

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 2nd November, 2005

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

**Mr. Speaker:** Hon. Members, as we get on to Questions, you will notice from your Order Paper the amount of work we are supposed to do between now and tomorrow. Today, Question Time will last for 30 minutes! So, we will proceed on that basis.

### QUESTIONS BY PRIVATE NOTICE

#### RECALLING OF UNCOLLECTED ID CARDS FROM DISTRICT CENTRES

**Mr. Marende:** Mr. Speaker, Sir, I beg to ask the Minister for Immigration and Registration of Persons the following Question by Private Notice.

(a) Is the Minister aware that the Government recently recalled over one million uncollected national identity cards from district centres?

(b) Could the Minister assure the House that the aforesaid identity cards are not going to be put to illegal use in the light of the impending referendum?

(c) What immediate action is she taking to ensure that the rightfully registered persons receive their identity cards that have been recalled?

**Mr. Speaker:** Is the Minister for Immigration and Registration of Persons there? She is not there. I hope she will come.

Next Question by Mr. Muiruri!

#### MEASURES TO SAVE KPCU FROM COLLAPSE

**Mr. Muiruri:** Mr. Speaker, Sir, I beg to ask the Minister for Co-operative Development and Marketing the following Question by Private Notice.

(a) Is the Minister aware that the only coffee owned farmer's organisation, the Kenya Planters Co-operative Union (KPCU) is on the verge of collapse due to liquidity problems?

(b) If the answer is in the affirmative, what measures is the Minister putting in place to save the organisation?

**The Minister for Co-operative Development and Marketing (Mr. Ndwiga):** Mr. Speaker, Sir, I beg to reply.

(a) I am not aware. However, the KPCU has recently been experiencing intermittent cash-flow constraints due to non-payment of credits extended to some of its members.

(b) All debtors who owe the organization money and have diverted their produce to other millers have been directed to honour their obligations to the KPCU.

In addition to this, my Ministry is implementing a Cabinet decision on the restructuring of the KPCU that will improve its performance.

**Mr. Muiruri:** Thank you, Mr. Speaker, Sir. The Minister has said that he is not aware that the KPCU is facing liquidity problems. At the same time, he has said that the organization experiences cash-flow constraints. I do not know what he is talking about. The truth is that for the last two years or so, the KPCU has enjoyed the marketing and milling to the tune of about 80 per cent of the coffee industry. What has happened of late?

**Mr. Speaker:** Mr. Muiruri, you are now debating!

**Mr. Muiruri:** Mr. Speaker, Sir, what has happened of late? Could the Minister tell us why the KPCU is experiencing cash-flow problems of late to the extent that it was unable to pay last month's salaries? The September salaries were paid last month. The KPCU is late in paying its workers salaries.

**Mr. Ndwiga:** Mr. Speaker, Sir, I have clearly said that the KPCU has had a some cash-flow problems because of diversion of coffee to other mills, but we are doing something about it.

**Mr. Muiruri:** Mr. Speaker, Sir, this Question is not being properly addressed. I am not debating but I have been a director of the KPCU and I know what is going on. As I have said, the organization faces cash-flow problems---

**Mr. Speaker:** Order, Mr. Muiruri! If you are a director of the KPCU, you should tell the House what is going on!

**Mr. Muiruri:** Mr. Speaker, Sir, you did not get me right. I am not a director of the KPCU now. I left the organization more than 10 years ago. The cash-flow problems the KPCU is facing are not as a result of the debts of Kshs3.1 billion that the Minister has talked about. Out of the 50 first debtors who owe the KPCU about Kshs2.4 billion, 23 are dead. So, those debts are not recoverable. Among the debtors on the list, a further 26 are dead. These debts are not recoverable at all. The Minister should admit that the debts date back to 15 to 30 years and most of the debtors have died. Since the Minister has written-off the debts of the Co-operative Bank of Kenya totalling Kshs5.8 billion and the Government has also written off the debts of the National Bank of Kenya (NBK), could he write-off the KPCU debts because they are not recoverable? Those debts were crop advances which were not properly charged in the banks. Those are figures in the KPCU books of account. Could the Minister consider writing-off those debts to save the KPCU because it cannot operate now? He knows very well that it will collapse.

**Mr. Ndwiga:** Mr. Speaker, Sir, first of all, it is not true that the KPCU will collapse. This organization is very steady. I have said in my answer that the Government is restructuring the KPCU. I assure the hon. Questioner that the KPCU is now functioning better than when he was a director. Some of the problems which have arisen, and he has confirmed this, date back to the time when he was a director of the KPCU.

*(Laughter)*

I would like to inform the House that those debts are recoverable. Indeed, you have noted from the tone of the Questioner that he has other interests. The people who owe the KPCU money will pay despite the number of Questions that will be asked.

**Mr. Muiruri:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to imply that I owe the KPCU a penny when I do not? Is he in order to---

**Mr. Speaker:** Order! I said the other time that I do not want the coffee wars but apparently, they are unending. The Minister has said that the genesis of the problem that is being addressed now dates back to the time when you were a director. You have said that the debts are 10 years old and you ceased to be a director of the KPCU 10 years ago!

**Mr. Muiruri:** On a point of order, Mr. Speaker, Sir. When I was a director of the KPCU, it performed very well. The intake was about Kshs1.5 billion. The KPCU is collapsing because the Minister for Co-operative Development and Marketing has personal interests.

**Mr. Sambu:** On a point of order, Mr. Speaker, Sir. Mr. Muiruri has just concluded by

alleging that the KPCU is collapsing because the Minister for Co-operative Development and Marketing has personal interests. That is what he has said.

Could he substantiate his remarks or withdraw them?

**Mr. Muiruri:** Mr. Speaker, Sir, I said that because the Minister is involved in the KPCU business and insurances.

*(Applause)*

**Mr. Ndwiga:** Mr. Speaker, Sir, I do not want to stoop to that level. I would like to state categorically that I am not involved in any business with the KPCU. I would also like to say that Mr. Muiruri is one of those directors who made the KPCU incur debts!

*(Applause)*

**Mr. Speaker:** Order! I suppose that is why the KPCU has a Board of Directors. I think you can go and sort that out!

**Mr. Mwanicha:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** You will not take me back to that Question! Could you sit down? Let us go back to Mr. Marende's Question

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CARDS FROM DISTRICT CENTRES

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(a) Is the Minister aware that the Government recently recalled over one million uncollected national identity cards from district centres?

(b) Could the Minister assure the House that the aforesaid identity cards are not going to be put to illegal use in the light of the impending referendum?

(c) What immediate action is she taking to ensure that the rightfully registered persons receive their identity cards that have been recalled?

**Mr. Speaker:** Anyone here from the Ministry of Immigration and Registration of Persons? Mr. Marende, what do I do with your Question?

**Mr. Marende:** Mr. Speaker, Sir, bearing in mind the nature of this Question because it is urgent, could it be deferred to tomorrow because it cannot be answered today?

**Mr. Speaker:** I defer the Question to tomorrow and ask the Clerks-at-the-Table to specifically ensure that the Minister has been informed that the Question will appear on tomorrow's Order Paper!

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

*(Question deferred)*

ORAL ANSWERS TO QUESTIONS

*Question No.344*

WHEREABOUTS OF MR. MUTUA MATHITU

**Mr. J.K. Kilonzo** asked the Minister for Home Affairs:-

(a) whether he is aware that Mr. Mutua Mathitu was arrested in October, 1996 and detained at Kitui Police Station;

(b) whether he is also aware that while Mr. Mutua was at the police custody he fell ill and was taken to hospital but has since never been seen; and,

(c) whether he could inform the House the whereabouts of Mr. Mutua Mathitu.

**Mr. Speaker:** Your Excellency, the Vice-President and Minister for Home Affairs, I think you answered this Question. You were supposed to find out how this fellow disappeared.

**The Vice-President and Minister for Home Affairs** (Mr. Awori): That is correct, Mr. Speaker, Sir. I was required to produce evidence that, indeed, this man left prison. I have the pleasure to bring to this House the signature he appended to a document on release.

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

**Mr. Speaker:** Mr. J.K. Kilonzo, have you seen that document?

**Mr. J.K. Kilonzo:** Mr. Speaker, Sir, I have not seen it. The copy of the written answer I am holding is the same one I was given last time.

**Mr. Speaker:** You can approach the Dispatch Box and look at the document that Mr. Mathitu signed when he left prison.

*(Mr. J.K. Kilonzo approached the Dispatch Box and consulted with the Clerks-at-the-Table)*

**Mr. J.K. Kilonzo:** Mr. Speaker, Sir, I have had the opportunity to look at the document tabled by the Vice-President and Minister for Home Affairs, but there is no way I can verify that this is, indeed, the signature of the prisoner.

Mr. Speaker, Sir, on a more serious note, last week after this Question was deferred for the eighth time, I managed to travel to my Constituency and visited the parents of the prisoner. I would like to inform the Vice-President and Minister for Home Affairs, that the prisoner's father confirmed that they took this man to the police station because he was of unstable mind. After he was arrested, he was then taken to hospital. Three to four months thereafter, his parents went to check on him at the prison, but he could not be produced by the prison warders in Kitui.

I am surprised that the Vice-President and Minister of Home Affairs has produced this document. The issue is not just about producing a signature here. This man is still at large and this document does not confirm that he was the one who signed it.

**Mr. Speaker:** Could you now let him now answer your supplementary question?

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Speaker, Sir, this was among the few prisoners who were released on Kenyatta Day, in 1997 and each of the released prisoners signed a document on release.

Mr. Speaker, Sir, I have no reason whatsoever to doubt that this prisoner did append his signature, because I have produced the document to prove my case. There is no other way I can prove his release.

**Mr. Speaker:** I suppose that ends the matter. Could you ask your last question?

**Mr. J.K. Kilonzo:** Mr. Speaker, Sir, could His Excellency the Vice-President and Minister for Home Affairs confirm to this House that, indeed, Mr. Mathitu was of unsound mind when he was in prison? This is a serious matter because this young man has gone missing. Mere production of

signatures is not proof enough that he is alive.

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Speaker, Sir, indeed, when this man was arrested, he was taken to hospital because he was sick. I cannot say what kind of sickness he had and whether he was of unsound mind. There is nothing I can do other than go back to the records and ask the doctors who treated him.

*Question No.508*

DEATH GRATUITY FOR  
MR. WAHID KHAN'S WIDOW

**Mr. Shaaban** asked the Minister for Labour and Human Resource Development:-

- (a) whether he is aware that Mr. Wahid Khan (PF 235), an employee of Nakuru Industries Ltd., died at his place of work after an object fell on his chest on 12th September, 2001, but his next of kin has never been paid death gratuity to date;
- (b) whether he is further aware that the wife of the deceased, Mrs. Shahim Khan, has repeatedly been turned away from the Ministry of Labour and Human Resource Development when she goes there to seek redress; and,
- (c) what action he is taking to ensure that Mrs. Khan is fully compensated for the loss of her husband.

**The Minister for Labour and Human Resource Development** (Dr. Kulundu): Mr. Speaker, Sir, I beg to reply.

(a) I am aware of the death of Mr. Wahid Khan on 12th September, 2001 which was caused by a heart attack (cardiac arrest) at his place of work and not by an object falling on his chest, as alleged.

(b) I am not aware of the wife of the deceased, Mrs. Shahim Khan, being repeatedly turned away from the Ministry of Labour and Human Resource Development offices when she goes to seek redress and, in fact, records indicate that, to date, she has not lodged any complaint with regard to this matter.

(c) I wish to ask Mrs. Shahim Khan to immediately lodge an official complaint with the District Labour Officer, Nakuru, who will in turn expeditiously investigate and demand for payment of dues, if any.

**Mr. Shaaban:** Mr. Speaker, Sir, I would like to thank the Minister for the answer. However, is he aware that the next of kin of Mr. Wahid Khan who is his wife has not been paid any dues at all since his death at his place of duty and the company has since been wound up? How will she be paid, incase she has any dues to be paid?

**Dr. Kulundu:** Mr. Speaker, Sir, as I have said, the wife of the deceased has not lodged any complaint with my Ministry. Indeed, if it is proved that this worker died while on duty and the employer has not reported his death, then my Ministry would take appropriate action against him because it is provided for in the Employment Act.

**Mr. Sasura:** Mr. Speaker, Sir, the Ministry of Labour and Human Resource Development has the reputation of not dealing with cases expeditiously. The Ministry keeps referring most employees with complaints to their respective labour officers. It becomes very difficult for those working in Nairobi who have complaints to be assisted by the District Labour Officer in Nairobi because they are under-staffed.

Could the Minister institute reforms in his Ministry to give it a better image? This is becoming a vicious circle which is endless and workers are being taken for granted. They are mistreated and are

not paid their dues, especially by Asian firms in this country.

**Dr. Kulundu:** Mr. Speaker, Sir, while I agree with the sentiments expressed by the hon. Member, I must say that in this particular case, the deceased was working in Nakuru and it is only proper that the Nakuru District Labour Officer handles this issue.

*(Dr. Khalwale walked into  
the Chamber amidst applause)*

**Mr. Speaker:** Order! How do hon. Members celebrate the entrance to the Chamber of an hon. Member who was expelled? That is celebrating dishonour. Proceed, Dr. Kulundu!

**Dr. Kulundu:** Mr. Speaker, Sir, the Nakuru District Labour Officer should investigate this case. I just want to add that my Ministry has in the recent past hired five Judges of the Industrial Court. We have plans to decentralise the Industrial Court to Mombasa and Kisumu in order to expedite the processing of complaints from workers.

**Mr. Speaker:** Last question, Mr. Shaaban!

**Mr. Shaaban:** I am satisfied, Mr. Speaker, Sir.

*Question No.645*

ALLOCATION OF VEHICLE TO WAJIR DSDO

**Mr. Abdirahman** asked the Minister for Gender, Sports, Culture and Social Services:-

- (a) how vehicles are allocated to District Social Development Officers in the country; and,
- (b) when the Government will allocate a vehicle to the District Social Development Officer in Wajir.

**Mr. Speaker:** Where is the Minister for Gender, Sports, Culture and Social Services? Sorry, he is not here!

**Mr. Abdirahman:** Mr. Speaker, Sir, if you recall, this Question was deferred last week when the Minister said that he was not happy with answer he had at that time. So what do we do in such circumstances, because this Question has gone unanswered for sometime now?

**Mr. Speaker:** I really do not know what to do. Maybe the Vice-President and Minister of Home Affairs could help us. Mr. Awori, what is happening?

**The Vice-President and Minister of Home Affairs (Mr. Awori):** Mr. Speaker, Sir, I think we are sailing in the same boat. I just do not know what has happened.

**Mr. Speaker:** Very well! We will find out what happens. I am sorry about it.

**Mr. Abdirahman:** Mr. Speaker, Sir, maybe some of the Ministers are not able to combine their responsibilities with the on-going referendum campaign. I think the on-going campaigns have affected some Ministers.

**Mr. Speaker:** Well, I suppose that is why we would have to adjourn the House. I defer this Question generally.

*(Question deferred)*

*Question No.179*

AMOUNT OF GM FOOD IMPORTS  
SINCE 2002

**Mr. Ndolo** asked the Minister for Agriculture whether he could inform the House the amount of genetically modified foods which have been imported into the country since 2002.

Mr. Speaker, Sir, I remember this Question was answered last year.

**Mr. Speaker:** Was it answered last year?

**Mr. Ndolo:** Yes, Mr. Speaker, Sir. I do not know these Ministers of *Ndizi* eat---

**Mr. Speaker:** Order! Order! I told you hon. Members to keep those issues out of the House.

Mr. Ndolo, you have all the weekend to go and deal with that issue. For the time being, let us deal with parliamentary issues. Do you really want the Question to be answered?

**Mr. Ndolo:** Well, Mr. Speaker, Sir, I am satisfied with the answer.

**Mr. Speaker:** Very well! Last Question, Dr. Ali!

*Question No.396*UTILIZATION OF LATF MONEY IN  
WAJIR COUNTY COUNCIL

**Dr. Ali** asked the Minister for Local Government:-

(a) whether he could inform the House the amount of money sent to Wajir County Council from LATF since the Fund's inception; and,

(b) whether he could further give a detailed account of how the funds were utilized.

**The Assistant Minister for Local Government** (Mr. Tarus): Mr. Speaker, Sir, before I answer this Question, may I apologize to the House for the inconvenience caused yesterday.

I beg to reply.

(a) According to our records, the total amount of money sent to Wajir County Council from LATF since the Fund's inception in 1999/2000 financial year to date, is Kshs132,480,277.

(b) The amount of LATF money sent to Wajir County Council was utilized as follows: Service delivery, Kshs80,032,878 and performance projects, Kshs52,451,597.

Thank you.

**Dr. Ali:** Mr. Speaker, Sir, this is the most interesting answer I have ever had in my life. Could the Assistant Minister tell us what "performance" and "service delivery" mean, because Wajir County Council does not exist as far as I am concerned. So, what do those words mean?

**Mr. Speaker:** Do you mean that it does not exist?

**Mr. Tarus:** Mr. Speaker, Sir, Wajir County Council exists. The implication of the word "performance" is to cater for the budget of the operations of the council together with the project implementation within that particular Council.

**Mr. Abdirahman:** Mr. Speaker, Sir, I support Dr. Ali in the sense that we know that Wajir County Council exists, but much of that money is utilized to continue paying debts that do not end. We have kept on asking this Ministry to provide clear guidelines on the usage of LATF funds.

Could the Assistant Minister clearly spell out to this House how that money should be spent? According to the guidelines he has outlined, which of the issues he has mentioned fit in that category?

**Mr. Tarus:** Mr. Speaker, Sir, I will indicate briefly the purpose of LATF. LATF is supposed to help councils in operational functions. It is also supposed to help councils fund projects that have been prioritized by those particular councils.

Mr. Speaker, Sir, I indicated that this particular council has had projects implemented on the operational side for the financial year 1999/2000 to the year 2004/2005. The amount spent is indicated in a list which I can lay on the Table.

Let me read the amounts spent on the projects for the purpose of clarifying to the hon. Member. The following projects completed by Wajir County Council in the following constituencies were implemented in 2000/2002 in Wajir North Constituency: In the financial year 2000/2001, Kshs300,000 was spent on projects named in a list which I have here. If I were to read---

**Mr. Speaker:** Lay the list on the Table. I thought you gave a copy to Dr. Ali.

**Mr. Tarus:** I hereby lay the list on the Table.

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

**Mr. Sirma:** Mr. Speaker, Sir, allocation of LATF funds has been a way of siphoning money out of the Government to councils which cannot perform. I am sure the hon. Member for Wajir North is not only asking---

**Mr. Speaker:** Order! Order! Where is that document which was laid on the Table by the Assistant Minister so that Dr. Ali can have a look at it?

*(The Clerk-at-the Table handed over the document to Dr. Ali)*

**Mr. Sirma:** Mr. Speaker, Sir, I think what the honourable House should be told is what specific projects which can be seen on the ground should be financed with the LATF funds. If the hon. Members who come from that area cannot see anything on the ground then, definitely, the money has been used in other ways.

The Assistant Minister should identify specific projects which can be seen on the ground that have been financed through the LATF funds. There is a ratio or percentage for debt resolution and there is a ratio for each and every sector. We would like to see those tangible projects. We are being whipped on the Constituency Development Fund (CDF), but nobody is talking about LATF.

**Mr. Tarus:** Mr. Speaker, Sir, I would like to thank the hon. Member for the issues he has raised. If the funds have not been utilized properly in Wajir County Council, we would be glad to get that particular information from the hon. Member. But suffice it to say, we are able to launch investigations on the projects indicated if, indeed, they have been implemented.

**Dr. Ali:** Mr. Speaker, Sir, according to what the Assistant Minister has laid on the Table, for the last financial year, 2004/2005, he has indicated that a total of Kshs35,896,000 was given to Wajir County Council. Out of that money, it is claimed that Kshs2.6 million went to stationery, Kshs7.2 million to projects and Kshs18 million to personnel, while Kshs8 million was spent on operations and maintenance.

Is the Assistant Minister satisfied with the list he was given from Wajir County Council regarding the projects and salaries paid to personnel? Nearly half of the councillors have not been given their salaries for the last 10 months. Also, nearly half of the workers working for the county council have not earned their salaries for the last three years. I want to know where this money went.

Mr. Speaker, Sir, two months ago when I raised this Question, a team was sent to Wajir. I met them in a hotel and they did not recognize me, when they were thanking one of the cashiers of the county council for doing a good job of giving them a warm send-off. I suspect they were bribed to give a false report.

Is the Assistant Minister prepared to send an extra-ordinary team to Wajir County Council so that we know what exactly happened to that money in the last five years?



**Mr. Tarus:** Mr. Speaker, Sir, I am most obliged. We shall send the investigators.

**Mr. Speaker:** Very well!

**Mr. Mwandawiro:** Hoja ya nidhamu, Bw. Spika. Ningependa kumuomba Waziri Msaidizi achukulie Swali hili kuhusu pesa za LATF kwa maanani sana, kwa sababu nimeshawahi kuliuliza hapa Bungeni hapo awali. Pia, ningependa kumwomba Waziri Msaidizi atembelee mabaraza yote nchini ili ahakikishe kwamba pesa za Serikali zinatumika vizuri.

**Mr. Speaker:** I am sure he has heard that.

**Mr. Tarus:** Mr. Speaker, Sir, I had indicated earlier on, that we are ready to do exactly what he is requesting.

**Mr. Speaker:** That is the end of Question Time.

What is it, Mr. Ndambuki?

### POINT OF ORDER

#### FAILURE BY HON. TUJU TO ISSUE A MINISTERIAL STATEMENT

**Mr. Ndambuki:** On a point of order, Mr. Speaker, Sir. Yesterday, I was promised a ministerial statement from the Minister for Information and Communications.

**Mr. Speaker:** Where is Mr. Tuju? I saw him this morning. Mr. Awori, have you got his statement? Do you want to read it on his behalf? If I may ask---

*(Loud consultations)*

Order! Order, hon. Members! Is this not contempt of the House, when Ministers are asked to come to the House to give ministerial statements, and they deliberately go away before they do that? Would Mr. Tuju be told in very clear terms that the House and the Chair are very displeased, and he should come here tomorrow to read his ministerial statement.

**Mr. Sirma:** On a point of order, Mr. Speaker, Sir. With such habits of Ministers belittling the House, would it be in order that we name such a Minister?

**Mr. Speaker:** Well, I will give him the benefit of doubt because it is 3.00 p.m.

I would like to emphasize that the House begins at 2.30 p.m., and for the benefit of the House, even tomorrow we shall deal with Questions until 3.00 p.m., only and the remainder of the time, we shall proceed with the Business of the House.

I am sorry, Mr. Ndambuki, I hope the Ministerial Statement will be read tomorrow.

**Mr. Sasura:** On a point of order, Mr. Speaker, Sir. You will remember that even in the Eighth Parliament, the same trend went on; that when hon. Members asked Questions, Ministers were not there to answer, or they were in the House but somehow sneaked out of the Chamber. I would like to suggest that the Standing Orders Committee looks into our standing orders so that there is a way to deal with missing Ministers or hon. Members, because it is an abuse and contempt of this House.

**Mr. Speaker:** I am sorry, Mr. Sasura, because we already have provisions on what to do. Mr. Sasura, I suppose you are trying to advocate for somebody without doing it exactly in the right way. We have sufficient powers including what was asked of me. So, can we hope that we do not use those powers and that the ministers will respect the House? That is all.

Next Order!

### PROCEDURAL MOTION

#### EXTENSION OF HOUSE SITTING

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Speaker Sir, I beg to move:-

THAT, notwithstanding the provisions of Standing Order No.17(1) and (2), this House orders that today's sitting be extended from 6.30 p.m. to 8.30 p.m.

Mr. Speaker, Sir, this is a Procedural Motion. We have several businesses that we would like to transact before we go on recess. The Minister for Finance moved the Finance Bill and only one hon. Member had the chance to make his contribution. I know that this is a Bill which is of great interest to the House and we want to give as many hon. Members as possible the opportunity to do so.

We also have other Bills that we need to deal with before we go on recess, which is scheduled for tomorrow. I, therefore, wish to ask hon. Members to support this Motion that we sit until 8.30 p.m., this evening.

With those few remarks, I beg to move.

**The Assistant Minister for Local Government** (Mr. Tarus)(seconded)

*(Question proposed)*

**Mr. Omingo:** Mr. Speaker, Sir, I support the Motion. However, I would also like to urge hon. Members to treat matters in this House with diligence. The Whips should ensure that there is quorum so that we can pass the Bills on the Order Paper. However, they should not use this chance to sneak in critical Bills towards the late hours of the evening.

Thank you, Mr. Speaker, Sir.

**Mr. Ndambuki:** Mr. Speaker, Sir, I know that this is a Procedural Motion, but my concern is the quorum. We could go ahead and pass this Motion, but at the end of the day, you will find that only a few of us are in the Chamber. We cannot keep on passing Bills when we actually do not have the quorum. If the Vice-President and Minister for Home Affairs can assure us that there will be quorum, I am ready to support the Motion, but if he does not, then I will oppose it.

**Mr. Speaker:** Your Excellency the Vice-President and Minister for Home Affairs, will you give the hon. Member an assurance? Even the Chair is interested in the assurance.

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Speaker, Sir, I do not think we have any provision in the Standing Orders that requires the Leader of Government Business to give that kind of assurance.

**Mr. Speaker:** Basically, you are trying to convince the House to stay late. Ordinarily, the House rises at 6.30, but today you want them to give you another two hours for the transaction of your business. The hon. Member is asking for an assurance that there will be quorum because it is a fact that the House can rise for lack of quorum. So, the Member is right in seeking for an assurance that there will be quorum so that we do not act in vain.

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Speaker, Sir, at the beginning of our session this afternoon, I had a word with the Government Chief Whip. I asked him to ensure that, at least, the Front Bench is present so that we have the quorum. So, for as long as a few hon. Members from the Opposition side will be present, we will have a quorum.

**Mr. Speaker:** I will now dispose of this issue.

*(Question put and agreed to)*

## BILLS

### *First Reading*

#### THE KENYA RAILWAYS CORPORATION (AMENDMENT) BILL

*(Order for First Reading  
read - Read the First Time - Ordered  
to be read the Second Time tomorrow)*

*Second Reading*

THE FINANCE BILL

*(The Minister for Finance on 27.10.2005)*

*(Resumption of Debate interrupted  
on 1.11.2005)*

**Mr. Speaker:** Who was on the Floor yesterday?

**Mr. Muiruri:** Mr. Speaker, Sir, I stand to support this Bill wholeheartedly. For many years, the coffee farmers have been seeking freedom with regard to marketing of their coffee. For so long, the marketing of coffee has been the monopoly of the Coffee Board of Kenya. The coffee farmer wants an opening where he can market his own coffee.

I have been in the coffee industry for many years and one time I heard a former Minister, hon. Maina Wanjigi, promising coffee farmers that the Government would create an opening for marketing of coffee. I heard another Minister, the late hon. Elijah Mwangale, promising the same thing. The same promise was made by hon. Dairus Mbela and hon. Dr. Godana when they were in charge of the docket of the Ministry of Agriculture in this country. It is for that same reason that I want to congratulate the current Minister for Finance for bringing this Bill which is going to allow the farmer to market his own coffee.

Mr. Speaker, Sir, coffee is the only crop in the world which requires one to spend a lot of money to grow, but when it is ripe for marketing it is taken away from the farmer by another body so that it can market it for him. The coffee farmer is not a fool. There are farmers who own 500 acres of coffee and they are told that they cannot market their crop. They have to surrender that responsibility to agents or other bodies. Today, three organisations are selling coffee on behalf of the farmer. They are: Kenya Planters Co-operative Union (KPCU), Thika Coffee Mills and Socfinaf. The amount of money realised is a lot, but the farmer has no control over the marketing of coffee. Therefore, this Bill opens a way whereby a farmer, as a grower, will automatically be licensed to sell his own produce. This is exactly what we have been talking about all these years. We have always been advocating and fighting for freedom in the coffee industry.

KPCU is a farmers' organisation. The Coffee Board of Kenya owes it Kshs172 million. There is no way that this money is going to be recovered because the Coffee Board of Kenya is also indebted and it is not performing. The same Coffee Board of Kenya owes coffee farmers a sum of Kshs671 million. They sold coffee on behalf of farmers, but "ate" the money and so they cannot pay the farmers. This is robbery! It is stealing! I will later dwell on the KPCU debtors who owe it about Kshs3.1 billion.

Mr. Speaker, Sir, I want to assure everybody in this House that whatever the Minister for Co-operative Development and Marketing said here that I am indebted to the KPCU is not true. I can swear anywhere that I do not owe KPCU a single penny. As I said earlier, in my contribution, the amount of money that is owed to KPCU is a lot of money, Kshs3.1 billion. However, this debts were---

**Mr. Speaker:** Order, Mr. Muiruri! What are we discussing? Is it KPCU or the Finance Bill?

**Mr. Muiruri:** Mr. Speaker, Sir, we are talking about coffee. KPCU deals with coffee which is

also covered in the Finance Bill.

*(Loud consultations)*

**Mr. Speaker:** Order, Members! Order, Mr. Muiruri! Will you, please, address the Section of the Coffee Act intended to be amended and not coffee in general.

**Mr. Muiruri:** Mr. Speaker, Sir, that is exactly what I am doing. All that is contained in the Finance Bill from Clause 49 concerns what the Minister intends to amend and is all welcome. It is very clearly defined as to who a grower is. A grower is anybody who can vend coffee anywhere in this country. That person, according to this Bill, is authorised to market his own coffee unlike the current situation whereby his coffee must be marketed by KPCU and other bodies. That is exactly what we have been talking about. In this Finance Bill, a grower has the freedom to market his own coffee because he is even termed as a private miller. He is allowed to mill and market his own coffee. This is good news and it is what we have been waiting for.

Mr. Speaker, Sir, the KPCU and other bodies are now afraid that this Bill is going to take away their marketing responsibility. We cannot, however, protect an institution that has destroyed the spirit of coffee farmers over the years. There are some people who have been talking about farm-gates. Clause 51 of this Finance Bill is very clear:

"No grower shall purchase from, or sell to, another grower cherry, parchment, mbuni or clean coffee."

That is the best news I have heard. It avoids the middlemen who are rich. They buy coffee from small-scale coffee farmers. That is what farmers have been waiting for, for all those years. I am praying that no serious amendments are going to be introduced on this Bill. We attended a seminar with Members of the Departmental Committee on Agriculture, Lands and Natural Resources. Mr. Kagwe, who is the Chairman of the Committee on Finance, Planning and Trade was also there. We looked into all that. We were satisfied with quite a number, of amendments except a few which we will bring later on. The same Finance Bill establishes a Coffee Development Fund. That money will be voted in this Parliament. It will go into the production and marketing of coffee. We have been taught quite a lot about the marketing of coffee. We have been talking about the marketing of coffee which is not there. That is because the production has dwindled down from 140,000 tonnes to about 50,000 tonnes per year. But with this Finance Bill, farmers are going to get some credit to put back into the farms, so that they can boost the production of coffee in this country, which is not there. It is going to encourage farmers to buy farm inputs, enhance farm operations, embrace price liberalisation, undertake factory modernisation and increase capacity building. So, this Bill is what we have been waiting for.

Mr. Speaker, Sir, the Coffee Board of Kenya, which has been marketing coffee for many years, is now insolvent. In fact, the only property they have is the Coffee Plaza and a plot somewhere along Thika Road. It cannot even pay its employees. It is high time the Coffee Board of Kenya was restructured and turned into a small department in the Ministry of Agriculture! That is because it has outlived its usefulness.

Mr. Speaker, Sir, as I said earlier, the Coffee Board of Kenya should be restructured to include some professionals like the Kenya Tourist Board (KTB). In KTB, people were appointed on merit. People with capability and knowledge of marketing coffee are needed at the Coffee Board of Kenya. But when you put some illiterate farmers in Coffee Board of Kenya because they are elected on political lines, that is wrong. They have no expertise and knowledge on coffee matters at all, except some patronage in politics. That is how the Coffee Board of Kenya destroyed the coffee industry totally. We cannot even be proud to say that we have the kind of coffee we had several years back, when it fetched over Kshs16 billion. At one time, it was referred to as the Kenyan gold. But now, it has nothing at all. So, this Bill is what we have been fighting for.

In the last Parliament, we had Coffee and Tea Parliamentary Association (COTEPA). It looked at this Bill and ensured that it was good for this country. It goes a long way to assist farmers. It gives farmers freedom over their own crops. That is what farmers have been fighting for, for very many years.

I would like to thank Mr. Mwiraria because he was a Member of COTEPA in the last Parliament. He is a witness. This is what we were fighting for with him and he has brought it here. I would like to urge the Minister for Finance not to allow any interruptions because there are likely to be interruptions about this Bill. Some people would like to protect their own interests. Some people who have invested in marketing of coffee do not like this Bill to go through. But since he is the one who has brought it here, he should allow only a few amendments, so that we can get what we want. With this Bill, the country will be richer. There will be more foreign exchange in the coffee industry. Farmers are going to get much more.

What we are doing on the ground-- I congratulate the Minister for Co-operative Development and Marketing. Most coffee co-operative societies, as a result of not getting any coffee farmer, went bankrupt. They were not able to operate. They were then politically divided into small un-economic units. With that, they are highly indebted to the Co-operative Bank of Kenya. Those debts have been written off. But a planter who also faced the same fate when the marketing was destroyed, is still indebted to his own bank. It is high time the Minister for Finance looked at that. The same fate that befell the co-operative societies is the same fate which befell the farmers. He has written off debts of co-operative societies owed to Co-operative Bank of Kenya. So, he should also consider writing off debts of other planters who also owe other banks.

**Mr. Speaker:** Order, Mr. Muiruri! You have been saying that the whole afternoon. That is now repetition. So, will you go to something new?

**Mr. Muiruri:** Mr. Speaker, Sir, why are you so rough with me. Why? What have I done, so that you are so rough with me?

**Mr. Speaker:** Order, Mr. Muiruri! I did not write the rules in the book. The rule simply says:- "Mr. Speaker or the Chairman of the Committees, after having called attention to the conduct of a Member who persists in irrelevance or tedious repetition either of his own arguments or the arguments used by other Members in debate, may, after having first warned him direct him to discontinue his speech."

So, I am just doing my duty. If you have something, fine.

**Mr. Muiruri:** Thank you, Mr. Speaker, Sir! I will go by your ruling. The other reason why farmers are complaining is that when they deliver their coffee to coffee factories, millers or marketing agents-- You will find a brand type of coffee like Arabica "A", which is the best in this country, marketed on a Tuesday at about US\$100. The following week, the same coffee with the same classification and weight is sold at US\$150. So, there is unfairness in the kind of marketing that we have. Why should my coffee be sold for US\$100 per 50 kilogramme bag and then, in the next auction, the same coffee belonging to somebody else, is sold at US\$150. What kind of fair marketing is that? The kind of marketing that we have in Kenya is very oppressive and disadvantageous to the farmer. It is like a *pata potea* system. So, with this Bill, that system is over.

Mr. Speaker, Sir, so I stand to support this Bill fully because we will have some comfort. Most farmers have been waiting for this Bill to go through. If it goes through, it is good for this country and everybody. Although you asked me not to repeat, I hope the Minister for Finance is going to lay down the rules governing the freedom of marketing of coffee for the coffee farmers in this country. I hope I have been heard.

I would like you to know, I am going to repeat again that, I do not owe Kenya Planters Co-operative Union (KPCU) a single penny.

*(Laughter)*

**Mr. Speaker:** You know the consequences, Patrick? Now that you have sat down, it will not affect you. But when you insist that you are repeating, the only option left to the Speaker is to discontinue you.

### COMMUNICATION FROM THE CHAIR

#### EXISTENCE OF A SUPPLEMENTARY ORDER PAPER

Before I give a chance to another hon. Member, I wish to bring to your attention the existence of a Supplementary Order Paper, which has more amendments. Those amendments have been introduced by the hon. Member for Mukurweini, who is also the Chairman of the Finance, Planning and Trade Committee. So, we have an additional Order Paper. Please, try to look for it so that, as we discuss, you know what is before us. For that reason, maybe, I may call upon the hon. Member for Mukurweini, being the Chairman of Finance, Planning and Trade Committee, to let the House know what his Committee thought about this Bill, so that other hon. Members can participate in the debate with the knowledge of what the Committee thought about it.

**Mr. Kagwe:** Thank you, Mr. Speaker, Sir. I was going to rise and say that we have not seen the amendments in the Order Paper because, some of the concerns that will be raised by hon. Members in the course of debate are further amendments that we have proposed. I will run through the Bill very quickly, and point out the various issues that we raised.

The first one is about insurance amendments that are proposed in the Finance Bill. The mischief that the proposed amendment is trying to address is where people insure themselves with insurance companies that eventually collapse, and leave them exposed. My understanding of the insurance concept is that people insure themselves because they do not have the ability to compensate whom they hurt, or even themselves if calamity befell them. The amendment that we have proposed in this Bill will further protect the people who insure themselves. Under the current situation, an individual who is insured can suffer civil jail. As we speak now, there are people who are serving civil jail terms and yet, they are legally insured. What happened is that when their insurance companies collapsed, they were exposed as individuals. That is not acceptable, given the fact that, it is the Government which licences insurance companies that perform businesses which put those individuals into those situations. Therefore, part of the amendment we have proposed is that people will not be personally liable, once they have paid for insurance. Insurance companies are licensed by the Government. The insurance companies have paid towards the proposed funds.

On the issue of the Higher Education Loans Board (HELB), we are in complete support of what the Minister has proposed. Indeed, we believe that, if everybody who had a higher education loan paid it, including hon. Members sitting in this House, other people who are disadvantaged today can also benefit.

**Mr. Speaker:** For the benefit of the House and for record, as the Speaker, I can confirm that all hon. Members who have loans with HELB are paying them well.

**Mr. Kagwe:** Mr. Speaker, Sir, I wish to pass my congratulations to you. I wish to convey my congratulations to all hon. Members, through you. Indeed, it is a good thing.

There are further amendments that are proposed. For example, there is a proposed amendment that requires the Central Bank of Kenya (CBK) to change the name of the Committee that was proposed in this House; the Monetary Advisory Committee to the Central Bank. There is an

amendment to the effect that the Committee's name be changed to: "A Central Bank Monetary Advisory Committee". We were unable to discern why that is the case. For that reason, our proposal on that issue is that the item be deleted and the name of the advisory committee remains the way it is. The committee is supposed to be operating external to the CBK. It should be advising the CBK. It should not be operating within the institution that is commanded by the CBK. So, there will be that amendment.

We are also quite pleased with the Minister's proposals on tourism. We know that in the Coast, Laikipia and elsewhere, there are people, especially foreigners, who are enjoying the fruits of tourism without paying any taxes. People fly directly from the United Kingdom (UK) into the Jomo Kenyatta International Airport or Wilson Airport and stay in big farms in Laikipia where they enjoy our wildlife. They then go back to their countries as if they are simply domestic or family visitors. We know for a fact that, most people are paying for those services. Our feeling is that the Minister has done a good job.

On the issue of coffee, and that is Section 49, we have made several amendments. The amendments that we have proposed, in addition to the Minister's amendments, further protect the growers, to ensure that regulations regarding how an individual can sell coffee are followed. The Minister will issue rules on conduct of direct sales, so that we do not leave our coffee growers exposed. They will start selling coffee by their gates! If you recall, when we started direct coffee sales, at some point, farmers would take sacks of coffee to a bar and drink on the basis that the coffee was there and it would be sold. People would come and purchase coffee from bars! That is where it would be traded in return with alcoholic and other beverages. That was barter trade. For that reason, it is our proposal that the Minister will have the authority to issue regulations regarding the direct sales and, therefore, the issue of creation of competition in the coffee sector. We hope that the Minister will not withdraw or amend any of those amendments, especially Section 49 which he proposed himself.

I want to assure my colleagues that we have addressed the issues that they might want to raise. Once we get to the Committee of the Whole House, we will move appropriately.

I wish to thank you.

**Mr. Speaker:** Let us have Ms. Karua! Mr. Omingo, you are next in line!

*Resumption of Debate on  
The Finance Bill*

**The Minister for Water and Irrigation** (Ms. Karua): Thank you, Mr. Speaker, Sir, for giving me an opportunity to contribute to this Bill, which I support with reservations. If you look at the preamble, it reads:-

"It is an Act of Parliament to amend the law relating to various taxes, duties and matters incidental thereto."

The preamble introduces this Bill as solely meant to amend matters relating to taxation and duties, and anything incidental to taxation and duties. I have no quarrel whatsoever, with the entire Bill, as long as it relates to taxation measures and to matters related to duties. I have no quarrel, for instance, when, in Section 54, it introduces the Coffee Development Fund. Those are matters incidental to taxation.

Mr. Speaker, Sir, the Fund will be set up from the taxation levied from coffee farmers. But when, in Section 51, this very same Bill goes beyond its stated intention and introduces amendments to the Coffee Act, which properly belonged to the domain of the Ministry of Agriculture and Ministry of Co-operative Development and Marketing, that is mischievous! We all know that the Finance Bill is allocated a short time for debate. When we are debating matters under the Coffee Act or any other

Act, we need to devote our time to the specific issues. When we sneak amendments that alter the marketing of coffee in the Finance Bill, it is mischievous! It is not a taxation measure. It is a matter fundamental to the marketing of coffee. It is a matter that should be debated thoroughly in this House and not in a three-hour debate. We must ask ourselves: When the committees of this House scrutinise Bills, they do so on behalf of Members of this House. They do not do it for their own benefit! Even if the committees make proposals, there must be ample time for debate.

I have been looking at the Standing Orders. I wanted to rise on a point of order and ask you to disallow Clause No.51 because it is not a taxation measure, and neither is it a measure relating to duty. I have not been able to locate a suitable Standing Order, but I would ask you to rely on procedure as known in Erskine May and disallow that because in the preamble, the Bill says what it is about and this is outside the Bill.

Mr. Speaker, Sir, the Parliamentary Departmental Committee on Agriculture, Lands and Natural Resources ought to have noticed this discrepancy. No wonder they are proposing amendments which run up to four pages, which proves what I am arguing that the issue of marketing of coffee needs a separate sitting. It should not be cast between taxation and duty measures.

Mr. Speaker, Sir, I come from a coffee growing area. I have very organised co-operative societies while some are very disorganised. If we open systems to our farmers before we empower them, we will end up opening farm gate auctions where coffee will be sold like tomatoes and the rich will overpower the poor. If we end up passing this nuisance in the Finance Bill, then next time my constituency which is not doing badly in the poverty index will be at the bottom of the poverty list.

**Mr. Speaker:** Is the Minister for Finance here?

**The Minister for Water and Irrigation** (Ms. Karua): I mentioned the issue to him and I also hope that the Minister for Co-operative Development and Marketing comes back.

**Mr. Speaker:** Is the Minister for Finance here?

**The Minister for Water and Irrigation** (Ms. Karua): The Minister for Co-operative Development and Marketing is here.

**Mr. Speaker:** I am not asking for the Minister for Co-operative Development and Marketing. I am asking for the Minister in charge of the Bill. This is a matter that has been on my mind for a couple of days. I want to know if the Minister can use the Finance Bill to amend other Acts of Parliament that have no direct revenue implication. I understand quite clearly that the Finance Bill is ordinarily a kind of Miscellaneous (Amendment) Act for purposes of revenue implication. Who in the Government will give me the explanation for the strange entry of Acts which have no direct revenue implication in the Finance Bill?

**The Minister for Water and Irrigation** (Ms. Karua): I will do my best for the time being, but I am sure that the Minister in charge will come and explain. I have had occasion to mention to him here that in so far as the Coffee Fund is concerned, that Amendment is legitimate. It deals with the way we utilise the taxes levied on coffee. As far as marketing is concerned, this Bill is infringing on a department of another Ministry. It is denying us as representatives of the various coffee growing areas in this country, serious inputting. Although the Departmental Committee on Agriculture, Lands and Natural Resources debated this issue they did not take away our right---

**Mr. Munya:** On a point of order, Mr. Speaker, Sir. I am at a loss because I do not know whether the Minister is opposing this Bill or moving an amendment. If there is a problem between the Minister for Co-operative Development and Marketing and the Minister for Finance, they should have sorted their differences outside. Those of us who represent coffee farmers want changes in the Coffee Act so that we can---

**Mr. Speaker:** Order! Mr. Munya, you will have your chance to contribute. The fact of the matter is that it is your business to understand the contributions being made by the Minister. A legitimate issue has been raised. Before this issue was raised, the Minister saw it on the Order Paper. After perusing this Bill I was struck by the strangeness of having some Sections of this Bill amend some Sections of another Act which have no financial implications. The issue is not whether or not



Ms. Karua is a Minister or not. The issue is whether we are doing this correctly.

Proceed.

**The Minister for Water and Irrigation** (Ms. Karua): Mr. Speaker, Sir, I would like to urge you to delete this nuisance in this Bill because ordinarily, I have not been able to find a relevant Standing Order. The practice in the Commonwealth countries is that when a Bill announces that it will deal with taxation measures, measures related to duty and incidental thereto, marketing is not incidental to duty. We must leave time for ample debate. I want to agree that time has come when we must reassess our marketing procedures to see whether they serve our farmers. If we mischievously sneak an amendment to the marketing procedures, this may very well kill our coffee industry and spread poverty instead of alleviating it.

I support taxation and duty measures. I do not support extraneous matters brought in by Section 51. It is obvious that the Departmental Committee on Agriculture, Lands and Natural Resources and the Departmental Committee on Finance, Planning and Trade found it strange because; how come they are introducing New Clauses 49(a), 49(b), 49(c), Clause 50 and 52(a)? They are introducing almost four pages. This matter deserves separate discussion. Otherwise we will be joy-riders here just passing things we do not know about. This is an important matter that needs to be dealt with.

**Mr. Kagwe:** Mr. Speaker, Sir, when the Bill was brought before the Committee this matter raised questions. We operated on the premise that this Bill was referred to us on the basis that there is collective responsibility in the Government.

*(Loud consultations)*

**Mr. Kagwe:** I will say my piece under all circumstances!

**Mr. Speaker:** Order, hon. Members! There is something about coffee which incites hon. Members. This hon. Member, as Chairman of the Departmental Committee on Finance, Planning and Trade has been given the Floor by me. He will be heard.

**Mr. Kagwe:** Mr. Speaker, Sir, we invited Members of the Departmental Committee on Agriculture, Lands and Natural Resources to hear their input at the Committee Stage when it was referred to us.

Mr. Speaker, Sir, as far as the Committee is concerned, it is upon our colleagues in the Cabinet to sort themselves out. Once we are given the Bill we will proceed and make amendments.

**Mr. Speaker:** Let me put this in its correct perspective. The issue that crossed my mind even before this Bill was read the Second Time is the following: A Finance Bill is generally meant to amend all those laws that have revenue implication to collect taxes either by increment, reduction or removal. When it is an amendment to another Act and it has nothing to do with revenue, is it correct to include it? That is the point am raising. Is there any one here from the Ministry of Finance?

**The Minister for Water and Irrigation** (Ms. Karua): They are coming.

**Mr. Speaker:** Hon. Members, let me give the way forward. If any hon. Member feels that this amendment is incorrectly there, he or she can introduce an amendment. I would like an explanation from the Minister for Finance on this issue. I am baffled about it! Next time we might have the Finance Bill amending everything, including the Constitution!

*(Laughter)*

**The Minister for Water and Irrigation** (Ms. Karua): Mr. Speaker, Sir, the other issue is: Which is the relevant Departmental Committee when it comes to issues of marketing? Issues of finance are handled by the Departmental Committee on Finance, Planning and Trade. Now we have the Departmental Committee on Finance, Planning and Trade involved in issues of marketing, which

are supposed to be handled by the Departmental Committee on Agriculture, Lands and Natural Resources. So, even the procedures of this House are being abrogated to find a shortcut to marketing of coffee.

Mr. Speaker, Sir, I am urging that even the Chair has powers to delete this particular clause under Commonwealth procedures because it is irregular. The Bill itself says that it is a Bill for taxation and duty measures. Therefore, any alien clause can be expunged. The Chair will recall that when we were passing the Constitution of Kenya (Amendment) Bill, you expunged whole clauses. You even expunged a report. Under our own procedures, you have established that the Chair is in control of the proceedings of this House. I am urging you, not just on the sentiments we are giving here, but on the preamble which announces the obvious, that we know this is a measure for taxation and matters relating to taxation and duty. I would like to urge that you have established, through your past ruling, that you have the power to expunge Clause 51, which is totally alien to this Bill. I have collective responsibility on matters of taxation, but on a technical mistake, I bear no responsibility.

As the hon. Member for Gichugu Constituency, a person representing a coffee growing area, I will not stand here for conglomerates who want to impoverish my people. We are doing well, we would like to do better. We do not need agents of destruction to come and destroy our economy.

Mr. Speaker, Sir, depending on how the Chair rules on whether it will expunge this section as it has powers to do, we really ought not to let this debate end with this Clause remaining in this Bill. Those who put it there know that we need the Finance Bill for orderly conduct of the business of this country. We need to pass this Bill, but not before expunging that nuisance.

With those reservations, I beg to support.

**Mr. Omingo:** Thank you, Mr. Speaker, Sir, for giving me this chance to contribute to this Bill. I would like to state for the record that as it is, I oppose this Bill.

The amendments brought before this House are materially to strangle small-scale farmers in the interest of big fish who have swallowed everything from the sweat of farmers. We cannot allow this. The people who have been licensed to mill and market coffee owe the Kenya Planters Co-operative Union (KPCU) a lot of money. For one minute I cannot envisage how a farmer from South Mugirango Constituency, for example, can access markets through the internet. Even our schools do not have connectivity to the internet. There is mischief here to release those who owe the KPCU. If we allow them to market coffee directly, there is no farmer who will deliver his coffee to the KPCU. The KPCU will eventually collapse and the responsibility of assisting small-scale farmers will be watered down.

Mr. Speaker, Sir, I would like to propose that it is reasonable and logical that this House excludes every matter relating to coffee from clauses 49 to 55. This is for the simple reason that this requires a detailed discussion. We want to protect the farmers and not to expose them to the people who have mismanaged and misappropriated institutions such as the KPCU.

Mr. Speaker, Sir, if the Chair indulges this House to delete some of these clauses, I am prepared to withdraw my amendment to Clause 51, which I prepared in anticipation of this kind of serious debate.

Mr. Speaker, Sir, I have had a chance to share with the Minister for Finance and he promised that he will come back to respond. However, if you hear those hon. Members who are applauding, those are the enemies of small scale farmers and they are big merchants. The Chair knows them. We cannot allow this because it compromises the independence and economic liberalisation of the farmers.

Mr. Speaker, Sir, I would like to dwell a bit on the Finance Bill. The Minister gave a flat rate for duty. This flat rate kills the very essence of gratuity taxation. Those who have resources need to share them downwards and distribute them in the interest of those who do not have. I find it extremely ambiguous and improper. This shows that we do not have the interest of the poor at heart. In as much as we pretend to care for them, giving us a flat rate for taxation, the net effect is that those who have will continue benefitting by having a flat rate of taxation when they import, for example, cars. Therefore,

we need to revisit that issue of traditional gratuity taxation in the interest of the poor.

**Mr. Munya:** On a point of order, Mr. Speaker, Sir. The House is still at a loss because Mr. Omingo has said that he has amendments to this Bill, which he has published. Is he moving his amendments? Is he supporting the Bill?

**Mr. Speaker:** Order, Mr. Munya! Why are you becoming a goal-keeper for this debate?

**Mr. Munya:** Mr. Speaker, Sir, I represent coffee farmers!

**Mr. Speaker:** Order, Mr. Munya! I do not think we need to be excited about this issue. I would like hon. Members to, please, listen. There are two important industries in Kenya, which have actually been brought to their knees through bad legislation here. These are the sugar and coffee industries. This House has legislated some impossible things for the coffee and sugar industries. Again, we are coming back to this issue. You will recall that last year, so much was said about the sugar industry in this House that we could hardly conduct any other business and yet it was hon. Members who cannibalised the Sugar (Amendment) Bill and made it impossible for us to work. Now, you had better be careful with what you do here.

Hon. Members, you can amend a Bill by addition. You can also defeat a particular clause. You must understand that when the House goes to the Committee of the Whole House, every clause is read, proposed and you vote whether or not you want it to be part of the Bill. If you do not feel like having Clause 51, for example, or any other clause, then at the Committee of the Whole House when that clause is called out to be made part of the Bill, you can vote against it. If you succeed, then that clause will not be part of the Bill. This is the easiest thing to do in the world. I would like to urge hon. Members to realise that coffee and sugar have had too much panel-beating from the House. Think about it before you further cannibalise it.

**Mr. Omingo:** Mr. Speaker, Sir, I would like to take my good friend through some little tutorials, that you can build a case for your amendments which will come at the Committee Stage. He stands to benefit from the experience some of us have had in the last Parliament.

Mr. Speaker, Sir, the Ministry of Finance gave a flat rate of excise duty on cars. That negates the issue of equitable taxation of graduated tax payment and, in the long run, the poor suffer while the rich man gains. So, this is a Government of the rich.

On VAT, the Minister said that he knocked down VAT on some products, and we expected the prices of maize, milk and LPG to come down. In reality, this has not happened. The ambiguity of some of these laws stops at legislation. Implementation is a different matter, and nobody dares to see it through.

Mr. Speaker, Sir, what I am saying is, when we are doing things, can we then have our people at heart and make sure that the benefit rolls down to those who are supposed to benefit. Fuel cost has been going up everyday. As requested by hon. Karua, the Chair should exercise its discretion and save the poor farmer of this country from these "mercenaries" who have no interest of the farmer at heart. It is critical that when we legislate, let us not talk for today, but for posterity. Tomorrow, those who want to kill small-scale farmers may leave this Parliament and end up being small-scale farmers. Let us exercise wisdom to save the farmers of this country, and not hand out Kshs600 million to a miller to compete with Kenya Planters Co-operative Union (KPCU) at the expense of the farmer. At the end of the day, KPCU will not recover the money meant for the farmers, and we sit here legitimising crime in broad daylight, as a Parliament. I beg to be excluded, and for those reasons, I oppose and request the Chair to expunge this offending provision.

**Mr. Munya:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute to this Bill. As far as I am concerned, the Finance Bill is usually an Omnibus Bill, that introduces many amendments to other Acts. My reading of this Bill does not give any indications that it cannot introduce an amendment to other Acts that have no direct bearing on revenue.

In any case, the liberalisation of the coffee industry is going to raise revenue collection in the country. So, all the amendments relating to coffee have a bearing on revenue collection because it is

going to spur the coffee sector, and this will bring more money to Government coffers.

Mr. Speaker, Sir, the coffee farmers have waited for too long. If the Minister for Co-operative Development and Marketing was interested in liberalising, it is now almost three years since he took office, and coffee farmers are crying every day, but nothing substantial is happening that is intended to help the small-scale grower. I know that it is in Cabinet where they discuss Government policies. I would be surprised if these amendments were not discussed in the Cabinet before they were brought to the Floor of this House.

Mr. Speaker, Sir, many of us, especially the Backbenchers do not like this idea of Ministers coming to quarrel on the Floor of the House. When they have issues to sort out, they should do so outside where they meet. When they bring issues to the Floor, it is not our business to ask whether they have agreed or not. Our interest is to see that the small grower out there is not fleeced by KPCU or other millers that have been selectively licensed. Furthermore, all other countries that grow coffee have liberalised the industry. So, all these other ideas we are being told every day that coffee will die if we liberalised the market, are ideas brought forward by people with vested interests.

Mr. Speaker, Sir, I know this Bill can be withdrawn. Let them bring it when they have agreed on the amendments. But as long as it is on the Floor of this House, it is the property of this House, and most Members who have farmers who grow coffee, and who are tired by the foot dragging by the Ministry of Co-operative Development and Marketing, are ready to support the amendments, so that the small farmers can start benefiting. We know the prices are good if the co-operative societies were allowed to market their own coffee. A lot of research has been done to show that co-operatives themselves can market their coffee directly. We know there are many buyers in the country here approaching coffee farmers' co-operative societies, who are ready to work with them so that they can add value to the coffee and sell it.

Mr. Speaker, Sir, looking at the convention the Minister was referring to, I do not know which convention gives you power to expunge amendments that have already been brought in a Bill that has been published. I do not think the Chair has any power to expunge anything in this Bill. We are prepared to support it the way it is. I am sure many Members who are sitting here are coffee growers and support coffee farmers. They are ready to support this Bill. If they are not ready, let them withdraw it and bring it when they have polished and agreed on it, otherwise, we will support it the way it is.

*(Loud Consultations)*

**Mr. Speaker:** Order, Members! I think, for the avoidance of doubt, and to make the Members relax and make them access this debate and fruitfully do whatever they please, I want to re-state again that an opportunity is available to you today, through the Committee of the Whole House for you to accept all the Clauses you want and reject those you do not like. All you have to do is vote. And you know, voting requires canvassing from your colleagues. The Chair cannot help you in that regard. So, do not even ask me to strike it out.

**Mr. Billow:** Mr. Speaker, Sir, I want to support the Minister's complaint on the way we have done the Budget this year. Once you move away from the standard procedure for preparing budgets, then you will get into trouble. This is the trouble the Minister has got into this year. In terms of expenditure, he changed the way the Printed Estimates were being done. We had serious trouble! In terms of the supply side, you can see what is happening to the Finance Bill. The Finance Bill is purely about duties and taxes to be raised. When we start discussing other extraneous issues, hon. Members get into trouble. The Kenya Revenue Authority (KRA), as an institution, has done very well in terms of collecting revenue. The Finance Bill deals with a lot of miscellaneous amendments and it provides a wonderful opportunity for Ministers to push in things. This is the risk! This House has to restrict the Ministry of Finance to limit itself to the procedures for preparing Budgets so that we do not witness

this kind of a problem. Such Bills must be restricted to dealing with matters of duties and taxes so that we do not circumvent the laws. We do not need to bring in laws through Miscellaneous Amendments.

We are discussing the supply side; the raising of revenue. Kenyans are beginning to get fatigued. They are paying taxes, but their lives are not getting improved. Reports that are being issued year after year continue to show that our living standards, as a nation, are still low. For instance, in the last three months, the number of reports that have been issued on this country are shocking. We are told that when the United Nations (UN) released the Human Living Index (HLI), Kenya has slipped down significantly from where it was in the last three years. When we are shown the Poverty Index (PI), we are told that poverty levels have increased to 60 per cent. When the report was issued by the US recently about failed states, Kenya got included as one of the failed states again this year. When we look at the Corruption Index, we are told that we are still placed at No.15. On security, we are still told that Kenya is one of the unsafest destinations for tourists. All these reports were issued in the last three months on this country.

Mr. Speaker, Sir, on the Millennium Challenge Account that is used by the US Government for giving money to various countries, for the third year in a row, Kenya has failed to qualify. Again, we are told that we did not meet the benchmarks for governance that would warrant that money.

**The Minister for Finance** (Mr. Mwiraria): On a point of information, Mr. Speaker, Sir. On the Millennium Challenge Account, this is the second year. We have only submitted our request for the second year. Therefore, he cannot talk about three years. It has been one year that we did not get through. This is the second year and we have just submitted our request this week.

**Mr. Billow:** Mr. Speaker, Sir, lastly, on the Global Competitiveness Index that was also issued recently, again it is shown that Kenya is far below Tanzania and other countries in the region.

I will now come to the Finance Bill. There are many citizens out there who are complaining about the recent changes in the rules and regulations regarding retirement benefits. I want to mention to hon. Members that we intent to bring, hopefully sometime tomorrow or in the near future, a Notice of Motion to amend the rule so that workers can get their benefits when their services are terminated as opposed to waiting until they are 55 years.

Mr. Speaker, Sir, on the issue of coffee, I want to leave it to farmers and experts in that field.

In this Finance Bill, there is a 10 per cent Excise Duty for mobile phones. This is standard in the region in all the three countries. However, I remember that the Government issued some policy through a letter or circular sometime back when the mobile telephony came into force that the revenue from the air charges will be specifically utilised for infrastructure, like roads, and not for any other purpose. When the Minister stands to respond, I would like him to touch on that issue.

Mr. Speaker, Sir, we are dealing with the issue of collecting taxes from Kenyans. A fundamental problem in this country is how these taxes are spent. Yesterday, I said that it is important that when these Bills are passed, they get implemented. If we do not implement them, then we have a situation where the Government fails to meet certain basic governance standards. A good example is on the expenditure side. I have to repeat this because it is very important. When it comes to the issue of procurement, we have a serious problem in this country. When you have sent out bids to many companies for a mega project or a multi-billion shilling project and allow only one single bid to be qualified, the country loses significantly. We lose the whole essence of competitiveness. I have here the financial evaluation for the Olkaria Geothermal Project that was done in September, 2005. Many companies were invited to tender for the provision of drilling services of six geothermal wells at Olkaria. Only two bids were received. One was disqualified. Therefore, KenGen was left with only one bid. That single bid was awarded the tender. That tender is more than three times the cost estimated by KenGen itself when it provided for its budget and more than three times what the expert consultant who was hired from Japan had recommended. This is M/s West Japan Engineering Consultants.

**An hon. Member:** How much was it?

**Mr. Billow:** Mr. Speaker, Sir, the total awarded contract is for a value of US\$28 million, which is equivalent to Kshs2.1 billion, for a company known as M/s Century Resources. The interesting thing is that when the financial evaluation was done, hon. Members raised concerns that this budget was more than twice the amount they have in their budget. However, instructions were given to award a contract of US\$28 million to a single company that bid for this job. Consequently, the Government lost, in my view, a staggering amount of US\$14 million, or Kshs1.1 billion on this contract. It is very clear that there is an interested party in this contract. That is why that single company was pushed for this contract yet the experts had suggested and invited other companies to re-tender. Six companies indicated their interests that they would re-tender. However, the board said: "No way! We are not going to re-tender. We will go ahead and give this tender to this single company." I am tabling this document and I want the Minister for Finance to investigate this matter.

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

The company was being represented by one Mr. Mokaya in the meeting where this deal was sealed. It is a deal that is highly suspicious and the Government has lost because it was not competitive. The experts advised: "Please re-tender so that we can save on this money." The board disagreed.

Mr. Speaker, Sir, I also want to caution the Minister for Finance that this kind of thing is wrong in a country that is struggling with poverty. Yesterday we were given staggering statistics between the rich and the poor in this country and yet we are spending billions of shillings on this kind of projects.

Mr. Speaker, Sir, again, the company was awarded the contract on two conditions. They said: "Give us 100 per cent Value Added Tax (VAT) exemption." They also said that for all the fuel that they are going to use for drilling the wells, KenGen should reimburse them at cost. This kind of thing in this time and age, is not acceptable. The maximum KenGen has ever paid for those rates in the previous Olkaria Geothermal Project, was US\$1.5 million per well. Now the company is paying US\$6 million per well. We cannot accept this in the country.

Mr. Speaker, Sir, the Minister for Finance, in addition to the good job that he is doing in raising revenue, should equally do the same in terms of controlling expenditure. This is because there is no financial discipline in this country.

With those few remarks, I beg to support.

**Mr. Wambora:** Thank you, Mr. Speaker, Sir, for giving me an opportunity to contribute to the Finance Bill. I wish to confine myself to the clauses starting from Clause 49, which talks about the marketing of coffee and the Coffee Development Fund. I would like to remind the House that on 19th October, 2004, I gave notice of a Motion in this House which covered the issues which have been addressed by this Finance Bill. I am completely satisfied that these clauses are to the advantage of the small-scale and even the plantation coffee farmers. I am also in support of the amendments by the Departmental Committee on Finance, Planning and Trade. We have looked at the Bill and we have also listened to the *wananchi* and the stakeholders. The Bill addresses itself to issues of freeing the farmer from the insensitive and exploitative bureaucracy. I am one of the people who are very dissatisfied with the current system of auctioning coffee. It is fraudulent, inefficient and inadequate. If the Minister comes up with an option of marketing coffee directly, this will definitely increase the farmers' returns. We shall be eliminating the middle-men and, as a result, the small-scale coffee farmer will have more money in his pocket.

*[Mr. Speaker left the Chair]*

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

The NARC Government has improved the economy. We have reported a 4.3 per cent growth rate and we anticipate a 5.5 per cent growth rate this year. However, the Government has not yet succeeded in putting the money in the pockets of the small-scale farmers, who are struggling day and night and getting peanuts for it. Small-scale farmers can make a lot of money if they market their coffee directly to the supermarkets of Europe, Asia and America. We have the example of the Blue Mountain Coffee of Jamaica, which is doing very well. The Jamaican farmers are earning three times what our farmers are earning. This means that we are losing a lot of money in between.

Secondly, I support the clauses which are dealing with the Coffee Development Fund, which is in line with the provisions of the Coffee Act, 2001, which has not been enacted. I am happy with the Minister's efforts. I do not agree with those who are saying that there will be a danger of farm gate sales in case of coffee. How come there is no danger of farm gate sales in case of other products like macadamia, bananas and oranges? Farmers should be free to sell their products to whoever they want. I do not see why farmers cannot sell their coffee to whoever they want. I am entirely in agreement with the Finance Bill with regard to the marketing of coffee and the establishment of the Coffee Development Fund.

With those few remarks, I beg to support.

**Mr. Weya:** Mr. Temporary Deputy Speaker, Sir, we all keep on shouting about liberalisation. When we liberalised the second-hand clothes business, *mitumba* were brought into this country and froze all our industries. The Kenya Planters and Co-operative Union (KPCU) belongs to the poor farmer, who has been using the organisation over the years. The farmer is even given loans to pay school fees and to buy inputs for his farm. We are aware of rich people who have been taking loans from the KPCU. The elite of this country have borrowed money from the KPCU; some even to the tune of Kshs600 million. These individuals are now competing with the KPCU.

We are also aware that some multinationals have teamed up with some elites in this country to buy coffee directly from the farmers. The same individuals owe the KPCU money. We should not frustrate the poor farmer who has no capacity. The poor farmer has believed in the KPCU for many years and has been repaying his loans diligently every month. When he takes his coffee to the factory, his loan deductions are being made whereas the elite are diverting coffee to other mills. As hon. Members, we should protect the poor farmer.

Mr. Temporary Deputy Speaker, Sir, last week, the Minister for Co-operative Development and Marketing tabled a list of all the people who owe the KPCU money. Some of the top debtors have teamed up with multinationals. There is a lot of pressure from the World Bank because our coffee is number one in the world and it is fetching the highest price in the international market. How will the poor farmer access the international market through the internet when somebody is offering him or her a price at the grassroot? Some of the farmers do not even have mobile phones to monitor the coffee prices. We also know that some of these millers owe some small co-operative societies huge sums of money to the tune of Kshs1 billion, as hon. Omingo has said. We have to institute stop-gap measures to stop the elite from fleecing the poor farmers. Until we do that, we are not going to make progress in this country. Everything that is being done in this country is being done for the elite and the top politicians who have access to international markets. They then team up with international organisations to frustrate the poor farmer. If we pass the amendments to the Finance Bill, this will affect the poor farmer dramatically.

There is a clause that provides that a grower means a person who cultivates coffee in any area in Kenya and is registered by the Board. That is what a grower should be and not co-operative societies. For example, I am not a farmer, but I can take ten farmers, form a co-operative society, start milling and start fleecing the poor farmer. That is what will happen if we include associations in the

definition of a grower. Anybody can form an association in the streets while he or she is not a grower. So, how can you say that any association is a grower? This clause will protect and benefit people who are not growers.

There are many other amendments which have been proposed here that have no financial implications, as has been said by hon. Karua. They do not touch on financial issues and they are being pushed into the Finance Bill. We will soon have constitutional amendments in the Finance Bill, so that people can get what they want in this country. We should be very clear on how we are going to proceed in this House. The other day you expunged issues that were not involved in this.

Mr. Temporary Deputy Speaker, Sir, I want to talk about the 10 per cent tax on mobile phones. The mobile phone industry is supposed to assist the economy to grow. If we start taxing the mobile phone industry, we will be frustrating communication which is supposed to enable people to do business in a modern society. As has been said, this money is supposed to be pumped back into the infrastructure. Our rates of telecommunication in this country are not the best in the world. That is why many investors do not want to invest in this country because everything is over-priced. If we deny investors the opportunity to come to this country, how is the economy going to grow?

Some of us are ready to support the rest of the Bill, but we want this idea of coffee to be brought in as a Coffee Act and deliberated on by the Ministry of Finance, Ministry of Agriculture and Ministry of Co-operative Development and Marketing, so that we can have an agreement on how to move forward. I think it is a matter of urgency in this country.

Last year, the Kenya Planters Co-operative Union (KPCU) gave me 50,000 seedlings of robusta coffee to go and plant in my constituency. I gave them out to the farmers. Now, if I get tied down, how am I going to benefit in future? I have told my people that robusta coffee can alleviate poverty. If now they are going to be exploited, this is going to deter me and my people.

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

**Mr. Gachagua:** Mr. Temporary Deputy Speaker, Sir, I rise to support the Finance Bill and the amendment proposed, particularly, in opening up a second window of marketing coffee.

The Minister for Co-operative Development and Marketing, two years ago, made public statements to coffee farmers in this country that liberalisation of coffee marketing was underway. The introduction of this matter in the Finance Bill, in my view, is a mere technicality. I would want to hear substantive arguments against opening this window. In any event, there are a lot of implications in opening this window. There is the introduction of the Coffee Development Fund. There is also the change in tariff, both on cess and remittance to the Coffee Research Foundation. So, if you are looking for revenue implications, they are there.

Mr. Temporary Deputy Speaker, Sir, as I speak, based on the statements made by both the Minister for Agriculture and Minister for Co-operative Development and Marketing, coffee societies are already entering into various contracts with people who want to buy coffee directly. It does not look very honest to let these coffee farmers and societies go all the way and then come on the Floor of the House and say that based on a mere technicality of where this issue arises, we want to close this window. This delay in dealing with this matter is affecting the farmers directly.

It is not correct that the Committee on Agriculture, Lands and Natural Resources has not had an input in this matter. We had two meetings; one in Naivasha with the Minister for Agriculture. We went through these matters clause by clause. We had another meeting in Nanyuki with the Members of the Committee on Agriculture, Lands and Natural Resources and the Committee on Finance, Planning and Trade and we went through this Bill, clause by clause. I think we must be honest.

On the Floor of this House, about one week ago, a Question was asked relating to debts owed to KPCU by various members. It is my view that, that Question was meant to set the stage for this debate that we have here today. There is an argument that if we open this window, KPCU will not be able to survive because it enjoys a monopolistic position in the marketing of coffee. The choice before this House today is whether the death will be that of the coffee farmer or the KPCU. I do not think the



choice is something to debate about. It is high time we dealt with this matter.

This Bill has been published. The Minister and hon. Members have had it with them for a long time. The way to deal with the issue here is the way the Speaker proposed, that if you have an issue with this Bill, you propose an amendment and argue it on the Floor. You can bring an amendment to defeat or improve. I think that is the way forward. The way forward is not for us to tell the farmers of this country that we are unable to proceed because the Minister for Agriculture is not in harmony with the Minister for Co-operative Development and Marketing. That is not a language that Kenyan farmers want to hear. They want to hear that we have been on this Floor, talking substantively about putting money in their pockets.

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, I have been to various conferences on coffee all over the world. The issue is: The Kenyan farmer takes the least in monetary terms of percentage out of that crop. Why are we not having a problem in Tanzania? Tanzania and Ethiopia have opened their markets. Today, if you go to Ethiopia and look at what goes to her farmers in terms of percentage, it is nowhere compared to the Kenyan farmers. Can we stop having technicalities and putting difficulties in the way of amending this Bill and opening this window, and proceed with the job?

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

**Mr. Kipchumba:** Thank you, Mr. Temporary Deputy Speaker, Sir. Most hon. Members are just discussing about coffee. I wish that the Minister for Finance could consider, in future, not to drag us into this coffee business in the Finance Bill. This is because we may demand also that he brings in issues of maize, tea and everything else in the Bill, which is really going to affect discussions on taxation.

Mr. Temporary Deputy Speaker, Sir, I want to speak about one issue. On Clause 48 - something that I have mentioned to the Minister very many times - there is the issue to do with Road Maintenance Levy (RML), where the Government has directed that all taxes on petroleum products be collected in advance. We all know that the prices of petroleum over the last few months have risen to levels that Kenyans have never witnessed since Independence. One reason for this is that the international prices have skyrocketed. That is beyond this Government. But there are other factors that this Government has contributed. That includes the issue of advance collection of taxes.

We have been told that there have been issues of dumping. But the studies that have been done have shown that dumping has been established at levels of only 1 per cent. The 1 per cent does not merit that Kenyans each pay an extra Kshs2 to Kshs3, just because we must pay taxes in advance. One per cent is acceptable all over the world. The amount of taxes paid on petroleum is at the level of Kshs25 per litre. If you calculate the amount of petroleum that is consumed in this country, and considering the financing costs of the same, you will realise that if every Kenyan paid an extra Kshs1 or Kshs2 just because of financing, then we are taking this country to poverty. We are trying to fight this poverty, but at the same time we are encouraging it by ensuring that Kenyans pay more in taxes.

Petroleum products have other adverse effects on the economy. I want to urge the Minister to reduce this financing cost, because it does not make sense. Even if we collected levies on petroleum today, they will be consumed three months down the line. This is because all of us, Members of Parliament, benefit from the RML. The money that was collected in June, for example, has not been remitted to us up to now. That money, I assume, does not earn interest anywhere.

We have all witnessed that the Kenya Revenue Authority (KRA) has increased its collection by almost Kshs100 billion. It is good that KRA is doing well. But at whose expense is this happening? It is at the expense of Kenyans and business people. We cannot continue squeezing business people to levels where they cannot operate.

We may celebrate today, but it might be short-lived. We might collect huge taxes and three

years down the line, businesses continue to collapse. All over the world, tax collecting agencies are supposed to facilitate business people so that, tomorrow, they can make an extra shilling. Therefore, I want to urge the Minister to reconsider the issue of collecting taxes in advance. That has been tried elsewhere! It has ensured that prices go overboard. That is the reason why financing cost must be removed.

Mr. Temporary Deputy Speaker, Sir, I have seen the proposal by the Minister on insurance. If the Minister deems it necessary to protect policy holders, he can establish a compensation fund. That is welcome, but we must establish whether a company is insolvent. That is because, by the time a company becomes insolvent, it will be too late to collect anything. I, therefore, want the Minister to go beyond that, so that insurance companies can deposit a certain amount of money which policy holders can rely on. That money can be used to pay policy holders in case that company goes under. It is not sufficient to tell us that the company is insolvent. For example, we know the case of Kenya National Assurance Company (KNAC). It collapsed and, up to now, people have not been paid their money. They are, in fact, unlikely to be paid because there was no fund to facilitate the same. Therefore, while I laud the Minister for that, I want him to establish a fund where that every insurance company will deposit a certain amount of money which can be withdrawn when the company goes under.

Mr. Temporary Deputy Speaker, Sir, finally on coffee--- When I read this Bill, I was wondering about the intention of the Minister in Clause 51. It reads:-

"No grower shall purchase from, or sell to another grower cherry, parchment, *mbuni* or clean coffee."

Whether we want to say that we want to directly control the marketing of coffee, I thought the intention of the Government over the years has been to go forward and encourage liberalisation. I do not know how you can police the same. How can you follow and ensure that a grower has not sold to another grower? I do not know who is going to police that. Who is going to meet the cost? The Government, in this case, is trying to make business very expensive.

I think it is time we liberalised the market. But, in future, the issue of coffee and other crops being put in the Finance Bill will be quite unacceptable. I hope the Minister, three years down the line, should have learned how to give us a good Bill.

With those few remarks, I beg to support.

**Mr. Muturi:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to say one or two words about the Finance Bill. Unlike Mr. Kipchumba, I will leave the issue of coffee to coffee farmers and their representatives.

Mr. Temporary Deputy Speaker, Sir, I have looked through the Finance Bill and there are some laudable measures the Minister has taken, like the one on the Higher Education Loans Board (HELB). The measures he has proposed will ensure greater access to loans by more Kenyans. But like it was suggested yesterday, in the same manner that the Minister seems to be doing these things, there will be need to amend the Higher Education Loans Board Act to include financing of students in tertiary colleges and not just universities.

Mr. Temporary Deputy Speaker, Sir, I had said, sometime in June, that even though the Finance Bill is taken to be a Miscellaneous Amendment Bill, it still lacks the full components of a Statute Law, (Miscellaneous Amendments) Bill. Whereas the latter makes provisions for proposed amendments, repeal or additions, the Finance Bill gives proposals for what is to be amended and also re-produces the existing law which is to be amended for ease of reference. That is the difference. The Minister has treated the Finance Bill as a Miscellaneous Amendment Bill. If he wanted it to be treated in that manner, then he would be duty-bound to reproduce the particular provisions of the respective laws that he wishes to amend or repeal for ease of reference by hon. Members. That is especially for those of us who cannot competently talk about marketing of coffee, yams and such like commodities. We will then know that the existing law is reproduced at the back page as happens in a Miscellaneous Amendment Bill. Then, on the front pages, we get the proposed amendments for purposes of

comparison.

I believe that could not have been very difficult because the Coffee Act, which he proposes to amend by Sections 51, 52 and 53, is not a very old piece of legislation. It was passed by this very House in the year 2001. Therefore, for our own ease of reference, the Minister should have done that. Indeed, we had pointed out that this year's Budget was prepared in a hurry. There were no sufficient consultations. We do not understand why some of these things were done in the manner that they were.

Mr. Temporary Deputy Speaker, Sir, under Clause 40, there is a proposal to amend Section 106 of the Stamp Duty Act in Subsection (1) by inserting the words on the recommendation of the Minister for the time being responsible for matters relating to land immediately after the words, "the Minister may". That is because, coming from the Minister for Finance who, under the Stamp Duty Act Cap.480, is the one mandated to give the exemptions on the payment of Stamp Duty, he is desirous of sharing the responsibility with the Minister for the time being responsible for matters to do with land, to tell him: "This is a person or a company that qualifies for Stamp Duty exemption!" I think that must have come as a result of the criticism that he received earlier in the year. It shows that the Minister is learning, although slowly. But it is still commendable because the proposal is coming from him.

Mr. Temporary Deputy Speaker, Sir, if you look at Subsection (2) of the same Section 106 of the Stamp Duty Act, it says:-

"The provisions of Subsection (1) may apply with retrospective effect!"

I think the Minister ought to have given that one serious thought because it means, among other things, that some officer, somewhere in the Ministry of Lands and Housing, could easily purport to give the exemption and, therefore, the Minister for the time being responsible for lands and the Minister for Finance will merely be rubber-stamping a decision made by some technocrats in the Ministry. Indeed, that is what has been happening in the past. The Minister for Finance has merely been ratifying what has been passed on to him by officials in the Ministry of Lands and Housing regarding exemptions to Stamp Duty. I have always wondered whether the Minister is handicapped in handling the escalating oil prices. What is his capacity regarding the escalating fuel costs in this country? I have in mind, particularly, diesel.

Everybody who purchases fuel products pays fuel levy. What is the position of the Kenya Railways Corporation if the Fuel Levy Fund is to maintain roads? I think that is the way it is. If it is to maintain roads, then Kenya Railways Corporation, is lost because it uses rails. I can see hon. Dr. Murungaru smiling because this must be a juicy area. Why should the Kenya Railways Corporation which does not use the roads, pay for their maintenance? Is it possible that there can be some form of differentiation in the way taxation in that area is handled because that is a corporation which is paying for something that they will never use? Kenya Railways Corporation will never concede that it will use the roads if the Fuel Levy Fund is to maintain the road network. Whoever it is that you are concessioning the Kenya Railways Corporation to will never use the roads. I think there is need for some thought to be given regarding what level of taxation should go towards diesel particularly.

Of course, the same argument would apply to farmers who use tractors. Those tractors are hardly ever on the roads. They are in the farms. There are combine harvesters which also use diesel. When they buy diesel they pay fuel levy. I think there is need to get some form of graduated taxation especially in the area of diesel. I know that maybe it is a little late in time but, of course, this will only require some amendments to one of the tariffs especially that of diesel because some people pay for fuel levy and yet they do not use the roads. This is done bearing in mind that the Fuel Levy Fund is used for improving our own road network.

With those few remarks and subject to, hopefully, the Minister making concessions regarding the issue which was raised here earlier on regarding the proposed amendments to the Coffee Act, I beg to support.

**Mr. Muriithi:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me an opportunity

to support this Finance Bill.

I have only two areas where I wish to put some weight and also comment on. The coffee section of the Bill should be supported wholeheartedly when you consider that the small-scale farmers back home have never benefitted from their sweat. The Kenya Planters Co-operative Union (KPCU) to me is already a "dead" body. The KPCU is not an organisation because it facilitates the big fish to overborrow at the expense of the small scale farmer. Why would the big fish look after both the small-scale farmer, wait for the coffee and also determine how much money they are going to pay per kilo? I am a strong believer that liberalisation is the way forward.

When the NARC Government took over power it promised Kenyans that there would be liberalisation in all the sectors of our economy. Why is it so difficult now to liberalise the coffee market? It is the responsibility of all the leaders to educate the farmers. When one says that a farmer should determine the price, he will not be able to determine the cost per kilo. This is unheard of. Through educating the farmers, they will be able to know the current international coffee prices. The Minister should support total liberalisation and we should not hear any Minister oppose the marketing of coffee so that our farmers can benefit and educate our children.

Mr Temporary Deputy Speaker, Sir, on insurance, I do agree with the proposed amendment. The insurance sector in this country has gone out of control because licensing has been a very big problem. The Government should ensure that any insurance company entering the market should have sufficient funds or finances before they are allowed to commence underwriting insurance premiums particularly life and motor insurance. It is true that there are so many people already serving jail terms because the insurance companies with which they had insured their liabilities have collapsed and the liability goes back to the insured. It is totally unfair because insurance is a pooling system and once you have pooled together, nobody should follow you after you have paid the insurance premium. If you pay the premium, why then should the liability continue being attached to you as the insured?

I know that the Ministry, about a year ago, introduced a levy of about 2.5 per cent which is a direct cost to the insured and the effective date, I think, was a year ago. The problem is: What will happen to the retroactive cases where the liabilities are still pending? There is a need for the Ministry of Finance to ensure that only financially sound insurance companies are allowed to continue running insurance business in this country.

With those few remarks, I beg to support.

**Mr. Muiruri:** On a point of order, Mr. Temporary Deputy Speaker. I am of the view that since most of the hon. Members have contributed would I be in order to move that the Mover be called upon to reply once the Minister for Co-operative Development and Marketing has contributed?

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Muiruri! You are not the Chair! However, I am obliged to give the Minister for Co-operative Development and Marketing a chance to contribute.

**The Minister for Co-operative Development and Marketing** (Mr. Ndwiga): Thank you, Mr. Temporary Deputy Speaker, Sir. At the outset, I would like to support the Finance Bill.

In supporting the Finance Bill, you will have noticed that there is a lot of contention on the issue of coffee. It is true that we did have an Inter-Ministerial Committee meeting that looked at some of the aspects of the Coffee Act. Later on, it was agreed that we need to look at the Coffee Act in totality. I wish to persuade my colleagues to delete certain sections of this Act since the amendments have been brought here. Let us support that. I also want to give an undertaking that, immediately the Departmental Committee on Agriculture, Lands and Natural Resources meets, we shall go through the Coffee Act, clause by clause, until we get the necessary ones and amend them appropriately. I say this because looking at some of the amendments and the other amendments that other hon. Members

would have brought, that would have caused the death of the coffee industry.

Mr. Temporary Deputy Speaker, Sir, I have listened to hon. Gachagua talk about liberalisation. It is true we did say that we were going to liberalise but so far we have fairly liberalised. It is not true that the KPCU is a monopoly. It is not and that is a fact. The KPCU is one of the three millers and marketing agents. So, it is not a monopoly. Indeed, we need to increase players in the coffee sector. That has really been my position. We need to approach this issue with a lot of caution.

Mr. Temporary Deputy Speaker, Sir, I would like to inform hon. Members that this country does not produce as much coffee as some of our neighbouring countries do. Indeed, Uganda produces three times more than what we produce in this country. However, if you check their receipts, we earn more than them. Why is that the case? It is because about eight years ago, foreigners invaded Uganda and killed the co-operative societies there. Today, they have no co-operative societies. The entire coffee sector in that country is run by foreigners and that is why their income from coffee is lower than ours.

It is also not true that coffee farmers in Tanzania earn more than Kenyan farmers. Indeed, Kenyan coffee, going by the New York indices, fetches the highest prices in the world. That is the truth. There is nobody in this region who earns more than us. What we are urging is that, through value addition, we can earn much more. That is why we want to go through the Coffee Act very meticulously and cautiously so that we amend it in such a way that will enable our farmers to earn more and safeguard the interests of farmers.

Mr. Temporary Deputy Speaker, Sir, I also would like to thank the Minister for Finance because jointly, this year alone, the coffee debts have been written off. The danger we face now is that the coffee farmers in the co-operative sector have no debts. Right now, if we amend the Coffee Act without being cautious, we will immediately increase and create new debts. That is almost happening. Where farmers are hoarding their coffee, it is because they had been given advances by KPCU and now somebody is telling them: "You do not have to deliver your coffee there because you have no debts in the Co-operative Bank." This is a very dangerous trend.

Indeed, it is high time we told our farmers that for them to be able to access credit from the banks and for the banks to have confidence in them, when they borrow money they must pay it back. They should not borrow and then look for shortcuts to disappear with money that belongs to the financiers. That is the easiest way of killing credit. We want to inform all coffee farmers in the country that it is not obvious that their debts will be written off. This time round, as soon as we amend the Coffee the Act, I am confident that we will have in place systems which will assist us to market our coffee more profitably.

Mr. Temporary Deputy Speaker, Sir, immediately after the referendum, I will urge the Departmental Committee on Agriculture, Lands and Natural Resources to convene a meeting of the Ministries of Finance, Agriculture and Co-operative Development and Marketing and all hon. Members who have an interest in coffee so that we can go through the Coffee Act clause by clause. That way, we shall introduce meaningful amendments.

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

**Mr. Bett:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I want to recap what the Speaker said earlier that, when we make laws, we should make laws that will serve as opposed to those that will frustrate us simply because we are making them in a hurry or because of some vested interests.

We already have made a law regarding fund-raising in this country. We passed that law in this House and yet today we find ourselves unable to comply with it because of the manner in which we passed it. I want to urge my colleagues to allow consultations on every piece of legislation that goes through this House. Let us talk to ourselves and hear from every person, including the stakeholders who may not be in this House. I want to confirm that the Departmental Committee on Agriculture,

Lands and Natural Resources, which I chair, indeed, went to Naivasha and met the Minister for Agriculture and the Minister for Co-operative Development and Marketing, in a brainstorming exercise regarding amendments to the Coffee Act and not the Finance Bill. What is appearing in the Finance Bill is what was discussed with the Departmental Committee on Agriculture, Lands and Natural Resources in Naivasha.

I wish to recommend that whatever appears in the Finance Bill should be related to taxation so that it can assist the Minister for Finance achieve his goals. For example, the Coffee Development Fund is, indeed, an issue that touches on taxation. That is my recommendation so that we can resolve this stalemate and move forward.

The Minister for Co-operative Development and Marketing said that we need to move quickly. It is, however, incumbent upon him to quickly bring to this House what was recommended by the Departmental Committee on Agriculture, Lands and Natural Resources in Naivasha so that this House, and the people of this country, get to know what was discussed and what has been passed by the Cabinet.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**The Assistant Minister for Co-operative Development and Marketing** (Mr. Kenneth): Thank you, Mr. Temporary Deputy Speaker, Sir for giving me this opportunity. I will not dwell much on coffee because the Minister for Co-operative Development and Marketing has more or less given us the Ministerial position.

With regard to the section that touches on cheques that are returned, I am aware that year in, year out this issue has come up. It is high time we made a decision on bouncing cheques. They are not only a nuisance in the banking industry, but also wasteful. The bounced cheques take away creditworthiness and make our population rely on carrying cash as a result of getting payment on cash. I am sure if we developed a system whereby any one who issues a cheque that is later returned unpaid is punished or the cheques are viewed as a fraudulent procurement of any service, then we will be in a position to encourage our population to avoid carrying cash.

I, therefore, want to appeal to the Minister for Finance that, whereas he has taken the first step towards making the issuance of bouncing cheques punishable by way of an imaging system, it is important that we go an extra mile to ensure that no one issues bouncing cheques.

I want to thank the Minister for inserting a clause that will serve to help the Higher Education Loans Board (HELB). A lot of our students who today apply for loans from the HELB are not able to access 100 per cent of what is required. I am sure that if HELB was able to collect all the money that is due it, students would be granted 100 per cent loan. This would actually reduce the problems that we encounter with university students who only get 60 to 70 per cent loan. It will be a very big boost to the education sector and it will remove the many problems that are faced by poor parents.

Mr. Temporary Deputy Speaker, Sir, with regard to amendments on the law regarding insurance, I am aware that the Minister has formed a task force that is supposed to look at the regulation of the insurance industry. I am sure that, soon or later, the task force will come up with a good report. The first step that the Minister has taken; that is, forming a Compensation Fund, will help stabilise the insurance industry. Indeed, ten years ago, when the then Minister for Finance started the Deposit Protection Fund, it helped regulate the banking sector. Therefore, the Insurance Compensation Act will help in that the insured person will not fall victim in case his or her insurance company collapses.

Mr. Temporary Deputy Speaker, Sir, secondly, the insurance regulatory body is under the Ministry of Finance. It means that the Ministry licenses an insurance company on a yearly basis. Therefore, if you license an insurance company and it collapses, then you take responsibility because it is licensed under you. I want to appeal to the Minister to form an insurance authority. It will help him. It means that the Commissioner of Insurance will have a Board of Directors who will help him to run the affairs of the industry.

I also appeal to the Ministry to hasten the pace of having a structured Insurance Compensation Act. One of the biggest problems of the insurance industry is that no proper guidelines are there to facilitate claims. It is wide open and, as a result, many insurance companies are not able to compensate because the courts can award any amount of money. I want to appeal to the Minister to hasten the pace and come up with the Insurance Compensation Act.

With those few remarks, and with the exclusion of what my senior colleagues said about the Coffee Act, I support the Finance Bill.

**The Temporary Deputy Speaker** (Mr. Khamasi): Very well. There are no more interests. So, I call upon the Minister to respond.

**The Minister for Finance** (Mr. Mwiraria): Mr. Speaker, Sir, let me start off by talking about the amendment to the Coffee Act. So much has been said, which gives the impression that, the Ministry of Finance wants to interfere in the businesses of other Ministries. Let me say that the Ministry's primary responsibility is to look after the economy of this nation. When we look after the economy and I am aware that, every time I make a Budget Speech in this House, it is all embracing and covers all sectors of our economy. I want to emphasize on the fact that, before anything goes into the Budget Speech, there is ample consultations with the Ministries involved. In the case of the Coffee Act, there was an Inter-Ministerial Committee which included the Ministry of Agriculture, Ministry of Co-operative Development and Marketing, the Attorney-General and my own Ministry. It addressed all the issues included in this Bill.

Mr. Temporary Deputy Speaker, Sir, if one looks at the amendment to the Coffee Act carefully, he or she will find out that we are doing two things. The first one is to establish a Coffee Development Fund which was approved and passed by the Cabinet. It is expected to hold funds from coffee sales throughout the country, which will serve as a stabilising fund. What is more important is that the Cabinet approved the taking over of the coffee debts from societies and small-scale farmers on the understanding that, once the coffee industry recovers and the coffee fund is doing well, that money will be refunded to the Government. What am I saying? In our attempt, as a Ministry, to help revive the economy, we bought Kenya Co-operative Creameries (KCC) 2000 for dairy farmers. We expect that, once the industry becomes fully operational and viable, they will repay that money. We did the same in the sugar industry. We waived debts in the sugar industry on the same understanding. We did it with coffee on the same understanding. So, it is not something which came out of the blues; that the Minister wants to put in the Act to amuse himself. It is part and parcel of the approved economic programme.

Mr. Temporary Deputy Speaker, Sir, having said that, let me comment that, given the very heated arguments which have come up in this House, I do not mind if sections which do not affect our revenues and the coffee fund are dropped. I would, therefore, ask the House to approve Sections 49, 54, 55 and so on. I will move those amendments when the time comes.

Let me now deal with some of the other issues. One of them was raised by an hon. Member who, at one stage, told me that he used to work in the oil industry. There is what he calls payment of taxes in advance. May I draw the attention of all hon. Members in this House to the fact that, everybody who imports goods of any description into this country must pay taxes in advance. The only people who were exempted from that rule were petroleum companies. They were allowed to bring in a tin, it would go into storage, put it into the pipeline and pay duty when they are getting it out to sell. We felt that, that old system was subject to abuse. It is for that reason that we wanted them, like everybody else, to pay duty for their products when they arrive in Mombasa. In fact, the only thing we did was to change the point of payment of taxes to Mombasa. There was a big resistance from some oil companies. In fact, some of them wanted to starve the country of petroleum products. But I am glad that we have sorted out the matter. We have agreed on what should be done and how quickly it should be done. The matter should really be behind us. But I thank the hon. Member for raising the matter.

Mr. Speaker, Sir, regarding the Kenya Revenue Authority (KRA), may I inform the House that we have a very major reform programme. It is intended to simplify the tax collection system. It is intended to make it easy for taxpayers to get through to tax collectors. It is intended to make it possible for somebody who is importing goods to sit in Nairobi and, through a computer, communicate with the Long Room in Mombasa and say: "My goods are coming in container number so-and-so and in this ship. I would like to pay! This is what is in it!" The Customs people can assess that and all he has to do from his office in Nairobi is to pay the dues until the container has been scanned. We have bought scanners which can look inside a container and see what is inside. There are people who come in and say: "We are bringing in huts or clothing materials!" But inside the containers, there are tyres or high value goods. The scanners which we have bought, as part of the modernisation programme, can scan and tell us what is inside. So, when we see something that is hidden, we open the container and check it.

I have talked in this House on several occasions regarding the introduction of electronic tax registers. I am happy to report that some of the people who were totally opposed to those registers have now installed them. I want to assure this House that the installation of those registers will not work against businesses. If anything, they will help businessmen to improve their revenue. Ordinarily, many businessmen would have two receipt books. One for the payment of Value Added Tax (VAT) and another one for cash that they collect without paying any taxes on it. As a Government, once we get that person to pay tax on every item they sell, two things will happen. We will get more VAT. We will also get more Income Tax because what he was hiding will not be hidden. But for the businessman himself, when he sells and tries to hide part of the cash, his or her sales person can also do the same. The sales person can give you Kshs50,000 and say that is what he worked for in a day. The following day, the same person can deny giving you Kshs50,000, and say he gave you Kshs100,000. We are doing the best for this nation. We want the Kenya Revenue Authority (KRA) not only to collect money, but also to be friendly to taxpayers, appreciate their problems and deal with them expeditiously.

There has been, for instance, a problem of backlog of repayments of VAT collected by KRA. In this Budget, I provided Kshs2.96 billion to clear the backlog and increase the amount for monthly repayments. Already, taxpayers are happy with what is happening.

So, I want to assure hon. Members that we are doing everything to facilitate tax collection and repayment to improve cash flows for the people. We are not likely to run dry for being too harsh on our taxpayers. In fact, I would be very interested to know whether any hon. Member knows of a company which has been driven out business through harsh collection of taxes. It would be interesting to know.

Regarding Stamp Duty exemptions, I think it is only fair that, where two Ministries are involved in a tax exemption exercise, the two Ministers must be involved. If that had been the case, the earlier incident, for which I was blamed, would not have come up. Therefore, I have no regrets or apologies to make in proposing that amendment. I want to ensure collective responsibility. I want to assure this House that we will make sure that these things are not retroactive. I have not, and I repeat; I have not seen any cases where we have made waivers retroactively. Not once! Not while I have been a Minister. I want to assure you that it will not begin happening now, even when we bring in a second party, particularly the Ministry responsible.

Regarding Road Maintenance Levy and the cost of fuel, may I say that the Ministry has been extremely careful not to increase the cost of petroleum products in this country. Since I took over three years ago, I have not increased taxation on petroleum products. Not even by one cent! What is important, and I want hon. Members to mark it, is the fact that, we charge tax per litre. The tax is per litre. That means that, what we were getting per litre from super petroleum three years ago, is what we are getting today. We have not increased taxes at all. The increase in pump prices which you see in and around this country, are as a result of direct international price increases. So, I think it is good to make that point very clear. On the point raised by Mr. Muturi regarding the price of diesel, I would like to



say that diesel engines, in fact, perform much better than petrol engines. If you go to Europe today, for instance, in the United Kingdom, diesel costs more than premium and regular petroleum products. The reason is that, as the cost of petroleum products increases, people go for diesel engine cars. However, we have decided in Kenya that we will not change the position, at least, up to today.

Regarding the railways, there is a basic problem. Diesel that goes into a locomotive engine to pull a train is the same one that is used by tractors, motor vehicles and trucks. One of our big problems is how to differentiate between diesel used by locomotives and that of vehicles. That is something worth looking at. I believe that all hon. Members who have discussed this matter have been very objective. I want to thank all of them for their very constructive suggestions. I want to say that we really want to get this Bill through, so that we can give the nation funds to spend for the rest of the year. If this Bill was to collapse today, we would have to wait for another six months. There would be no money for any Ministry in Kenya, after spending the 50 per cent which was approved as Vote on Account.

With those few words, I beg to move.

*(Question put and agreed to)*

*(The Bill was Read a Second Time  
and Committed to a Committee of the House today by leave of the House)*

### **POINT OF ORDER**

MOVE TO TAKE FINANCE BILL  
TO COMMITTEE OF THE  
WHOLE HOUSE REJECTED

**Mr. Muturi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. We are supposed to go to Order No.10 which is the Committee of the Whole House. This can only happen in one sitting by leave of the House. I rise under the provisions of Standing Order No.99 to oppose that move to go to Committee of the Whole House. I have the support of two hon. Members.

*(Messrs. Kipchumba and Rotino  
stood up in their places)*

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, hon. Members!

Standing Order No.99 states as follows:-

"Save with the leave of the House not more than one stage of a Bill may be taken at any one sitting provided

that the provisions of this Standing Order shall not apply to or in respect of any Appropriation Bill or Consolidated Fund Bill."

The only exception to that is an Appropriation Bill or the Consolidated Fund Bill. I would like to refer the hon. Members to the definition of leave of the House.

It states as follows: "

Leave of the House means there being no objection by any hon. Member, either with the sympathy of Mr. Speaker or with the support of at least two other hon. Members."

Effectively, if the hon. Member who has stood up to oppose can be supported by any other two hon. Members, then we do not proceed. That is the definition of leave of the House. I saw Mr. Muturi standing along with Mr. Oloo-Aringo, Mr. Kipchumba and Mr. Rotino. Effectively it means that the stage of the Committee is opposed. That is the rule. These are your Standing Orders and the Chair has got to comply with what is contained in the book.

Next Order.

*Second Reading*

THE KENYA RAILWAYS CORPORATION (AMENDMENT) BILL

**The Assistant Minister for Transport** (Mr. Ligale): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Kenya Railways Corporation (Amendment) Bill be read a Second Time.

Mr. Temporary Deputy Speaker, Sir, the import of this Bill is to pave way for participation of new players in the operation of the railway transport services in this country. It seeks to remove the monopoly of the Kenya Railways Corporation in the provision of such services. It also introduces a new section empowering the Board to enter into agreements for performance of the functions of the Corporation with any other person with the approval of the Minister.

In bringing these amendments, I would like to confirm that the Kenya Government has entered into an agreement with the Uganda Government to concession our two railway systems together. We had the advice of the International Finance Corporation in our case while Uganda had its own facilitator who was trying to bring about this concessioning. Initially, we had nine bidders who showed an interest after this job had been advertised internationally. Seven of them were shortlisted but, ultimately, we had two successful bids which were adjudicated. Finally, one bidder was selected as the successful bidder.

Mr. Temporary Deputy Speaker, Sir, we are now at the stage of signing an agreement with the successful bidder. This signing is likely to happen before the end of this month. Before we do that we need to remove that monopoly which is in the current Bill. This is why we are requesting that this House does allow the proposed amendment. It is meant to remove the burden from the taxpayer. Currently, due to the poor performance of the Kenya Railways Corporation the Exchequer is forced to pump large sums of money into this Corporation. As at now, the liabilities of the Kenya Railways Corporation stand at more than Kshs20 billion which the Exchequer cannot continue to sustain.

The loans which have been given to the Kenya Railways Corporation by the Government of Kenya currently stand at Kshs14 billion. Statutory debts stand at Kshs1.2 billion. Employees debts in form of unremitted deductions for co-operative societies and hire purchase stand at Kshs1.6 billion. This is not the kind of liability that the country can continue to sustain. It is important that the Kenya Railways be brought into solvency. The only way this can happen is by having this concessionaire moving in and improving the services.

Mr. Temporary Deputy Speaker, Sir, in Kenya the concession shall be for the exclusive rights, the provision of freight and passenger services for a period of 25 years and five years respectively.

The Uganda concession will be for 25 years for freight services, but not for passenger services. The Kenya Railways Corporation (KRC) shall be concessioned as is, but the concessionaire shall not be responsible for the KR's present or past financial liabilities, some of which I have referred to in my earlier remarks.

Mr. Temporary Deputy Speaker, Sir, the considered assets that the concessionaire will take over will comprise the core railway infrastructure facilities, equipment, tools and plant required to undertake the railway business. The considered infrastructure, equipment and other facilities will remain assets of the KR. They will be in the ownership of the KR. However, the concessionaire will be responsible for maintenance of those assets as specified. This lead investor shall have, at least, 35 per cent shareholding and control the decision-making process of the holding company and can only trade or sell shareholding under specified terms and conditions.

Mr. Temporary Deputy Speaker, Sir, by the end of five years of the concession, both the Kenya and Uganda governments, as well as individuals or corporate bodies, shall be required to hold,

at least, 40 per cent shares in the holding company subject to each country having a minimum of 15 per cent shareholding and market interest in both countries. If the holding company meets the combined 40 per cent of the Kenya and Uganda holding before the end of the five years, they shall be free to trade the shares freely subject to shareholding restrictions on the lead investor.

Mr. Temporary Deputy Speaker, Sir, as I said, the bidding process started in September, 2004. Expressions of interest for pre-qualification were advertised both locally and internationally. Applicants were invited to submit their applications and nine were received at the close of the due date. After technical evaluation, seven applicants were pre-qualified as lead investors. These included: NNPI Privating Corporation from Mauritius, Kanak Incorporation from Canada, Marsk comprising of Kenya and Denmark, Rights of India, China Rolling First Group Company of China, Magadi Soda Company, both in Kenya and the United Kingdom (UK) as well as Sheltam Trade Close Corporation of South Africa. The pre-qualified bidders were invited to carry out their due diligence and prepare both technical and financial proposals. On 30th September, 2005, the bids were opened, but only two bidders responded. These were two consortiums, one led by Sheltam Trade Close Corporation, which had since transformed itself into Rift Valley Railways Corporation, on the one hand and Rights of India and Magadi Soda on the other. Both were evaluated to have been technically responsive, but when the financial bids were opened last month, on 14th October, 2005, Rift Valley Railways Corporation was declared as the preferred bidder. Therefore, they have to be awarded the concession.

The concession agreement is expected to be signed on 16th November, 2005. The concessionaire is expected to take over the operations by the end of March, 2006. The benefits that are expected to accrue from the concession will include the following:-

In terms of direct financial benefits, the KR will receive an entry fee of US\$3 million. An annual average concession fee of approximately US\$8 million will also be payable. They will also pay rental for real estate at approximately US\$3 million annually. Our Government will receive corporation taxes on profits that are expected to be made. This is estimated annually at US\$5 million. There will be direct investments and re-investments by the concessionaire particularly on the trucks, locomotives and wagons. Improved conditions of the railway assets are expected.

Mr. Temporary Deputy Speaker, Sir, other indirect benefits will include savings on road maintenance because most of the goods will be transported by rail and reconstruction costs estimated at US\$4 million annually due to shift of heavy loads from roads to rail. There will be a substantial reduction in the national fuel importation bill, which is estimated at US\$2 million annually. Reduction in foreign exchange requirements for importation of spare parts for heavy commercial road hauliers will be saved. There will, generally, be an efficiency in the economy.

Mr. Temporary Deputy Speaker, Sir, I need to address a few other issues, including the retrenchment and redeployment of staff. The KR currently employs 9,162 employees, of whom 6,145 are permanent and 2,767 are wages and casual employees. The concessionaire is expected to absorb about 3,000 to 4,000 employees. The rest will be retrenched.

Mr. Temporary Deputy Speaker, Sir, the Government has sought funding support from the World Bank amounting to approximately US\$42 million for the purpose of retrenchment and a further US\$1 million for redeployment of staff in order to multi-skill, re-train and equip them to undertake the new tasks ahead of them. We shall need to establish a retirement benefits scheme which will operate in accordance with the Retirements Benefits Authority (RBA) Act for the staff who will be retrenched. The KR has no funds to do this. It has identified some non-core assets valued at Kshs12.4 billion, which will be transferred to the firm in order to sustain its operations of management and payment of the KR employees retirement benefits.

Mr. Temporary Deputy Speaker, Sir, there are also extensive informal settlements and commercial activities along the railway reserve, particularly at Kibera and Mukuru slums in Nairobi, among other areas. These areas pose a serious safety hazard to both the public and the railway

operations. In order to improve operations in the affected areas, reduce risk and give increased comfort to the concessionaire, the Government proposes to implement a relocation action plan to be implemented in line with the Kenya Slum Upgrading Programme (KSUP) and to cover a 10.4-metre corridor, but will subsequently extend to cover 30 metres along the railway reserve.

Why do we require an amendment? As I said in my introductory remarks, Section 19 of the Kenya Railways Corporation Act stipulates, among other things, that except for consent of the Minister, no rail transport services shall be provided within Kenya by any other person other than the Kenya Railways Corporation. In addition, only the Corporation, with the approval of the Minister, can determine and adjust tariffs. In this regard, therefore, an amendment to the Kenya Railways Corporation Act will allow for the following.

(i) To enable the Kenya Railways Corporation to transfer its statutory function of providing railway services to a private operator.

(ii) To enable the concessionaire to set or determine the price tariff, taking into account the market forces.

(iii) To enable the concessionaire to exercise certain powers that are presently vested on the Kenya Railways Board and the Minister responsible for Transport.

Mr. Temporary Deputy Speaker, Sir, it is imperative that we pass this amendment. I am sure we can count on the goodwill of this House to pass the proposed amendment. With the foregoing, it is considered essential to amend the Act, in order to realign the legislation for the circumstances being contemplated after concessioning and to provide the necessary legal framework and comfort for the operations of the concessionaire.

With those remarks, I beg to move.

**The Minister for Finance** (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, I beg to second this Motion. Let me start off by saying that this is really a fairly straightforward Bill which is intended, as the Mover has already stated, to allow for concessioning of the Kenya Railways jointly with Uganda Railways.

Mr. Temporary Deputy Speaker, Sir, I think it is common knowledge that our railway system ground to a halt several years ago. During the last ten years or so, it has actually become a drain on the Exchequer. We are required, on many occasions, particularly this year, to have to find funds to keep the Kenya Railways Corporation afloat. As the Mover said, we cannot continue with that kind of drain.

There was a time the Kenya Railways Corporation used to move more than 50 per cent of the goods in this country. Today, they are down to about only 10 per cent. As a result, we have too many trucks on our roads, which are damaging the roads and making it impossible even for passenger cars to drive in safely. When we concession, we expect, within a few years, to move, at least, 30 per cent of the traffic from the roads to the railway line. We also expect to increase the removal of cargo from our ports because one train can carry many more containers than a horde of trucks.

Mr. Temporary Deputy Speaker, Sir, apart from easing traffic on our roads, the concessioning will speed up movement of goods. Although the concessioning is basically for the transportation of goods, it should be understood that the Government can and will be asking the concessionaire to move passengers to areas where these services are required, even though it may become necessary for the Government to subsidise passenger services.

Let me underscore a point already made by the Mover, which is that, today, we owe employees of the Kenya Railways Corporation a lot of money in retirement benefits. Unfortunately, those who were running the Corporation before have completely depleted whatever retirement benefits the Corporation had set aside. As a result, and because the Government does not want its people to go out and leave the service as paupers, we have agreed to borrow sufficient funds from the World Bank to retrench the staff who will not be required by the concessionaire.

Besides that, let me also underscore the fact that if you walk or even take a train ride along the railway lines in Kenya today, you will find that as the train passes, people have to run into kiosks to avoid being run over by the train. Once again, as realistic people, we are borrowing money to move these people away from the railway lines for safety.

Mr. Temporary Deputy Speaker, Sir, the one point which I have heard discussed quite often in this House is that we had only two bidders for the concessioning. Let me repeat what I said yesterday that, initially, there were nine bidders who came down to seven, and then five of them decided to form a consortium and then bid for the concessioning. One of the two, in fact, which was made up by three of the original companies, won the tender.

Mr. Temporary Deputy Speaker, Sir, we have gone so far in concessioning of the railway, that it is important that we complete the amendment to this Act, so that the final details and the concessioning agreement can be signed before the end of this month. Since we are likely to go on recess for the referendum soon, I would urge Members to vote for these amendments. They are fairly straightforward. They will help ease traffic on our roads. They will help move goods. They will help clear the backlog of containers that are at our Mombasa Port and they will also make this nation a truly goods transit nation.

With those remarks, I beg to second.

*(Question proposed)*

**Mr. Kipchumba:** Mr. Temporary Deputy Speaker, Sir, I also want to comment on this amendment. I do not think, like the Minister said, that this is a very straightforward issue. There are certain issues that must be clarified so that this Parliament is not merely used as a rubberstamp. We all support the concessioning of the Kenya Railways (KR). The Government has spent millions of shillings every month trying to subsidise the KR, especially in terms of salaries, to the tune of Kshs500 million. That is quite a colossal amount of money. That money would have been used to reduce the poverty levels which are rampant in this country. Therefore, concessioning is welcome. However, there is something that needs to be clarified. I would have preferred that the valuation of all the assets of the KR be tabled in this House. The Minister said that the Rift Valley Consortium will be paying some rental income to the Government. How much will it be and for what purpose? If there is an agreement that was signed between that company and the Government, it must be tabled so that we can scrutinise and understand it.

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, we all know that the KR was a cash cow, especially in terms of the fact that it owned and still owns large parcels of land and houses in this country. There is a trend that I have witnessed in this House that every time the House, is about to go for recess, so many Bills are lumped up together almost on the same day so that we can pass them without knowing their implications to the country. We do not have adequate time to scrutinise those Bills. I want to request the Minister to give us ample time to scrutinise the Bill before we pass it. He should bring the valuation of all the assets and the agreement for discussion in this House. This will ensure that, when we are giving consent, we are aware of its implications. The Minister read a clause that gives him power to give consent. If he can do that, then why should he bring it to us? He should go and give the consent tomorrow so that this House will not be accused for approving the concessioning of the KR when, indeed, there are certain issues that have not been clarified. We read in the Press that the KR is being concessioned for 25 years. However, that information is not factual. We have not had time to look at it.

Mr. Temporary Deputy Speaker, Sir, I would want to support the proposal that those people who have encroached on the KR land should be compensated. However, we would also want to know how many people have encroached on the railway line. We want to avoid a situation where the Government will inflate the cost. For instance, if they are supposed to spend Kshs2 billion, they will inflate it to Kshs4 billion. In the process, we could easily lose another Kshs2 billion because of corruption. When we are told that our people are being resettled, we become very happy. We would not want to oppose such a move because it will be counterproductive to us. Therefore, before we talk about compensating the people who have encroached on the railway line, they should tell us how much it will cost. Apart from Kibera, where else have people encroached on the railway line?

I agree with the Minister that if the KR becomes efficient, our roads will be a lot safer. Many goods will be transported using the wagons as it was the case initially. All over the world, the railway system is one of the most efficient modes of transport. Unfortunately, ours is one of the worst.

Mr. Temporary Deputy Speaker, Sir, I agree with the previous speakers that there will be retrenchment of staff. However, we want to know how much the affected staff are going to be paid. During the previously retrenchment, the Government assured the retrenchees that they were going to be paid well. However, they were paid Kshs30,000 to Kshs40,000. If you look at the history of retrenchees in this country, many of them have died. If you retrench somebody who is used to a certain way of living and give him or her Kshs30,000 to start a business that he has never done in his lifetime, he will not survive. We also expect him to educate his children. That is unacceptable! While we would want to support this concessioning of the KR, it is important that all these facts are addressed. How many employees does the KR have? How many employees are on permanent or temporary employment? How much will the retrenchees be paid? This will ensure that we do not just allow the Government to start retrenching the workers. I know they could say that this an administrative issue but for us, it is a very serious matter. Many Kenyans invested in the KR, the Kenya Airways (KQ), KenGen and the Kenya Power and Lighting Company (KPLC). However, when it comes to reaping the fruits of their investment, foreigners are given the first priority; to reap from the sweat of Kenyans. Since these assets are owned by Kenyans, it is important that all this information is made available to us.

I do not want to dwell on irrelevant issues. However, if the Minister can table all that information tomorrow, we will be willing to support him. We do not want to be used as a rubberstamp to pass this Bill merely because we are going on recess tomorrow. Why did they not bring this Bill earlier? Most of the time, the House has experienced quorum hitches and it had to rise early. We could have discussed a lot of business if we were taking this House seriously.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to oppose this amendment.

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

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

**The Assistant Minister for Foreign Affairs (Mr. Wetangula):** Mr. Temporary Deputy Speaker, Sir, this is a very important Bill. It is a Bill that is dealing with one of the oldest and largest corporations in this country. The corporation that lives of many Kenyans, indeed, East Africans, have depended on. It is a corporation that we have seen in the last 20 years brought to its knees. It is a corporation that we all hope will be revived to ease the pressure on our roads and improve trade between Kenya and our neighbours on the West. It is also a corporation that can even ease and give

Kenyan's more affordable passenger transport.

I support the Bill, but I have a few questions on my mind that I would want this House to also address. First, I think it is absolutely important and necessary that the concession agreement be subjected to the scrutiny of this House.

*(Applause)*

That is one of the simplest and easiest ways of getting our act together so that no questions are asked tomorrow.

Mr. Temporary Deputy Speaker, Sir, the second issue that I would want to raise, as I support the Bill, is that this corporation has an enormous real estate in this country. We know the abuses that went on with the KR assets. We know the gifting of the KR assets in Upper Hill. We also know the fraudulent disposal of the KR assets in Parklands and all over the country. There is nowhere where the Kenya Railways Corporation (KRC) has operations that we do not have huge valuable chunks of land.

Mr. Temporary Deputy Speaker, Sir, when my colleague was moving the Bill, he said that there will be a rental income from the real estate; of US\$3 million a year. Parliament should be allowed to know what we are letting to the concessionaires. Are we giving them godowns, houses, empty plots that they can lease out or all the assets of the corporation? This is important because we may pass this Bill and the mismanagement that has been going on in the KRC can take advantage of this and by the time we wake up, we will find that half of the assets are gone. This is not good.

The third issue that is bothering me is the issue of the unpaid salaries and pension funds of the KRC workers. Is the concessionaire going to shoulder the liabilities that the corporation owes in astronomical figures to the former and the current workers? We are not talking of pocket change. I do not think there is any hon. Member who does not have a relative or a friend who has worked with the KRC and feels aggrieved by issues of either salary or pension. These are the kind of things that, as Parliament, we need clarity on before we give the concession.

More importantly, I would have wished, if my opinion was valuable, for the KRC to go the Kenya Airways route. We should get a strategic partner and float the KRC shares at the Nairobi Stock Exchange, so that Kenyans can buy a portion of the shares and have a sense of ownership of the corporation. All of us know that this is a corporation that has an enormous potential. It has a potential that can put wealth in the pockets of Kenyans.

Mr. Temporary Deputy Speaker, Sir, you can imagine what would happen if we went into partnership with Uganda our number one trading partner. If the KRC was revived and it transports even 60 per cent of the goods from Uganda to the Port of Mombasa, it would make a lot of money. I believe the concessionaires may be involved in what we are talking about; starting a railway line to Southern Sudan up to Addis Ababa. We are talking of astronomical and phenomenal returns on investment. This is something that I would love to see Kenyans participate in. We should float the KRC shares at the Nairobi Stock Exchange and let Kenyans own even it is just 10 per cent of the corporation. Our people will benefit and make money. I will mobilise cane farmers in my constituency and even buy some shares for them, so that they can have some money.

As we need to quickly pass this Bill so that the good deal is not lost; as we need to get the KRC on its feet, I would want us to do the right thing. I would also want to hear what the Ministry wishes to do with the fraudsters who have run the KRC down. We have many reports of the Public Investments Committee (PIC). There are people who may disappear from criminal liability because we are concessioning the corporation. This may not be right. The Government has said that those who have put their hands on the public till must face the law. I know that there is no time limitation on crime, but are those who are going to run the corporation going to raise the same questions as Parliament has raised?

Finally, even if Parliament was too busy to exercise scrutiny over the agreement, I would have expected that the relevant committee of this House is given an opportunity to look at it. I have said this here before, and I want to repeat it, that there is a terrible frustration and failure of discharging our responsibilities as a Parliament. The committees of this House spend a lot of time harassing the Speaker and the Clerk to give them opportunities to go abroad! That is all they do! You have even heard about a scandal of the Catering Committee wanting to go abroad. This is not right. In fact, the issue of the KRC has been in the public domain for so long that the Departmental Committee on Energy, Communications and Public Works need not to have waited for us to say it here for it to call the Minister for Transport and discuss these issues with him and file a report here. The Committees are our agents. We would be quite happy to get a report and go by it. The Committees are always off to Mombasa, London and Brazil. They go to countries where the hon. Members do not even understand the local language.

Mr. Temporary Deputy Speaker, Sir, this is a terrible indictment on us as a Parliament and we have failed in our duties. I would like to urge the hon. Members of the various Committees to do their job. The other day, I said here in response to what hon. Oloo-Aringo had said, that we cannot complain that we have had inadequate time to look at Bills when there is nothing in the Standing Orders that bars us from conducting the business of this House in Committees. As a matter of fact, when a Committee is sitting, every single hon. Member has the right to go there and air his views except that he will not vote when the hon. Members of the Committee are voting. Why are we not doing our job? This is a terrible indictment on this House. I just hope that during the remaining period of the Ninth Parliament, we shall rise to the occasion and discharge our responsibilities. We should travel less and work more for the benefit of this country.

With those few remarks, I wish to support the Bill.

**Mr. Rotino:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to join my colleagues in opposing this Bill.

I am not opposing the Bill for the sake of opposing. I am opposing because of the many reasons that my colleagues have put forward. The Minister should not think that we are opposing the Bill because we are against him. We are not against him. What are we being told to approve? What has the Minister laid before us to approve? I have said before, and I am going to say again, that as hon. Members, we are doing what we are paid to do. We need to be given information before we give the Minister a blank cheque. Earlier this afternoon, Mr. Speaker said that we are not doing exactly what we are supposed to do. He categorically said that, as hon. Members, we need to scrutinise Bills. We are passing laws that completely block the smooth running of affairs in this country; for example the Coffee Bill.

We should scrutinise Bills. Some of us spend a lot of time looking at the issues before us before approving them. However, we do not have to hurry. The Minister has wonderful and noble ideas. He has good plans. We are given a responsibility as a House to look at Bills, scrutinise them and give Ministers the okay to go ahead. I know that maybe time has gone, but give us some time to go through the Bill, so that we can approve something that we know.

Mr. Temporary Deputy Speaker, Sir, my colleagues have spoken about the problems in Kenya Railways Corporation. We know that if the Corporation is improved, so many other things are going to happen. Our roads are also going to improve. The big trucks will be less on our roads and efficiency in the transport sector will be improved. But we can only achieve this if we are given time to look at many other factors. People who live along the railway line are known as the "*Tutafanya nini Group*." This is because if you ask them why they stay there, they ask you: "*Tutafanya nini?*" They have no other options. We have to scrutinize all the records of all these people who live along the railway lines.

If you drive along Lang'ata Road you will see somebody washing cars near the railway line. He pays a lot of money to the Kenya Railways Corporation, but the business he is doing is not safe. If



there is derailment of the train there, that would be very dangerous. These are some of the things that we need to look at, so that when we approve this Bill, we will be approving something that we know.

Mr. Temporary Deputy Speaker, Sir, I am pleading with the Minister not to be in a hurry to pass this Bill.

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

**Mr. Salat:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute. I would like to join my colleagues in opposing this particular Bill.

I think it is about time we put a stop to this kind of ambush. We have been ambushed many times with Bills that have consequences to this nation, and then we are blamed, as Parliament, for not doing our work. This concession for 20 years is not a short period of time. We are giving away one of the most important corporations in this country for 20 years, yet, we are not aware of the "fine prints" So, I would urge the Minister not to rush. We have been rubber-stamping Bills many times and, at the end of the day, we sell this country. The fact that we are having concessions for 20 years, is reason enough for us to be given ample time, so that we understand what we are actually going to pass.

Mr. Temporary Deputy Speaker, Sir, recently, I read in the newspapers that the Corporation has already started to sell its property. I am told there is land in Kitengela owned by the Kenya Railways Corporation which is already up for grabs. How they arrived at that decision, we do not know. Probably this is a concluded deal. Maybe it is only coming to Parliament to be formalised, yet, we are in the dark. So, this is the time for Parliament to say, enough is enough. Do not ambush us with this Bill. We should be able to go out there and explain to the citizens of this country why we arrived at certain decisions. I have an obligation to my constituents and the country at large. So, if I am asked how we gave out the Kenya Railways Corporation for 20 years, I should be in a position to explain.

In fact, we need to know the figures involved. How much did we give out this particular Corporation for? We, as Parliamentarians, have to be in a position to defend the decisions we make in this House. More often than not, we have actually let Kenyans down by just being presented with Bills. The timing is wrong. Owing to the fact that the Bill is coming to the House when we intend to go on recess tomorrow, raises suspicion. Since this is something that the World Bank is sponsoring, you have to go to New York and Washington. I am surprised---

*(Laughter)*

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

**Mr. Arungah:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute to this Bill.

Let me start by apologising to this House because I happen to be a Member of the relevant Committee that should have delved into the details of what we are discussing today. It is not because I am a lazy Member of that Committee, but because there is a procedure that has to be followed when we are discussing matters like these. But for reasons of omission or commission, that has not been done. I want to take full responsibility and apologise to the House.

Having said that, I take this opportunity to oppose this Bill. I oppose it because I think we should send a very clear message that this House is not going to be used for rubber-stamping decisions that have already been made.

*(Applause)*

If we had given this Bill the due time that it required, we would have been able to supply, for example, the details of the valuation of the Corporation's assets. We would have, therefore, asked on what basis the figure that we were told about - US\$3 million - was arrived at. We would have, perhaps, known the values of the assets that we are discussion and, therefore, determine whether the

rentals that have been announced by the Minister are accurate or not.

Having admitted that we have not given this Bill the due research that it deserves, in order that we may have another chance to look at the various details so that we do not let this country down, I oppose this Bill, hoping that we will be able, in the meantime, to come up with the necessary details that Members of Parliament are asking for.

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

**Mr. Magugu:** Thank you, Mr. Temporary Deputy Speaker, Sir. I sensed something very bad about this Bill, because the money--- I believe I am talking with confidence because this is what I have been told by those officers there. I walked to hon. Ligale and asked him one question; whether the money which is being borrowed is inclusive of that of the retrenchees of the Corporation. He confirmed that to me. We do not suspect the Ministers. We are the same Members of Parliament when we are in this House. So, I request an assurance which will be equal to all the dues of those retrenchees. Mr. Wetangula said that almost half of the retrenchees of that corporation have already died. I was their Minister during the time of retrenchment and I can say that. Some of them have died. Even some of them are members of our families. We, unitedly, as hon. Members, Ministers and Assistant Ministers, approved that retrenchment. I know some members of my own family who have died. A Government is a Government. I am saying that with due respect. I have been in Government for many years. That is why my colleagues are insisting on--- It is not that they do not trust what is given here by the Minister for Finance. Why did we come here? It is to watch out over issues which affect our families and those issues may include death. Therefore, if we are told that this amount of money, which is in dollars, is reserved for the retrenchees, I, personally, will be very satisfied. There will be an exercise for officers who come here, listen and witness what we talk about. They will be given an assignment of that particular issue of retrenchees from the old Kenya Railways Corporation. With that, my friend, Mr. Mwiraria, will bring that kind of assurance. It will be very satisfactory to us. That is my view.

Thank you.

**Mr. Oloo-Aringo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Clearly, we are going to reject this Bill. My request is that, in view of this House having made it very clear, and some of us have expressed our feelings, would it not be wise for the Minister to withdraw the Bill, send it to the Committee of the House and have this House debate it from a position of knowledge? To me, this is maturity. If the Minister does not do that, he will clearly have a rejection of this Bill. My view is to advise him very strongly to withdraw the Bill, send it to the relevant Departmental Committee, so that it can come back to this House later!

*(Applause)*

**The Temporary Deputy Speaker** (Mr. Poghishio): Well, I do not get your point of order! You are basically trying to give a word of advice.

**Mr. Oloo-Aringo:** Mr. Temporary Deputy Speaker, Sir, it is a recommendation. It is very important because we do not want to kill the Bill. But clearly, we are going to kill the Bill. I am suggesting to the Minister to take advantage of this goodwill, withdraw the Bill, refer it to the Committee so that we can have another chance to debate it after the Committee has given us the information we are asking for.

**The Minister for Transport** (Dr. Murungaru): On a point of information, Mr. Temporary Deputy Speaker, Sir. There is a wrong impression being created here that this Bill was not referred to the relevant Departmental Committee. I wish to confirm that, last August, the relevant Committee was invited by my Ministry to Mombasa. Indeed, it was very well represented. Amongst the items discussed during that workshop was this amendment Bill concerning the consessioning of Kenya

Railways. Indeed, it was discussed alongside another very urgent Bill that we had hoped this Parliament would pass in this Session; that is the Kenya Maritime Authority Bill.

You may also wish to guide us as a House. I think there are matters that belong to the domain of the Executive. There are other matters that need to be brought to the House by law. When the Mover, my able Assistant Minister---

**The Temporary Deputy Speaker** (Mr. Poghisio): What is your point of information?

**The Minister for Transport** (Dr. Murungaru): I am giving information, Mr. Temporary Deputy Speaker, Sir. Questions are being raised which ---

**The Temporary Deputy Speaker** (Mr. Poghisio): But you do not use this opportunity! You are on a point of information. You have a right to reply!

**The Minister for Transport** (Dr. Murungaru): Mr. Temporary Deputy Speaker, Sir, I have not been called upon to reply.

**The Temporary Deputy Speaker** (Mr. Poghisio): You have the right to reply! You will be called upon to reply. But the information you have already given is sufficient for hon. Members to make a decision!

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

**The Temporary Deputy Speaker** (Mr. Poghisio): Hon. Members, we have the time! Members can speak on that. Mr. Oloo-Aringo had hoped that the Minister was going to take his advice. However, the Minister does not seem to need your advice at this point.

So, we proceed!

**Mr. Muturi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. If you look at today's Order Paper, it clearly shows that this Bill came for First Reading this afternoon. If you go to the next page, you will see further that, the Bill is to go to Second Reading by leave of the House. Therefore, I very much want to disagree with the assertion by the Minister that this Bill was referred to the relevant Departmental Committee. If they discussed intentions of making amendments to the Railways Act, that is quite a different thing. But, clearly, in terms of our procedures, it came for First Reading today. It is supposed to go to Second Reading by leave of the House. I think the Minister should take advantage because, as a House, we are still at liberty, even at this stage, to correct an error on the face of the record by denying this very debate under Standing Order No.99. So, I think the advice given by Mr. Oloo-Aringo is very welcome. Maybe, the Minister should take advantage of it.

**The Temporary Deputy Speaker** (Mr. Poghisio): Mr. Minister, you have a problem! I think the Minister has a big problem because he has just told us that the Bill was referred to the relevant Committee by way of information---

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

**The Temporary Deputy Speaker** (Mr. Poghisio): What kind of point of order would that be? It is not possible, under the procedures of the House, to have a Committee deal with a Bill before it goes for First Reading! It could not have happened!

**An hon. Member:** He is telling lies!

**The Minister for Transport** (Dr. Murungaru): On a point of order, Mr. Temporary Deputy Speaker, Sir. An hon. Member is using vulgar language at the back there. We need your protection.

If I am not wrong, this Bill was on yesterday's Order Paper. It was there for the Second Reading, not First Reading. I would wish to be assisted by the Clerk-at-the-Table.

**The Temporary Deputy Speaker** (Mr. Poghisio): I can see that on today's Order Paper, the Bill came this afternoon for the First Reading.

**Mr. Arungah:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I have made my comments on this issue seriously but it is not true to say that this Bill has formally been forwarded to the Departmental Committee on Energy, Communications and Public Works. What happened was that we had a brainstorming session and we were waiting for this Bill to formally come before the

Committee to make the necessary recommendations. So, despite what I had said earlier, this Bill has not been referred to the Departmental Committee on Energy, Communications and Public Works. That is the true position.

**The Temporary Deputy Speaker** (Mr. Poghisio): Mr. Minister, the onus is on you to withdraw your earlier statement.

**The Minister for Transport** (Dr. Murungaru): Mr. Temporary Deputy Speaker, Sir, in light of what is coming out, may I then request the House that debate on this Bill be deferred?

**The Temporary Deputy Speaker** (Mr. Poghisio): I am not sure that is provided for but you rise and say that debate be deferred. We need to be well informed.

*(Laughter)*

**The Minister for Transport** (Dr. Murungaru): Mr. Temporary Deputy Speaker, Sir, that is why I said that with the guidance of the Chair and taking into account the sentiments expressed by the House, that debate which has already commenced halfway be deferred to a later date even tomorrow until the House has been given an opportunity to scrutinise the issue which hon. Members have said. We undertake as a Ministry to provide that information that is required earliest tomorrow. However, allow me to inform the hon. Members of this House that, indeed, by delaying this Bill we are perhaps sounding the death knell of Kenya Railways Corporation as we know it. There might be nothing to concession if we delay too much. As we are talking, The Minister for Finance---

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Minister! Just a moment. I mean the Minister has to chose whether he is actually calling off this debate or continuing with it.

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): On a point of order, Mr. Temporary Deputy Speaker, Sir. Given the sentiments that we have been raising and the point of order raised by hon. Oloo-Aringo, I urge the Chair to allow this debate to be deferred and then go to the next Order, if there is any. It is not that the Bill is bad but we want facts. That is all we are saying. Nobody is saying this Bill is bad. All that the hon. Members are saying is that they want a few questions answered and the Minister has said he can do so. I think it would be within your discretion and our Standing Orders to defer the debate to a later date.

**Hon. Members:** Under Standing Order No.1!

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): In the event, there is no clear-cut Standing Order. Please guide me.

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! Fortunately, our Standing Orders do provide for adjournment of debate under Standing Order No.21.

**[The Temporary Deputy Speaker]**

However, it will have to come from you. Mr. Minister, you will have to move the Motion.

**Mr. Weya:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the Minister has his officers here and some of us ought to have some concerns that have been put in front of the House.

Could he put those concerns in front of the House so that they can be taken up when discussions take place?

**The Temporary Deputy Speaker** (Mr. Poghisio): Mr. Minister, Standing Order No.21 provides for you to move that the debate be now adjourned and through that way, I can then take the necessary action.

**MOTION**

ADJOURNMENT OF DEBATE ON

KENYA RAILWAYS CORPORATION  
(AMENDMENT) BILL

**The Minister for Transport** (Dr. Murungaru): Thank you, Mr. Temporary Deputy Speaker, Sir. Indeed, that is what I will proceed to do under Standing Order No.21.

I wish to move that the debate be now adjourned.

**The Minister for Finance** (Mr. Mwiraria) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**POINT OF ORDER**

KENYA RAILWAYS CORPORATION (AMENDMENT) BILL SHOULD BE REFERRED  
TO RELEVANT DEPARTMENTAL COMMITTEE

**Mr. Sambu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Notwithstanding the requirements of Standing Order No.151 and the sub-section which requires that this Bill be committed to a Departmental Committee after the First Reading, I would request that this matter be referred officially now by the House to the relevant Departmental Committee as required by Standing Order No.151 so that they prepare and study it in detail because it is a very sensitive matter. They should prepare a report and table it before the House for the hon. Members to study it and be able to debate it in a more logical manner.

**The Temporary Deputy Speaker** (Mr. Poghisio): Hon. Members, you knew the intention of the House even earlier on before we started debating it in the Second Reading. It clearly provides that it is supposed to be "by leave of the House", which is up to you, as a House. If it was granted the way it was, then it is now really beyond the discretion of the Minister to move this back to the relevant Departmental Committee. It should have been actually done and that is why we said "by leave of the House". I think the House would not have minded. Mr. Minister, do you have something to say at this point?

**The Minister for Transport** (Dr. Murungaru): Mr. Temporary Deputy Speaker, Sir, I think in this case the presumption is that leave had already been granted by the House to debate this particular Bill in the Second Reading, but during the debate, issues have come up which need certain kinds of responses.

I believe that if those responses are addressed adequately because these are very short amendments, we can dispense with the need to refer the matter to the relevant Departmental Committee of the House because leave had already been given to go to the Second Reading.

**The Temporary Deputy Speaker** (Mr. Poghisio): Sorry, Mr. Minister. While I was consulting, did you say that you want to send it to the relevant Departmental Committee or not?

**The Minister for Transport** (Dr. Murungaru): Mr. Temporary Deputy Speaker, Sir, I said that the issues that have been raised by hon. Members are of a very specific nature and they can be specifically addressed and provided to the House. So, there may not be need to refer this matter to the relevant Departmental Committee because the issues that require to be understood by the House can be availed to the House as early as tomorrow.

**Mr. Khamasi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I appreciate what hon. Sambu has raised but unfortunately under our rules, it is a little bit too late because the issue of the Bill being referred to the relevant Departmental Committee should have come at the First Reading. In view of the fact that we have let the Minister get on with the Second Reading, and he has already proposed the Bill, it has been seconded, it is now a little bit too late to say that we refer the matter to

the relevant Departmental Committee. As he rightly said, it could have been presumed because under our rules if we allowed the Minister to go into the Second Reading, it means we allowed him to go on. We should have blocked him at that time to say that this Bill has not been referred to the relevant Departmental Committee. So, I believe we should agree with the Minister that all the relevant information we require must be brought to this House for hon. Members to scrutinise it in detail and then we can proceed from there.

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Members! I agree with the hon. Khamasi. What he has said is exactly what I said. That is why we put on the Order Paper the words, "by leave of the House." It then means that leave was granted. However, because the Minister has called for adjournment, that creates another scenario. We cannot, as a House, refer it to the Committee, but that does not stop the Minister from entering into dialogue with the relevant Departmental Committee of the House so that these matters are scrutinised. Hon. Members need to look at Standing Order No.101. After the First Reading, the House is supposed to refer a Bill to the relevant Departmental Committee. However, because of this development now, the Minister might actually want to have consultations with the relevant Departmental Committee.

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): On a point of order, Mr. Temporary Deputy Speaker, Sir. If I may just assist the House, I had the privilege of participating in drafting the current Standing Orders.

The House can, after the First Reading, refer a Bill to the relevant Departmental Committee, but in a situation such as this one where we have already gone through the First Reading, nothing stops the Committee itself from asking the Minister to dialogue with it. The Committee does not need any direction from the Floor of this House. Departmental Committees have an oversight role over the Ministries falling under their respective dockets. The Departmental Committees can request Ministers to meet them in order to dialogue on issues that they want to clear before a matter comes back to the Floor of this House. As I said, it is just that we are not following up our work properly.

**The Temporary Deputy Speaker** (Mr. Poghisio): Is there anybody from the Committee present?

**Hon. Members:** Mr. Arungah!

**Mr. Oloo-Aringo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. There is a lot of good will in the House and we are trying to help the Minister. He is still in the old mould because he is talking about "Secrecy of the Executive". There is really no such thing today. What we are suggesting to the Minister, and it is in his interest to do so, is that he refers this matter to the relevant Departmental Committee. The Minister can then, on his own, approach the Committee with a view to looking at this matter before he brings it back to the Floor of this House. We do not even need to go further than that because that is the Minister's responsibility. The Committee, too, can summon and recall this particular Bill. Either way, Mr. Minister, you are just taking a lot of our time. You should simply refer the Bill to the relevant Departmental Committee.

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Poghisio): That is agreed.

**The Minister for Transport** (Dr. Murungaru): Mr. Temporary Deputy Speaker, Sir, I can understand the anxiety of my senior colleague, hon. Oloo-Aringo.

I know he wants us to get to the next Order of business.

*(Laughter)*

However, I have taken his advice and I will consult widely, particularly with the relevant Departmental Committee, before we come to the House tomorrow.

**The Temporary Deputy Speaker** (Mr. Poghisio): Next Order!

### MOTION

#### ESTABLISHMENT OF BUDGET COMMITTEE

- (i) THAT, this House resolves to establish a Select Committee to be designated the Budget Committee, which shall consist of a Chairman and not less than 14 other members who shall be appointed at the commencement of every Parliament.
- (ii) THAT, the Select Committee shall examine annual and supplementary estimates of the expenditure presented to the House and shall report to the House, what, if any, economies should be made consistent with the proper carrying into effect of the policies implied in or by such estimates.
- (iii) THAT, the Select Committee shall examine draft annual and supplementary estimates of expenditure, which the Minister responsible for Finance, shall discuss with the Committee, at least, 30 days before the final estimates are presented to the House.
- (iv) THAT, the Select Committee shall evaluate tax expenditures, economic and budgetary policies and programmes with direct budget outlays and shall report such results and recommendations to the House every quarter.
- (v) THAT, the Select Committee shall select a Chairman and a Vice-Chairman and further that, in the absence of the Chairman and the Vice-Chairman, the Committee shall elect one amongst the Members to take the Chair.
- (vi) THAT, majority of the Members shall constitute a quorum and;
- (vii) THAT, the Parliamentary Service Commission shall establish a Budget Secretariat to be referred to as the Office for Fiscal Analysis with such officers that necessary to facilitate the Committee discharge its functions.

*(Mr. Oloo-Aringo on 10.8.2005)*

*(Resumption of Debate  
interrupted on 10.8.2005)*

**Mr. Oloo-Aringo:** Mr. Temporary Deputy Speaker, Sir, I am moving this Motion as a Commissioner, on behalf of the Parliamentary Service Commission (PSC). So, allow me to do so, before it is seconded. May I also say that, I would like to invoke Standing Order No.41, which reads:-

"Mr. Speaker may permit a Member to move in amended form a Motion of which notice has been given if, in the opinion of Mr. Speaker, the amendment does not materially alter the principles embodied in the Motion of which notice has been given."

Mr. Temporary Deputy Speaker, Sir, it is true that I did consult with the Speaker. He had asked me to do so, provided I put the amendments in writing. I have done so and given out the copies. The amendments will basically try to improve on the Motion. I have indicated that the amendments would be as follows:-

If you look at the first part of the Motion on paragraph one, the amendment proposed will be by deleting the words "Budget Committee" appearing under part (i) and inserting the words "Fiscal Analysis and Appropriations Committee". We have said that it does not do any harm to change the name. We do not want any tussle over the name. The name "Budget Committee" threatened some

people, particularly in the Treasury. They can retain the name "Budget Committee", but we shall call ourselves "the Committee on Fiscal Analysis and Appropriations".

Mr. Temporary Deputy Speaker, Sir, secondly, by deleting the full-stop at the end of the word "Parliament" appearing at the end of part (i) and inserting the following words: "And the chairpersons of the Departmental Committees who shall be *ex-officio* Members of the Committee." In other words, we are saying that it is important to involve the Chairs of Departmental Committees in the work of the Budget Committee, so that it is all-inclusive. So, there will be a core of 15 Members and additional Members of Departmental Committees.

By deleting the word "majority" - and that is simply to provide for a workable quorum--

**An hon. Member:** In which section?

**Mr. Oloo-Aringo:** We are in part (i). What we have done is that, in place of the Budget Committee, for example, we have replaced with Fiscal Analysis and Appropriations Committee.

**The Temporary Deputy Speaker** (Mr. Poghiso): Why can you not move the Motion the way it is supposed to be?

**Mr. Oloo-Aringo:** I had moved it, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Poghiso): Then read the whole Motion! Sorry, this is the resumption of the debate!

**Mr. Oloo-Aringo:** I am just coming to that, Mr. Temporary Deputy Speaker, Sir. Let us go together. In section (i), we delete the words "Budget Committee" and replace with the words, "Fiscal Analysis and Appropriations Committee".

The second amendment is at the end of that sentence. We shall add the words, "the chairpersons of Departmental Committees, who shall be *ex-officio* members of the Committee".

Mr. Temporary Deputy speaker, Sir, in other words, we want an all-inclusive Committee, which really makes it one of the largest. That is typical of other Parliaments too. Germany, for example, has 24 members in the Budget Committee. We have done that after a lot of negotiations with my colleagues in respective Committees, so that it is all inclusive.

There is a small change in Section (vi). Instead of the word "majority", we have said that six Members will constitute a quorum, so that we are definite. Therefore, to read it as a whole, it should go as follows:-

Mr. Temporary Deputy Speaker, Sir, allow me to move the Motion with amendments.

I beg to move:-

(i) THAT, this House resolves to establish a Select Committee to be designated Fiscal Analysis and Appropriations Committee which shall consist of a Chairperson and not less than 14 other Members who shall be appointed by the House at the commencement of every Parliament, and Chairpersons of Departmental Committees, who shall be *ex-officio* members of the Committee.

(ii) THAT, the Select Committee shall examine the annual and supplementary estimates of the expenditure presented to the House, and shall report to the House, what, if any, economies should be made consistent with the proper carrying into effect of the policies implied in or by such estimates.

(iii) THAT, the Select Committee shall examine draft annual and supplementary estimates of expenditure, which the Minister responsible for Finance shall discuss with the Committee, at least, sixty days before the final estimates are presented to the House.

At first, it was 30 days. But because of the so-called "Bomas Draft", which had provided sixty days, we were anticipating that, that part of the draft has never been controversial. In fact, the section on finance, Chapter 15, has never been controversial. Indeed, in Bomas, we wanted Parliament to be involved early. That is why they provided for sixty days. Anyway, let me go on and finish.



(iv) THAT, the Select Committee shall evaluate tax expenditures, economic and budgetary policies and programmes with direct budget outlays and shall report such results and recommendations to the House every quarter.

(v) THAT, the Select Committee shall select a Chairperson and Vice-Chairperson and, in the absence of Chairperson or Vice-Chairperson, the Committee shall select one amongst the Members to take the Chair.

(iv) THAT, six Members shall constitute a quorum and;

(vii) THAT, the Parliamentary Service Commission shall establish a Budget Secretariat to be referred to as the Office for Fiscal Analysis with such officers that are necessary to facilitate the Committee discharge its functions.

Mr. Temporary Deputy Speaker, Sir, I am pretty happy with the amendments. As I have said, they were done after a lot of consultations. Therefore, I will make a very brief summary of what I said before. I know that many hon. Members are anxious to pass this Motion as quickly as possible.

But let me say that if money is the principal of politics, and if the Budget is the life-blood of the Government, this House is the heart that pumps blood to all the cells in the body politic. It shows how critical our role is as Parliament. We will not, therefore, continue as Parliament, to be taken for granted. We have taken note that the Budget cycle has four components. The drafting of the Budget, the legislation which we have just done, the implementation or execution and finally, the audit. Parliament is involved

in the three parts of the Budget cycles. The legislation, the execution because we bring Motions and Questions here and finally, the audit reports by the Controller and Auditor-General. Parliament is involved through the Public Accounts Committee.

But what I am insisting on, and that is where we lost the way, at the early stage of drafting the Budget--- We will not take over the drafting of the Budget. That is the responsibility of the Executive. We want to see it early enough, look at it critically and make suggestions to the Minister, so that he can take our views into account when he is drafting the final Budget. That is what some people are afraid of. They are saying that there are secrets. In modern times, there are no secrets as far as budgets are concerned. If anything, we are going for transparency and accountability. Therefore, the Treasury should not have certain things hidden from hon. Members. After all, we are the taxpayers. How do you take our money and then tell us there are secrets about it? We are insisting that, in the early stages of drafting, the Minister, and, therefore, the Executive Government, will still draft the Budget. However, he will be bound--- In fact, we will bring a Budget law for this House to critically look at. We will hand it over to him, to take into account what the representatives of the people in Parliament have said.

This afternoon, I was listening to hon. Members make their contributions. Funny enough, the way the Budget was prepared this year was extremely different. To many of us, that approach is completely outdated. I noted that their type of approach is outdated such that we are given lumpsums. Before we protested, the Minister actually used to bring us here lumpsums. That is when a lot of things were concealed. If we are to be transparent, we must trust hon. Members. It is for that reason that I am insisting that the House must be involved in all the four stages of the budget study, that is the drafting stage, legislation stage, execution stage and the audit stage.

Mr. Temporary Deputy Speaker, Sir, I really want hon. Members to pass this Motion so that we can assist the Commission. The Commission has already set up the establishment of the Budget Office. If anything we will be advertising vacancies for these jobs very shortly. In other words, we are prepared to proceed as a Commission, but we need the resolution of this House in order for us to have the Budget Committee as the policy body that will guide this House on matters of the Budget.

This authority is very important for this House to acquire this authority and, therefore, create the Budget Committee to supervise the work of the Budget Office. This will ensure that when the

Budget Office is created there is a committee of the House which will be supervising the work.

The PAC and PIC have done commendable job, but there is no committee that is pro-actively involved in scrutinising the Budget. Some of these committees like the PAC deal with queries which date back two years and sometimes this is done deliberately. Sometimes they deal with queries that are ten years old. So, they are really doing a postmortem. The difference in this case is that the Budget Committee will be pro-actively involved in the Budget and in scrutinising the usage of the Consolidated Fund so that things which happened in the past can be anticipated before they actually happen. I am urging hon. Members to approve this and give us support as the Commission so that we have this Committee in place. Once it is in place hon. Members will be involved in all stages.

Mr. Temporary Deputy Speaker, Sir, one of the weaknesses of Parliament is that we do not have information. Hon. Members are busy people. They do not have the time to go into great details on matters of the Budget. The debate of Budget is very superficial here. On the other hand if we create expertise of technical staff in Parliament, these are the people who will now advise hon. Members. The difference between hon. Members and Ministers is that Ministers, Assistant Ministers, the President and the Vice-President are all recruited from this House from the Back Bench. When they become Ministers, or the Vice-President they are surrounded by staff that advise them. This ensures that when a Minister makes a statement he has the capacity to do so. I am trying to build capacity for hon. Members so that they can check with the Budget Office any information on the Budget and talk meaningfully on matters of the Budget.

This is not just in the Budget. We are doing this in the area of legal services. We are creating a department of research, library and legal services with quality staff to assist hon. Members in drafting Bills and amendments to Bills. It is this capacity which brings the difference between the Executive and Parliament. We are empowering ourselves to do our work effectively and efficiently.

Mr. Temporary Deputy Speaker, Sir, I have enumerated at length the functions of this office and that of the Budget Committee and I will not repeat this again. I just want to thank hon. Members for the support they have given me and the Commission in this House. I will request Mr. Omingo to second this Motion.

**Mr. Omingo:** Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to second this Motion.

It gives me great pleasure to speak on this very important Motion that marks a dawn of a new era for this Parliament and its functions. It is difficult for me to speak after listening to the very eloquent hon. Oloo-Aringo make a presentation. I feel dwarfed. Today is the brightest day of Kenyan Parliament to actually move with speed and watch over those we have entrusted with our resources.

Mr. Temporary Deputy Speaker, Sir, I would like to give a brief background on this issue of the Budget Office. There was a lot of pushing and pulling when the proposal to establish this office came up, especially during the last Parliament. When the NARC Government came into power, the same hon. Members who were advocating for the Budget Office almost turned against us. It is only because of the shame that we pushed them to that they submitted. That is why this Motion is before us. With the formation of this office, the time for scapegoats and secrecy of the Budget will be a thing of the past. The magical bags of the Ministry of Finance will end. Kenyans will have a chance to peruse through the Budget before it is read by the Minister for Finance. It is painful to think that as an hon. Member, who is supposed look at the interests of your people, you are given a magical bag in the form of a Budget, which you do not know if it is carrying maggots, stool or stones, but you wait until the Minister for Finance pronounces what is contained in it.

Mr. Temporary Deputy Speaker, Sir, at the end of the day, this House only gets a chance to debate the Votes of a few Ministries. Unfortunately, there are some expenditures which may not be so obvious. Most of our debates are ordinarily irrelevant because the contents are foreign to us. Out of all the Ministries, only budgets for about 12 Ministries are discussed and the balance go through the Guillotine process. When budgets go through the Guillotine process, we bypass all manner of

anomalies including, printing mistakes. This is why Parliament must grow beyond these kind of procedures. We should be transparent as much as we can.

Mr. Temporary Deputy Speaker, Sir, parliamentarians keep running up and down doing all manner of things. It is true as Mr. Oloo-Aringo has said, that we do not have matching competence in the sense that when we discuss financial issues, we do not have a reference bag where can research and engage the technocrats who do nothing else except budgeting. They usually tell us all manner of good things and we tend to buy

their ideas when, indeed, they could be misleading the House and the nation. This was evident when the issue of building a house for the Vice-President and Minister for Home Affairs came up. They indicated that project would cost Kshs1 billion, but it was discovered to be a printing error. We need to expose such mistakes and have issues done in a transparent manner.

Mr. Temporary Deputy Speaker, Sir, let me talk about the issue of extravagant Ministries and application of resources. Yesterday, while discussing the Finance Bill, I mentioned a few issues regarding extravagant expenditure and lack of application of resources for the purpose of the good of the nation by Ministries and various Government bodies. In most cases, Ministries request for budgets and ordinarily the same figure, which they quoted last year, is adjusted by a particular fraction and given as the new budget. We do not go back to ask them whether they utilised the funds we allocated them for the good of the common man. It is high time that the Government managed its affairs like a corporate body. Governments all over the world do not make profits, but they are supposed to operate to increase the social dividends of their citizens. These dividends come through good infrastructure, educational facilities, electricity and all manner of things that affect society. Since we do not request for balance sheets from the Ministries, we do not know what their rate of returns are. The Constituencies Development Fund (CDF), which receives 2.5 per cent from the Treasury, for example, could be interrogated to find out how they are utilising funds for various projects. They should be able to tell us what they are doing with this money, whether they are constructing schools, dispensaries *et cetera*. We do not know what happens with the 97 per cent that remains with the Executive. We should ask Ministry "x", for example: What rate of return? What was the rate of social dividends did you take to the society upon the close of the year? That is why Kenya is like a corporate company. The Ministers are directors entrusted to run this company for the social good of Kenyans. We have lost focus in this area over the years. The Budget Office will help us to interrogate what Ministries do and ask them to justify any further budgetary allocation if budgets for previous years are not properly utilised. We will know the priorities in a Ministry and how relevant a Ministry is. We cannot start constructing airstrips, for example, for people who have no planes to fly simply because it is politically expedient or because a contractor needs to make some money. We must justify all that we do. We require to provide for social amenities. We need to justify our figures when they are put in the Budget.

As I said, last year's Budget was ambiguous. Figures were given in blocks, and when we turned it round, we saw the anomalies of inequitable distribution of resources. It is a pain to learn that some districts could get as much as Kshs500 million while others got Kshs5 million. We are saying this is not morally upright. Even if you wanted to take it, please do it wisely. That is why we are here to make sure that such anomalies are corrected. Because I know Members of Parliament are quite eager to get this thing done, I would want to put to rest the speculation and worries about the technocrats. I know there were impediments into hon. Mwiraria's acceptance of this Motion. He was certainly reluctant at the beginning. Kenyans require transparency.

Mr. Temporary Deputy Speaker, Sir, there is this sentence that Ministers keep making that, they will do this or that "when funds become available." When we establish the Budget Office, we will be telling Kenyans not to expect one, two or three projects because the basket given to that Ministry is so much, so that it does not become politically expedient to give a bridge to somebody. These are some of the things we must guard against as Parliamentarians.

Mr. Temporary Deputy Speaker, Sir, we have seen issues regarding misuse and wastage. As a past Chair of the Public Accounts Committee, I can attest to the wastage of funds by the Government. That is why hon. Aringo said it clearly, that the Budget Committee will be involved in Budget making at the drafting stage, preparation, implementation and audit. That way, you can arrest a very serious crime. We know for a fact that if audits were continuous, we would arrest some wastage which would have taken place before it is too late. The Public Accounts Committee just does postmortem work.

Mr. Temporary Deputy Speaker, Sir, it is important that Members of Parliament rise to the occasion and pass this Motion. I suggest that this should be done quickly and, if possible, let this House now start getting involved and engage the Government from commencing preparations for next year's Budget.

With those remarks, I beg to second.

*(Question proposed)*

**The Minister for Finance** (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, let me thank hon. Mover and Seconder for this Motion. However, let me also hasten to say that the Motion as presently worded is very different from the earlier Motion that I was objecting to.

Mr. Temporary Deputy Speaker, Sir, I will start by saying, maybe the obvious, but which is critical; namely, that budgets are instruments used by the Government of the day to implement that Government's policies and commitments to its people. When a Government, for instance, offers free primary education to its people in its manifesto, it is bound to implement that promise when it comes to power.

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

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

Mr. Temporary Deputy Speaker, Sir, the second point I want to make is that the present NARC Government does not hold the Budget as a secret that should be kept close to the hearts of the officials or the Minister for Finance. The very fact that we have open discussions with citizens of this country, members of the private sector, Non-Governmental Organizations (NGOs) and Community Based Organisations (CBOs) in Kenya as we prepare the Budget is a clear indication that we are willing to consult and work with the entire Kenyan society, including Parliament to which we belong. In March and April 2005, we held public hearings and we heard a lot of suggestions from citizens of this nation on what should be included in the Budget. I happened to have travelled with the Mover to Canada and Germany. We found their Committee in consultation with hon. Members, members of the public and many other members. In fact, it was during our visit to Canada that we picked up the idea of having departmental committees. Therefore, I would be the last person to oppose the appointment of a Budget Office in Parliament. I would be the last person to oppose the consultations between the Ministry of Finance, the Departmental Committees for the different Ministries and even this new Committee.

Mr. Temporary Deputy Speaker, Sir, the only concern that I want to express is that there must be a way of making sure that after the consultations, the Government of the day will be allowed to exercise its mandate to provide the services it has promised its people and make sure that it has budgeted for those services. The question then becomes: How do we combine the provision of information to Parliament with the Government's free hand to provide the services which it has promised its people? It is very possible that we can consult and the Government, in fact, should benefit from the views of hon. Members. The only concern, as I said, is what happens in case,

for instance, as we did this year. In this year's Budget, we felt that we need to increase expenditure in the social sectors. We increased the budget for the Ministry of Health by 30 per cent. We increased the budget for the Infrastructure Department by about 44 per cent.

We reduced the budgets of some of the Ministries which we thought were not really doing very much to speed up development and to help reduce poverty. That is why most of the parastatals had to do with a 15 per cent reduction in the amounts which we are offering them. The question that I want to pose to my friend is: To what extent? When we talk in this House, we should know that today we have NARC in power, but tomorrow it could be the Liberal Democratic Party (LDP) or KANU. We should not, therefore, make things so difficult for the Government of the day that we destroy our own very future.

As the Minister for Finance, I want to be objective. I will try to make sure that our Government does the best for its people. I am willing to discuss this with everybody who is interested, particularly the Parliamentary Committees. We need to have a Budget Committee. It is vital that hon. Members understand the Budget and what it is aimed at achieving. It is important that hon. Members understand how the Minister proposes to raise his Budget and are even free to suggest ways of doing it. However, there must be that freedom for the Government to provide the services it has promised its people. If you take that power away, you might as well say bye to competitive politics in this nation.

Mr. Temporary Deputy Speaker, Sir, having said that, let me look at the Motion itself. To the extent that the Budget Committee or the Fiscal Analysis and Appropriations Committee will be discussing all the aspects of the Budget, Parliament should be involved in the preparation of the Budget, its approval through legislation and in its execution and implementation by the Ministries. Parliament should also do its watchdog functions through the Public Accounts Committee (PAC) and the Public Investments Committee (PIC). So, I have no problem at all with the Motion. In fact, the office which comes as the last item is, perhaps, the most important. This is because we need that office to go through the Budget, appreciate what is being done in consultation with the officials in the Treasury, Kenya Revenue Authority (KRA) and so on, and pass this information down to the Committee of Parliamentarians.

Mr. Temporary Deputy Speaker, Sir, I would, however, like to ask whether it would not be, perhaps, more prudent and wise to reduce the Committee a little bit by making sure that all the chairs of Parliamentary Committees become members automatically, and then increase a few more members. When a Committee is composed of 20 or 30 people, it can be unwieldy. It may not be able to achieve as much as one would expect. The advantage - and that is why I like the amendment to item(i) - of having the chairpersons of the Departmental Committees is that, we will have people who, on a day-to-day basis, deal with the activities of different Ministries. They are the people who look at policies of the Ministry and know what implementations and procedures are to be followed. They know what work the Ministries intend to do. They also know what is really required in this country, Ministry by Ministry. They can, therefore, contribute very effectively to a body like this, even in saying: "Yes, you have given Ministry "X" this amount, but because we feel that there is need to expand this service, the resources will not be adequate."

So, I fully support that but maybe, the large Committee could be a little unwieldy. I am, therefore, wondering whether we should not reduce it to a manageable number like 15, 16 or 17, but including the chairpersons of the Departmental Committees.

Secondly, I have a problem, which I have already mentioned to the Mover, on item (iii) which says: "The Minister shall discuss with the Committee, at least, 60 days before the final estimates are presented to the House." Unfortunately, in the real world we live in, we do not have the Budget ready 60 days before I present it in this House. It is not physically possible. What I have said - and this is what I would like to be understood - is that there should be consultation between the Ministry of Finance and this Fiscal Analysis and Appropriations Committee from the time the Ministry starts

preparation of the Budget. The advantage of doing this is that the Ministry of Finance can keep the Committee informed on development. This is because, as I said, we consult the private sector, Non-Governmental Organizations (NGOs), Community-Based Organizations (CBOs) and even our local authorities. In fact, we invited everybody, including Members of Parliament this year. We will continue consulting them, so that as we develop our Budget, we would keep the Committee abreast. It will know what is happening.

The reason why we do not get the Budget ready 60 days in advance is because we need to look at the budgets of the previous years; how the expenditures are growing and the collections of revenues are moving. We need to examine what items we are likely to tax this year. We need really to have a "rough feel" of the amount of money we are likely to have. Once you get the rough feel, you begin to put in figures. Once you put the figures in, you think about it and, sometimes, you come to a conclusion and say: "No! The people are, perhaps, too heavily taxed. We will drop this. We will drop that. We will drop the other!" Where do we get the money from? You change again and look for something else. So, it is a continuous process. If we were able to prepare a Budget and be ready two months in advance, life would be very easy. Unfortunately, that is not the way it is. I know that when it is nearly Budget time, my people in the Budget Committee have to work everyday up to midnight and beyond. We can keep the Parliamentary Committee informed. However, we will not be able to give you the figures which we will bring for the Budget, earlier than a fortnight before the Budget Day. Even then, they may only be fairly good estimates. So, there again, I would appeal that we amend that proposal to make it realistic. I would hate to tell this House that I will do something that I will not fulfil. It does not make sense. Even within two weeks to the Budget, you can have the last estimates which could be changed one way or another. We shall move along together. There is no reason why the outcome of the consultations would not be satisfactory to hon. Members.

Mr. Temporary Deputy Speaker, Sir, on item (iv) the Select Committee shall evaluate tax expenditures, economic and budgetary policies and programmes with direct budget outlays and shall report such results. I welcome that proposal wholeheartedly.

Mr. Temporary Deputy Speaker, Sir, you know that when we were amending the National Audit Act, we included a provision that the Controller and Auditor-General should be giving this House quarterly reports. That way, as the year progresses, we will be able to see how expenditure is moving Ministry by Ministry, so that we are not taken by surprise by our work. The proviso here fits very well with what we approved and, therefore, I really see no problem. I have no objection to it. As I said, I will fully support it.

Mr. Temporary Deputy Speaker, Sir, on the management of the Committee, the quorum and so on, I really have no difficulties. I would go along with that. In conclusion, what have I been attempting to say?

Basically, in principle, I support this Motion. I have only two areas of difficulty. They stem from the practicability of implementing it as it presently stands. One of them is the fact that, the Budget is an instrument used by any Government to implement its policies and whatever promises it made to its people during the campaign period.

That being the case, I think we need, as Kenyans, to try and appreciate that whatever we do in those committees must leave that room open. As I said, today Mwiraria maybe in the dock. Tomorrow it could be the hon. Temporary Deputy Speaker. So, really we need to look at it as people who are realistic and who belong to a multi-party democracy in which a Government takes power and wants to prove to its people that it is better than the previous one. The only way we can do it is by having budgetary innovations and changes which really address the issues the Government has set itself to achieve.

Mr. Temporary Deputy Speaker, Sir, I know, for instance, we support fully the Constituency Development Fund (CDF) and I am sure all hon. Members of Parliament know that it is a real try.

Now, another Government could come and decide that the CDF should go. Members of Parliament who have seen how it works may be opposed to it but to what extent should we really use Parliament to slow down a Government from implementing its activities? That is point number one.

Mr Temporary Deputy Speaker, Sir, point number two is purely practical. The Budget preparation is a long process. We are prepared to move along the road with the Parliamentary Committee on Fiscal Analysis and Appropriations. It is not possible to present a Budget in 60 days. I do not think any country can present information two weeks before. I think two weeks before is misuse of expenditure. The Committee which has been involved in the development of the expenditure of the Budget should really be in a position to say: "Yes, these are our comments" and do a very good job.

Mr. Temporary Deputy Speaker, Sir, with those very few words, I beg to support but I would really plead that we amend those two aspects and I also plead that we reduce the size of the Committee.

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Thank you, Mr. Temporary Deputy Speaker, Sir. I am going to be very brief indeed. I stand here as the Leader of Government Business to underscore the fact that the Government actually supports this Motion.

*(Applause)*

I remove any feeling that the Government does not want this Committee to be set up. I want first of all to thank the Mover, hon. Oloo-Arango, for the very eloquent way in which he did move this Motion. I think he has done his homework. I am happy to note that the idea of this Committee came at a time both he and the Minister for Finance were touring other parliaments to see the importance of an office like this.

Mr. Temporary Deputy Speaker, Sir, we have talked a great deal about donor fatigue.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Omingo): Order, hon. N. Nyagah!

**The Vice- President and Minister for Home Affairs** (Mr. Awori): We have talked a great deal about the conditionalities that donors are placing on us. They have given us so much trouble that sometimes we are not able to run our State corporations the way we should.

Mr. Temporary Deputy Speaker, Sir, we can dispense with donors if we collect all the taxes that are there to be collected. If we utilise the money we have collected properly, frankly speaking, we would have no problem of dealing with our finances and leaving out donors completely. We have complained many times that we are one of the highest taxed people in the world. It is true especially when you compare our tax rates with other countries which are at the same level of development with us.

We have always wanted to attract investment from outside and even from within. It has always been said that we are not investment friendly because of our high taxation rates.

We all know that Budget is the instrument of development. So, if we establish the Budget Office, then we shall be dealing with those factors that will make this country investment friendly. We shall be able to reduce our tax rates and make proper use of funds. What we need to remember is that the drafting of the Budget must remain the responsibility of the Ministry of Finance. I do not think there is any argument about that. We have in fact taken a first step when recently members of the public were invited at City Hall and other places to share in the proposed Budgetary arrangements. So, this is not something quite new.

Mr. Temporary Deputy Speaker, Sir, we need the Budget Office so that we can reduce the

altercation that sometimes comes up in this House when the Budget is being discussed. We want transparency and accountability, but above all, we want equitable distribution of resources of this country. With the Budget Office in place, I think that will be possible. When we talk of equitable distribution of resources, I also have all sectors of our economy in mind. We need assurance that no sector will have a lion's share of the resources that it is not entitled to. Equitable distribution of resources must be regional too. When hon. Members finally begin to give their proposals on this issue, I believe we will deal with that aspect.

We all know that there are certain areas in this country that require affirmative action. For example, we need to develop North Eastern Province to the level of Nairobi Province. Today, the Press highlighted the levels of poverty in certain areas of this country. It is up to us to uplift those areas because for as long as one pocket of the country is extremely poor we cannot be all equal. Development in a country should be equitable. Also, more and more people need to participate in the development of a country. We know, for instance, that if we supply sufficient water in the vast land of North Eastern we will be able to make that area productive. All parts of Kenya will benefit as a result of this.

Mr. Temporary Deputy Speaker, Sir, I do believe that, before it is presented here, a proposal should be made that: "Let us put more funding in North Eastern to supply water there." That is acceptable. We know that transportation and communication helps to enhance the economy. Like now, because of what is happening in the country, we have always adjourned early. We have not been able to complete House business. We had to guillotine more Votes than we have ever done before.

Mr. Temporary Deputy Speaker, Sir, if hon. Members were involved in helping the Ministry to deal with various allocations, even when the guillotine procedure is applied, there would be no complaints. I will leave the specific clause to the experts. I just wanted to support my fellow Minister. We support this Motion.

With those few remarks, I beg to support.

**Mr. Kipchumba:** Mr. Temporary Deputy Speaker, Sir, from the outset, I wish to say that I support this Motion.

But I would like to move that part (v) be amended as follows:-

By deleting the word "select" appearing on the first line before the word "shall" and substituting in place thereof, the word "elect".

The practice is that we elect a chairman. We do not select. Selection is dictatorship.

Secondly, in the same clause, by inserting the following words after the word "chairperson" - "who shall not be a member of a party or parties forming the Government". I am proposing that because we want the chairman of that Committee to be a member of a party which is not in the Government. Given that there will be 15 Members, it would mean that, in line with the practices that we have, there will seven members from the Opposition and eight members from the Government. That way, we will have a Committee that is well represented. That is the practice.

As the Minister for Finance has said, you never know! Today you are in the Government and tomorrow you might be in the Opposition. Therefore, once you swap positions, the practice will just follow. I do not want to belabour on the same. I request Mr. Muturi to second.

**Mr. Muturi:** Mr. Temporary Deputy Speaker, Sir, I stand to second the proposed amendments by Mr. Kipchumba. Indeed, as the Mover has stated, it is merely to increase democracy in the Committee, in the manner that the leadership thereof is constituted. It also reflects the practice and traditions of this House, in keeping with our Standing Orders.

With those few remarks, I second.

*(Question of the first part of the amendment, that the words to be left*



*out be left out, proposed)*

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

*(Question of the second part of the amendment, that the words to be inserted in place thereof be inserted, proposed)*

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

*(Question of the Motion as amended proposed)*

**Mr. Angwenyi:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute to this Motion. First, I want to thank hon.--- You called him indomitable Oloo-Aringo. That hon. Member has caused a revolution in this House. Remember, he is the same hon. Member who, without any reward, introduced the Parliamentary Service Commission (PSC) in this House. He has now moved a notch higher to make this House tick.

Mr. Temporary Deputy Speaker, Sir, as you know, year in, year out, this House has been a rubber stamp for the Budget. It does not interrogate the Budget. We can say that, Kenyans are taxed without their representatives knowing on what basis. Mr. Oloo-Aringo has brought this Motion to empower this House to give an input in the Budget preparations. It will determine and influence how Kenyans will be taxed.

Mr. Temporary Deputy Speaker, Sir, as Mr. Oloo-Aringo has said very explicitly, the most important function of an effective Parliament is to tax its people, allocate the resources from taxation and manage them to make sure they are applied for the purpose they were allocated.

Mr. Temporary Deputy Speaker, Sir, as you know, year in, year out, we vote money here. But there is no feedback to show us how that money has been applied. The latest report of the economic welfare of Kenyans is badly skewed. It is so badly skewed because there are some areas in this country which are below where we were when we attained independence in economic development.

Mr. Temporary Deputy Speaker, Sir, the economy of a country depends on how resources collected by the government are utilised. The economy of a country depends on how prudent the managers of resources are in managing those resources. The economic disparities that we see arise because we are not prudent in managing our fiscal resources. If you walk around this country, you will see projects which are dormant and those which have been abandoned after enormous amount of resources have been sunk in them.

When you drive from this town towards Thika, as you move to Mathare Valley you will see houses which were built 15 years ago but were left incomplete at the last moment. They have never been utilised as if we do not have a housing problem in this country. We want to empower Parliament as a sovereign institution of the people of Kenya to see how resources are managed. I am grateful to the Minister for supporting this important Motion. As the Minister has acknowledged, the level of taxation in this country is among the highest in the world and yet the level of utilisation of resources is among the lowest in the world. Our implementation rate is 13 per cent. This means that 87 per cent of

our Development Vote is not properly utilised or is not actually implemented.

Mr. Temporary Deputy Speaker, Sir, we should have a feedback mechanism whereby this committee will set targets together with the Minister for Finance to ensure that they report back to Parliament when those targets have been met. That is what happened in Malaysia, South Africa and Canada.

**Mr. Rotino:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Would I be in order to call upon the Mover to reply?

**The Temporary Deputy Speaker** (Mr. Omingo): I know there are quite a number of hon. Members who want to contribute, but that will be left to the Chair to decide after giving Mr. Angwenyi his chance to finish.

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, this country has developed a donor-dependency syndrome. We factor in donor support for a lot of our projects.

Mr. Temporary Deputy Speaker, Sir, If we have this Budget Committee in place and if it is effective, this country will develop much faster than it is developing today.

With those few remarks, I beg to support.

**Mr. Muturi:** Mr. Temporary Deputy Speaker, Sir, looking at the mood of the House and considering that this is a matter that has been of interest to Members of this House over the last four years, would I be right to call upon the Mover to reply?

**The Temporary Deputy Speaker** (Mr. Omingo): Given the mood of the House, I am convinced that we need to close this debate. Let me hear one more from Ms. Ndung'u.

**Ms. Ndung'u:** Mr. Temporary Deputy Speaker, Sir, I would like to propose an amendment to the first part of the Motion. I propose that we add the words "shall represent the interests of each gender" after the words "fourteen other members".

Mr. Temporary Deputy Speaker, Sir, the reason why I would like to move this amendment is because if the membership of this Select Committee is with the Chairs of Departmental Committees in Parliament, it means there will be no women representatives in this Committee.

Mr. Temporary Deputy Speaker, Sir, when women hon. Members raised the issue of zero-rating sanitary towels, we did so because for years, the experts in Treasury continued to charge sanitary towels as a luxury item because the issue was always discussed by a committee of 14 men. This is something we cannot agree to---

**Hon. Members:** Move the amendment!

**The Temporary Deputy Speaker** (Mr. Omingo): Order, hon. Members! Ms. Ndung'u, proceed and ignore hon. Members comments.

**Ms. Ndung'u:** Mr. Temporary Deputy Speaker, Sir, I beg to move that the Motion be amended as follows:-

By adding the words, "and whose membership shall represent the interest of each gender" after the words "fourteen other members" in the first part of the Motion.

The rest of the first part of the Motion remains the same.

Mr. Temporary Deputy Speaker, Sir, therefore, this Motion, with amendments, should read as follows:-

THAT, this House resolves to establish a Select Committee to be designated to the Budget Committee, which shall consist of a Chairman---

**Mr. Muturi:** How many members are you talking about?

**The Temporary Deputy Speaker** (Mr. Omingo): Order, Mr. Muturi! Could you give Ms. Ndung'u time to be heard?

**Mr. Ndung'u:** Mr. Temporary Deputy Speaker, Sir, before I was interrupted, I said I would like to move an amendment to the first part of the Motion as follows:-

By adding the words "and whose membership shall represent the interest of each

gender" after the words "and not less than fourteen other members".

**Mr. Rotino:** How many members?

**Ms. Ndung'u:** I am not giving a percentage. Mine is not to cause---

**The Temporary Deputy Speaker** (Mr. Omingo): Order, hon. Members! Could you give Ms. Ndung'u a chance to be heard?

**Ms. Ndung'u:** Mr. Temporary Deputy Speaker, Sir, I beg to move the amendment as I have stated.

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, I beg to second.

*(Question, that the words to be added be added, proposed)*

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

*(Question of the Motion as amended proposed)*

**The Temporary Deputy Speaker** (Mr. Omingo): Hon. Members, I read the mood of the House, and I accept the proposal that the Mover be called upon to reply.

**Mr. Oloo-Aringo:** Thank you, Mr. Temporary Deputy Speaker, Sir. This Motion has the unanimous support of the whole House. I would like to particularly thank those hon. Members who took part in the debate, and those who wanted to take part, but who did not get the chance to debate. I also would like to thank the

Minister for supporting this Motion. There is nothing really very different in this Motion from the ones that I had drafted before. However, I will not split hair today because of the unanimous support that the Motion has received. The principles are the same.

In short, we are saying that, as the representatives of the people of Kenya, we must get involved in the most important policy document of the Government and Parliament. It is a matter of right and not a privilege.

Secondly, we are also saying that, indeed, it can be achieved. We can actually get the annual reports earlier. Many Parliaments are already doing that. In Uganda, for example, it takes 60 days for the annual estimates to be brought to the Budget Committee. It is the same thing in Nigeria. In most of these Parliaments it takes 60 days.

Mr. Temporary Deputy Speaker, Sir, what we are requesting means that the officials at the Ministry will have to work. After all, our President says that this is a working nation. Therefore, if we work hard, we can get these reports here in 60 days. We can scrutinise them and hand them back to the Minister for Finance to draft the final estimates of revenue and expenditure.

Mr. Temporary Deputy Speaker, Sir, it is for that reason that I am suggesting that we have a committee. This is my prayer; as soon as the Committee is formed, it will move with speed and bring to this House, a Budget Bill to be enacted into law. It is only then, that Parliament will compel the Minister to give us information.

Mr. Temporary Deputy Speaker, Sir, I am suggesting this with a lot of respect because even though the Minister says that he does consultations, they are not structured. They are amorphous! They are seminars! That is not what we are talking about. We are talking about proper scrutiny of the Budget by the House through a committee and the effective support of technical and professional staff in the Budget Office. This is what we have been lacking and what we are going to have.

*(Applause)*

It is not only that; we hope that ultimately, we shall have a Director of Budget. He or she should have almost as much or even more powers than the Controller and Auditor-General. The Director of Budget will be here in Parliament and informing us about the budget. This, to me, is the act of liberation. What we are doing now, is to marry democracy and technicality. While as the representative of the people we want to have a say, we shall be doing so from knowledge. Our technical staff will be capable or measure up to those at the Treasury. The man at the Treasury will no longer have that sole control. The tragedy in our country is that the Budget has never been a political document. It has always been a Civil Service document.

*(Applause)*

It is the civil servants that literally control the Budget of this country. This is the reason the country's economy has flopped. Poverty has increased because politicians have not provided the engine and leadership. Parliament is now going to provide the leadership. We have no apologies to make for that.

With those few remarks, I beg to move.

*(Question of the Motion as amended put and agreed to)*

*Resolved accordingly:*

- (i) THAT, this House resolves to establish a Select Committee to be designated Fiscal Analysis and Appropriations Committee which shall consist of a Chairperson and not less than fourteen other members, and whose membership shall represent the interest of each gender who shall be appointed by the House at the commencement of every Parliament, and the Chairperson of the Departmental Committee who shall be *ex officio* of the Committee.
- (ii) THAT, the Select Committee shall examine annual and supplementary estimates of the expenditure presented to the House and shall report to the House, what, if any, economies should be made consistent with the proper carrying into effect of the policies implied in or by such estimates.
- (iii) THAT, the Select Committee shall examine draft annual and supplementary estimates of expenditure, which the Minister responsible for Finance, shall discuss with the Committee at least sixty days before the final estimates are presented to the House.
- (iv) THAT, the Select Committee shall evaluate tax expenditures, economic and budgetary policies and programmes with direct budget outlays and shall report such results and recommendations to the House every quarter.
- (v) THAT, the Select Committee shall elect a Chairperson who shall not be a member of party or parties forming the Government and Vice-Chairman and further that in the absence of the Chairman and Vice-Chairman, the Committee shall elect one amongst the members to take the Chair.
- (vi) THAT, six members shall constitute a quorum and;
- (vii) THAT, the Parliamentary Service Commission shall establish a Budget Secretariat to be referred to as the Office of Fiscal Analysis with such officers that are necessary to facilitate the Committee discharge its functions.

*(Applause)*

**The Temporary Deputy Speaker** (Mr. Omingo): Next Order!

### QUORUM

**Mr. Salat:** On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum in the House!

**The Temporary Deputy Speaker** (Mr. Omingo): Yes, we do not have a quorum. Ring the Division Bell.

*(The Division Bell was rung)*

### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Omingo): Order, hon. Members! In the absence of a quorum, the House stands adjourned until tomorrow, 3rd November, 2005, at 2.30 p.m.

The House rose at 8.25 p.m.