungu, on behalf of **Mr. Odoyo**, asked the Minister for Water and Irrigation:-

(a) when the Ministry will deliver 10 water pumps to women groups in Nyakach Constituency as promised by the Minister in March, 2004;

(b) whether he is aware that failure to honour the above promise has eroded the confidence of the public in the Government; and,

(c) what action he is taking to fulfil the pledge to Nyakach people.

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

(a) During the visit by the Minister for Water and Irrigation to Nyando District on Saturday, 17th January, 2004, the Minister promised to donate 10 motorised pumps to deserving irrigation groups in the district in order to enhance their irrigation production. The pumps were to benefit groups in three constituencies of Nyando District as follows: Nyakach, 4; Nyando, 3; Muhoroni, 3. Groups to benefit have already been identified and they fall into two categories, namely, women and youth groups. Funds to purchase the pumps were not available in the last financial year (2005/2006) and this is what caused the delay.

(b) Yes, I am aware of the repercussions that may be brought about by this kind of action. However, measures have been put in place to train the groups in irrigation water management, operation and maintenance of the irrigation pumps, horticultural production and marketing of horticultural crops, awaiting the acquisition and distribution of the promised pump sets.

(c) This financial year, 2006/2007, provision for the acquisition of the 10 pumps have been made in the Budget, and immediately the pumps are procured, they will be delivered to the beneficiaries.

Mr. Sungu: Mr. Deputy Speaker, Sir, may I thank the hon. Assistant Minister for a very good answer. However, we know that Government has budgeted this money and the question of food security is of such importance that we cannot take it lightly. Could the Assistant Minister tell us exactly when this money will be provided for the pumps? These could just be mere promises that will never be kept.

Mr. Wanjala: Mr. Deputy Speaker, Sir, first of all, the hon. Member has confirmed that actually the money is in the Budget. It is just the procurement procedures that we are undertaking and we cannot put a date. But I want to assure the hon. Member that this is a Government that

keeps its promises. Therefore, before the end of this financial year, we will have delivered the pumps.

Eng. Nyamunga: Mr. Deputy Speaker, Sir, while I join my colleague in thanking the Assistant Minister for a very satisfactory answer, he will also remember, himself that when he visited Nyando, he promised us a borehole. Can he say whether that has been included in the Budget or not?

Mr. Deputy Speaker: Mr. Assistant Minister, you seem to be making a lot of promises!

Mr. Wanjala: Mr. Deputy Speaker, Sir, the promise was made, but it was after the Budget, and we will look into it in the next financial year.

Mr. Deputy Speaker: So, you actually make promises when there are no budgetary provisions? That is very interesting.

Prof. Olweny: Mr. Deputy Speaker, Sir, this Assistant Minister made a road-side promise to us that we are going to get three pumps. I do not think it is difficult for the Assistant Minister to tell us exactly when these pumps will be provided since the promise was made three years ago?

Mr. Deputy Speaker: Order, Prof. Olweny! I think that question has been asked and answered.

Mr. Khamisi: Mr. Deputy Speaker, Sir, what we are getting from the Government is a very good example of how our resources are being distributed; that is, until a Minister visits a place, that place does not benefit from some of these resources. Could the Assistant Minister arrange to visit my area as well so that he can make a promise?

Mr. Wanjala: Mr. Deputy Speaker, Sir, the problem with some of our Opposition Members is that they value ODM-K rallies more than development programmes. I visited hon. Khamisi's Bahari Constituency and we gave him Kshs10 million to build a resevoir tank this financial year. Shame on him!

(Laughter)

Mr. Deputy Speaker: Order! First of all, I do not want partisan politics but Mr. Assistant Minister, your language is too harsh for a Member of Parliament.

Mr. Wanjala: Mr. Deputy Speaker, Sir, maybe I said it with a loud voice because I was a bit incensed by the hon. Member. I went to his constituency and I was accompanied by two Ministers who are hon. Dzoro and hon. Kingi who are all here. However, here is a Backbencher who decides to go and attend an Orange Democratic Movement (ODM) rally instead of attending to serious business in his constituency. This was evidenced by their party leader the other day when he said that their work is to politick!

(Laughter)

Mr. Deputy Speaker: Order! That is enough!

Mr. Sungu: Mr. Deputy Speaker, Sir, this is a very important Question and the answer is equally good because food security is very important and our people are going hungry. So, it is not right to belittle it. The Assistant Minister is my friend and I would like to thank him for that answer.

I request him to make sure that his promises are kept rather than making it an ODM affair.

*(Mr. Wanjala stood up
in his place)*

Mr. Deputy Speaker: Order, Mr. Assistant Minister! There is nothing to answer there! I think you just want to add more fire.

Next Question by Mr. L. Maitha!

Question No.537

TARMACKING OF MALINDI-SALAGATE ROAD

Mr. L. Maitha asked the Minister for Roads and Public Works whether there are plans to tarmack Road C103, Malindi-Salagate, which links Malindi Town and Tsavo-East National Park.

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Deputy Speaker, Sir, my Ministry has no immediate plans to tarmack Road C103, Malindi-Salagate, which links Malindi Town and Tsavo East National Park. However, all measures have been put in place to ensure proper maintenance of the road. The maintenance work will be carried out under the Ministry's routine road maintenance programme.

Mr. L. Maitha: Mr. Deputy Speaker, Sir, I am amazed by this answer. This is another example of empty promises. On 14th September, 2006, when His Excellency the President came to Malindi, he ordered that six kilometres of that road be tarmacked immediately. Now, two months after that, this Assistant Minister is saying that he has no immediate plans to tarmack that road. Does this answer imply that the President was politicking or he was speaking as the Head of State?

(Applause)

The Assistant Minister for East African Community (Dr. Khalwale): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! It is the Assistant Minister for Roads and Public Works who is required to answer!

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

Mr. Deputy Speaker: How many points of order do you have to raise since Dr. Khalwale has also risen on a point of order? It should be one at a time!

Mr. Munya: On a point of order, Mr. Deputy Speaker, Sir. Our Standing Orders do not allow the name of the President to be dragged into debates here.

Hon. Members: Which Standing Order has that provision?

Mr. Deputy Speaker: Mr. Munya, first of all, I did not give you permission. I only allowed Dr. Khalwale to raise his point of order.

The Assistant Minister for East African Community (Dr. Khalwale): Mr. Deputy Speaker, Sir, I do not want to sound repetitive but the rules of the House say that if the hon. Member wishes to advance an important point like the one he has, he has to approach it carefully without using the authority of the President. Is he in order to do that?

Mr. Deputy Speaker: Now, hon. Members, I think you are going too far. I did not hear that hon. Member say anything that can be said to be against the rules of the House in as far as he has touched on His Excellency the President. I think hon. Members should also be careful. When you are talking about certain matters, you got to be specific on a point of order that the hon. Member is infringing. I do not think the point the hon. Member made had anything against the President that you can say is against our Standing Orders. Mr. Assistant Minister, go ahead!

Eng. Toro: Mr. Deputy Speaker, Sir, I think the hon. Member is misleading the House

because I was there with the President and he never promised the tarmacking of this road. If the President promised the tarmacking of this road, then why has the hon. Member brought the Question to the House?

Mr. Balala: Mr. Deputy Speaker, Sir, whenever the Government comes to Coast Province and makes promises about tarmacking of roads, it should take into consideration that it is not the first one to do so. The previous governments have also made promises about the tarmacking of Mariakani-Kilifi and Voi-Taveta roads. These are empty promises. Could the Assistant Minister confirm which roads they have budgeted for and are willing to do them? The Northern Corridor Road which is being done at Maji ya Chumvi is not being done using Government funds. This road is being done using Nordic funds.

Eng. Toro: Mr. Deputy Speaker, Sir, I get mesmerised by some hon. Members of Parliament because some of the promises made about Mombasa roads have been advertised in the papers and they are being adjudicated to pick their respective contractors. One of the roads is Malindi-Mombasa Road. I remember the President promised its tarmacking and we advertised it. We have other roads in the Coast Province which we have advertised and the hon. Members of Parliament do not care even to find out which road we have advertised and which ones we have not and yet they are very happy to make a blanket statement that what we promised is not happening.

Mr. Deputy Speaker, Sir, we are going ahead with the roads programme in Coast Province and if the hon. Member for Mvita wants to know, he should ask for a list of the roads that we have already advertised in the whole of Coast Province and I will give him the list.

Mr. Nderitu: Mr. Deputy Speaker, Sir, the mood in the House reflects the state of our roads because our roads are very bad. Could the Assistant Minister furnish this House with a list of all the roads which are currently being undertaken and the ones which are to be done in the near future?

(Applause)

Eng. Toro: Mr. Deputy Speaker, Sir, I do not know which roads the hon. Member wants on this list because the Kenya Roads Board (KRB) recently advertised in the papers all the roads that are being undertaken this financial year. So, I do not know which list the hon. Member wants. This is why I said that hon. Members of Parliament do not care to know what is happening. They do not want to read even what is advertised in the papers.

Mr. Nderitu: Mr. Deputy Speaker, Sir, there are those roads which are being tarmacked and they are the most expensive ones. The ones the Assistant Minister has said were advertised in the papers are the ones under the programme where the Government is spending Kshs11 million per constituency. We want to know where the stake is and these are roads on which the Government is spending up to Kshs 2 billion.

Eng. Toro: Mr. Deputy Speaker, Sir, we have so many roads under that category. Could the hon. Member specify which roads he wants to know whether they are being undertaken? We are doing a continuous exercise. There are roads where tenders have already been awarded. There are others in the process of being awarded and the list will continue to increase until January next year when we will be awarding more tenders for construction of roads.

Archbishop Ondiek: Mr. Deputy Speaker, Sir, could the Assistant Minister tell us what criteria they use to qualify a road to be tarmacked?

Eng. Toro: Mr. Deputy Speaker, Sir, there are so many factors that qualify a road to be tarmacked.

Mr. Deputy Speaker: Last question, Mr. L. Maitha!

Mr. L. Maitha: Mr. Deputy Speaker, Sir, I know the Assistant Minister is backtracking on

that question. All the same, as a result of the heavy rains, for the last three weeks, some sections of this road have been completely damaged and cut off, yet it is the same road that is used by tourists every day to get to the national park. The Assistant Minister has said some measures are being taken by the Ministry to do the routine maintenance work on the road. However, for the last three weeks, there has not been any maintenance work done on this road. What can the Assistant Minister tell us about that?

Eng. Toro: Mr. Deputy Speaker, Sir, the floods that have occurred in Mombasa have caused a lot of damage. We are assessing the situation, so that we can know what extra damage has been done over and above that done during the March/April rains. We had already allocated some money for maintenance of the road. The Malindi-Salagata Road that the hon. Member is asking about has been allocated Kshs4.8 million for maintenance this financial year.

Mr. Deputy Speaker, Sir, this money, which comes from the Kenya Roads Board (KRB), cannot come at once. The KRB is now receiving revenue and has started disbursing all the money to the District Roads Committees (DRCs) and the Roads Department, which are going to maintain this road. Therefore, we are waiting for the KRB to give us the money. As soon as we receive it, the maintenance work will start.

Mr. Gitau: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister was asked to table a list of the roads that are being constructed. He is avoiding that question deliberately, because he knows what they do when it comes to the budget for roads. I am saying this because the people of Juja require roads. Juja is not part of Uganda! Juja is a part of Kenya. Could he table the list?

(Applause)

Mr. Deputy Speaker: Mr. Gitau, I have heard you! You stood on a point of order. However, that is not a point of order. Therefore, it is overruled!

Hon. Members, Dr. Khalwale raised the issue of the personal conduct of the President having been questioned here. That is covered by Standing Order No.73(1). It reads as follows:-

"Neither the personal conduct of the President, nor the conduct of Mr. Speaker or of any judge, nor the judicial conduct of any other person performing judicial functions, nor any conduct of the ruler or the government or the representative in Kenya of any friendly country shall be referred to adversely except upon a specific substantive Motion moved for that purpose."

Now, the hon. Member talked about His Excellency the President having promised construction of a road and the promise not having been fulfilled. I do not think that there was anything adverse said about the President, in as far as this Standing Order is concerned.

(Applause)

I would like to advise hon. Members to refrain from invoking the name of His Excellency the President in the House unnecessarily. The President must be accorded the respect he deserves. However, on matters like reference to a promise made by the him, I do not think that is an adverse comment about him.

(Applause)

The Assistant Minister for Roads and Public Works (Eng. Toro): On a point of order, Mr. Deputy Speaker, Sir. The word used was that the President was "politicking". I do not think

that is the same as promising. I would like you to rule on that because the word "politicking" is disrespectful.

Mr. Deputy Speaker: I will have a look at the HANSARD on that matter and see what was said. After I have looked at the HANSARD, I will make a further ruling.

Hon. Members, before we move to the next Order the Minister of State for Immigration and Registration of Persons has a Ministerial Statement to make on the matter raised by Mr. Khamisi on the arrest of Mr. Mdoe.

MINISTERIAL STATEMENT

ARREST OF MR. SWALEH MDOE

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Deputy Speaker, Sir, yesterday an hon. Member asked for a Ministerial Statement on the arrest of Mr. Swaleh Mdoe. I now wish to issue the same now.

Mr. Swaleh Mdoe was arrested on 19th October, 2006 and booked at Kilimani Police Station. He was later moved to Kileleshwa Police Station, and the following day to Railways Police Station, Mombasa. He was arrested as an individual and not as a journalist. Therefore, his arrest is not part of the alleged campaign of intimidation and harassment of journalists.

Mr. Swaleh Mdoe moved to the High Court via Miscellaneous Criminal Application No.79/2006 and the matter is still pending in court. Further discussion of details of the case may be unlawful under the rule of *sub judice*. I further confirm that the said Mr. Mdoe was released on a free bond of Kshs100,000 on 22nd, October, 2006.

Mr. Deputy Speaker: Mr. Khamisi, you have heard that the matter is in court. I do not wish that the matter be a subject of discussion.

Mr. Khamisi: Mr. Deputy Speaker, Sir, the fact that this individual was arrested means that there was some suspicion. Could the Minister tell this House on what grounds this individual was arrested? Why is he still being harassed by the Government?

Mr. Deputy Speaker: Let us have Mr. Sungu's point of clarification and then the Minister will respond!

Mr. Sungu: Mr. Deputy Speaker, Sir, the said journalist has been in this country for a long time. Could the Minister, in his clarification, say what provoked his arrest? There are some murmurs that a person, well known for hitting journalists, instigated his arrest!

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Deputy Speaker, Sir, if the hon. Member has more information on this, I need substantiation of his allegation from him. However, if the matter was not in court we would have released the information which we have. He must have gone to court to protect himself because he knows there is something the people of Kenya should know. Since Mr. Mdoe has many friends and fans countrywide, it is in his interest to ensure that he obeys the laws of this land, like anybody else, and then he will not be harassed, as it is being said by people here. We must provide security to the people of Kenya and Mr. Mdoe is not being harassed.

It must be known whether every individual is a Kenyan or not. If he or she is not, then he or she must regularise his or her stay in Kenya.

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

Mr. Deputy Speaker: No more chances! I said I would give chances to two hon. Members

and I have already done that.

Next Order!

BILLS

First Reading

THE TOBACCO CONTROL BILL

*(Order for First Reading read -
Read the First Time - Ordered to be referred
to the relevant Departmental Committee)*

First Reading

THE ENERGY BILL

*(Order for First Reading read -
Read the First Time - Ordered to be referred
to the relevant Departmental Committee)*

Second Reading

THE FINANCE BILL

(The Minister for Finance on 26.10.2006)

*(Resumption of Debate
interrupted on 31.10.2006)*

Mr. Deputy Speaker: I believe that hon. Ms. Karua was on the Floor of the House. I am informed that you have 28 minutes to make your contribution.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity.

Yesterday, we were talking about double-speak in this august House where we must choose accountability on all issues and not some. I would like to point out that the reason why the Governance, Justice, Law and Order Sector (GJLOS) is not in the Budget is not because we are avoiding accountability. The reason is that the mode of engagement on these funds is unlike any other. The money never comes to the Government of Kenya. It is spent on behalf of the Government by a financial management agency. It is a very untidy arrangement which we must try to get out of. Otherwise, this Government believes that every cent that it uses must come before the House for approval.

Having said that, Mr. Deputy Speaker, Sir, as a Parliament, we have a responsibility to ensure that our audited accounts for CDF are laid before the House for discussion and public scrutiny.

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

Mr. Deputy Speaker: I know that you had raised a point of order yesterday. Go ahead!

Mr. Billow: Mr. Deputy Speaker, Sir, on the issue of GJLOS, this is a matter of

fundamental importance and we have to make reference to the Constitution of this country. Section 99(1) of the Constitution is very clear. I seek the indulgence of the Chair on this matter.

Mr. Deputy Speaker, Sir, the Section states as follows:

"All revenues or monies which are raised or received for the purpose of this Government shall be paid into and form part of the Consolidated Fund and cannot be spent or withdrawn except as authorised by the Constitution, an Act of Parliament or as appropriated or voted by Parliament."

The concept of a financial management agency in which the Government borrows money and allows--- Please, allow me to come to the point.

Mr. Deputy Speaker: Order, Mr. Billow! You must come to your point of order because you are eating into the Minister's time.

Mr. Billow: Mr. Deputy Speaker, Sir, I am coming to the point and it is important.

Mr. Deputy Speaker: Indeed, it is important.

Mr. Billow: Mr. Deputy Speaker, Sir, GJLOS loses money amounting to not less than Kshs5 billion annually. This money is being spent on behalf of the Government of Kenya outside the provisions of our Constitution. That is not acceptable as far as this Constitution is concerned. It is not a question of this not being a point of order, but---

Mr. Deputy Speaker: Mr. Billow, do you know I have been following yesterday's HANSARD? You raised a point of order and that is why I have allowed you to do so today. However, in accordance with the rules of the House, you should point out the illegality of what the Minister has said as far as GJLOS is concerned.

Mr. Billow: Mr. Deputy Speaker, Sir, the point she mentioned that GJLOS is absolutely in order to spend that money through a financial management agency is incorrect. The Constitution does not allow money to be spent outside its provisions.

Mr. Deputy Speaker: Okay, let the Minister respond to that.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Deputy Speaker, Sir, I will not respond to that argument. I will instead continue with my contribution. If the hon. Member wishes, he can come in a manner known to the House in order to raise the issue. I seek your protection because hon. Members who have already finished contributing cannot utilise one's time to raise points of argument.

Mr. Syongo: On a point of order, Mr. Deputy Speaker, Sir. I do not know if you heard the hon. Minister. She has just said that she cannot respond to a very important and serious point of order raised by the Shadow Minister for Finance. Is she really in order to say that?

Mr. Deputy Speaker: Ms. Karua, could you address yourself to the issue raised by hon. Billow?

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Deputy Speaker, Sir, the hon. Member, and the HANSARD will bear me correct, has only raised arguments and not a single point of order. Whether he is right or wrong, that is not the issue. I will not respond to a point of argument. Allow me, therefore, to proceed with my contribution.

*(Messrs. Sungu and Osundwa
stood up in their places)*

Mr. Deputy Speaker: Order, Mr. Sungu and Mr. Osundwa! It is completely out of order, when an hon. Member is contributing and you are on your feet. I, therefore, rule you out of order!

The Minister for Justice and Constitutional Affairs (Ms. Karua): Thank you, Mr. Deputy Speaker, Sir. I was saying that Parliament's budget which comes directly to us and our

audited accounts as Parliamentary Service Commission (PSC) should be availed for public scrutiny. This being a new concept, we should be able to grow to find the strengths and weaknesses of the new system that we are instituting.

With regard to Capital Gains Tax, I wish to state that I support the taxation measures in the Finance Bill. Yesterday, an hon. Member said that the Capital Gains Tax is aimed at the poor. This is totally erroneous. The Capital Gains Tax is mainly aimed at people with property to sell and those with deposits that are earning interest in banks. This is a laudable move and it will help equalise wealth in that those who have more money are going to be taxed a little bit more to enable those funds to be utilised for national development thereby bringing equity in wealth distribution.

It is necessary that, as hon. Members, we seek information as we make our contributions to avoid misleading the public on concepts.

Mr. Deputy Speaker, Sir, allow me to respond to the issue that independent institutions are under-taxed by this Government. How erroneous that is! There is a very erroneous concept creeping in our country today. Independent operation of autonomous institutions is recognised by this Government and the law. However, no institution; independent or not, is free from public accountability and scrutiny and from financial and audit regulations that are in place in this country.

Therefore, when queries from the Controller and Auditor-General and Accounting Officers are put to independent institutions, unless there are people in this House who support opaqueness, then nobody should claim that this amounts to harassment of those independent agencies. Answering audit queries is a regular feature. Even for us in this House, when we travel, we have to account for the imprests that we collect and travel with. So, we should try to build an understanding within the nation that nobody is above public scrutiny and financial and audit regulations.

Mr. Deputy Speaker, Sir, we have seen, in the recent past, a number of institutions asking for financial independence. It must be borne in mind that having your own budget does not remove you from having to answer audit queries or presenting your accounts for auditing by the Controller and Auditor-General. This Government has, in fact, brought more autonomous agencies working with it more than any other Government in recent times. We are working with them well and whatever challenges that confront us, they will all be dealt with in the manner expected of a responsible Government.

May I express my disappointment at our conduct sometimes as hon. Members. One wonders whether it is in order for us, as a House to demand accountability and transparency if we ourselves fall short of those standards. Can a Committee of this House behave like an investigation agency and a judge at the same time? Can a Committee of this House purport to override the statutory powers of the Central Bank of Kenya (CBK) to supervise banks? Can a Committee of this House purport to order the reopening of a bank when a matter is in court being ventilated and when the law is very clear on the mandate of the Committee?

There have been happenings in recent times that are putting us, as a House, under scrutiny. It is time we started investigating conflict of interest among hon. Members in this House, in our Committees and elsewhere. Our pronouncements should not be influenced by external factors. Even when bringing Motions and Bills, we should start looking at each other to find out whether somebody is doing it for purposes of promoting our country and good citizenry, or for other ulterior motives. We need to be transparent and accountable. That is why I was suggesting that, as a House, we must stop double speak. We must call for transparency and accountability by everybody rather than choose to ask for transparency by others, when we ourselves remain very opaque.

In recent times, independent institutions have been attacked by sections of the society, including some hon. Members of this House. Is it proper that a person under investigation is the one who attacks an investigator? Those are the questions that we must raise. Is it an act of

transparency when a person who has direct interest in a case pending before a court, or a litigant or lawyer, advances a certain clause in a Bill because he wants to win the case through this House and not through the courts of law? We need to be vigilant, as hon. Members, so that opaque practices do not choke this House and undermine our ability to contribute to the welfare of this nation.

I want to laud the taxation measures in this Bill. All the services we are asking, as hon. Members, the Government to render to our people need finances to undertake. It, therefore, does not make sense to demand that certain categories of taxation be removed, unless one is able to suggest better means of raising the much needed funds. Responsible and constructive criticism means also offering alternatives. If we were to drop this or that taxation measure because a section of the society does not want it, eventually nobody will voluntarily agree to be taxed. We shall all say taxation is not good for us, and at the end of day we shall make the State grind to a halt. It is my view, therefore, that we must exercise responsibility. We must remember that at the end of the day, we are all national leaders and should steer ahead this country together through our joint contributions in this House. We should, therefore, look at the bigger picture in order to make informed contributions.

I want to end my contribution by once again supporting this very laudable Bill. I wish to urge my colleagues in the House Departmental Committee on Finance, Trade and Planning to listen carefully to contributions made by hon. Members in order to pick useful suggestions that will come up in the course of their contributions.

Finally, May I urge those with conflict of interest to declare their interest whenever they are contributing to issues. This is because we are called upon, as hon. Members, to alert the Chair when a person with a conflict of interest contributes to a matter in the House. When you oppose a taxation measure aimed at an industry you are trading with, you must be upfront. You must stand in this House and let the hon. Members know that your business or your family is trading with the industry affected by that taxation measure. In that way, we will be able to understand you better as you oppose that taxation measure. We can then agree whether your contribution is good, or whether you are only looking inwardly at your own profit or the profit of your family. With those many remarks, I beg to support.

Mr. Deputy Speaker: Yes, Mr. M'Mkundia. I declare my interest in him, because I want him to relieve me of the Chair.

(Laughter)

Mr. M'Mukindia: Thank you, Mr. Deputy Speaker, Sir. I think that is the right way to do things. I support the view that we should all declare our interest if we have an interest in any matter. So, I fully support what the Minister for Justice and Constitutional Affairs has said. A few things that have happened in this House have made our own integrity questionable. If we make our own integrity questionable, then the integrity of the whole House becomes questionable. A couple of these things have happened, and I agree with the Minister that we should look at ourselves again and again.

I rise to support this Bill and have a few points to make. First, I agree with the hon. Members who have said that the Minister has proposed amendments to the Insurance Act and the Central Bank of Kenya Act through the back door. As you are aware, an Insurance (Amendment) Bill has already been published. Really, it is not proper for the Minister to propose additional amendments through this Finance Bill to the Insurance Act, when already other amendments have been published. It is important for us to be given the opportunity to interrogate fully the Insurance

(Amendment) Bill. Therefore, I would suggest that any mention of the Insurance Act in this Finance Bill be deleted. The amendments in this Bill should be made in the Insurance (Amendment) Bill. I do not know why the Minister has made these proposals. I am not an expert in insurance matters, and do not know the reasoning behind this move. Why do the amendments have to be made piecemeal at this point in time?

The second issue relates to the amendments to the Central Bank of Kenya Act. We are all aware that we discussed the Central Bank of Kenya (Amendment) Bill in this House and passed it. It went for the Presidential assent. Unfortunately, the President brought it back with a memorandum. Since that time, that Bill, which we passed, has been in abeyance. It has not been brought back to this House for us to discuss it fully. This raises a number of questions. Why does the Minister not bring to the House the Central Bank of Kenya (Amendment) Act that we passed in this House? Why should we not discuss it to see whether we need to amend it further? Why does the Minister want to make amendments to the Central Bank of Kenya Act through this Finance Bill? That is suspect. Why he wants to do this raises unnecessary questions. Do we take it that the Treasury is afraid of bringing the Central Bank of Kenya (Amendment) Act back to this House? We know the main reason why we passed that Act. Primarily, it was because many banks in this country had bankrupted many Kenyans. They were supposed to pay back all the extra interest money that they had stolen from Kenyans.

While I am a big supporter of this Government, at times I feel unhappy when it conspires with businessmen to suppress the weak in this country. What is the reason for not bringing the Central Bank of Kenya (Amendment) Act back to this House? What excuse can the Minister give for not having our people, who were bankrupted by these banks, refunded their money? We can all declare our interest. Anybody who has had a house or car loan in this country over the last 25 years has been adversely affected by this illegality. Therefore, I totally oppose the proposed amendments to the Central Bank of Kenya Act. I believe that the Minister is trying to achieve something that he ordinarily would not achieve if he brought the substantive Bill to this House.

I have no problem with the principle of having a chairman, a board of directors and a chief executive for the Central Bank of Kenya. That can be debated for or against. The House should have the time to debate the merits and demerits of such a proposal substantively.

I believe that that matter should come before us as part of the Central Bank of Kenya (Amendment) Bill which was passed by this House. Let the Minister bring it before us. However, the question of the *in duplum* rule will not go away. The Ministers and the technocrats here are hoping that this issue will somehow disappear. It will not disappear! So, the only way it can disappear is for us to confront it, handle it and finalise it, one way or the other. It will not just go with the wind. It will not disappear! We cannot allow it to disappear because we know how many people in this country have been affected adversely while banks are raking in billions of shillings and exporting the capital to foreign countries. This is terrible! We are embarrassing our people and making them poor. What are we doing? Transferring wealth from Kenya to overseas and we are very happy doing it! We are quite happy in our big offices and not seeing that we are impoverishing our own people. That, to me, is criminal. I think something should be done as quickly as possible to correct that situation.

Mr. Deputy Speaker, Sir, the other issue is the Capital Gains Tax. I do not know, again, the rationale behind the introduction of the Capital Gains Tax. This is an issue that over the last 20 to 25 years has, indeed, been brought up, tried and failed. It cannot be solely for the purpose of raising revenue. I do not believe that!

(Applause)

How much more are we likely to get out of this? How much burden are we putting on property prices? Who is going to be affected more? Is it the rich or the poor? It is not the rich as the Minister said earlier. It is actually the poor who are going to suffer more. Instead of making the properties available cheaply so that those who are able to move upwards and buy bigger houses or more expensive houses can vacate the houses they live in for the other poorer people to buy or move in, we are making it more expensive. Why are we doing that? Is it an issue of raising revenue really? No! Is it a market force thing? Perhaps! Why are we doing that? So, I again totally oppose this business of Capital Gains Tax. I think the Minister should amend that clause or delete it. It does not help. I believe that even the cost of administering that tax will be very high. We are burdening the Kenya Revenue Authority (KRA) with additional work when we are not even able to pay them the 1.5 per cent revenue that we are supposed to pay them.

(Applause)

We are not giving them credit where it is due. We ought to be giving them, at least, the 1.5 per cent that we have already agreed upon. Why are we not doing that? We are giving them more work. I, therefore, totally oppose this issue of the Capital Gains Tax.

Mr. Deputy Speaker, Sir, if, indeed, we have to have Capital Gains Tax, why do we not pay tax on bonds and shares? This is where there is very little work by me putting my Kshs1,000 in the bond rather than me building a house and when I want to sell it, after sweating for three years, I have to pay tax. However, if I put my money into the Kenya Airways today and sell tomorrow, one day based on pure speculation, I can make Kshs1 million yet I pay no tax. However, if I take ten years to build a house and I sell it, I pay hefty tax. Where is the rationale? Where is the common sense of this?

An hon. Member: *Hakuna!*

Mr. M'Mukindia: Mr. Deputy Speaker, Sir, I do not see it and, therefore, I oppose it.

I wish to raise the issue of competition policy. This issue has been alluded to by a number of hon. Members here. However, I think, perhaps, it did not come out very clearly. People have pointed out the liquor business as an area of concern. Others have alluded to the cigarette business as an area of concern while others have alluded to the oil industry. Having had the privilege of serving as a Minister for Trade in this country, I know that there are people in business in this country who try to use Parliament and the Government as a competition tool to beat their rivals---

(Mr. Mwenje walked into the Chamber leaning on a walking stick)

Mr. Deputy Speaker: Order, Mr. M'Mukindia! Mr. Mwenje, I welcome you to the Chamber and say sorry for the mishap.

(Applause)

Please, sit down and the Serjeant-at-Arms will take the walking stick. When you require it, he will return it to you. It is an offensive weapon in the Chamber!

(Mr. Mwenje stood up in his place)

Just take your seat and when you need it, it will be given to you!

Mr. M'Mukindia: Mr. Deputy Speaker, Sir, we do not have a very clear competition policy or even monopoly policy in this country. I think this is an area that the Minister and his technical people need to look at. Increasingly, and this is unfortunate, questions are going to be raised as to the independence of the decisions that have been made by the Treasury on certain taxation proposals. The reason I say this, like I said, is because it has not been made very clear. However, the allusions are not good for the integrity of this House, the Treasury or the Minister. There are questions which have been raised that certain companies--- I will give an example where somebody took me through the issue of cigarettes and the liquor business. The technocrats know exactly what this is all about. However, there are certain categories of cigarettes, for example, and if you change the taxation levels in those categories, somehow depending on the market share, one person may be more adversely affected than the other. In the same way, in the liquor area, if the liquor quantity is so much and you change the taxation policy in a certain way, you can actually kill indigenous businesses - these are the weaker ones - while the multinationals, who have the muscle to push these ideas, get the benefits through this House. It is terrible for us, as hon. Members and representatives of the people to be asked to pass taxation measures which are designed solely to kill indigenous businesses. It is a shame!

(Applause)

Mr. Deputy Speaker, Sir, I would like to tell the Minister and his team that it is a shame for us to be asked to pass taxation proposals that will ultimately end in killing our own businesses. It goes totally counter to the vision that the President himself launched the other day; Vision 2030. How are we going to achieve Vision 2030 if every indigenous business, when it raises its small head, it is beaten on that head through taxation proposals passed by this House? Is the Minister telling us that his people are not intelligent enough to see through these machinations of multinationals? Are we to believe that? I do not work there on a permanent basis but how do I do know it? The technocrat there, the guy who understands statistics and the chemistry of the liquor blending business, surely knows this for a fact. There is no excuse for this House to be asked to pass tax proposals designed solely to assist the multinationals kill indigenous businesses in this country. Therefore, I totally oppose taxation measures on the liquor, cigarette and perhaps oil business designed solely to do that. I urge the Minister to re-look again at this area. This House does not entertain rumour or hearsay. However, let me say that whatever is being said is not palatable and the Minister, therefore, needs to re-look at this area very carefully.

Mr. Deputy Speaker, Sir, the best way would be to, finally, come up with a proper policy so that, at least, the Minister and his officers can operate within certain clear and specific rules, so that anybody or industry that may have a question can go to a tribunal for arbitration. That way, a complainant will be listened to, not by his competitors or the Minister himself, but by an independent tribunal that can listen critically to the issues raised.

I have said enough on that issue but it is actually a very serious matter. As I said, having had the privilege of serving this country as Minister for Trade and Industry, I know of many companies trying to use the Government, through the back-door, to ensure that they "kill" their opponents in the market. This happened before and we should not allow it to happen again.

Mr. Deputy Speaker, Sir, I wish to congratulate the Government, particularly the President, the Minister for Finance and his team, for developing and launching the Vision 2030 industrialization plan. There is no country, or individual, that can achieve anything unless there is a vision. Unless we have a target we are aiming at, we cannot achieve much. I am very happy about this development. About 12 years ago, I also had the privilege of working very hard to design the

Industrialization Plan for the year 2020. Our plan was just a Ministerial initiative; it was solely limited to industry.

However, Vision 2030, as designed today, covers three major areas. It not only covers the economic side, which includes industry, trade, manufacturing and other services, but it also covers the social as well as the political aspects of development. The three aspects have to move hand in hand. Therefore, I wish to congratulate the Minister on this one. I want to urge hon. Members of the current Parliament, as well as those of the subsequent Parliaments, to try not to politicise the issue of Kenya's vision. I urge hon. Members to support this vision.

Mr. Deputy Speaker, Sir, the other day, I had the privilege of visiting Malaysia, where I also had the privilege of living in the mid-1980s. If you go to Malaysia, you will feel like crying. I know what Malaysia was like in 1985 and what it is like today. I feel like crying because I know that, that is what Kenya should look like today. The Malaysians had their vision. They implemented their vision without fail. They did so without politicising the issue. They do not say: "Who is the head here? I must beat him to death." We must look at the people of Kenya, who are the ones who suffer, and who are the major beneficiaries of the Vision 2030.

For that reason, we, hon. Members of this House, and those who will be in the next Parliament, need to rise above our own petty differences and ambitions and have one major ambition for this country: To ensure that every time I go back to my constituency, I do not find people with their hands stretched out, asking me to share with them the little that I have, which is not even enough to educate my own children. They do not need to do that. We do not need to keep our people poor.

Mr. Deputy Speaker, Sir, we cannot be proud Members of Parliament or Cabinet Ministers or Chairmen of Parliamentary Committees when our people are poor. We are nothing if our people are nothing. We are ultimately judged by how that old *mama* and that child out there lives or dies. Therefore, the issue of a vision for this country is so paramount that we should all support it. We should not politicise it. We should not say that it belongs to this Government or the other Government, or it belongs to this official or that official, as happened with the Industrialization Plan for the year 2020.

As an hon. Member said, a very top Member of the previous Government said that it was not in our interest to industrialize. I cannot imagine what else could have been in our interest, if not industrialization. This was said by a top Member of the Government after this country spent millions of shillings, trying to design that programme. I am very happy that I have here with me Mr. Wambora, who helped me so much in developing that vision but at the end of the day, after spending millions of Kenya shillings on it, somebody in Government then said: "It is not in our interest to industrialize." Why did he say so? It was very simple: "If we change the status of our people by empowering them", he added, "they will no longer worship us like God."

Mr. Deputy Speaker, Sir, in achieving Vision 2030, we must be prepared for fundamental changes in terms of political alignments and establishment. That is what scares us, as politicians. We want to keep our people poor and helpless, so that they can continue worshipping us as though we are gods. We are not gods. Therefore, are we prepared for the political changes that are likely to occur if a time comes when Kenyans no longer have to beg, steal and borrow from us?

Ultimately, that is the question that must be answered by hon. Members of this House. It is not anybody else out there who will wreck Vision 2030. It is hon. Members of this House who can either support and sustain it or destroy it because it is our political lives that will be ultimately at stake. If we do not go with the flow, we will be left behind. We must accept the fact that Kenya is bigger than us. Therefore, Vision 2030 should be bigger than us.

I wish to thank the Minister for a job well-done in terms of management of the economy. I understand that the economy might stabilize at a 5.8 per cent growth rate. Hopefully, the economic

growth rate will be more than 5.8 per cent. Taking into account the fact that our population is growing at about 2.6 per cent, we can see that the effective economic growth rate is about 3.2 per cent. An effective economic growth rate of 3.2 per cent is not enough to get rid of the poverty level that this country is facing.

Therefore, there is need for us to increase the economic growth rate to a much higher level than 5.8 per cent. Such growth will not be achieved by increasing the tax chargeable on property. Such action will just reduce the rate of growth. Therefore, if there are opportunities for the Minister for Finance to reduce taxes rather than increase them, that would be the way to go.

Finally, I would like to point out the fact that our economy has become a relatively high cost economy. We know that our land resources are not as good as those of, for instance, Ugandan or even those of our brothers and sisters in Tanzania. How then are we going to get rid of poverty? We can only do so through manufacturing, service delivery and IT-based industries, *et cetera*, which means that we have to export manufactured goods, services and labour.

If we price ourselves out of the export market, how will we get rid of poverty? Therefore, I challenge the Minister and his team to look into the possibilities of making our economy cheaper. The Indian and Chinese economies are low-cost economies. There is no economy which can grow by being a high-cost economy. That is not possible. We need to lift our people at the bottom first. How do we do that? We must stabilize the prices of foodstuffs and energy, so that we can stabilize wages as well. We must improve our infrastructure, which includes road transport and so on, so that, again, we can increase output. Ultimately, we need to make Kenya a low-cost economy, so that we do not destroy our export market.

Mr. Deputy Speaker, Sir, I have talked long enough. I wish the Minister and his team well. There are many challenges ahead, but ultimately, I believe he will achieve this. However, he has to be flexible and truly listen to hon. Members of Parliament. We are concerned about certain major issues such as monopoly policies, the total gains tax and other taxes.

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

Mr. Muturi: Thank you, Mr. Deputy Speaker, Sir, for giving me this chance to say what I consider to be very few words regarding this Motion on the Finance Bill. As we appreciate the Memorandum of Objects and Reasons is that this is a Bill that seeks to formulate the proposals announced on the Budget day relating to the ability to collect taxes and for matters incidental thereto.

As a result of the very technical nature of this Bill, I expected that the relevant Departmental Committee would have scrutinised this Bill with a tooth comb. They would have explained to us, for example, where the Minister in the Bill proposes to amend a section or phrase, what the effect would be. We are debating without the benefit of the input of that Departmental Committee. Nevertheless, we have to do with what we have. Therefore, I will be making my contribution from that weak position. However, I would urge that, in future, the Departmental Committee that is responsible really helps to guide debate by presenting to Parliament its findings. By putting up the Finance Bill, the Minister has had the benefit of research and in put from technical people in the Ministry. We would expect that the relevant Departmental Committee also takes advantage of the period from when the Bill is referred to it to call experts and technical people from the Treasury to go through the Bill with them, clause by clause, so that Parliament becomes enriched with that kind of participation.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, having looked at the Bill, I would like to take issue with some of the proposals in the Value Added Tax (VAT). Unfortunately, as I said earlier on, this is not like a Statute Law Miscellaneous (Amendment) Bill which quotes the relevant clauses of each law that ought to be amended and then explains the reasons thereof. Clause 6 of the Bill says:-

"Section 12 of the Value Added Tax Act is amended in subsection (1) by inserting the words "or such longer period as the Commissioner may, in any particular case allow" immediately after the words "within thirty days."

We want not just to come and pass Bills here. What is it that the Minister proposes to do here? We also do not expect the Minister to actually explain each clause. That kind of statement is enough. We will pass it as it is. This is because we have not had the benefit of being told what it is that the Minister is trying to do. What evil or mischief has he seen in the current law that he seeks to rectify or correct by inserting new phrases?

Mr. Temporary Deputy Speaker, Sir, something comes to mind. Within the VAT Department, we have had complaints that claims take forever to be paid out. Now that we have seen the Minister suggesting that if you delay beyond certain periods with money that is due to either the Commissioner of Income Tax or the Commissioner of VAT, he can impose some penalty. Is it not high time, in a reciprocal manner, that the Government also considered paying levies, interests or penalties to business people whose money it stays with for certain periods of time? If this is done, this will put pressure on the officers administering that kind of scheme. We all embrace the fact that there should be greater public-private partnership if we want this economy to grow. If we are to encourage the private sector, it is high time that we tasked, just like we did when we passed a Motion moved by Mr. Musila about the payment of retirement benefits. I doubt if it is being implemented. If it is being implemented, it must be implemented in lack of observance. We said that, if by the time you retire your pension has not been calculated and paid to you, then the Government should retain you at the salary that you were last earning prior to the date that you were due to retire. However, sitting in this House for the period that I have sat, you know a week will not pass by without finding that there is a Question that touches on the Pensions Department. Therefore, it is in that spirit that I am proposing that where the Government delays in making refunds, it should consider paying the business people certain levies either at market rates or at prevailing bank rates. Some of those business people have borrowed money from the banks. They pay interest. When they default in making payments they pay penalties. Indeed, in a reciprocal manner. I think it is only fair that the Government also considers putting such a provision, so that the people at the VAT Department who administer that programme are put on pressure.

Mr. Temporary Deputy Speaker, Sir, let me now move on to Page 973 of the Finance Bill. I welcome the proposal by the Minister in Clause 23 where he makes some proviso which, in my view, is very good because it encourages savings and makes the savings of the not too rich exempt from certain forms of taxation. This should be welcomed although I do not want the rationale that, perhaps this is because of the Income Tax Act provisions that this provision should come into force from 1st January, 2007.

Mr. Temporary Deputy Speaker, Sir, I want to raise an issue on Clause 37, which says:-

"Section 5 of the Constitutional Offices (Remuneration) Act is amended by inserting the expression "(other than house allowance and entertainment allowance)" immediately after the words "allowances".

I wonder whether the intention here is what the Minister said in the Budget Speech, to allow for taxation of other allowances other than salaries of constitutional office holders. If so, may we know how many of these allowances are there. Why target only these two allowances for exemption? Is it possible that there could be other allowances that, perhaps could also attract some

form of taxation? That is for the Minister to consider when we move to Committee Stage. The Finance Bill should, as detailed in the Memorandum of Objects, aim to raise taxes.

Mr. Temporary Deputy Speaker, Sir, in this country, we can raise a lot of tax. We have a terrible mentality such that anybody who leaves university, especially those from the rural areas, wants to buy some land. They finish university, earn salary for a few months and the next thing they want to do is to look for loans to buy land. People do not buy land to develop, but we have been socialised in such a way that to walk around the countryside showing hectares and hectares of fallow land is prestigious. So, we have people in this country who own tracts of land that are lying idle. Why have we not considered levying serious taxation on such parcels of land to encourage the owners to productively use them or give them back to the Government? We should have clauses in law providing that if these people do not pay taxes within a given number of years, the land may be taken away by the State without necessarily having to be compulsory acquired.

We want to develop this country, but we will not develop it when we have this obsession with land for its own sake. We want to own land, so that we can show people in the village how wealthy we are, when, indeed, we are tying up capital. What has the Government done to educate Kenyans to move away from this crazy of buying idle land. I own a few parcels of idle land, but I do not mind being taxed. If I do not pay tax, the parcels can be taken away from me. Why should I tie it up? I have actually pondered over this issue over a long period of time.

Mr. Temporary Deputy Speaker, Sir, the other day, we came up with some very nice proposals about how we would like to see this country move forward in development. Why can we not have deliberate tax reliefs for people who invest in stocks? That is an area which we have not taken a lot of our people into. We must educate our people that land is not the only investment that there is, so that when they finish college, they do not start rushing around looking for land to buy. They should be told that if they invest in stocks, they will get better returns. In a counter manner, we should make it very expensive and unattractive to invest in land.

I am talking about the issue of land in relation to taxation because we need free land for those who are able to productively utilise it. We can only do this by coming up with ingenious measures, some of which could come through taxation. I believe that land rates and rents are so minimal and they do not discourage anybody. Indeed, even some of the measures that are proposed in this Bill only target those who are selling houses in towns. We should also target those who have tracts of land in the provinces, districts and locations. They are not using those resources gainfully. To the extent that taxation measures could be a disincentive to the majority of us in that regard, this would, in my view, be welcome.

Mr. Temporary Deputy Speaker, Sir, as I conclude, I am working from the position of not having the benefit of seeing any research work on this Bill. However, I would like to look at the proposal in Clause 60. I am aware that the Minister, when moving the Bill, said that he was going to move an amendment to delete the proposal to take the Sugar Development Levy from the farmers back to the consumers. Whereas I welcome that move, I would like to question some issues. About three months ago, I read before this House a report on sugar imports.

In Clause 60, the Minister says that he is amending the Sugar Act, by deleting Sub-section 1 and substituting therefor the following new sub-section 1:-

"The Minister may, in consultation with the Board, by order in the Gazette, impose a levy on sugar-cane to be known as the Sugar-cane Development Levy".

Mr. Temporary Deputy Speaker, Sir, my quarrel is not about the levy being taken to the farmer. Having laid a report here on sugar importation, why are we still obsessed with the issue of the Minister being able to consult with the Board? It was said here that if the Minister responsible calls the Chairman of the Sugar Board to his office for a cup of tea or discusses some issues with him on phone, that is considered to be sufficient consultation. That is what the Minister for

Agriculture said here, notwithstanding the very clear provision of Section 5 of the Sugar Act, 2001, that defines what the quorum of the Board is. The Minister for Agriculture stood in this very House and said that when he calls the Chief Executive for a cup of tea in his Kilimo House office and they discuss some issues, that is consultation.

We have a very clear provision and then the Minister, in implementing it, says that when he calls the Chief Executive of the Board for a cup of tea in his office, he considers that to be sufficient consultation. Are we not making a mockery of what we are doing? Why should we pass laws that we do not intend to observe? In that particular case, the Minister engineered the sacking of the Chairman of the Board. He went on to order that fresh elections be carried out, so that a new and more compliant Board could be put in place. We come here and pass very elaborate laws with clear provisions that the Minister would have no doubt in his mind, but they are ignored. So, I hope that when you put these kind of provisions in law--- because I can see even the next section has a problem. I happen to have taken some little time to study the Sugar Act for some time, so I know where the problem is. It is only that I will not be around during the Committee Stage, but I would actually have moved an amendment; perhaps I should do that even before I leave, that would make it mandatory for the Minister to consult the Board and such boards, but not an officer, the chairman or a member of the Board and then say that, that amounts to consultation.

Mr. Temporary Deputy Speaker, Sir, there is something very worrying in the next clause; Clause 61, because it says:-

"Section 27 of the Sugar Act, 2001, is amended in Sub-section 1 by deleting the words (and such imports shall be controlled by the Board)".

That is being removed. When we debated the Sugar Act in this very House in 2001, hon. Members from the sugar cane growing areas were very clear why they wanted the Board to be the one to control any imports coming into the country. It was for a very good reason, because we have given the Board certain serious functions, which include, among others, considering how much is to be imported into the country and at what time, because it is the Board which must, at all times, protect the interests of the farmers. Indeed, that Board is comprised of very many people and stakeholders in the sugar industry. A lot of the directors are elected from within certain specified zones. It is for that reason that hon. Members from sugar cane growing areas were very clear and said that, if the country was ever to import sugar from outside, then those imports must be controlled by the Board because it is the one that sugar cane farmers have entrusted their welfare to. In this Finance Bill, that power of control is being removed or is proposed to be deleted. The amendment says:-

"By deleting the words (and such imports shall be controlled by the Board)".

So, those words: "Shall be controlled by the Board" are the ones being deleted.

The Minister for Finance (Mr. Kimunya): That is not correct!

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, the Minister is trying to deny this off-the-cuff, but it is the truth. I am reading what is printed in the Finance Bill and I am saying that this is inadvisable. If you remove the power to control imports from the Board, what you are going to see is similar to what we saw in the Report that I laid on the Table here about three or four months ago. So, the power to control those imports will be left in the hands of certain mandarins, either in the Ministry of Trade and Industry, the Ministry of Agriculture or the Kenya Revenue Authority (KRA). This is dangerous! Actually, this proposal was made about the time I was compiling the Report which I laid on the Table here. I cannot understand this coincidence why the Minister wants to abolish or to remove that power from the Kenya Sugar Board. This is not going to be good. I will be urging my colleagues in the Finance, Planning and Trade Committee--- Unfortunately, they have all left and once again, we are really in a very pathetic situation. I would be requesting the hon. Members of the Finance Committee, who are purporting to have laid a Report on the Table,

and I even suspect that the Minister for Finance has not seen it. Some purported Report was laid on the Table today and, like I said when I began contributing to this Bill, that Report, if, indeed, it was going to be a Report, ought to have been laid on the Table much earlier so that hon. Members could read it and see the reasoning.

*(Mr. Muturi consulted the
Clerks-at-the-Table)*

I was just looking for that Report which was purportedly laid on the Table here. It is titled: "Report of the Finance, Planning and Trade Committee on the Finance Bill". That is the heading, but if you open the first page, it is titled: "Proposed amendments to the Finance Bill". So, you wonder what that document really is.

Mr. Temporary Deputy Speaker, Sir, as I wind up, I want the Minister to address the issue which was raised by hon. Billow at length; the issue of Section 99(I) of the Constitution regarding any expenditures that do not go through the Consolidated Fund and which are not passed through an Act of Parliament or authorized through Vote on Account by this House, as is the case with the funds that go through the Governance, Justice, Law and Order Sector Reform Programme (GJLOS). When the Minister for Justice and Constitutional Affairs was contributing here, she told us that those funds come to the Government through some financial management agency and they administer it on behalf of the Government of Kenya. I do not know, but are those funds gifts? When they expend them on behalf of the Government, are the people of Kenya going to pay yet this House never authorized those expenditures? It is immaterial whether the funds could be audited. I am the Chairman of the Public Investments Committee and we have seen some of the so-called "reputable auditing firms" acting in total disregard of the National Audit Act, which we passed in 2003. They are appointed by the Controller and Auditor-General to report back to him on the affairs of various Government agencies that they are appointed to audit under the law. In fact, I think that under Section 34, they are clearly not allowed to publish any reports, but they do it with such reckless abandon that you cannot believe it!

So, Mr. Temporary Deputy Speaker, Sir, for me, it is not enough that the Minister will stand here and tell us whether those funds are expended in which way or whether the funds are audited in accordance with international standards. That is not the issue! The issue is, were those funds expended according to Section 99 of the Constitution of Kenya which requires that this House authorizes any expenditure? Clearly, on the admission of the Minister for Justice and Constitutional Affairs as she contributed, she said that it is a very unsatisfactory state of affairs and that the Government is looking into it. That means that the Constitution has been abrogated! We want a clear statement from the Minister when he replies, so that, at least, Kenyans can be reassured that what is spent on their behalf is not done against the Constitution.

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

The Assistant Minister for Co-operative Development and Marketing (Mr. Mwenje): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to say a few words.

I want to start by thanking the Almighty God who actually saved my life during the accident. I also want to thank all those who came to see me in hospital, at home and many other places. I want to use this forum to say: "Thank you very much for praying for me."

(Applause)

Mr. Temporary Deputy Speaker, Sir, the Finance Bill for many years has become either a complicated or non-clarified issue because it goes on to say we amend section this and that, and

yet, what we are amending is not attached. Most of us, do not even know what it is that is being amended. What does the original law say? I know that the Minister will tell us that the whole set is here. However, I would have expected that for whichever areas they are amending, they should be able to attach the original statement that they are now amending. This is because hon. Members may not even have time to look at these things. One may argue that we have officers to help us. However, they have no access to law books. They need to go to the library, but they are not allowed into the Parliamentary library. So, it becomes very difficult for us to deal with amendments. That has been the case for very many years.

Mr. Temporary Deputy Speaker, Sir, the one other problem I have noticed particularly in this city, is that businessmen pay the Nairobi City Council (NCC) to acquire licences. Also, they pay more money to the Government to acquire another licence. This is double taxation. In some cases, they even pay for three or four licences. When one starts a business and the NCC takes him to court because of lack of a licence, then later on, a Government inspector also comes and charges him for the same, it is very unfair. It is time the Minister came up and stated clearly what licences would be mandatory for what businesses, so that double taxation does not come in again. We have seen many business people suffering. Some do not even know what licences they are expected to obtain. For example, those involved in the hotel industry pay a lot of money to the NCC and Government. It is time we streamlined these licences, so that our people are encouraged to do business. I hope the Minister will address these problems.

Mr. Temporary Deputy Speaker, Sir, the penal code affects criminal activities. It also stipulates the kind of fines those found guilty will pay. I feel the amendments to the penal code should not be included in the Finance Bill. I strongly believe that this House, because it passes laws for this country, should be given an opportunity to debate any amendments to the penal code. Sometimes, fines are increased without being approved by Parliament. I remember one time when people were fined up Kshs20,000 for petty traffic offences. As much as I agree that the Minister should have some powers to make some amendments, when it comes to the penal code, it should come before this House, so that we have an opportunity to debate issues. I hope this will be looked into, so that we do not just amend the penal code through the Finance Bill and then complain, later on. I have heard on several occasions, people involved in the *matatu* and transport industry complaining about the fines they are charged.

Mr. Temporary Deputy Speaker, Sir, I also want to take this opportunity to thank the Kenya Revenue Authority (KRA). They have done a commendable job. No matter what we say, the collection of taxes has risen from Kshs180 billion to Kshs312 billion. I want to thank the Minister for getting the KRA to work. I also want to thank him for sealing all the loopholes that existed in terms of tax collection. For example, the contractors would promise that they would pay tax upon receiving their cheques. But this was not the case. Today, we have new regulations where two cheques are issued. One pays the tax directly and the other pays the contractor. This has made a lot of difference. I want to encourage the Minister to continue looking for more ways of ensuring that payment of tax is not evaded. There are still many areas where tax is not paid. For example, there are so many people who are playing games in hotels and bars. It is time that they also got taxed, so that we can collect more money. The more we collect taxes, the more development we will be able to carry out. So, I want to thank the Government for the big change in tax collection. If our Gross Domestic Product (GDP) continues rising, in the next three years, this country will now become a donor country rather than a recipient of donations. I can see that in 2012, we would be looking for people to donate money to other countries. This is because we will be rich if we move on at the same speed as we are doing now.

Mr. Temporary Deputy Speaker, Sir, I also want to take this opportunity to thank the President for launching the 2030 Vision. Although I was still unwell, I went to Kenyatta

International Conference Centre (KICC), where the President was launching the 2030 Vision. I believe this vision is attainable. I do not see the reason as to why it cannot be attained. If it will be implemented, we will all enjoy and rejoice in this country. The way this vision was presented to us by the professionals and the Permanent Secretary, Ministry of Planning and National Development was very good. I imagined that, by the time I would be 70 years old, this city would be so beautiful with fly-overs, no traffic jams and there will be enough houses for our people. It is for that reason that I agree with Mr. Muturi when he says that all the land that remains idle should be taxed. For example, in my constituency, one man owns over 2,000 acres of land. It is a pity that he is not even developing it. The other day, the Government renewed the lease for that land. I would have told the Minister for Finance when he was the Minister for Lands not to renew the lease when it expired. That land would have been allocated to squatters in my area. It is not benefiting anybody, including the Government, because there is no tax being paid for it. So, if we will implement this vision, that is one area that we need to concentrate on. The issue of squatters in this country is very serious. We have squatters living in slums in Mukurus, Sowetos, Gitare Marigos and other slums in this country. If only those people were given finances to put up proper houses, this country would change a lot. I believe that the Minister will possibly now come up with a way in which we shall be able to finance our people. When we improve our infrastructure, the biggest beneficiaries are those who drive cars. Although the poor ones will still ride in *matatus*, but it is time we went to the slums and constructed roads for them and provided them with other amenities like water. We will not be leaving the poor community of our areas far much behind. We know that when they buy unga, milk and sugar, they pay tax. So, tax is not only paid by rich people. Even those who have cannot escape paying taxes. They may not be paying directly like we do, but they pay through Value Added Tax (VAT) and other ways. So, it is important to consider them when planning development in this country. We should consider their areas by putting up a few tarmacked roads. Tarmacked roads should not only be for major roads and main towns. We should construct good roads in slums so that those people living there can also enjoy the fruits of this country.

Mr. Temporary Deputy Speaker, Sir, professionally, I am a banker. Long time ago when I was in the banking industry, banks were required to lend 20 per cent of their lending capital to the farmers. I do not know what happened because that rule was scrapped. If this country will develop, we must consider farmers. We must make sure that a farmer has an easy way of accessing loans and other credit facilities. For those who did not want to lend the farmers, the money was deposited with the Agricultural Finance Corporation (AFC) for an onward transmission to the farmers. If they felt that they did not have credible customers or farmers who could borrow money, they would lend that money to the agricultural institutions in this country. However, that is not the case today. Banks are now lending money to those people with securities or debentures. Previously, before this Government came into power, they were buying Treasury Bills and Bonds. That money never earned anything for this country. They were simply getting interest. For them, it was safer to buy Treasury Bills and Bonds because there was no risk.

Mr. Temporary Deputy Speaker, Sir, I am glad and I want to thank the Government because the Treasury Bonds rates are not high. Therefore, nobody wants to deposit his money in the Treasury Bonds or Bills. I hope this will be maintained. I hope we will not start borrowing money through the Treasury Bonds. But for farmers to benefit, for heavens sake, let the banks start financing them. Even if the commercial banks are not able to, let them approach the Co-operative Bank of Kenya and see how they can assist farmers in this country. The Co-operative Bank lends money to the farmers' co-operative and other co-operative societies. I am aware that the Government has advanced some money to AFC. I am also aware that they have also assisted the Co-operative Bank of Kenya by clearing some of their debts which would never have been paid. But that is not enough. We need to make it mandatory for all the banks to be able to deposit some

money with the farmers' institutions. When banks lend money to farmers, they should not ask for debentures. But when it is another businessman, they consider debentures. It is time that the Banking Act was relooked with a view to getting banks to assist the farmers. If we do so, we shall reap more benefits and assist farmers in this country.

Mr. Temporary Deputy Speaker, Sir, I do not want to say much because I do not have the strength to stand for a long time. However, I want to urge the Departmental Committee on Finance, Planning and Trade to be looking at these clauses in advance. I have been a chairman of that Departmental Committee. We used to scrutinize every clause. So, even if hon. Members do not have a chance to do it, they would greatly benefit from the input of that Committee. They should not just bring a copy of the amendments to the table here. They should also supply it to hon. Members, so that they are able to understand all these clauses. I agree that even hon. Members should look at it, but sometimes, it takes a lawyer like Mr. Muturi to know all those laws which need to be amended. It also requires a lot of time to get it done. However, all in all, I would like to support this Bill by saying that the Minister has not gone overboard, except that he needs to look at a few areas which affect us most.

Many hon. Members have talked about insurance. It is true that when you look at matters concerning motor vehicle insurance, especially the one that covers third party, you will find that putting a limit would be disastrous because "third party" refers to any other person. As I speak, my car was involved in an accident. In this case, I am the third party. I have been hospitalised for more than a month. This will cost me a lot of money. I would expect that, third party insurance covers would help people take care of such incidences. I think it is not fair to put a limit of what the policies can cover. I think it is important to look at the insurance part of it. It is also important to look at Clause 37 of the Bill and see that it does not affect the allowances. We do not always spend all the allowances that we receive. Some of them eventually go to other people.

I support this Bill and thank all those people who prayed for me and supported me in all ways.

Prof. Olweny: Thank you, Mr. Temporary Deputy Speaker, Sir. I have a few comments to make. The Minister, in this Bill, had some good intentions in support of the poor in this country. However, some of the intentions are not very good, particularly the one on zero-rating welding machines. It is a good idea because it will promote the jua kali sector, although some of the machines they use for welding are still very expensive. We have made the welding machines affordable, but the rest of the equipment that they need are still very expensive. That should have been addressed, although metals are used by many other kind of people.

Computers, today, have become part and parcel of our everyday lives. We use them in almost everything we do. Zero-rating of VAT on computers is a good move by the Minister because he will encourage primary schools to buy computers so that our children can become computer literate in their early stages.

There is the controversial Clause 37, which relates to Constitutional Officers' Allowances. If we allow the Minister to get away with it, it will set a bad precedence in this country, that any Finance Minister can touch things that relate to the Constitution. The Minister may get away with a move to amend the Constitution in the name of a Finance Bill. This should be discouraged and we should not allow it to happen because it is not good for the future. We may have other Finance Ministers in the future who may not have good intentions when they bring Bills with such amendments. They may amend more serious Sections of our Constitution. It is my view, since this is a dangerous move, to note that it is not safe, and therefore, it should be removed from the Bill.

In the Minister's Budget Speech, and in this Finance Bill, there is a problem of Sugar Development Fund (SDF) and the importation of sugar. It is encouraging to note that the Minister back-tracked from that and said that Clauses 60 and 61 should be deleted from the Bill. The SDF

was meant to promote sugar-cane production in this country which had suffered a lot during the former regime. That is why hon. Members, in the former Parliament, saw it necessary to come up with an Act of Parliament which would help revamp the sugar industry. If we try to revive things that happened six years ago during the previous regime, which the previous Parliament helped put in place, we would bring down the sugar industry which has been suffering for many years. In this Government's regime, there are still many things which have to be done.

We all know that we have the COMESA safeguards which help us nurse the sugar industry because it has serious problems. That is why COMESA countries gave us safeguards so that we could come up with a way of making the industry more profitable to the farmers, millers, transporters and all stakeholders who are involved in it. The Minister's move would have meant taxing farmers. We have said it every now and then, in this House, that farmers should not be taxed. Farmers should actually be supported. They should be subsidised, though we feel jittery when we use the word "subsidies." Other countries have come up with better terms to support the production of farmers. They call it production support system to farmers. Why do we still dream of taxing farmers?

Mr. Temporary Deputy Speaker, Sir, Kenya is an agricultural country. If that is so, that means that agriculture is the mainstay of our economy. Therefore, we must come up with ways to ensure that the key players in the agricultural sector are supported and not taxed. That is what SDF would have done so that we do support farmers. Sugar-cane farmers are making losses instead of profits because of the taxes they pay in terms of labour, fertilisers and land preparations which involve use of tractors and other machinery. Everything is expensive to the farmer. At the end of the day, after harvesting the cane, they get very little profit. The people who make profits in the sugar industry are sugar importers. It is importers who make ends meet in this country. So, when the Minister proposed that he would remove the controls on sugar importation in this country, it was very unpalatable, especially to some of us who are very concerned about sugar-cane matters.

The Finance Ministry has caused us many problems when it comes to sugar importation. I know the Minister joined the Ministry recently. However, he may not know, but the officers in his Ministry, we believe, have been colluding with importers, causing us a lot of problems. So, when it was proposed that it would be controlled by the Finance Ministry---

Mr. Syongo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to cast aspersions on the conduct of Ministry officers who do not have the opportunity to answer those accusations in this House?

The Temporary Deputy Speaker (Mr. M'Mukindia): Sorry, I missed it, but that is totally out of order. If you wish to discuss anybody, you should bring a substantive Motion so that the House can give you leave to do so. So, please, desist.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I did not mention a particular officer, but where there are irregularities, we mention them.

The Temporary Deputy Speaker (Mr. M'Mukindia): Order, Prof. Olweny! You know the rules of the House. You cannot discuss anybody unless you bring a substantive Motion. So, please, do not go that route.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I am not discussing an individual. Anyway, let me continue.

Another issue I wanted to raise is that of VAT on sugar. Sugar is actually food. I do not think there is VAT on coffee and tea. Majority of us cannot take tea or coffee without sugar; you need to sweeten it a bit. Sugar is actually an essential component in many foods across the world. In this country, one thing we know is that foods are zero-rated when it comes to VAT. I am wondering why we still have VAT on sugar. We have asked the Minister for Agriculture to liaise with the Minister for Finance to address this issue because it beats logic. Why the double

standards? Why should coffee be zero-rated when it comes to VAT while we have VAT on sugar? What kind of food is coffee or tea? You do not, for example, add coffee to porridge before you drink it, but instead you need sugar. So, this is an issue which the Minister should have addressed when compiling the Finance Bill.

Mr. Temporary Deputy Speaker, Sir, we have been talking of diversifying the sugar industry. Already, it is diversified in the form of alcohol production. We have two factories in this country producing alcohol; that is the agrochemical and foods factory in Muhoroni and the Molasses Plant in Kisumu. They produce alcohol. The people concerned with these factories have complained to us quite often that there are certain taxes which are levied on their products and it is affecting their sales. If we want to diversify sugar and related industries and we levy so much taxation on the agro-based industries, which way are we going? Are we discouraging the investors in the agro-based industries or are we promoting such activities? This is an issue that has been raised a number of times by the stakeholders. I wish the Ministry could address it because the excise duty which they complain about is too heavy and it is affecting them.

Mr. Temporary Deputy Speaker, Sir, could you protect me from those two hon. Members who have decided to make this a laughing sport?

(Loud consultations)

The Temporary Deputy Speaker (Mr. M'Mukindia): Yes, they should not consult too loudly.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, we have problems with the cost of petroleum products in this country. Everybody, from leaders to citizens have been complaining. But one of the reasons why petroleum products are expensive is heavy taxation. One way of getting out of this is use of gasohol. We are producing alcohol from molasses locally. We have tried to use gasohol to run our vehicles before. At that time, we had only a small factory in Muhoroni. Today, we have a bigger one in Kisumu. So, we have two factories producing alcohol which could be blended with petrol to give us gasohol, which is being successfully used in other sugar-producing countries. Why can we not do the same to help in reducing the cost of fuel for our vehicles? Is that not a point that the Minister and his officers could consider?

Mr. Temporary Deputy Speaker, Sir, lastly, I want to say something on Miwani Sugar Company, which is in my constituency. It has been lying dormant since it went under receivership some time back in the late 1990s. The Minister for Agriculture has given us promises, even this morning. But at the end of the day, he has to liaise with the Minister for Finance. The problem we have there is lack of money. It is heavily indebted. The Kenya Meat Commission (KMC) has been revived, as well as Kenya Co-operative Creameries (KCC). Both these institutions were revived using allocations from the Treasury. Why can the Treasury not help us in the same manner, by reviving Miwani Sugar Company?

With those remarks, I beg to support the Bill.

The Assistant Minister for Health (Dr. Kibunguchy): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to also say one or two things about the Finance Bill. I would like to start off by joining my colleagues who have commended the Kenya Revenue Authority (KRA) for their work that has been exceptionally good. I am sure every right-thinking Kenyan is proud of the KRA.

The KRA has made it possible for us to say that the economy of this country is now growing at 5.8 per cent. We should, as lawmakers and Kenyans especially, look beyond partisan politics and see what is good and beneficial for this country and our people and commend it. I would like to also unreservedly again commend the KRA for work well done.

Mr. Temporary Deputy Speaker, Sir, as we commend the enhanced revenue collection in this country, we should at the same time, be conscious of how the taxes are used. I thought this would be addressed in the Finance Bill although KRA's main objective is to raise revenue through taxation. I am saying this specifically because in the face of enhanced revenue collection, we still find our people, especially in the rural areas and in the urban slums, still living in abject and absolute poverty. We should be able at this time to find out ways and means of how we could lift the lives of these people.

As much as we are looking at ways of raising taxes and this Bill really addresses itself to that, we should also at the same time be seeing how best we can address the problems of the majority of Kenyans. Even the people who live in places that you would say are fertile and productive, you will still find that majority of them live in abject poverty. I would like to spend a bit of time talking about this because there is absolutely no reason for us as a country to be proud of the enhanced revenue collection if we cannot look at the plight of the poor, marginalised and down-trodden people in our country; people who have variously been described as the "wretched of the earth". I would have loved if certain measures were brought up in this House for us to be able to address the plight of these people.

Mr. Temporary Deputy Speaker, Sir, we talk a lot about agriculture and I would like to commend the Minister for having removed the Sugar Development Levy (SDL) tax that has brought a lot of resentment in areas where I come from. We talk about agriculture and I think most times we just offer lip service to the people who are engaged in the agricultural industry. Agriculture is the backbone of the economy of this country but, at the moment, I think not very many people are making a decent living out of it. It is incumbent upon us to see how best we can address the plight of our farmers in whichever way.

Mr. Temporary Deputy Speaker, Sir, we have heard a lot about the sugar industry. A small fraction of my constituents grow sugar. The majority of them plant maize and beans and as we talk now and we have said this again and again, the people who are benefitting from the sweat of my constituents who plant maize are the middlemen. The farmer himself makes next to nothing. The middlemen move in very early at a time when the National Cereals and Produce Board (NCPB) has not even opened their stores. Even as I speak now, those stores have not been opened and my estimate is that 70 to 80 per cent of the maize that was planted this planting season has already been snapped up by the middlemen.

I think we "must" and I use that word very strongly, be able to keep pace with our farmers and to know when to open the stores. I always say that the NCPB, which is a major player in the cereal industry in this country, must play its role to be able among other things, stabilise the prices to be able to buy maize and store it for strategic reserves. However, more importantly, I think they should be able to trade just like everybody else so that they have money all the time even if they are buying food on behalf of the Government as strategic reserves. That is part of trading.

Mr. Temporary Deputy Speaker, Sir, we need to see how this growth rate can trickle down to our people in the rural areas, and I would have loved that the Minister looked at some of these measures that have worked in other countries. When you go to Uganda, you find people who are willing to put up factories and enterprises in the rural areas are given tax holidays as an incentive for them to set up their businesses in the rural areas. If we are going to open up the rural areas and look at how best to fight poverty this 5.8 per cent growth rate must trickle down to the rural areas.

We must find ways to set up a fund, just like the Youth Enterprise Fund that was discussed in the Budget. Such a fund would look at communities and our women because it is women who work, toil and carry the burden of their families and communities. We must find a way of how this money can trickle down to the rural areas and urban slums. Tax holiday is one way that can help us open up the rural areas, we can have massive rural electrification programmes. I know the Minister

for Energy is looking at me but our people are restless and they want to see and also test the fruits of this impressive growth rate that we keep talking about.

Mr. Temporary Deputy Speaker, Sir, I would like to go to my second point. Of late, when enterprises and companies make their returns, they show that they make massive profits. The other day Safaricom Limited announced its results and we were looking at a profit in excess of Kshs10 billion. The same thing will happen when Celtel Kenya Limited, East Africa Breweries (EAB), British American Tobacco (BAT) and all banks announce their returns. Mumias Sugar Company is also going through some exciting times.

Mr. Temporary Deputy Speaker, Sir, these companies have done very well because Kenyans are using their products and supporting them. When the Minister was talking about people giving donations, I would have loved it if he went further and asked companies such as Safaricom Limited to do much more. Rather than come to Lugari to build one or two classrooms, they should plough back to their clients part of their profit in what is called corporate social responsibility. This is a term that is very fashionable today because companies have to give back to the people who have made it possible for them to get to where they are.

Mr. Temporary Deputy Speaker, Sir, I would like corporate social responsibility to benefit areas which give maximum returns. One of the areas in this country that everybody talks about is our road network. It would have been very nice if a company like Safaricom Limited were to make maintenance of the Nakuru-Eldoret Road part of its corporate social responsibility. Instead of building one or two classrooms here and there, we would like these companies to do something that all Kenyans can be proud of. They should leave a legacy behind.

Mr. Temporary Deputy Speaker, Sir, I would like Celtel Kenya Limited to build the Mariakani-Mombasa Road, EAB should build the Bungoma-Busia Road, BAT should build all the bypasses that we talk about in Nairobi and Barclays Bank of Kenya should open up the roads in the northern part of this country. The northern part of this country, in the long run, is going to be the lifeline of this country.

(Applause)

If you go to places like Western, Nyanza and Central provinces, you will find people living on small uneconomical pieces of land. This is happening yet we have a lot of land in this country. All we have to do is make sure we have good roads and provide water along the roads in the northern part of this country. We can also provide facilities like schools, health centres, shops and others. If all these facilities are provided this area will become attractive for settlement by many communities.

Mr. Temporary Deputy Speaker, Sir, I would like the corporate bodies in this country to come up and do much more than the small things they have been doing here and there. It is Kenyans' money that makes it possible for Safaricom Limited to make a profit of over Kshs10 billion!

The BAT story will be for another day. However, we would like to ask these companies, that have raked in billions of shillings in profit, to plough part of their money back to the society. We can then ask the Minister to tax exempt them. They can then do much more. I would have loved to see a lot more done by the corporate world.

Mr. Temporary Deputy Speaker, Sir, my third point is on the issue of low-cost housing. I know that when His Excellency the President was launching the Vision 2030 for this country, there was pomp and optimism. However, we have to start somewhere. The other day, I was excited to read in the newspapers that money from the Retirement Benefits Authority (RBA) will be used to put up low-cost houses. We need to do much more!

I think the issue of slums and slum upgrading should move from the realm of discussion to that of reality. Things should start happening on the ground. We cannot be proud of the way the majority of our people live. Funds should be found, either through issuance of long-term bonds or through other means, to start putting up low-cost houses for our brothers and sisters.

Mr. Temporary Deputy Speaker, Sir, as I wind up, I would like to mention one thing in relation to raising of revenue for this country. This is the issue of Kenyans who live outside this country. We have very many Kenyans who live outside this country, and we must put in place mechanisms for them to invest back home. I know people have talked about many things like dual citizenship. We know this was not a contentious issue in the Draft Constitution. As we deal with the possibility of getting a new Constitution before the next general election - although I doubt this - we should appreciate that dual citizenship could be an incentive to our people living outside the country to invest back home. I feel we can amend the current Constitution in this House to make it possible for our brothers and sisters in the diaspora to invest back home.

The other day, I did some rough calculation and found that if each Kenyan out there were to invest US\$1,000 per year in this country, we would be talking of a staggering investment figure of Kshs70 billion. That is a lot of money. If we got that kind of money, we would not depend on the so called development partners, who come to this country and give us conditions to fulfil in return for aid, some of which are abominable. If we could get that kind of money, we would be able to come up with some programmes that will definitely lift the lives of our people. My concern has always been that we can never be proud to be Kenyans when 60 per cent of our people live in absolute poverty. There is absolutely nothing to be proud of when the majority of our people are living in absolute poverty and when doing a few things here and there can change the equation.

The challenge I would like to throw to some of the people who have declared that they want to contest for the presidency of this country is that they must be able to tell us, and this is the time, how they are going to lift the 60 per cent of Kenyans from the pit of poverty. Anybody who will convince me about that, I will give him my vote. Otherwise they should forget my vote because there are too many things that we talk about that do not help Kenyans. Unless we address the issue of poverty in this country because it goes hand in hand with unemployment, we cannot say that we are truly developing.

Mr. Temporary Deputy Speaker, Sir, as we look into ways of raising taxes, we should not be punitive. Many people have talked about the Capital Gains Tax. In my view, in the long run, that will be deceptive to our people in terms of investments in the housing industry. I would like to support my colleagues who made comments about taxation on idle land. Those are some of the areas that we need to look at in order to raise taxes.

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

Mr. Syongo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this particular Bill.

I would like to join my colleagues in thanking the Minister for Finance for the tremendous work that the Kenya Revenue Authority (KRA) has done. I am gratified that it is headed by my former classmate.

In order to be free from donor conditionalities because we are able to generate our own funds is a great achievement. For that reason, I would like to continue giving my support to the idea of Electronic Tax Registers (ETRs) and encourage the Minister to look beyond the formal sector by expanding the tax base and bringing on board the many small traders and what we now call the informal sector. I believe that if only we can create an environment for them to do business such as building business parks for our so-called hawkers, who are essentially small investors and small traders, we shall not only be able to create more job opportunities through expanded opportunities for them, but also increase our tax base.

However, I would also like to suggest that the issue of human resource management at KRA should also be looked at. I think we have cases where excellent officers have not been treated fairly to the extent that you have a feeling that in that organisation there is some kind of intimidation going on there. Officers who have been well-trained, and have the opportunity to add to the efficiency and capacity of that institution to the extent that it can, in fact, actually offer services to other countries in the region, feel discouraged because of lack of transparency on the management of the human resource.

Due process is a principle that should be encouraged in all our institutions. That does not seem to be happening at the KRA. I am making this comment, just not to criticise, but to give an opportunity for the management of KRA to make the necessary improvements.

Mr. Temporary Deputy Speaker, Sir, there are many reasons why we have taxation proposals. Taxation is not just for the purpose of collecting revenue. That, of course, is important. However, taxation should also be seen as an opportunity to encourage expansion of the economy by encouraging certain sectors, reducing taxation for them, encouraging them to expand and even encouraging investment. Taxation can also be used to redistribute opportunities, not necessarily income, so that there is equity in the growth and development of a society. It is equity and fair opportunity for all that, in fact, brings peace and stability in any nation. Any society that has skewed distribution of opportunities, automatically then has to experience the kind of insecurity that we are experiencing in our country. So that the attack on our persons and properties by criminals must also be seen in terms of inequity in the distribution of economic opportunities for our people. Taxation is an important and powerful tool that the Government can use in order to bring about equity and, therefore, deal with the problem of insecurity.

As we increase our tax revenue, I would like to ask the Minister to come out very boldly and with courage. I heard some of my colleagues saying that we are soon going to be a donor nation. How can we be a donor nation to outsiders when our roads are in pathetic conditions? How can we be a donor nation when the supply chain of some of our key commodities is distorted completely to the extent that we are not maximising our productivity in sectors which can create employment and wealth for our people? We cannot deal with poverty unless we expand our economies through investment. So, I would like to encourage the Minister to be bold in terms of using the tax revenue collected to bring about fundamental transformation of our infrastructure, the road network, increase reach of electricity supply and putting up innovative business industrial parks. I am convinced that Kenyans are so ingenious, hard working and creative that if the environment is right, if we can create affordable shopping malls in residential areas and our rural markets, they will take up these opportunities and invest.

Mr. Temporary Deputy Speaker, Sir, we may not have oil or any minerals although we are all excited and looking forward to the outcome of the test-drilling off our shores. However, we have a human resource. Today, remittances from outside Kenya by Kenyans working abroad is a major source of foreign exchange. I would like to encourage the Minister to, in fact, create incentives for Kenyans to invest in sophisticated modern training facilities; to prepare Kenyans, the human resource that we have and improve it to export quality standard. If you look at the paramedics, there is enormous opportunities for us to export paramedical staff, engineers and doctors. However, we do not have a clear strategy and we are not making the necessary public investment in institutions of excellence to train our human resource who can then go out there, work abroad, earn income and expand our economy beyond our borders.

The other day, we read about the launching of the Vision 2030, which is a product of the National Economic and Social Council. I commend this initiative! However, would it not have been wonderful even before that document was finalised, if hon. Members had the opportunity to look at it in its original draft and add value to it? I think that when you listen to hon. Members,

there are very many of them who are extremely creative and resourceful. I think that an opportunity should have been availed to them to add value. We know that a number of foreign experts were invited to add value to it, but how about the resource of Kenyans themselves adding value to it, so that it could come out as a product which we could all share its ownership, so that we could truly say that it belongs to us? I appreciate His Excellency the President's statement that Vision 2030 is not his own plan, but that of the Kenyan people. However, I feel that sufficient opportunity was not given to Kenyans to contribute to it, so that they could truly share in its ownership and, therefore, in its fulfilment. Nevertheless, I commend the initiative.

Mr. Temporary Deputy Speaker, Sir, specific references have been made to several proposed amendments of Acts of Parliament.

(Loud consultations)

The Temporary Deputy Speaker (Mr. M'Mukindia): Order! Order! Hon. Members, the level of consultations has gone very high. Please, let us bring it down.

Mr. Syongo: Thank you, Mr. Temporary Deputy Speaker, Sir.

Specific amendment proposals on some Acts of Parliament have been made. An amendment has been proposed in Section 60 of the Sugar Act, among others. Provision should have been made for the management of any revenue accruing from importation of sugar into this country. At another forum, the Government agreed that, in fact, if the difference between the import parity prices of imported sugar and the ex-factory prices of locally-produced sugar is multiplied by the total of 89,000 tonnes of table sugar and 110,000 tonnes of refined sugar, the results would provide a significant revenue base.

Mr. Temporary Deputy Speaker, Sir, if this revenue is properly managed by the Kenya Sugar Board, we should be able to deal with the safeguard measures we negotiated with COMESA, deal with the problem of upgrading plant and equipment of our sugar mills and install core generation systems within our sugar mills in order to produce electric power, ethanol, organic manure as well as paper products, so that we do not rely on table sugar as the only final product of sugar processing, which is what has made our sugar industry uncompetitive.

All countries that produce sugar competitively have adopted a cogent production system. That revenue should have been applied for that purpose. It should also have been possible to replace the current cane varieties, which give a maximum of 10 per cent sucrose, and which take 24 months to mature. Countries like Mauritius, India and Sudan use sugar-cane varieties that take between eight and 11 months to mature, and which have sucrose levels of up to 12 per cent. That is why those countries' sugar industries are more competitive than Kenya's sugar industry.

Mr. Temporary Deputy Speaker, Sir, we have missed opportunities but I believe that there is still an opportunity for us to do something about our sugar industry in the remaining 14 months of this Parliament, so that we do not just rely on taxation but also rely on revenue generation from imported sugar.

Prof. Mango: On a point of order, Mr. Temporary Deputy Speaker, Sir. This debate has gone on for long enough. We are now repeating ourselves. So, would I be in order to move that the Mover be now called upon to reply?

(Applause)

The Temporary Deputy Speaker (Mr. M'Mukindia): Fair enough! Let us give Mr. Syongo time to finalise his contribution and then we will hear from the Official Responder.

Mr. Syongo: Mr. Temporary Deputy Speaker, Sir, let me make my final remarks on a

fundamental issue. The Finance Bill includes very serious and important proposed substantive amendments to the Central Bank of Kenya Act, the Banking Act and several other Acts of Parliament. I plead with the Minister to remove those amendments and bring them as amendments to the substantive Acts of Parliament. As it is, they are all hidden in this document as Miscellaneous Amendments, and yet, they are so important and fundamental. It would be a pity if we do not give Parliament the opportunity to interrogate those amendments and look at the policy implications of them. We should not just gloss over them, since they appear here as Miscellaneous Amendments.

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

The Temporary Deputy Speaker (Mr. M'Mukindia): It is now time for the Mover to respond.

The Minister for Finance (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I realise I still have a lot of time and I would like to donate five minutes of my time to Mr. Oparanya.

The Temporary Deputy Speaker (Mr. M'Mukindia): Fair enough!

Proceed, Mr. Oparanya!

Mr. Oparanya: Mr. Temporary Deputy Speaker, Sir, I take this opportunity to thank the Minister for having come up with quite good proposals which will ensure that we have adequate revenue to run the economy of this country. I would like to thank the Minister for having favoured the agricultural sector. He has come up with measures that will promote the agricultural sector by allowing farm work to increase from 33.5 per cent to 50 per cent. This means that people in the agricultural business are likely to write off their capital investment in two years instead of three years. The Minister has also zero-rated VAT on tractor tyres, semi-trailers and also on transportation of raw materials. However, the zero-rating of VAT on transportation of raw materials has not helped the farmer because the Minister increased fuel levy by Kshs3.20. That has had a negative effect.

Mr. Temporary Deputy Speaker, Sir, I also want to thank the Minister for having considered our request, as one of the hon. Members of the Departmental Committee on Finance, Planning and Trade, to remove the Sugar Development Levy (SDL). He had proposed that farmers should incur that cost. He has now decided that it be levied on consumers.

Mr. Temporary Deputy Speaker, Sir, I come from the sugar growing zones. We have been requesting that taxes within that industry be reduced. The sugar industry supports about 6 million people. Unfortunately, the Minister has not considered zero-rating VAT in the sugar industry. In order for the sugar industry to be competitive, it is important we remove many of these taxes. The sugar industry, for example, has various taxes such as the VAT, which is at 16 per cent, the cess, which goes to the local authorities, at one per cent, the SDL at seven per cent, the Corporation Tax at 30 per cent, the Withholding Tax at 10 per cent, the Fuel Levy and the Customs and Excise Duty. How can we be competitive, especially now that the COMESA safeguard measures are ending in February, 2008? It is my humble request that, in future, the Minister will consider removing these taxes in this industry all together.

Mr. Temporary Deputy Speaker, Sir, the other thing that I would like the Minister to consider is the Capital Gains Tax. This tax was suspended in 1985. However, the Minister intends to re-introduce it.

With those few remarks, I beg to support.

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

I am very grateful that the hon. Members have shown their dedication by making very constructive contributions when debating the Finance Bill, 2006. Indeed, the Bill has taken far much longer than I anticipated when I moved it last week.

My Ministry too, has benefited from the insights which have come from the Floor of this august House. The outcome of this process in addition to accepting the Finance Bill, 2006, is that my Ministry and the House have built consensus on a few critical issues that were earlier thought to be contentious and that may have created some discomfort, not just in the House, but also in the country. I would consequently like to briefly highlight a few areas where consensus has been built. I mentioned yesterday that Clauses 60 and 61 of the Finance Bill, 2006, on the Sugar Development Levy, will now be deleted. I will be moving these amendments at the Committee Stage.

Mr. Temporary Deputy Speaker, Sir, with effect from 1st January, 2007, the Sugar Development Levy will be collected by the Kenya Revenue Authority as Exchequer revenue. This will address the anomalies that are there within the law, that we were seeking to address by shifting the levy to the farmers. We will now make it an Exchequer issue and the money will subsequently be appropriated through this House to the Ministry of Agriculture for onward disbursement to the Kenya Sugar Board, which will hopefully make sure that the beneficiaries are the sugar-cane farmers, so that the sugar industry can be developed. The other area that I believe we will reach consensus is on Withholding Tax on finance leases, which will now be lowered from 15 per cent to 3 per cent of the gross payment.

I must thank hon. Syongo for having brought to our attention the issue of the industry that had been left out when we were giving incentives to the farmers. We had forgotten the fishing industry. We will be bringing an assortment of items under the fishing industry and then zero-rate Value Added Tax (VAT) on them. We will also incorporate our youths by zero-rating VAT on welding equipment. As much as we have given them Kshs1 billion from the Youth Enterprise Fund, we also need to empower them by giving them tax concessions, so that they can become entrepreneurs. We will be bringing that amendment in order to help our youth.

Mr. Temporary Deputy Speaker, Sir, the insurance industry came to us and we listened to them since they are the players. They have promised to be better regulated. They will pass on the money to the insurance companies and hence, we do not need to raise the guarantee, as we had proposed, to Kshs5 million. We have negotiated and they are comfortable with the figure of Kshs3 million. We need to get an assurance from the brokers, so that we can secure money for the people who are buying insurance covers. By leaving the guarantee at Kshs3 million and also removing the provision that we had included that this should be guaranteed by the Central Bank, then they can negotiate with their bankers on the terms under which they can get that guarantee. That is a major development in our effort to review the Insurance Act.

Mr. Temporary Deputy Speaker, Sir, I have also noted that hon. Members have also pointed out a couple of other issues, and I believe that we also discussed these issues with the Finance, Planning and Trade Committee. I would just like to touch on one or two of these issues for purposes of ensuring clarity so that by the time we go to the Committee of the Whole House, and I would be happy to explain this issue further, we can think of them in terms of what we are doing.

The first issue that seems to be generating some discomfort and controversy is on that amendment to the Central Bank of Kenya Act by introducing the position of a chairman. The Central Bank of Kenya Act, Cap.491, is very clear in terms of the responsibilities of the Governor and the Board. But within it, if you look at Sections 10 and 13, which define the responsibilities of the two, you will find that the role of the Board is clear, and that is to define the policy of the bank. On the other hand, Section 13 says: "The Governor shall act under the policy as set out by the Board". But, then, within itself, it also says that the Governor shall be the Chairman of the Board. So, basically what we are saying is that the Governor will sit as the Chairman of the Board, formulate policy and then sit as the Governor or as the Chief Executive, as defined by Section 13 and implement his own decisions. This is the mischief we are trying to define by saying let us empower our Central Bank of Kenya. Let us give it independence. Let us look at that institution of

the Board with a clear mandate to formulate the policy of the bank. Let us give them an independent chairman so that when the Board sits, they can formulate policies and oversee the work and implementation of this policy by the Chief Executive Officer, who is the Governor.

When you look at the law as we amended it in 2004, the other issue that has been of concern is that, will the Governor continue to be in charge of the monetary policy? That is very clearly stated within the law. In fact, this very House in 2004, introduced an amendment to the Central Bank of Kenya Act that created a Monetary Policy Advisory Committee that is chaired by the Governor and is charged with the responsibility of formulating the monetary policy and advising on what happens. So, what we are doing here will not bring any conflict at all. We would like to assure the House that, from the advice we have received so far, it will not bring any conflict between the Governor and the Board. In fact, it will insulate the Governor from any interference because he now has an independent Board to protect him and the institution of the bank. That is what we are seeking to get here; we are strengthening our Central Bank of Kenya, which is a critical institution in this country. We also seek to strengthen the Board, therefore, shielding the Governor from unnecessary interference and also ensuring that the Board and the Governor can work in harmony without wondering who is the boss at what time. The Board of Directors that we will appoint will no longer be answerable to the Chairman of the Board, who is also the Governor and at the same time, the employee of the Board. That is the kind of thing that we really want to bring for better governance of the Board.

So, Mr. Temporary Deputy Speaker, Sir, I would really like to appeal to the House to see the good intentions we have in this amendment. Let us look at it now. Let us not wait until we look at the comprehensive Banking Act, because we are not sure when that Act will come here, or having to bring in a full amendment to the Central Bank of Kenya Act because of one item that we could dispense with in this House in good faith. We know that we are doing it for the good of this country and to secure the future of our children.

Mr. Temporary Deputy Speaker, Sir, the other issue that has come out in terms of the feelings by some hon. Members is that, perhaps, the Finance Bill should not bring some amendments and these should be brought in within the substantive Acts. But I think that what we need to ask ourselves is: "Has there been any limitation in the debate on these amendments, whether brought through the Finance Bill or through the substantive Acts?"

If the debate has not been compromised, then we could contribute to them well. If we make the amendments, they will end up amending the main Act. The House will at any time look at the Acts and make amendments to them, if it does not believe they are right. However, I would like to just confirm that we have taken pain to go through those Acts in terms of the issues that we need to address, to enhance our competitiveness as a country and support our business sector in terms of reduction on cost of doing business and the ease with which they operate. I believe that all the amendments that we brought here are intended specifically for that.

I would like also to mention that this House has an obligation to Kenyans in terms of the promotion of equity; bridging the gap between the rich and poor. It is on this basis that Kenyans themselves said that they would like to see everyone of them paying their fair contribution of tax. We looked at it and agreed that even constitutional office holders should pay some tax on some allowances. We agreed that we cannot tax their salaries until there is a wider review of the Constitution. But there are some allowances like housing and entertainment that are not covered by the Constitution. We agreed that, at least, as a gesture to the rest of the Kenyans, let them pay tax on them. We believe that what we are doing is not offending the Constitution. I would like the House to support us, at least, in ensuring that, that gets done.

The only other item I would like to mention in that regard is the Capital Gains Tax. Hon. Members have suggested that we should be taxing idle land. The effect is the same. But let us

promote our people to invest in marketable securities. We have agreed that we will not tax capital gains on the sale and purchase of bonds and stocks on the Stock Exchange. We will also not tax the capital gains on the sale of motor vehicles. But in terms of land, people had the freedom to transact for 20 years. The property market is very well developed. I think it is time that people who are benefiting from the buying and selling of property also made a contribution to the society through the paying of taxes on their gains, because that is the same money we need to provide them with security and infrastructure that property. If people cannot contribute, then we will be sending a signal that we are taxing the poor who are selling their goats, and exempting the rich who can afford property. By so doing, we will not be a caring society.

Mr. Temporary Deputy Speaker, Sir, I believe that I have covered most of the issues that were raised.

Mr. Temporary Deputy Speaker, Sir, I know that the other issue that was raised is, perhaps a misinformation; that we may be targeting a specific industry, or bringing measures that favour a specific industry. I would like to confirm that we, as a Government, are looking at the big and small manufacturers in this country. They are the people we are trying to promote. There is no tax measure that is targeting any specific person. We want everything to grow in a harmonized way.

Mr. Temporary Deputy Speaker, Sir, more specifically, on the issue of wines and spirits, we are trying to create some harmony. We have raised taxes on them and ensured that on a percentage basis there is some parity. By raising taxes on wines from 45 per cent to 65 per cent, we were actually correcting an anomaly. This is because since 2002 their prices have never been changed. This was because the tariffs had been forgotten from the schedules.

By harmonizing the tariffs charged on wines with those charged on beer, then every person who drinks them should contribute the same in terms of Excise Duty. Any other interpretation is not what we intended.

I believe that I have comprehensively answered the concerns that were raised on the Floor of this House. I would like to say that it is our intention to promote our industries. We are harmonizing them and ensuring that they are not unduly affected by the tax increases. But those who can afford can contribute to the kitty.

With those few remarks, I beg to move and ask the House to support this Bill.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. M'Mukindia): Hon. Members, for the convenience of the House, we now do adjourn until tomorrow Thursday, 2nd November, 2006 at 2.30 p.m.

The House adjourned at 6.30 p.m.