

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 16th October, 2003

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

The Report on the Constituencies Development Fund Bill, 2003.

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

ORAL ANSWERS TO QUESTIONS

Question No.601

SHORTAGE OF TEACHERS/SCHOOL
INSPECTORS IN BOMET

Mr. J.K. Koech: Mr. Speaker, Sir, I cannot ask this Question. This is because the Question I had given to the Ministry is completely different from the one on the Order Paper.

Mr. Speaker: How is that so?

Mr. J.K. Koech: Mr. Speaker, Sir, it seems as if there was a mistake somewhere. In that case, therefore, I would prefer that the right Question be given to the Ministry so that I can get the correct answer.

Mr. Speaker: Very well! Mr. J.K. Koech, if that is the case, then I am sorry. I would, therefore, advise that you get in touch with the Clerk as quickly as possible so that the correct Question goes to the Ministry. This Question is, therefore, deferred and will be given priority when it comes back.

(Question deferred)

Question No.581

IMPLEMENTATION OF EMU REPORT

ON KENYA SUGAR BOARD

Mr. Shitanda asked the Minister for Agriculture what action he has taken to date arising from the findings and recommendations contained in the report of the Efficiency Monitoring Unit (EMU) on the Kenya sugar Board (KSB).

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

I have taken the following steps in keeping with the findings and recommendations contained in the report of the EMU on the KSB. I appointed a task force to look into the sugar industry prices, whose report was submitted to me in August, 2003. We are in the process of implementing various recommendations.

We have now competitively sourced for and appointed a substantive chief executive for the organisation from the private sector. Under the guidance of the new-look industry-driven board, he has embarked on the process of redefining the strategic focus of the KSB, with a special reference to governance issues, particularly compliance to prudent financial management systems.

The Kenya Sugar Authority (KSA) has since been replaced by an industry-driven board that has identified and taken remedial measures on the matters raised. These include out-sourcing the collection of the sugar development levy (SDL) to Kenya Revenue Authority (KRA), whose core business is revenue collection. In line with the laid-down procedures, allowances that were hitherto paid within the organisation have been forwarded to the necessary Government organs for approval.

Moreover, criminal charges have been preferred against those implicated in the irregular procurement of services in a number of concluded cases, such as the Euro Bank and the irrigation project.

The anti-corruption arm of Government was instructed to investigate the tissue culture project and other consultancies that may have been irregularly procured. Based on its findings, appropriate action will be taken.

All illegal services paid for by the board will be referred to the High Court for taxation. The matter is still on-going and should be allowed to come to a logical conclusion.

To ease the debt burden for the heavily indebted sugar and outgrower companies, and restore the environment for cash flow within the industry, substantial amounts owed to the KSB in terms of interest and penalties have been waived.

Mr. Shitanda: Mr. Speaker, Sir, I would like to thank the Minister for the answer. However, I would like to know why the officers of the EMU, who were assigned to carry out an efficiency monitoring exercise, were compromised by the KSB officials during the exercise. They were bought television sets and mobile phones, thereby comprising the actual findings of their inspection. Could the Minister confirm whether this inspection report that he is taking action on is the actual one that was produced in the first place?

Mr. Kirwa: Mr. Speaker, Sir, if there are any officers who, in the course of their duty, were compromised by any advances or gifts from any persons, this is a new revelation. However, I will take the necessary action once I confirm that, that allegation is true.

Mr. Shitanda: Mr. Speaker, Sir, the Minister has told us that the report of the EMU has been forwarded to the anti-corruption police for another investigation. Could he tell us why he did not assign the investigation to the then Anti-Corruption Police Unit in the first place?

Mr. Kirwa: Mr. Speaker, Sir, some of the recommendations were for specific organs of the Government to implement. For example, there was a recommendation for the Minister for Agriculture to implement. There were other general issues for other arms of the Government to implement, in keeping with procurement procedures. Of course, there were other issues to be dealt with by the Attorney-General and the Auditor-General (Corporations). When I took over the Ministry, this was

an on-going process, and I realised that the best way of going about it was to look at the problem of the sugar industry globally, with a view to finding lasting and effective solutions to the problems therein.

Question No.561

STD SERVICES FOR MERTI TOWN

Dr. Kuti asked the Minister for Transport and Communications:-

(a) why Merti Division, which is one of the oldest in Isiolo District, is without Subscriber Trunk Dialling (STD) services; and,

(b) when he will correct this anomaly by installing STD telephone services in Merti town.

The Assistant Minister for Transport and Communications (Mr. Ligale): Mr. Speaker, Sir, I beg to reply.

(a) A 70-Lines Manual Exchange that is parented to an automated switch situated in Isiolo town serves Merti Division. Currently, there are 18 customers and two public coin boxes connected to this exchange. Due to the current low demand for telephone services, installation of an automatic switch in the area has not been introduced in view of the high operational costs per customer.

(b) In order to improve its service provision in Merti Division and other parts of the country, Telkom Kenya Limited has initiated a country-wide rural automation programme 2003 - 2006, in which small towns, centres and markets have been earmarked for automated telephone services. These services will use wireless systems technology with additional provisions of pay phones. As for Merti Division this service is expected to be provided by the end of financial year 2004/2005.

Dr. Kuti: Mr. Speaker, Sir, I would like to thank the Assistant Minister for his answer. However, I would also like to emphasise that Merti Division is one of the most insecure regions of the district, where cattle rustling and other insecurity activities are prone. Services like telephone are very important. Therefore, based on security priority, could he bring the programme forward to financial year 2003/2004?

Mr. Ligale: Mr. Speaker, Sir, I will try my best, but I cannot promise.

Mr. Bahari: Mr. Speaker, Sir, every time this issue is asked for consideration in that part of the Republic, we are told that there are very few clients and, therefore, it is not economically viable. If STD is installed, normally, people from other parts of the country will call that place. It is easier to call when there is an STD facility. I wonder whether the reason given by the Assistant Minister is viable. I believe that there will be more calls and more efficiency. Could the Assistant Minister explain the rationale?

Mr. Ligale: Mr. Speaker, Sir, I am not sure whether that is a question. I indicated that we will introduce wireless system technology which will serve those areas. However, we do not have to put in too much capital investment as we have done in the past.

Dr. Ali: Mr. Speaker, Sir, every time the Assistant Minister is asked questions about the northern part of Kenya, he always says that they will introduce the wireless system technology. The Very Small Aperture Technology (VSAT) is already in the country. The Barclays Bank and rich people have all been connected. Why can the Government not install it now to benefit people in those areas? Why should they wait until the 2004/2005 financial year?

Mr. Ligale: Mr. Speaker, Sir, I said that system is already in place. However, Merti Division will get STD services in the next financial year.

Mr. Speaker: Next Question, Mr. Gonzi Rai!

Mr. Rai: Mr. Speaker, Sir, the next Question is by Mr. Ngozi.

Mr. Speaker: Well, I am sorry. I think the common denominator is Mr. Ngozi. So, I will now call him Mr. Abdalla.

Mr. Ngozi: Mr. Speaker, Sir, I think, to avoid mixing up these names, you had better call me Mr. Abdalla.

Mr. Speaker: How about him?

Mr. Ngozi: Mr. Rai, Mr. Speaker, Sir!

Mr. Speaker: Very well!

Question No.625

BENEFICIARIES OF KONGO MOSQUE LAND

Mr. Ngozi asked the Minister for Lands and Settlement:-

(a) whether he could table the names of the beneficiaries of a 16-acre plot belonging to Kongo Mosque in Diani; and,

(b) when this land will be returned to its rightful owners.

The Assistant Minister for Lands and Settlement (Mr. Ojode): Mr. Speaker, Sir, I beg to reply.

(a) Kongo Mosque used to be within a block of 16 acres situated within Diani Complex area. In 1985 the area was surveyed and Kongo Mosque was allocated Plot No.LR.13446, an area of approximately 0.5 acres. The remaining area was registered under LR. No.13445, approximately 15.5 acres, and was allocated to a private developer.

(b) My Ministry cannot return the 15.5 acres to the Kongo Mosque Diani as this land is already registered under freehold title issued way back in 1986.

Mr. Ngozi: Mr. Speaker, Sir, first of all, the Assistant Minister should understand that before this exercise took place, there were some people living on that land. Those people are still there. So, in fact, it was a mistake for people to survey this land and allocate it to other people. Could the Assistant Minister tell us who is this private developer?

Mr. Ojode: Mr. Speaker, Sir, the plot is within the registration block of Diani Beach in Kwale District. Under Physical Development Plan (PDP) No.5, the plan was proposed to accommodate existing Kongo Mosque and the DC's rest house. The plan was approved on 6th September 1983, by the then Commissioner of Lands, Mr. J.R. Njenga. The survey work was carried out in July 1985 and---

Dr. Ali: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to waste our time instead of answering the question as asked?

Mr. Speaker: Order! Who told you he is wasting time?

Mr. Ojode: Mr. Speaker, Sir, I was just giving the background information.

Mr. Speaker: Order! Who is this private developer? Mr. Ojode, I think you anticipate what it is that the hon. Member and others want. What is in vogue today is names.

Mr. Ojode: Mr. Speaker, Sir, I have already answered that. It was given to a private developer.

Hon. Members: Who is he?

Mr. Speaker: Order! Actually, does it make any difference? How would it make any difference if it was Mr. Ngozi Abdalla or Mr. Gonzi Rai?

Mr. Rai: On a point of order, Mr. Speaker, Sir. The Question is very clear. It requires the Minister to table a list of names of the beneficiaries of the 16-acre plot.

Mr. Speaker: Well, Mr. Assistant Minister, will you do that?

Mr. Ojode: Mr. Speaker, Sir, I have just mentioned that the particular plot was given to a private developer, who is a senior citizen of this country.

Hon. Members: Aah! Answer the Question. What is the name of that citizen, whether senior or junior?

Mr. Ojode: Mr. Speaker, I have answered the Question. I said that the land parcel in question has been given to a senior citizen of this country.

Mr. Mwenje: On a point of order, Mr. Speaker, Sir. Is this "senior citizen" called Ojode or Ndung'u or Mwenje or ole Kaparo? Could he mention the name of that person? That is what he is trying to hide.

Mr. Speaker: By the way, Mr. Mwenje, who is ole Kaparo?

Mr. Mwenje: Mr. Speaker, Sir, "ole Kaparo" is somebody from Laikipia District.

(Laughter)

Mr. Speaker: Mr. Assistant Minister, will you answer the question?

Mr. Ojode: Mr. Speaker, Sir, I have said that the plot is owned by a senior citizen of this country.

Hon. Members: Why are you hiding the name of that person?

Mr. Ojode: Why the hurry? Mr. Speaker, Sir, the said plot is owned by the immediate former President of this country, Mr. Daniel Toroitich arap Moi.

(Loud consultations)

Mr. Serut: Mr. Speaker, Sir, you have heard that the said plot was sub-divided into two, and that one plot was set aside for the mosque, while the other was allocated to a senior citizen of this country. Now, that being the case, would I be in order to ask the Assistant Minister whether this was Government land since it had to be sub-divided and allocated in this manner?

Mr. Ojode: Mr. Speaker, Sir, the land belonged to Kongo Mosque. It originally measured 16 acres. It was hived off, and only half of an acre was left with Kongo Mosque. The remaining 15.5-acre land parcel was given to the said senior citizen of this country.

(Laughter)

Mr. Rai: Mr. Speaker, Sir, the Assistant Minister has just made it very clear that before any transaction was done, the said plot belonged to Kongo Mosque, and there were people living in that area. Kongo Mosque did not give any consent---

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

Mr. Rai: On a point of order, Mr. Speaker, Sir. Could the Assistant Minister consider returning the said piece of land to its rightful owners?

Mr. Speaker: That is not a point of order either.

Mr. Ngozi: Mr. Speaker, Sir, you have heard the Assistant Minister clearly say that the land parcel in question belonged to Kongo Mosque, but it belonged to Digos. Could he now return this 15.5-acre land parcel to the people of Kongo?

Mr. Ojode: Mr. Speaker, Sir, I have been very consistent on the question of repossession. I have said that if any land parcel has already been issued with a title deed, my hands are tied. However, if a particular land is still under a letter of allotment, I am in a position to cancel the allotment. In this particular case, I am not in a position to cancel the title deed. As a matter of fact, if the Questioner so

wishes, he can take the case to court.

Mr. Speaker: Very well. Let us proceed to Mr. Bahari's Question.

Question No.652

NSSF BENEFITS FOR MR. FUGICHA

Mr. Bahari asked the Minister for Labour and Human Resources Development:-

(a) whether he is aware that NSSF benefits for Mr. Roba Galgalo Fugicha, NSSF No.016631617, have not been processed; and,

(b) when Mr. Fugicha will be paid his NSSF benefits.

Mr. Speaker: Where is the Minister for Labour?

Hon. Members: "In labour!"

(Laughter)

Mr. Speaker: We will come back to the Question. Let us go to Mr. Rai's Question.

Question No.395

WITHDRAWAL BENEFITS FOR MR. GATOKA

Mr. Rai asked the Minister for Labour and Human Resources Development, when Mr. John Tsuma Gatoka, FM/No.383-317-617, will be paid his withdrawal benefits.

Mr. Speaker: Where is the Minister? Mrs. Ngilu, where is the Minister for Labour and Human Resources Development?

The Minister for Health (Mrs. Ngilu): Mr. Speaker, Sir, they are just on their way to Parliament. We had a Cabinet meeting this morning, and we have just finished. So, they are coming.

Mr. Speaker: Anyhow, we will revisit the Question. You have tried, Mrs. Ngilu. Let us proceed to Mr. Kembi-Gitura's Question.

Question No.668

ELECTRIFICATION OF CENTRES
IN GIKINDU LOCATION

Mr. Kembi-Gitura asked the Minister for Energy:-

(a) whether he is aware that no shopping centre in Gikindu Location of Murang'a District has electricity, yet both Wanji and Tana Power Stations are located in the said location; and,

(b) what urgent measures he is taking to ensure that residents of the location benefit from the two power stations.

Mr. Speaker: Is the Minister for Energy not here?

Hon. Members: In a Cabinet meeting!

Mr. Speaker: We will revisit this Question. Next Question, Mr. Ndambuki!

Question No.547

FINANCIAL ASSISTANCE TO
KAITI FOOTBALL CLUBS

Mr. Ndambuki asked the Minister for Gender, Sports, Culture and Social Services whether he could consider giving financial assistance to divisional football clubs in Kaiti Constituency.

Mr. Speaker: Where is the Minister?

Hon. Members: In a Cabinet meeting!

Mr. Muite: On a point of order, Mr. Speaker, Sir. We need a little guidance from you. We appreciate that Cabinet Ministers were attending a Cabinet meeting, but what about their Assistant Minister? Were they also attending a Cabinet meeting?

An hon. Member: Yes, a mini-Cabinet meeting!

Mr. Speaker: Order! Order! As for the Assistant Ministers, I am aware that Mr. Mwangi Kiunjuri called and informed me that he may be late in coming. With regard to the others, I do not know why they have not come. But much more important, for how long is the Speaker going to make statements in this House that Ministers must attend to the business of Parliament? Why should the Speaker act in vain? I think the Chair should not act in vain. I, therefore, order that the Minister for Labour and Human Resources Development, the Minister for Energy, and the Minister for Gender, Sports, Culture and Social Services must appear in this House on Tuesday and explain to the Chair why they were absent. So, that is it.

(Applause)

Therefore, the Questions of Messrs. Bahari, Rai, Kembu-Gitura and Ndambuki are deferred to next Tuesday.

Question No.652

NSSF BENEFITS FOR MR. FUGICHA

(Question deferred)

Question No.395

WITHDRAWAL BENEFITS FOR MR. GATOKA

(Question deferred)

Question No.668

ELECTRIFICATION OF CENTRES
IN GIKINDU LOCATION

(Question deferred)

Question No.547

FINANCIAL ASSISTANCE TO
KAITI FOOTBALL CLUBS

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

KCSE REGISTRATION FOR SSD
SECONDARY SCHOOL CANDIDATES

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

(a) Why have the following candidates, who were registered for KCSE in 2003 at SSD Secondary School on Ronald Ngala Street, Nairobi, not been reflected in the computer print-outs released by the Kenya National Examinations Council (KNEC) despite constant appeal from the school head:-

- | | |
|-----------------------------|-----------------|
| 1. 401053079 - Mwaura | Danton Kinuthia |
| 2. 401053080 - Odhiambo | Kennedy Ouma |
| 3. 401053081 - Ahmed Amal | Mohamed |
| 4. 401053082 - Kinaro James | Mwangi? |

(b) What urgent steps will the Minister take to ensure that the students sit for the examination this year as they have duly paid the fees?

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

(a) The KNEC did not receive the registration fees for the four mentioned students and, therefore, could not register them as required by the regulations before the deadline of 31st May, 2003.

(b) The Ministry will investigate why their examination fees was not remitted to the KNEC in time. Unfortunately, the students will not be able to sit for the examination as the logistics have already been put in place.

Mr. Abdirahman: Mr. Speaker, Sir, I will personally describe the KNEC as a monster because, over the years, the lives of many Kenyans have been shattered. I am really not satisfied with the answer given by the Assistant Minister for the following reasons---

(Loud consultations)

Mr. Speaker: Order! Order, hon. Members. It is Question Time. Mr. Hassan, if you have evidence that, indeed, payments were made to the KNEC, contrary to what the Assistant Minister has said, could you put whatever questions you have to him?

Mr. Abdirahman: Mr. Speaker, Sir, yes, I have documents related to the students. I have a banker's cheque dated 31st March, a letter containing the missing names from the school dated 31st of July, and a reminder, through the Provincial Director of Education (PDE), Nairobi, to the Kenya National Examinations Council (KNEC) on 13th August.

The head teacher admits he registered the four candidates late, although they had paid their examination fees early enough! I wonder where the fault is! Is it the inefficiency of the head teacher or the autonomous nature of the KNEC? I personally called Mitihani House and the officers refused to give me the information relating to the students. I would equate that to what we were told by the

Assistant Minister, Office of the President, on armed forces recruitment. What is the secrecy in telling us whether the students appear on the computer printout or not? I have the documents and I will lay them on the Table.

(Mr. Abdirahman laid the documents on the Table)

Dr. Mwiria: Mr. Speaker, Sir, I would like to say that I have got all the information that the hon. Member is quoting. In fact, I have gone further than that. Just before I came to this House, I spoke to the headmistress of the school, Mrs. Dingla, and the PDE. I would like to make sure that those young people are not punished for reasons which are not of their own making.

Unfortunately, it is clear that the school forwarded a cheque to the PDE. However, although we have a photocopy of the cheque, the original cheque cannot be found. Whoever delivered the cheque to the PDE did not sign any delivery book. Even more distressing, the person is dead. So, we do not know what happened. The point is that the students paid the money, the school wrote the cheque, but it did not get to the PDE. It is not clear where it got lost.

Mr. Speaker: So, what is the remedy, Dr. Mwiria? Those are young Kenyans who, as the Assistant Minister has said, did what was required of them. The school did the same. What is the remedy for that unfortunate situation for those young people?

Dr. Mwiria: Mr. Speaker, Sir, I guess what we need to do is to put structures in place to ensure that, that kind of mistake is not repeated. Unfortunately, the KNEC deadline for registration was end of May. Everything else is in place. Unfortunately, the KNEC cannot register them for examinations now! However, we will see what to do. Maybe, they can be registered next year.

(Several Members stood up in their places)

Mr. Sungu: Mr. Speaker, Sir, the KNEC is acting with impunity as if there is no supervision from the Ministry! Some of the parents are so poor they cannot afford to pay the fees again. Why can the Assistant Minister not order, using his authority under the Education Act, those students to be given special dispensation to sit for the examination?

(Applause)

Dr. Mwiria: Mr. Speaker, Sir, first of all, it is not clear whether the blame lies with the KNEC, because they did not receive the cheque. Having said that, I agree absolutely that we must not punish those students. So, if it is possible to use my dispensation to get them registered, I will do it.

Hon. Members: Do it now! Do it!

Mr. Speaker: Order! Order, hon, Members! I will not take that! We must conduct our proceedings with dignity. The Assistant Minister has said nothing so far, that should earn your wrath. If he is unsure whether he has those powers, in the interest of those Kenyan children, I will give him the whole weekend off to go and peruse the Act, consult and if he has those powers, I encourage him to use them! Then he should come back on Tuesday with all the information. So, I defer the Question until Tuesday!

(Applause)

Dr. Mwiria: Mr. Speaker, Sir, I like that guidance because, just like all these hon. Members, I sympathise with those young people. If it can be done, we shall do it.

Mr. Speaker: Mr. Abdirahman, you will do a lot of help to those students if you could liaise with the Assistant Minister between now and Tuesday.

(Question deferred)

Next Question!

Mr. Sasura: On a point of order, Mr. Speaker, Sir. I stand to seek your kind attention because, that is a matter of national concern. Only yesterday, on the same issue, Form III and Form IV students were chased out of school because of a fees balance of Kshs300 each---

(Loud consultations)

Mr. Speaker: Order! Order, hon. Members! Order, Mr. Muriithi! Can we listen to Mr. Sasura? What were you saying?

Mr. Sasura: Mr. Speaker, Sir, I kindly stand to seek your guidance because that is a matter of national interest. The examinations are beginning on Monday and only yesterday, three Form IV candidates from a secondary school were chased away because of fees balances amounting to Kshs300 each. Could I kindly ask through you that, when the Assistant Minister comes back on Tuesday, he gives a categorical statement that candidates should not be sent away because of school fees.

Mr. Speaker: That is a totally different matter!

Mr. Abdirahman: Mr. Speaker, Sir, I do not intend to speak after your ruling, but my worry---

Mr. Speaker: But you are doing it!

(Laughter)

IMPENDING DOCTORS' STRIKE

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

(a) Is the Minister aware that doctors at the Kenyatta National Hospital and Moi Referral and Teaching Hospital, Eldoret, are soon going on strike by 17th October, 2003?

(b) What are the reasons for the impending industrial action by the doctors?

(c) What urgent measures is the Minister taking to pre-empt the strike?

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

(a) I am not aware of the intended strike on 17th October by the doctors. But I was aware of an intended strike by doctors at Kenya National Hospital and Moi Referral and Teaching Hospital on 9th October. I am also aware of the demands being made by doctors from the two institutions.

(b) The reasons for the impending industrial action are as follows:-

(i) Specialist doctors in public service are demanding part-time practice licences.

(ii) They are not content with the non-practice allowances already awarded by the Government.

But part-time private practice while in the public service creates conflict of interests.

(c) I have held consultative meetings with doctors and representatives from the Directorate of Personnel Management (DPM) with a view to responding to their demands. The Ministry has agreed to continue paying them their allowances, but the application for part-time licences will be evaluated by the Ministerial Advisory Committee before approval is given.

Dr. Khalwale: Mr. Speaker, Sir, with an answer like that, I am worried as to whether the

Minister is concerned about the role of doctors in maintaining the health of the nation. While the Minister says that she is not aware of the impending strike, the truth is that on 9th October, she met doctors from Kenyatta National Hospital, School of Medicine, University of Nairobi, Moi Referral and Teaching Hospital and the School of Medicine, Moi University. The reason for that meeting was because of the strike. That day, she begged doctors to postpone their strike until Monday 13th, when she was going to pay them. She promised them that by 13th, which was on Monday, she was going to pay them their clinical allowances and release their part-time private practice licences. Given that, that money was provided for in the Budget, why has the Minister not paid them?

Mrs. Ngilu: Mr. Speaker, Sir, it is true that I held a meeting with doctors from these two institutions on 9th October, this year and we agreed that their funds were going to be released because they had been budgeted for. The funds were available and they accepted them. Otherwise, the doctors were demanding that they be given part-time licences and also be given increased salaries at the same time. We said that they could not be given both. They either settle for the money or the licences.

(Applause)

Mr. Muiruri: Mr. Speaker, Sir, my understanding is that doctors are civil servants and they are governed by a code of regulations under the Civil Service Act. They are not like those people who work for other companies as such. They are just civil servants like the police, military, air force and so forth. Under what regulation should they go on strike, because when they do so, people die and a lot of suffering occurs? What is the cause of this impending doctors' strike?

Mrs. Ngilu: Mr. Speaker, Sir, when I was appointed the Minister for Health early this year, I encountered enormous problems in the Ministry of Health with almost all health care workers, including doctors. We did talk with the Directorate of Personnel (DPM) and the Ministry of Finance and we actually raised some of their allowances and remunerations. Some of the doctors got a pay rise of 400 per cent, but having got that, they still want to practise outside our public hospitals. All hon. Members of Parliament are aware of the dangers our patients would go through if Government doctors, who are well paid were allowed to practise in their private clinics. This will not be allowed by the Government. They will either work in our public hospitals or their clinics.

(Applause)

Dr. Ali: Mr. Speaker, Sir, they way I understand it is that, a part-time licence means that the doctor works when he is not on official duty, and that is from 1.00 p.m. to 2.00 p.m, and after 5.30 p.m. If the doctors do their work during official working hours and then go to their private clinics when they are free, why stop them?

Hon. Members: No! That cannot be the case!

(Loud consultations)

Mr. Speaker: Order! What is going on? Minister, were you responding?

Mrs. Ngilu: Mr. Speaker, Sir, between 1.00 p.m. and 2.00 p.m. is the doctors' time to take their lunch break. They have also taken an opportunity to use our public hospitals as their "catchment areas" where they tell patients to wait for them in their private clinics. I am saying that this is not allowed.

(Applause)

Dr. Khalwale: Mr. Speaker, Sir, I am begging this House to appreciate the fact that the Minister relies on advice from the Director of Medical Services (DMS), and--

Mr. Speaker: What is your question?

(Loud consultations)

Dr. Khalwale: Mr. Speaker, Sir, protect me from this noise.

Mr. Speaker: Order! I may protect you from the House, but I think you cannot ask me to take away the support the Minister is receiving from the House.

(Applause)

If the House is supporting the Minister, there is really nothing I can do about that.

Dr. Khalwale: Mr. Speaker, Sir, the DMS should inform the Minister that the doctors who want part-time practising licences be--

Mr. Speaker: Order, Dr. Khalwale! You must direct the question to the Minister. How the Minister gets advice is not our business.

Dr. Khalwale: Mr. Speaker, Sir, the doctors who are fighting for these licences are specialists who do not do the general work in the hospitals. You cannot expect a neuro-surgeon to just sit at home during his free time when he could be treating patients at Nairobi Hospital, who could include Members of Parliament.

Mr. Speaker: What is your question?

Dr. Khalwale: Mr. Speaker, Sir, why is the DMS misleading the Minister that the Ministry can usurp the role of the Kenya Medical Practitioners and Dentists Board?

Hon. Members: No!

Mr. Mganga: On a point of order, Mr. Speaker, Sir. The Questioner insists that there is an impending industrial action. The Minister has clearly explained the position. Am I in order to ask the Minister, through you, to investigate whether the Questioner is not the chief organiser of the impending industrial strike?

(Applause)

Mr. Speaker: Order! It was just last week when I asked hon. Members to be civil to one another, and here is Mr. Mganga clearly imputing improper motives on hon. Dr. Khalwale. I will not accept that.

Mr. Mganga, I am afraid, you must apologise to this House for imputing improper motives on another hon. Member.

Proceed to apologise!

Mr. Mganga: Mr. Speaker, Sir, I had no intention of imputing any improper motives on hon. Dr. Khalwale. I was simply trying to understand the situation.

Mr. Speaker: Order! Will you follow my directive!

Mr. Mganga: Mr. Speaker, Sir, with that, I apologise and withdraw.

Mr. Speaker: Very well.

Mr. Nyachae: On a point of order, Mr. Speaker, Sir. The Questioner has made a very serious allegation against the DMS. This Parliament voted for the appointment of the DMS and other expert officers. Those people are supposed to advise Ministers. Is the hon. Questioner in order to tell this House that we should withdraw the services of those officers, like the DMS, so that they do not

advise Ministers?

Mr. Speaker: Order! I think I have told the House that let us be very careful on what we say and how we say it. I do not know whether hon. Dr. Khalwale has ever run a Government department. However, if he has not, I think hon. Nyachae is very well qualified to advise that, actually, no Minister can run a Ministry without advice and any Minister attempting to do so will actually be making a grave mistake. Anyhow, Dr. Khalwale, I also realise you are a doctor and, please, let us be civil to everybody.

(Dr. Khalwale stood up in his place)

Mr. Speaker: Relax!

Next Order!

Mr. Muriungi: Mr. Speaker, Sir, you promised us a ruling---

Mr. Speaker: I will do that on Tuesday since I am not ready.

Mr. Muriungi: Thank you, Mr. Speaker, Sir.

Mr. Speaker: There was another hon. Member who wanted to rise on a point of order. It was Mr. Oloo-Aringo. Where is Mr. Oloo-Aringo?

Hon. Members: He is here!

Mr. Speaker: Let me check for myself. He is not Mr. Oloo-Aringo; he is Mr. Owidi. Proceed!

POINTS OF ORDER

DELAY IN APPOINTING CEO OF KACA

Mr. Owidi: Mr. Speaker, Sir, I rise to demand a Ministerial Statement from the Minister of Justice and Constitutional Affairs as to why there is delay in the appointment of the Chief Executive of Kenya Anti-Corruption Authority.

Mr. Speaker: Very well. I think there were some Ministers who had Ministerial Statements to make.

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

Mr. Speaker: What is it?

Mr. Bahari: Mr. Speaker, Sir, I had a Question on the Order Paper and the relevant Minister is here, perhaps with the answer. Could he, please, proceed to answer?

MINISTER TO EXPLAIN HIS ABSENCE TO ANSWER QUESTIONS

Mr. Speaker: Well, too bad. I realise that hon. Mwakwere had two Questions under his name and he came late. But you already know that I have already directed that the hon. Minister will appear here on Tuesday, to explain to the House why he was not here. He will not say it now because it will be tantamount to reversing my orders which are irreversible.

Hon. Mwakwere, you will come to the House on Tuesday. The House sits at 2.30 p.m. and not 4.15 p.m. Maybe, this will be a mitigating factor, but nevertheless, you have to explain why you are late.

MINISTERIAL STATEMENTS

WANTON DESTRUCTION OF PROPERTY
ON ROAD RESERVES

The Assistant Minister for Roads, Public Works and Housing (Eng. Toro): Mr. Speaker, Sir, on 8th October, 2003, hon. Shitanda, on a point of order, requested for a Ministerial Statement on the ongoing demolition of illegal structures on road reserves. He requested that I address the problem of the recent wanton destruction of people's property along the major highways in this country. His contention is that the said destruction is carried out without consideration to prevailing rules regarding the width of highways, property compensation and issuance of notices. The issues that the hon. Member raised are quite serious. However, I would like to state as follows:

Mr. Speaker, Sir, the issue of road reserves encroachment has been serious in the recent past. This has been exemplified by numerous complaints by Kenyans both in urban and rural areas. There has been a lot of hue and cry over road reserve encroachment, and Kenyans have voiced their detest for road reserve encroachment through the media and elected leaders. It is common knowledge that illegal structures on road reserves have contributed a lot in road accidents, insecurity, road obstructions, blockage of drainage channels and rivalry amongst plot speculators among other problems.

Illegality of road reserve encroachment is covered under Section 91 of the Traffic Act, Cap. 403 of the Laws of Kenya that state, *inter alia*: "It is illegal to erect any structure or interference on the road reserve of all classified road network, either for public or private purposes." Under the same law, as the Minister in charge of roads, I am conferred with powers of ensuring that all illegal structures erected on road reserves are removed.

Mr. Speaker, Sir, during my tours in the field and in Nairobi in particular, I realised that a lot of illegal structures have been erected along the highways and other classified roads. This encroachment has at times led to complete blockage of roads. Examples of these are: Processional Way in Nairobi, which was completely blocked; the Southern bypass; Northern bypass; Eastern bypass in Nairobi; Kiambu, Kisii and Kisumu bypasses. I would like to clarify that the rules regarding the widths of our highways and all classified roads have not changed. The desirable road reserves widths are as follows: Class A and B, 60 metres; Class C, 40 metres; Class D, 25 metres, and Class E, 20 metres. The location names and actual width of the classified roads including their reserves can easily be obtained from the respective provincial or district works offices for information.

Regarding the issue of compensation for property destroyed or demolished by the Ministry while clearing road reserves, owners of illegal structures are always given enough notice to remove them failure to which the Ministry removes them, at the owners' cost. Very soon, I shall, in conjunction with the Attorney-General, sue owners of the already demolished structures to compensate the Ministry. In cases where land for road expansion is acquired, compensation is fully done to those whose land is acquired and properly destroyed. The issue of giving due notice to owners of illegal structures on road reserves has always been tackled adequately. In the recent cases, I issued a Gazette Notice No.3632 of 6th June, 2003 to the general public that: "All existing illegal structures on road reserves should be removed therefrom within 30 days of the notice. Failure to comply with notice, would result into the demolition of such illegal structures accesses or development at the cost of the person, institution or company responsible for the encroachment". The gazette notice expired on 6th July, 2003. After the expiry of the notice, the provincial and district work officers were instructed to embark on the demolition of illegal structures in their areas of jurisdiction. On their part, the officers gave notices to individuals affected to remove the illegal structures. Some individuals responded positively, while others remained adamant. So far, several such illegal structures have been demolished, in Nairobi, for example, along Processional Way, and in Meru Central, Siaya--

Mr. Speaker: Order, what is it, Mr. Muiruri?

Mr. Muiruri: On a point of order, Mr. Speaker, Sir. You have recently ruled that some of these Ministerial Statements are far too long and they are taking---

Mr. Speaker: Order! Will you sit down! First of all, it is wrong for you to interrupt a Member who is making a Ministerial Statement. You must be patient, Mr. Muiruri. You will sit there and listen to the Ministerial Statement until it is over, unless I rule otherwise.

Proceed, Minister!

The Assistant Minister for Roads, Public Works and Housing (Eng. Toro): Mr. Speaker, Sir, hon. Muiruri is free to walk out if he wants.

Some of the demolished---

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

Mr. Speaker: Yes, what is it?

Mr. Muiruri: Mr. Speaker, Sir, is that the language allowed in Parliament? That remark is abusive.

Mr. Speaker: Yes, it is. In fact, the hon. Assistant Minister is very rude. Why are you rude to your colleague?

The Assistant Minister for Roads, Public Works and Housing (Eng. Toro): Mr. Speaker, Sir, because he was also rude to me.

Mr. Speaker: So, will you apologise?

The Assistant Minister for Roads, Public Works and Housing (Eng. Toro): Mr. Speaker, Sir, I apologise.

(Laughter)

But he should stop being rude to me also.

Mr. Speaker, Sir, some of the demolished structures on road reserves were, for example, located along Processional Way, in Meru Central, Siaya and many other places in the country. It is imperative to explain that all buildings that existed before a road was designed were compensated for at the time the relevant land was acquired for the same purpose. It follows, therefore, that no building should be allowed to exist on a road reserve just because it existed during the colonial period. If there are genuine cases that were not considered for compensation, they should be brought to my attention for settlement.

I would like to assure Kenyans that demolition of illegal structures is legal; it is done in good faith for the welfare of all Kenyans, and is a way of fighting corruption that has seen many Kenyans conned of money by unscrupulous plots speculators. It is, therefore, my appeal to all Kenyans of goodwill to avoid erecting illegal structures along road reserves to enhance road safety, security, proper drainage works and warding off plot speculators.

Let me end my statement by assuring this House that the Gazette Notice No.3632 still remains and its contents shall be followed to the letter.

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

Mr. Speaker: Order, Members! A Ministerial Statement is not a Motion so, there is no Motion before the House. What I will allow the Members is to seek clarification. So, I will begin with Dr. Ali.

Mr. Shitanda: Mr. Speaker, Sir, it was I who sought for the Ministerial Statement.

Mr. Speaker: It is not yours, it is Eng. Toro's Statement. You requested it, but it is not your Statement.

Dr. Ali: Thank you, Mr. Speaker, Sir. I wish to ask the Assistant Minister the following question: In cases where people built on road reserves long ago during the colonial times, what would happen? Would they be compensated?

Mr. Speaker: Eng. Toro, just take notes and then you will respond to all of them. Proceed, Mr. Shitanda.

Mr. Shitanda: Mr. Speaker, Sir, I would like to ask for a clarification from the Assistant Minister regarding those structures which are allegedly on road reserves. We do know that before a structure is put up, the owner of the structure has to get consent from the Minister for Roads, Public Works and Housing and the local authority. If this consent was obtained from these two authorities, could the Assistant Minister tell us why they are demolishing the structures without compensating those people?

Mr. Speaker: Very well, let us have the last word from Mr. Sungu.

Mr. Sungu: Thank you, Mr. Speaker, Sir. In Kisumu, there is a case of Road C65. This road stretches from Kakamega all the way to Dunga. If you were to carry out this operation, you would knock down part of Central Bank building in Kisumu, the Provincial Commissioner's office, State House, District Commissioner's residence, the water works and so on. What this means is that in a section of Dunga, the owners of the land have title deeds, and have lived on this land for a long time. The land, therefore, belongs to them. So, if you are going to extend this road, can you assure this House that the land owners will be compensated for the 40 metres?

Mr. Speaker: Mr. Assistant Minister, you can now respond. Which other Minister wants to issue another Ministerial Statement? Eng. Toro, you are the only one.

The Assistant Minister for Roads, Public Works and Housing (Eng. Toro): Thank you, Mr. Speaker, Sir. I explained the issue of compensation very clearly. When there is an alignment on a road, those people who are affected are compensated. A proper valuation is done, and consultations between the land owners and the Ministry are usually done so that they can arrive at a reasonable and acceptable compensation. That has happened along Sultan Hamud and Mtitio Andei area.

Mr. Speaker, Sir, the issue of those who have erected structures on road reserves under licence from the local authorities still remains illegal. People used to go to local authorities where they would get authority to erect structures on road reserves without the authority of our Ministry. This was done by the local authorities because they wanted to charge council licences for those premises. However, I do not know of a case where the Ministry had agreed that a structure be erected on a road reserve. I would like to challenge anybody to present me with a document which was issued by my Ministry allowing the erection of structures on road reserves.

The other issue which was brought to our attention was where it was claimed that there were title deeds which had been issued for structures on road reserves. What is illegal is illegal. If I stole your vehicle and I somehow obtained a logbook for it, it does not mean that, that vehicle is mine. The fact remains that it is still a stolen vehicle, and the owner has the right to repossess it, irrespective of whether there is a new logbook or not. The issue of title deeds issued for road reserves is illegal and as far as the Ministry is concerned, we do not recognise those title deeds.

Mr. Speaker: Very well, let us have the next Order.

PROCEDURAL MOTION

EXTENSION OF HOUSE SITTING
HOURS ON THURSDAYS

The Minister for Education, Science and Technology (Prof. Saitoti): Mr. Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, notwithstanding the provisions of Standing Order No.7(1) and (2), this House orders that the hours of sitting on Thursdays be extended from 6.30 p.m. to 8.00 p.m. for the remainder of the Session.

Mr. Speaker, Sir, I bring this Procedural Motion urging the House to extend the sitting hours on Thursdays only between 6.30 p.m and 8.00 p.m. Thursday is a day which has now been dedicated for the deliberation on Bills. There are very many Bills that do actually need to be deliberated on before the recess, and the only way we can do that is to extend the House sitting hours.

With these few remarks, Mr. Speaker, Sir, I beg to move.

The Minister for Labour and Human Resource Development (Mr. Mwakwere): Mr. Speaker, Sir, I stand to second this Procedural Motion, that we extend the hours of deliberation in this Chamber from 6.30 p.m. to 8.00 p.m every Thursday. We play an important role by ensuring that Bills are discussed and passed in this House. There is, indeed, a backlog of such Bills and, from the look of things, there will be more Bills that will be coming up. So, if we do not extend our sitting hours as proposed here, the chances of having a bigger backlog of Bills to discuss remains very high. Therefore, I wish to kindly request all Members, through you Mr. Speaker, Sir, to support this Procedural Motion as it is in the interest of the House and Kenya as a whole, to get things done effectively and efficiently.

With those few remarks, Mr. Speaker, Sir, I beg to second.

(Question proposed)

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

Mr. Speaker: Yes, what is it, Mr. Angwenyi? I am not interested in anybody opposing the Procedural Motion.

Mr. Angwenyi: Thank you, Mr. Speaker, Sir. I am surprised that you are anticipating my contribution.

I rise to support the Procedural Motion. I wish the Motion was seconded by a Minister who was here when we were asking Questions.

(Applause)

Mr. Speaker, Sir, we have a backlog of Bills because some of the Ministers do not attend Parliamentary Sessions on time, leading to the postponement and deferment of Questions. But, maybe in the future, we have to consider adding one more day in the week so that we can be doing our work for four or even five days in a week. If we do that, we will not have a backlog in legislation in this House.

With these few remarks, Mr. Speaker, Sir, I beg to support.

Mr. Speaker: Very well, but the Chair also hopes that you will be present throughout.

Mr. Angwenyi: I am always present.

Mr. Speaker: I am not addressing you in singular, I am addressing the House. The Chair hopes that there will always be such number of Members throughout to maintain a quorum so that the business of the House proceeds. I do actually make that appeal.

(Question put and agreed to)

Let us proceed to the next Order!

BILLS*Second Reading*THE NATIONAL COMMISSION ON
GENDER AND DEVELOPMENT BILL

*(The Minister for Gender, Sports,
Culture and Social Services
on 17.7.2003)*

*(Resumption of Debate
interrupted on 9.10.2003)*

Mr. Speaker: Who was on the Floor? Ms. Ndung'u was on the Floor and she has 25 minutes left.

Ms. Ndung'u: Thank you, Mr. Speaker, Sir. Looking at the Memorandum of Objects and Reasons in this Bill, I look at the functions and I feel that they are not sufficient. Indeed, apart from looking at the work of the Ministry and the implementation of a national policy on gender, I believe that it is the work of the Commission to also have an oversight function in terms of looking at Government institutions and auditing them with regard to evaluating their gender awareness, mainstreaming and their general implementation of a gender policy.

I am saying this because there are institutions like Parliament, where we are completely gender-blind and gender-unaware. Indeed, female hon. Members in this House feel discriminated against in certain ways. We have raised the issue of leaving our handbags at the door of the Chamber before, and this is something that we feel that you need to take seriously and try to resolve it. After all, a woman's handbag is part of her dressing. When I need to pick a handkerchief or a pen, they are in my handbag. Men carry these items in their pockets. I would like to appeal to Mr. Speaker, as part of gender awareness in this institution, to allow us to carry our handbags into the Chamber.

In terms of other issues on gender in this institution, it is time we recognised the presence of female hon. Members of Parliament and the younger male hon. Members who have wives and are still making families. There is no maternity policy in this institution. There is no provision for a maternity cover for the wives of hon. Members. This is also the same for female hon. Members. These are some of the things---

Mr. Weya: On a point of order, Mr. Speaker, Sir. This is a private affair and I think it should not be discussed in the House.

Mr. Speaker: Order! I really want to get it clear. Is the hon. Member asking Mr. Speaker to create a maternity ward within Parliament? I do not understand what she is saying.

Ms. Ndung'u: No, Mr. Speaker, Sir, I am simply pointing out that an institution like this one needs to have policies that focus on gender issues, whether they apply to male or female hon. Members. The issue of a maternity policy is something that this institution has not taken into consideration, and it should.

Mr. Speaker: Order! This is the National Commission on Gender and Development Bill, and it does not affect only Parliamentarians. So, let us address the totality of it.

Ms. Ndung'u: Mr. Speaker, Sir, I have said earlier that there should be additional functions of the Commission. One of them is the oversight function of an institution like this one, to audit institutions like Parliament and, indeed, see whether they are applying issues of gender mainstreaming.

I also think that the Commission should also focus on other gender issues which are upcoming;

things that are provided for, for example, in the Public Officer Ethics Bill. In that Bill, we fortunately have a clause against sexual harassment. The phenomenon of sexual harassment is not new, but it seems to be on the increase. Indeed, even recently, the Ringera Report on corrupt Judges has included the issue of sexual harassment as an element of corruption. We need to ensure that law-makers are not law-breakers. Any gender issue that touches on any hon. Member of this House should be taken seriously, particularly if it is against the law.

[Mr. Speaker left the Chair]

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

Every time the media implicates any hon. Member of this House on an issue of corruption, I hear uproar in this House. Any time the media talks about an issue of violence or sexual harassment, allegedly committed by an hon. Member of this House against a woman, I hear silence. It is deafening.

Mr. Maore: On a point of order, Mr. Temporary Deputy Speaker, Sir. Mr. Speaker has bluntly told the hon. Member on the Floor that the Bill does not focus on the House. She is talking about hon. Members of this House who have been implicated in some improprieties; could she say where and how the improprieties happened and who committed them? We are being accused by her vaguely.

Ms. Ndung'u: Mr. Temporary Deputy Speaker, Sir, I will not substantiate the obvious. I believe that all of us read newspapers. These are matters of public record. There are certain police stations that have recorded statements to that effect.

Mr. Weya: On a point of order, Mr. Temporary Deputy Speaker, Sir. As you know, newspaper reports are not taken as evidence in this House. So, could the hon. Member substantiate?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Weya, when you stand on a point of order, let it be a point of order. Having said that, I think you are turning the Bill almost into a commentary on this issue rather than discussing the Bill itself.

Ms. Ndung'u: Mr. Temporary Deputy Speaker, Sir, I am sorry. I am just trying to show that the functions of the Commission are incomplete. I am just trying to show the areas in which it is incomplete.

The Temporary Deputy Speaker (Mr. Poghisio): Institutions like this House?

Ms. Ndung'u: Yes, Mr. Temporary Deputy Speaker, Sir. Institutions like this House!

Mr. Maore: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am concerned about what will come out of her speech tomorrow. The same media she seems to be addressing will be saying tomorrow that when hon. Members of Parliament are implicated in sexual improprieties, it is never a business of this House. That is why I am insisting that the Chair needs to take a position. Is that the correct record that should go out?

Mr. ole Ntimama: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not see anything to cause any alarm here.

The Temporary Deputy Speaker (Mr. Poghisio): Is that a point of order?

Mr. ole Ntimama: Mr. Temporary Deputy Speaker, Sir, the hon. Member has just said "wherever" or "whenever". So, there is nothing specific about it.

The Temporary Deputy Speaker (Mr. Poghisio): Hon. Members, let us allow the hon. Member to air her opinion.

Proceed, Ms. Ndung'u!

Ms. Ndung'u: Thank you, Mr. Temporary Deputy Speaker, Sir. My point is simply that we must focus on all kinds of law-breaking. It does not matter whether it is inciting violence or corruption. If it is violence against women, it is a crime too. It is incumbent upon us, as leaders, to speak out on these issues and not to be quiet about them.

I am glad to see that the Commission shall have as one of its members the Permanent Secretary, Ministry of Health. I hope that the Commission will revisit the controversial issue of safe abortion. The issue of unsafe abortion in Kenya is a national disaster. In 1993, the Minister for Health released a report which reported that 700 unsafe abortions were carried out per day.

The Temporary Deputy Speaker (Mr. Poghisio): Is that still on this Bill?

Ms. Ndung'u: Mr. Temporary Deputy Speaker, Sir, this is still on this Bill. This is my very great concern and I raised it when I started last week. I said that it seems that we need to be educated on issues of gender. I am talking about critical issues on gender, but you do not seem to think so. I think this is part of the problem. The issue of unsafe abortion is a big gender issue. The Commission in consultation with the Minister for Health, needs to talk about the issue, explore it and give us the way forward.

Finally, I would like to talk about the structure of the Commission. The way the Commission has been structured in the Bill is like it is a department in the Ministry of Gender, Sports, Culture and Social Services. This is not the way we want to go. We want to go in the same way we went with the National Commission on Human Rights. We want to give the Commission teeth and some independence. Indeed, I do not think it is the Minister who should appoint the Commissioners. Appointment of these Commissioners should be vetted by Parliament as it was the case with the Commissioners who were appointed to the National Commission on Human Rights. This will make sure that the Commissioners are properly qualified and understand the gender issues.

Mr. Temporary Deputy Speaker, Sir, on that note, I beg to support.

The Temporary Deputy Speaker (Mr. Poghisio): Any other hon. Member who wishes to contribute to the Bill?

Mr. Osundwa: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to propose that the Mover be now called upon to reply since no other hon. Member is willing to contribute.

The Temporary Deputy Speaker (Mr. Poghisio): Very well! There being no other hon. Member willing to contribute---

(Dr. Ojiambo stood up in her place)

Dr. Ojiambo, do you want to speak?

Dr. Ojiambo: Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Poghisio): Order! Hon. Members, I did ask if there was anyone who wanted to speak and nobody stood up. Now, I can see Dr. Ojiambo and Mr. M. Kilonzo are interested. I will give a chance to Mr. M. Kilonzo and then Dr. Ojiambo.

Mr. M. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I would like to make some comments about this Bill.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order! Hon. Members, it is very strange that one speaker finishes his contribution and nobody else rises to speak, but all of a sudden, several hon. Members rise wishing to contribute. That notwithstanding, I will only allow Mr. M. Kilonzo and Dr. Ojiambo.

Mr. M. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I fully support the idea of setting up a

National Commission on Gender and Development (NCGD) because of the fact that our women have suffered a great deal for a long time. It is about time Parliament enacted a law that would ensure that women are subjected to the same standards as men.

Unfortunately, this Bill is so inadequately drafted. It has so many glaring weaknesses that one wonders whether the Government does not merely want to set up another bureaucratic centre, so that they can attempt to create the 500,000 jobs they promised Kenyans.

Mr. Temporary Deputy Speaker, Sir, one of the major problems facing our women is the issue of marriage. Right now, most marriages conducted under customary law in this country have no recognition. In fact, in order to prove that a Luo man has married a Luo girl under Luo customary laws, they have to go to an advocate, prepare an affidavit which is then taken to the Commissioner for Oaths. More often than not, we find that when other people are given that affidavit, they doubt whether there was a marriage or not, between those two people. It is very unfortunate that this country for many years since 1897, when we were made a British colony, has continued with this tradition of ignoring our own customs with regard to marriage. I would have imagined that in defining "gender mainstreaming" under Section 2 of this Bill, the Government would have realised that it is important to include the issue of bringing, as quickly as possible, a law that would recognise our customary marriages.

Mr. Temporary Deputy Speaker, Sir, the other issue of great concern is domestic violence. I cannot understand why the Government, in bringing a law like this, does not want to include and confer on the Commission power to monitor and, where necessary, punish perpetrators of domestic violence. The definition of "gender mainstreaming" has been done in such a manner that we cannot really say that the Government has been listening to the views of Kenyans on this very important area of our judicial as well as cultural heritage. We have to encourage the Government to make sure that, under this law, the Commission will have power to investigate, and where necessary, to punish through either prosecutions or other methods, husbands who continue bashing their wives at home in the pretext of marriage.

Mr. Temporary Deputy Speaker, Sir, the other issue that has been left out of this Bill and, it is extremely surprising that it has been left out, is that, we, as a country, are still enjoying customs that deny the necessary dignity of our women. I speak here of the very infamous Female Genital Mutilation (FGM) of our women in certain areas of this country. This custom still continues with the backing of our cultures and customs. It is about time that we, as a country, took charge of this and understood that the dignity of our women is as important as the dignity of our men. We should confer power on the Director of the NCGD and the Commission itself, to ensure that where any community, in the pretext of custom, is continuing to physically assault our young women, is punished and that, that tradition is discouraged.

Mr. Temporary Deputy Speaker, Sir, it pains me to see some of the politicians across the aisle going to meetings and cohabiting with groups like the outlawed *Mungiki* sect, that has put as one of its objectives, the continuing perpetration of FGM. I dare say that one looking at this Bill would feel that the Government has deliberately ignored the views expressed by Kenyans during the ongoing process of the preparation and creation of a new Constitution. You will recall that the country was unanimous when we said that laws that discriminate against women should be abolished.

Mr. Temporary Deputy Speaker, Sir, in this regard, I would like to come to the issue of the right of inheritance. It is a pity that we, as a country, still find that our women have no equal rights to inherit when their fathers or guardians pass away. It would have been my expectation that, my good friend, the Minister, in considering this Bill, were to insist on the drafters that this archaic practice of denying our women the right to inherit property of their parents or husbands be removed at this early stage.

Mr. Temporary Deputy Speaker, Sir, I admit that this provision and the others that I

mentioned, are already contained in the draft Constitution. However, I dare say that those of us who are always at the national constitutional conference at Bomas of Kenya have seen all the signs from the Government that they are not very keen with the new draft Constitution. They are using all manner of tactics to delay the enactment of a new Constitution. Therefore, I dare say that this Bill, as drafted, is, in fact, simply an attempt to hoodwink our women that they are serious about gender issues when they have left out the issues relating to inheritance, FGM and marriage. We would like customary marriages to be recognised by this country, as quickly as possible, so that our women can always produce certificates to show that they have been married under that law.

Now, therefore, you will notice that the Bill as drafted has merely created new jobs for a director. For a council that will be meeting four times a year, which has a quorum of eight members, if you look at it aggressively and seriously, you will come to the conclusion that it is not seriously addressing the very serious needs of our Kenyan women. This is better addressed as quickly as possible with the on-going attitude of the current Government towards a new Constitution. No one can say, particularly "Wanjiku", how soon that Draft Constitution will be made into law. Therefore, I would have hoped that this would have been the most opportune time for the Government to include these issues. Personally, I would be happy if the Minister undertakes that as soon as this is enacted, he will take immediate steps to seek its amendment to include those particular areas that I have addressed with regard to the welfare of our women.

Mr. Temporary Deputy Speaker, Sir, if you look at the proposed Section 5, Clause 4, you will see again what I am saying. They just want to create another bureaucracy so that you can say that you have a Commission, but the functions of the Commission under Section 6 show clearly that this will be a completely toothless bulldog. Sub-section 2(a) says the following:-

- "(a) To participate in the formulation of national development policies
- (b) Exercise general supervision
- (c) Initiate legal reform
- (d) Formulate programmes
- (e) Determine priorities
- (f) Plan and supervise
- (g) Evaluate
- (h) Conduct and co-ordinate
- (i) Liaise with the Government"

I would like to say that these are not adequate powers for purposes of the Commission, because they have no teeth or methods of implementing their decisions. They may very well formulate, but that formulation will most likely be put in the shelves of the Ministry for many years to come and they will not see the light of day.

Mr. Temporary Deputy Speaker, Sir, I would like to inform my fellow countrywomen that it is unfortunate that the Government is not interested in their welfare. This is because, in passing this Bill, we should have conferred the power and the authority to inherit land and own it in their own right without having to rely on their husbands. In this Bill, we have not conferred women's protection against domestic violence and several others. You will notice that, under Section 4, the headquarters of the Commission shall be in Nairobi. I would want to know whether the Government thinks that all our women are in Nairobi. Indeed, the bulk of our women are in the rural areas. In the new Kenya, we are contemplating devolution, and we would have expected the headquarters of this Commission to be based somewhere in the rural areas so that the Commission members can wake up every morning and see our women travelling many kilometres to go and fetch water or to go and cut firewood.

Mr. Temporary Deputy Speaker, Sir, notwithstanding my serious objections to this Bill, I still nevertheless think it is a step in the right direction and, therefore, I beg to support this enactment so long as the Minister will assure us that, at the earliest opportunity, he will support amendments in

order to give the Commission, the Chairman and the Council enough power to protect our women.

I beg to support.

Dr. Ojiambo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to support this Bill on the creation of the National Commission on Gender and Development. I would like to congratulate the Minister for Gender, Sports, Culture and Social Services for bringing this Bill to this House at this time.

Mr. Temporary Deputy Speaker, Sir, gender issues have occupied minds of Kenyans for a very long time. This debate started a long time ago, with the women of Kenya going to Mexico, Copenhagen, Nairobi, Beijing and so on, but little has transpired ever since, and it is good that we can now together discuss the issues that relate to gender with a sober mind; understanding that gender is not women. Through this debate, we hope the message will go across Kenya, that the issues we are talking about are not only related to women. Mr. Temporary Deputy Speaker, Sir, the women of Kenya have done their bit. They have initiated lots of women groups and done a lot for themselves, the family, the youth of this nation and the children. It has always been looked at as women doing their bit, and that women should stay in those kinds of positions. This gender debate confirms to us the initial intention of God creating man and woman. Men and women together can make this nation look much better than it is. Indeed, most of the nations of the world that have developed have worked together, and have recognized the contribution of their women to national development.

Mr. Osundwa: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for such an important Bill to be discussed while there is nobody from the Ministry concerned taking notes? There is even no Ministry officer on the Civil Servants' Bench.

An hon. Member: But Mr. Mwakwere is here!

Mr. Angwenyi: Mr. Mwakwere is not from the Ministry of Gender, Sports, Culture and Social Services!

The Temporary Deputy Speaker (Mr. Poghismo): Proceed, Dr. Ojiambo!

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. The varying of decisions is confusing this House. We could not get answers to certain Questions because the Minister concerned was not there. Now again, the Minister is not in the House. Why do you take us through that rigmarole? Why can we not close debate on this Bill?

(Mr. Balala walked into the Chamber)

The Temporary Deputy Speaker (Mr. Poghismo): Order! Order, Mr. Angwenyi! You may have a valid point, but that matter is not raised under a point of order. Besides, the Minister is actually here.

Proceed, Dr. Ojiambo!

Dr. Ojiambo: Mr. Temporary Deputy Speaker, Sir, I hope Mr. Angwenyi will recognize the presence of the Minister for Gender, Sports, Culture and Social Services in the House.

I was talking about the complementary role of men and women and the importance of this Commission to our national efforts. Today, the men and women of Kenya can realize that it is a joint effort to work together for the betterment of our families, and that together the family of Kenya can be improved.

Mr. Temporary Deputy Speaker, Sir, I wanted to refer to the historical events that have taken place in this country, starting with our own National Assembly. We still continue to ask that when this Commission is put together, even the writings in our House and every other literature can become gender-sensitive, so that Kenyans realize that, whatever we do, we are doing it together. Parliament should be a just Government of men and women. I hope that when the Commission is formed, these will be some of the corrections that will be made in our language so that our young men and women

can start to understand that we are talking about the people of Kenya and not sections of people of Kenya in terms of men and women. When we talk about efforts such as those that the women of Kenya are making in the rural areas, they understand that they too include men. We hope that when this Commission is set up, women groups are going to realize that their efforts can also be joined by men, so that we have both men and women participating. This will ensure that men are not left out of development.

Mr. Temporary Deputy Speaker, Sir, women have done quite a lot. However, men are yet to come up and join them in development because they are behind. This Bill is, therefore, useful to all of us and calls upon men to join women in areas where they have not been very active. In areas where women have not been very active, they should join men so that we can have combined effort that can take us to the next stage of development.

I congratulate Kenyans for the manner in which they have understood the concept of gender and particularly as we debated gender issues at the Bomas of Kenya. We have had a lot of support from the rural men and women because they understand the need for women to participate in economic activities and the need for men to participate in economic activities that build the family together. There is need for the continuation of civic education to enlighten our people, so that the fear that has always been anticipated is cleared out of their minds. The fear that women are looking for opportunities to take over men's positions should be history in our nation because that is not the case.

Mr. Temporary Deputy Speaker, Sir, the world has accepted gender issues and, therefore, Kenya will accept gender projects. I want to agree with the previous speakers who have spoken on the functions of the Gender Commission. When the Commission comes into being, this House will make it a reality. It will be an autonomous Commission which will effectively serve both men and women of this country. The members of the Commission will not be women, as much as we are emphasising the role of women in activities of this Commission. We want the best men and the best women models to give examples to the people of Kenya on what both genders can do. I want to appeal to the Minister to understand that this is the time that men models and women models must come together for the development of our young people, to create a reality that can make and inspire them to work together when the Commission is formed.

In this country today, we have examples of women who have achieved. Our young girls are achieving just like men. Together, they can do a wonderful job for this nation. We have women pilots just like we have male pilots. We have engineers, mathematicians among men and also among women. We want these talents to be put together. We want this Commission to enhance the appreciation of talent.

Mr. Temporary Deputy Speaker, Sir, the time when women were left to work on their own, because they were not able to do certain jobs, is now gone. Therefore, in rewarding talent, we do want to challenge both men and women to be recognised. That is why I have said that we want both men and women of talent, good character, and achievers to set a good example to our nation by spearheading the activities of this Commission when it comes to its formation. This Commission must be seen to be strong on its own. Therefore, in accordance with the discussion that is going on at the Bomas of Kenya, I hope that the Gender Commission will be entrenched in the Constitution so that it is here for eternity. We are here today because we have a very good Minister for Gender, Sports, Culture and Social Services, who supports the activities of women. Therefore, he has supported the formation of the Gender Commission without any fear. If the Commission is left under a Ministry and a new Minister comes in who is probably not of the same mind as the Minister we have today, this Commission would be swept aside and become a toothless Commission. I would like us to have an autonomous Commission which can be effective in the future.

Mr. Temporary Deputy Speaker, Sir, I want to commend the women of Kenya for having put up a very consistent spirit in pursuing what is right for this nation. I would like to see the Commission put in place as soon as possible because we have talked a lot about what we want done together with the men. We also want to support our young people as much as we can. Therefore, I support those who have spoken before me on the idea of paternity leave because this strengthens the unity of our families, and the families of Kenya. Let us take an example of the Scandinavian countries where fathers and mothers work to support each other. Parents realise their importance in the up-bringing of their children. We also need to appreciate that the Kenyan men should be encouraged to have opportunity to participate in the up-bringing of their families where they can---

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead this House by saying that we adopt the Scandinavian culture, whereby men go on maternity leave whereas our culture does not allow that? Why are we importing those strange cultures as if our culture is not good enough?

Dr. Ojiambo: Mr. Temporary Deputy Speaker, Sir, I have not talked of our men going for maternity leave because that is more than what the hon. Member knows! I am saying that our men should recognise the role they play in the up-bringing of their families. I hope that the hon. Member will take some-time off to sit with his children so that they may recognise him as their father.

(Laughter)

Mr. Temporary Deputy, Speaker, Sir, I, therefore, want to support the idea of paternity leave for all of us. I also want to say that the Commission will bring into focus some of the issues that we have not been able to accomplish as a country, for example, improvement of maternity wards and maternity homes. I think that all of us as parents are very glad when our children are born. However, sometimes the fathers of the children do not understand the difficult times that the mothers undergo in giving birth. It is good that we are proud of the Commission because it is going to be a reality and will be established so that together we may talk of improvement of maternity services for our women. It is important that as we debate on this Commission we realise that we have a very important responsibility to this nation. We will not take it so lightly any more, as leaders of this nation, people continuing to slight the work of our young people. The youth we are referring to are the young girls who, in their context today, do not know the difference between young girls and boys. Our young people are working together and they know very seriously that the responsibility of running this nation lies squarely on their shoulders. Therefore, we must introduce an environment that encourages them to work together and appreciate the burden of looking after the interests of this nation. We can only do that today as leaders by making sure that we introduce this Commission and that we set it up as well as we can. We should bless it as much as we can for the fraternity of our future.

Mr. Temporary Deputy Speaker, Sir, I just want to finish by saying that the equality we have so often talked about during the past debates in this House, is entrenched in this very debate that we are undertaking today. It makes it so easy for us to now see the reality of what we have spoken about in the past; that, the future of this nation will be brought up by both men and women working together. That working together will one day be through this Bill. I would hate to see a situation where, when we finish this work, Ministries will be asked once more to set up desks for gender without the provision of funds to help them implement anything. You will find that one officer is stationed at each desk to sit there and wait for a lady to come to the Ministry seeking assistance, then she is forwarded to that desk.

I hope the Minister will make sure that the work of the Commission is total and that this work runs through all the Ministries. The Commission should be seen to be in charge of what goes on in the

Ministry to ensure that when there is allocation of jobs in the Ministries, both men and women are considered according to their merit. We are not saying that gender means anybody because either a man or a woman should be given a position. We have a lot of talent in this country that has not been utilised properly and this opportunity will make it--

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. You will realise that the hon. Member is repeating herself now. Would I be in order to call for closure on this debate?

The Temporary Deputy Speaker (Mr. Poghisio): She said she is winding up. So, let us allow her to wind up.

Dr. Ojiambo: Thank you, Mr. Temporary Deputy Speaker, Sir. Mr. Angwenyi is very impatient about gender issues. I hope he will have an opportunity to contribute to this.

In finishing, Mr. Angwenyi, I want you through the Speaker, to be part of those who will support this Bill.

With those few comments, I beg to support.

The Temporary Deputy Speaker (Mr. Poghisio): Hon. Members, I had actually said that after Dr. Ojiambo, I would make good my promise. Now I will call upon the Mover to reply.

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

I want to thank all the hon. Members of this House for supporting this Bill. All their observations and concerns have been heard and taken note of, particularly when it comes to gender policy. There is already a Sessional Paper, which was approved in August 2002, and already published. I will bring a Motion on this Sessional Paper as the legal framework for the Gender Commission.

This Bill is gender-blind. It does not know men or women. As we could see, there was concern about the use of the word "chairman". That word "chairman" does not mean a man or a woman. We will look into the issue of the language. We are taking note of that. The definition will be broader than what is already there and those changes will come in the Third Reading. The structure of the Commission will be autonomous. It will be definitely very strong and not necessarily controlled by the Ministry. It will be very powerful and incorporating everyone in this country in terms of interest. Definitely, we are very keen to see this Bill go through. All the other issues that have been raised by the hon. Members have been noted. Actually, they are in our mind at the Ministry and we find them very acceptable. We will implement them.

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

(Question put and agreed to)

*(The Bill was read a Second time
and Committeed to a Committee
of the whole House tomorrow)*

Second Reading

THE CONSTITUENCIES DEVELOPMENT
FUND BILL

Eng. Muriuki: Mr. Temporary Deputy Speaker, Sir, I beg to move that the Constituencies Development Fund Bill be read a Second Time.

Kenya has variously been described as a developing country and very many Kenyans and I have been wondering for how long it will continue being referred to as a "developing country". There have been various attempts to develop this country. All manner of schemes have been dreamt up by

Kenyans, the Government and external forces, but we do not seem to be moving anywhere. As a matter of fact, we seem to be moving backwards. The Constituencies Development Fund Bill is one of the more serious attempts of the war against poverty in our country. This time, we will focus on the constituency as a unit of development.

When a Member of Parliament sees development taking place in his area, little credit goes to him if it is done by the Government or somebody else. When development does not take place in a constituency, all the blame is heaped on the elected Member of Parliament. Therefore, the Bill seeks to, first of all, empower the elected Member of Parliament to do something for the people who elected him or her. Having said that, there are also areas in this country which have been seriously marginalised since Independence and only yesterday, we were debating one of the Motions trying to help such areas which have been seriously marginalised. We keep on saying that we are now trying to do economic recovery but there is no economy to recover in some of those areas. They have been in subsistence market system since time immemorial and they do not know the meaning of economy in the normal market system of the modern world.

The Bill also seeks to relieve the Member of Parliament of the very serious obligations of *Harambee* which come in every day. We want to allow the Members of Parliament to focus on long-term planning for their constituencies and also collectively for the country. The genesis of this Bill started way back in 1999 when I filed a Motion in this House and it was debated in the year 2000 that 2.5 per cent of Government revenue goes into constituency-based projects. That was frustrated right, left and centre and it was never implemented. As a result, I, therefore, did move the Motion again and a Motion was passed in October, 2002 to give leave of the House for this Bill to be brought. It is now October, 2003, and the Bill is with us and we are all very happy. In-between, there have been all sorts of activities. The Bill has been drafted and there have been wide consultations. I wish to take this opportunity to thank the voters in Ol Kalou Constituency, where I come from, for re-electing me to come and see the Bill through.

Mr. Temporary Deputy Speaker, Sir, I would also like to take the opportunity to give a few compliments to some of the groups or institutions which have assisted in the drafting of the Bill especially the Attorney-General's Office. After the Bill was published, I requested that we have a one-day seminar at Safari Park or some place outside. It was held at Safari Park. I wish to thank all hon. Members who attended in large numbers and gave their views at Safari Park. I would also wish to say that we have had very fruitful meetings. I have been invited by the Finance, Planning and Trade Committee, which has been considering this Bill. I wish also to thank the Minister for Finance, who bothered and who had the time to come over to Safari Park and assured us that, once the Bill is passed, he will duly ensure that the funds are made available for implementing the Bill.

Mr. Temporary Deputy Speaker, Sir, the Finance, Planning and Trade Committee has tabled its Report. All along, there have been differing views from the Safari Park meeting and also through the Finance, Planning and Trade Committee. But I must say that all the amendments which were proposed have been agreed on by consensus. There is no time that there was need to do any voting.

Mr. Temporary Deputy Speaker, Sir, this Bill is targeting much more of the rural areas than constituencies in the urban areas. They all benefit but constituencies in the rural areas, by and large, have been left behind. For the development of the rural areas, I have a recipe which I think can work. The recipe has three ingredients. The first ingredient is infrastructure. The second ingredient is infrastructure and the third one is also infrastructure. In other words, people in the rural areas are not expecting anything from the Government. They want to be facilitated to run their farms and other modes of economic survival.

Mr. Temporary Deputy Speaker, Sir, we went through the Bill when we were at Safari Park and I will not bore the House going through the whole Bill all over again. However, I will highlight the process that it takes. First of all, we are proposing that the Minister for Finance, well before the beginning of the financial year, works out the 2.5 per cent of the Government estimated income in that

year and puts it in the Constituency Development Fund. That Fund will be run by a committee comprising of a number of Kenyans both from the Government and the private sector. At the same time, the Minister for Finance is obligated to allocate funds equally across the 210 constituencies and advise the hon. Members accordingly so that they can go back to their constituencies to prioritise their projects and bring them back to Parliament. The Office of the Clerk of the National Assembly is designated to receive proposals from hon. Members.

Mr. Temporary Deputy Speaker, Sir, the disbursements of funds from the national account will go directly to the constituency account. The area Member of Parliament is obligated to submit the list of the proposals of the constituency. All the disbursement of this Fund are proposed to go through the constituency account which will be opened for each particular constituency in the name of the constituency. Thereafter, we expect hon. Members, in conjunction with Government experts at the district and other consultants, to implement those projects. Once the constituency fund starts to function, the House may occasionally lack quorum because hon. Members will be busy developing their constituencies since they will have the funds to do so.

Mr. Temporary Deputy Speaker, Sir, again, we went through the Bill, so I will not wish to go clause by clause. But I will highlight some of the provisions in the Bill and also, where it differs somewhat from the original Bill, some amendments would have been agreed on. The details of those amendments have been tabled, but I will just highlight a few places.

Chapter One deals with the preliminaries, which is just interpretation. Chapter Two deals with the Constituency Development Fund. Here, we are proposing that a national committee be formed. Initially, this committee had five Permanent Secretaries and four members who were supposed to be appointed by the Minister from among the civil servants. Some proposals have been made from the time we were at Safari Park. We now have proposed a committee of 12 people, composing of four Permanent Secretaries and six people nominated by professional bodies like engineers, lawyers, accountants, teachers and so on, so that we have six professional bodies to nominate people to sit in the national committee.

Mr. Temporary Deputy Speaker, Sir, in the deliberations at Safari Park and also at the Finance, Planning and Trade Committee, it was proposed that Parliament should be directly represented in the national committee and there was no consensus. So, the compromise was to get the Clerk of the National Assembly, who is an executive officer, to sit in that committee to make 11 people, and an officer administering the Fund, who is an *ex-officio*, to 12.

Mr. Temporary Deputy Speaker, Sir, Chapter Three deals with the project proposals. We have a very simple form where the hon. Member will simply consult his or her constituents and put down the title of the projects which they wish to be funded through this Fund and the estimated cost. We have obligated the hon. Member to consult Government experts at the district level so that we can have a realistic cost estimate. But, nonetheless, the hon. Member will simply submit that schedule of the projects which he wishes to be developed through the Fund.

Mr. Temporary Deputy Speaker, Sir, in the blue book, again, the elected Member of Parliament was supposed to sign that form but, after consultations, it was felt that there may be some element of fear on the part of hon. Members. So, two more signatures have been added; one, from the district committee and the other one from the constituency development committee.

Mr. Temporary Deputy Speaker, Sir, Chapter Four deals with the types of projects. This one is simply saying that the Fund will be for development projects. We are outlawing funding of political parties or religious activities through the Fund. We also do not want cash awards in order to keep out direct political handouts. However, we have two exceptions to this rule which we have detailed out in the Bill. One of them is the Education Fund whose implementation has to do with cash being given out to needy students. I am calling upon all hon. Members to ensure that there is a constituency bursary fund because you are allowed to put a maximum of 20 per cent directly to the Fund. I know we have a

bursary fund for secondary schools but, in this case, we are saying, you may also, in consultation with your constituents, be able to help even students in polytechnics or those who have gone for further studies so long as they are within the education docket.

Mr. Temporary Deputy Speaker, Sir, the other project is outside the approved cash expenses. When the tribunal was looking at the affairs of Members of Parliament, there was talk of constituency offices. But, somehow, when the document was eventually tabled here, the constituency office was completely left out. So, one of the amendments that has been proposed is to allow hon. Members to either develop or hire constituency offices and, more particularly, be able to run them separate from the Fund. There is a small limitation as to how much you can put in a constituency office. But that will allow hon. Members enough opportunity to meet with their constituents. We also have a facility for joint efforts incase two or more constituencies have a common project. A case in mind, which is commonly given at the district level is, for example, an institute of technology where, three or more constituencies may wish to combine efforts and develop one such project.

The Bill also calls for the formation of a Constituency Fund Committee, which will be a select Committee of the House to consider the proposals and quite a number of other duties, including overseeing the implementation. The Bill also calls upon Parliament to act on various proposals and so on. The committee will be able to sit down and, on behalf of Parliament, consider the proposals before they are tabled in the House for adoption or otherwise. There is a chapter which deals with the implementation of the projects. In that case, it is recognising the work of the National Assembly, as being the Legislature. So, we want the Executive arm of the Government to spearhead the implementation of the projects which are proposed from various constituencies. However, we expect the Constituency Development Committee (CDC) to have full say on what will happen to the extent that, no tenders or quotations will be awarded without the express authority of the CDC.

Mr. Temporary Deputy Speaker, Sir, we are also wary of a case which was, at one time, before a court to try to derail the District Roads Committees (DRCs) which this House, in its wisdom, had set up. There was a Mr. Mwau who had gone to court to challenge the DRCs from a constitutional point of view. This time round, all manner of efforts have been made to make sure that the Bill conforms with the Constitution in all ways. One of them is to recognise the Executive arm of the Government as the implementer.

I would like to take this opportunity to dissuade hon. Members from over-indulging in the implementation of projects in their constituencies. They should do their work of legislation and oversee how funds are used. We have a committee at the district level to co-ordinate the projects because, as I said, there might be projects that cut across several constituencies. At the moment, our Government does not have professional establishment at the constituency level. They are all at the district level. We hope that, before long, the Government will devolve the professionals to the constituency level so that we can consult with them directly, without having to go through the district operatives.

However, we have limited the membership of that committee at the district level to Members of Parliament, heads of civic bodies like mayors and chairmen and a few Government officers at the district like district commissioner, the district development officer and the district accountant. We are, however, very expressive that those Government officials are *ex-officio*. Should there be any discussion or voting to be done, it will be done by the elected Members of Parliament and the civic heads.

Mr. Temporary Deputy Speaker, Sir, in the blue book, there is a chapter on District Development Committees (DDCs). As I mentioned when we were at Safari Park Hotel, I was at pains to understand how to deal with the DDCs, because they were not established under any statutes. They do not operate under any particular law. Normally, the DDCs are a hinderance to what the leader wish to do in a district. The sentiments expressed were very strong, that the DDCs should be

discarded. Therefore, I fully support the sentiments expressed by hon. Members and propose an amendment that the DDCs, and the whole of Chapter Eight, be deleted from the Bill.

The Temporary Deputy Speaker (Mr. Poghisio): Are you discussing the blue book or the Bill?

Eng. Muriuki: The Bill.

The Temporary Deputy Speaker (Mr. Poghisio): Is that what you are calling the blue book?

Eng. Muriuki: Apologies, Mr. Temporary Deputy Speaker, Sir. I was talking about the blue book because it has few versions of the Bill and comments by the Committee. That is why I was trying to distinguish. However, I mean the Bill copied in blue. I fully support the amendment that the chapter dealing with DDCs be deleted completely, so that we have no reference to it.

Mr. Temporary Deputy Speaker, Sir, there is a chapter on finance which basically stipulates where the funds will be kept, which is at the Central Bank of Kenya (CBK). However, when we were at Safari Park Hotel, the representative of the Permanent Secretary, Ministry of Finance proposed that the national committee may opt to keep the funds anywhere else other than the CBK. We are saying that, that can happen, but only with the express approval of Parliament.

Mr. Temporary Deputy Speaker, Sir, regarding the final chapter dealing with miscellaneous provisions, there are several provisions there. The most important one is that everything which is proposed in the Bill is complementary to the normal Government development programmes. The Government is not cut off. The Bill calls upon the Government to go ahead with the normal development programmes, irrespective of what will be funded through this Fund. Previously, we had problems with DRCs and such committees regarding out of pocket expenses. The out of pocket allowances have been allowed by this Bill.

Mr. Temporary Deputy Speaker, Sir, there are a few extra features which I would like to highlight to the hon. Members. When this House was formulating the DRCs a few year ago, it fell into a few pitfalls. We have done our best to completely avoid the pitfalls. One of them is a clause to allow continuous improvement should there be problems. We can amend. We have a provision that all the appointments, whether for members of the national committee, the officers administering or any other appointments under the Bill, or the Act once it is assented to, have to come to Parliament before they are effected. It is provided that the Committee can be able to handle that on behalf of the House, so that the process could be much quicker.

Mr. Temporary Deputy Speaker, Sir, in this Bill, there is a statement that there will be no extra expenditure by the enactment of this Bill. The reason is that all the operatives from the national committee and the district committee are all Government employees or people earning salaries somewhere else. Therefore, there is no need for them to be given any extra allowances. With the few amendments which have been proposed and which I support, there are a number of people from outside the Government Ministries. For example, the national committee will be having six members from the private sector and they will need sitting allowances and so on. Also, there are CDCs whose members are not Members of Parliament, councillors or Government officials who earn salaries. Therefore, there is a provision for some allowances. That is why I propose a minor amendment to the Bill, namely that there will be a minor expenditure of approximately Kshs4 million allowed for in the annual estimates.

Mr. Temporary Deputy Speaker, Sir, in my concluding remarks, I would like to say that this is the first time wananchi will be consulted by hon. Members on what they want to do with the development funds to be allocated to their respective constituencies. An hon. Member is obligated by the Bill to consult his or her constituents at the Locational Development Committee so that he or she can know what they want and report that to the Constituency Development Committee. This provision was not in the original Bill, but it is one of the proposed amendments. I tried to empower hon. Members 100 per cent in my draft Bill, but they felt that---

The Temporary Deputy Speaker (Mr. Poghisio): Eng. Muriuki, do not jump to the proposed amendments when you are moving the Bill.

Eng. Muriuki: Mr. Temporary Deputy Speaker, Sir, I agree with you. I was only highlighting the areas which matter a lot

The Temporary Deputy Speaker (Mr. Poghisio): Order! Eng. Muriuki, just focus on the Bill that you are moving.

Eng. Muriuki: Thank you, Mr. Temporary Deputy Speaker, Sir. This is the first time an hon. Member will have a say in the development projects to be initiated in his or her constituency. This is also the first time definite development funds to be allocated to each constituency will be included in the national Budget.

There has been talk of Kshs20 million being allocated to the Constituencies Development Fund. The Bill does not capture this amount of money anywhere. Instead, the Bill states that 2.5 per cent of the total Government revenue should be allocated to the Constituencies Development Fund. If last year's total Government revenue of Kshs280 billion is anything to go by, then every constituency should receive slightly less than Kshs25 million this year. However, we will have a minor problem if this Bill is passed by this House and implemented in the middle of the year. I hope that the amendments to be moved will take care of that.

Mr. Temporary Deputy Speaker, Sir, in the original Motion that I moved in this House in 2000, I had said that 5 per cent of the Government's annual revenue, and not 2.5 per cent, should be allocated to every constituency every year. However, the idea was shot down by hon. Members, who were at that time in the then ruling party, KANU. All of us agreed on the 2.5 per cent on the basis that it was going to be implemented almost immediately. Maybe, this is an opportune time for the House to review that position. We should decide whether to review the current figure of Kshs25 million, if we go by last year's total revenue or not. If we review that position, then we should implement the original proposal of 5 per cent so that every constituency receives about Kshs49 million per year.

Last but not least, I am confident that this Bill will be passed by this House and become law before long. So, I urge all hon. Members from now onwards to focus on Schedule I, which states that an hon. Member should consult with his or her constituents and come up with a list of development projects to be initiated in his or her constituency. This will enable us have something to table in the House as soon as the Bill is passed.

Mr. Temporary Deputy Speaker, Sir, with those many remarks, I beg to move the Bill and call upon Mr. Angwenyi, the Member for Kitutu Chache, to second it.

Mr. Angwenyi: Thank you, Mr. Temporary Deputy Speaker, Sir. This Bill might end up being one of the most important pieces of legislation to be passed by the Ninth Parliament. We do know that year in, year out, we vote substantial amounts of money for development projects in this country. For example, we have set aside Kshs51 billion this year for the development of our country. But who among us can pinpoint a single development project in his or her constituency which is being undertaken by the Government? This is my seventh year in this House and not a single development project has been undertaken in my constituency during the period I have been in this House. I also believe that not a single development project has been undertaken in constituencies represented by most hon. Members in this House.

The Government collects money from our people in the form of tax, but our people do not understand how the money is used to benefit them. You have heard many a time hon. Members request the Government to assist in roofing school buildings whose roofs have been blown off by storms but they are told that, that would be done when funds became available.

I would like to give an example. Last week, the roofs of 14 classrooms in one school in Kisii Town, which is in my constituency, were blown off. When I rushed to the Ministry of Education,

Science and Technology offices in Kisii Town to source for funds for repairs, officials told me that they did not have funds. Likewise, when I rushed to the Emergency Relief Fund in the Office of the President, I was told by the officers there that they did not have funds to repair the roofs. Treasury officials also told me that they did not have funds to repair those roofs when I went to their office. This was the case, and yet we have voted funds in this House to assist our people when they are faced with such calamities.

Mr. Temporary Deputy Speaker, Sir, you probably have not more than two health centres in your constituency which serve an area which is almost the size of Central Province.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Angwenyi! You are addressing the Chair!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, if you had these funds, you could have constructed a health centre in every sub-location so that your people do not have to walk long distances to reach a health centre. In fact, when your constituents walk long distances to reach a health centre, they come across people's cows and end up stealing them.

The Temporary Deputy Speaker (Poghisio): Order, Mr. Angwenyi! I have said that the Chair has no constituency! You are addressing the Chair.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I am sorry. I thought you are on the Chair by virtue of having been elected to this House.

If you look at the fast developing countries in this world, for example Mauritius, Malaysia and Thailand, you will find that they have a Constituency Development Fund. The fund constitutes 25 to 40 per cent of their Development Vote. The Constituencies Development Fund will enable the Government to spread out its expenditure at the grassroot level. For example, hon. Members can use these funds to recruit labourers in their constituencies. For example, if we vote Kshs20 million to this Fund, and use 40 per cent of it to employ young people in labour-intensive projects, 300 people earning an average of Kshs3,000 per month will be employed. You can imagine the multiplier effect of employing 300 people in your constituency. It is tremendous. You automatically raise the standard of living of about 10,000 people in your constituency. We want the Constituencies Development Fund to be established so that we can show our taxpayers that the money we collect from them is used to build a health centre and initiate a water project for women groups. This is because we want to empower our women. We do not want women in Ukambani to cover a distance of 20 kilometres in search of water. The Government should drill a borehole where women live and take water by pipes to where people live, so that they can concentrate on other development activities instead of spending a lot of time searching for water. We can also use these funds to supply electrical power to rural market centres under the Rural Electrification Programme, and hence encourage entrepreneurial activities. We can also use these funds to build schools where they do not exist.

Mr. Temporary Deputy Speaker, Sir, we entered into a covenant that we would not be soliciting for funds for *Harambees* because doing that in the past made people look ridiculous. We used to go to peoples offices to solicit for, say, Kshs1,000. Somebody would keep you there for even ten hours and at the end of the day, he would tell you that he was sorry that he could not give you the money as he had sent someone to get money from the bank who had not shown up. This Bill will empower us to concentrate on our functions and roles as MPs. Our roles are to legislate, present views and interests of our people and provide oversight over the Government. Approving and entrenching this Fund in our budgetary system will, for the first time, empower this House and make the taxpayer receive the benefits from his toil.

We are in a situation where Kenya has the highest tax rate in the world. At 23 per cent, we probably have the highest tax rate in the world. How can we show our people that there is no taxation without representation? We should prove to our people that they are represented in the taxation process by giving them benefits from their tax.

This Fund will also reduce the urge of Kenyans to want to be senior people in politics. They desire to be a prime minister, president and even Ministers. People have been struggling hard to be in those positions because they believed they would get their hands into the national kitty and have projects in their own areas. However, we will now transfer some national resources to our constituencies. Some of us might never be Ministers and, therefore, we want to empower this Parliament.

At a time when our economy is in a state of recession, what do you do to reverse or reduce the negative impact of this? This negative impact produces deaths from hunger and an increase in mentally deranged people due to stress and mushrooming of social misfits. We can see such groups like the *Mungiki* in this country. They compete with the Government in the City of Nairobi and yet it is the seat of Government. They can conduct their illegal activities in Nairobi, where our President, Parliament and judicial system reside, with impunity. Why do they do this? It is because we are in a recessionary economy; an economy that can neither provide food nor absorb these youngsters. That is why we have *Kebago* in Kisii who can do whatever they want without fear as the police cannot handle them. It is also the reason why we have *Musumbiji* in Kakamega. If the *Musumbiji* decides that they do not want their MPs to go there as they have not given them jobs, the hon. Members will not dare go there.

What then is the cure for the proliferation of these social misfits? It is to reverse the recessionary trend in the economy by providing massive labour intensive projects in the country. We can do it better through initiation of projects in our constituencies to employ these young people. In Kasarani, these groups are giving Mr. Omondi a headache. They go there and cause havoc because nobody can confront them. If he got this money, he would use it to offer jobs to a few of those members of the *Mungiki*. This will occupy them and they will leave Mr. Omondi alone to do his work. If I got this money, I would employ some of the *Kebago* members and they would actually be protecting me when I go to my constituency. They would be doing useful work.

Mr. Temporary Deputy Speaker, Sir, we would like to pass this Bill, and although we are requesting---

Mr. Gitau: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to tell the House that the *Mungiki* is competing with the Government?

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I do not know whether the hon. Member has been abroad. Recently, *Mungiki* went to Mathare and killed 23 people. Another group in the same Mathare area killed about 16 people with impunity yet there is a Government.

An hon. Member: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to insinuate that *Mungiki* needs to be bribed in order to stop their illegal activities?

Mr. Angwenyi: The hon. Member is misusing the word 'bribe'. I am saying that this Government is supposed to provide for our youth by giving them jobs and having them actively involved in development. That is not a bribe. It is their right to have food to eat!

Hon. Members: Alright! Cool down!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, we will use these funds for specific projects such as health centres, water projects, electricity and educational institutions. We will use these funds to develop our country and create unity. The Kshs20 million we are requesting today is the first instalment. The following year, this amount ought to be increased to Kshs50 million and then to Kshs100 million. By the time we leave this Parliament in the 2007, each hon. Member should be allowed to spend Kshs200 million in their constituency, and that is not a lot of money. This is so because we are taxing our people and this is a way of showing them that we want to support their projects.

I also want to give credit to the Mover of this Bill. He is the person who initiated the Fuel Levy Fund that we are using in our District Roads Committees. Today, you will see that there are

roads being repaired and constructed in our constituencies. I also want to thank Mr. Ojode for coming up with the idea of bursary funds. We should encourage these initiatives which empower this Parliament and benefit our people. These initiatives reduce the amount of money available to the looters at the national level and the possibility of eruption of more Goldenberg scams. That is what we are trying to do. We must do it in this House.

With those few remarks, I beg to second.

(Question proposed)

Mr. Kamotho: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to also make a contribution to the debate on this important Bill. May I start by thanking the hon. Member for his initiative, and for bringing this Bill to this House. After enacting this law, we would have gone a very long way towards establishing a very fair distribution of the national resources to the people of Kenya. Every constituency will have equal rights to the resources available in the Republic. After the law is in place and the institutions required to be put in place, are there, I would suggest that the Ministry of Finance goes ahead and allocates this money for immediate distribution to the CDF.

Mr. Temporary Deputy Speaker, Sir, this country has gone very low. We are very poor. People are complaining all over the places. I am sure that with the injection of Kshs20 million into every constituency, we will notice a very big difference. As some hon. Members said, in the past, very few constituencies would show tangible projects which were done through the Budget Development Fund. There is no tangible project anywhere because the Government does not build schools, health centres and water projects at the rate that we would have expected them to do. I recall there was a time this nation set a target of ensuring that every Kenyan gets clean piped water in their own homes by the year 2000. This did not happen. We are now in 2003, but I still do not see that objective being met. I am sure with this kind of money, some of these dreams will become a reality. In addition, there are very many water projects in various parts of the country which were constructed 30 years to 40 years ago when the population was very low. The water available now through those projects is no longer adequate for the current large population. So, some of this money will be very useful in rehabilitating some of the water projects in order to deliver adequate water to the rural population. In addition, this money could be used to drill a number of boreholes in some parts of the country where people depend on boreholes.

Mr. Temporary Deputy Speaker, Sir, I would also like to commend the development fund, particularly because of the education of our own children. Although the Ministry of Education, Science and Technology has pledged to equitably distribute the Kshs700 million bursary fund, I am sure we all know that, that money is not adequate. Therefore, depending on the level of poverty and the number of needy children in some of these constituencies, some of this money will go towards strengthening the bursary fund. If we do that, then most of our school-going children in high schools will benefit adequately from the Government, particularly after providing free compulsory primary education. So, we have to ensure that those who qualify from our primary school also get an opportunity to complete high school education and, if possible, continue with their education in universities. In addition, this money would be very useful for emergency repairs in schools. We know that a number of school roofs in many parts of the country are being blown off by the wind. In most cases, communities have no capacity to meet such emergency expenditures. Therefore, this money would be very useful for such programmes. In addition, the large number of dispensaries built by *wananchi* all over the country could be completed. If there are any emergency repairs, they would be free to spend this money.

Mr. Temporary Deputy Speaker, Sir, I must also mention that this action is extremely consistent with the democratic participation of the people themselves in prioritising their development

projects in their areas. This is because our people would be involved in deciding their priorities from the grassroots; that is, at the locational level and, of course, up to the constituency level. This would be extremely useful. Since there are very few professionals who operate from those constituencies, I think when it comes to forming the CDF committees, it would be necessary for constituencies to draw from some of the brains of their constituents working outside the constituencies in order to assist the locals in the identification of priority projects. At the same time, by incorporating these members in the CDCs, it will help in reducing the amount of greed and corruption which is widespread in local authorities and Government departments in the districts. So, by injecting the local professionals who operate outside the constituencies like in Nairobi City, Mombasa City or Nakuru Town, in some of these CDCs we would be able to reduce the amount of greed and corruption which is widespread throughout the country. Therefore, we would be promoting transparency and accountability which this Parliament has been advocating for.

Mr. Temporary Deputy Speaker, Sir, Mr. Angwenyi also talked about the problems of the youth, the *Mungiki* and other vulnerable groups in our society. I think it is high time that this country started thinking of ways of rehabilitating some of those youths because some of them are educated, while others have trades. Unfortunately, because they are not able to get employment, they have resorted to gangsterism. I think if the Government starts a programme of rehabilitating some of these youths and absorbing those who are employable into the Police Force, the Administration Police Force, the Prisons Service, the Kenya Armed Forces and the National Youth Service, and train those who will be rehabilitated in certain fields, they can be used to infiltrate the vulnerable groups and change them. The latter group will be able to see that there is a better life than the kind of life they are leading.

This is a programme that should be implemented nationally. I do not think the Constituencies Development Fund would have the capacity to do that. It can do something little, like employing some of those fellows on routine road repairs, but there is a very large number of educated young people out there who are jobless. Some of them are university graduates, while others are graduates from youth polytechnics and other technical institutions. If they undergo a rehabilitation crash programme, those who are employable could be offered gainful employment. They can then be "missionaries" to go and convert some of their peers. If we do this, we will be moving in the right direction.

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

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

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

Mr. Y. Haji: Mr. Temporary Deputy Speaker, Sir, I would like to support the Motion and also congratulate the Mover, the Member for Ol Kalou, where I have a lot of friends, having been the District Commissioner, Nyandarua, for many years.

This Bill has come at the right time, because it is only the other day when we were craving so much for the establishment of a constituency fund for development. We were a little bit disappointed on Budget Day when the Minister for Finance promised us only Kshs2 million out of an expected Kshs20 million for every constituency.

As most of the previous speakers have stated, the Government should not shy away from the implementation of this Bill because it will take away the smoke screen that has been responsible for the unfair allocation of resources to the various parts of the country. We know that in order to attract funds for any constituency today, you have to be either a Cabinet Minister or, maybe, a Permanent

Secretary (PS), because these are the people who negotiate for funds. They are the ones who know the sources of funding for every Ministry and Department.

As we all know, this country has benefitted tremendously from the contributions of *wananchi* through Harambees. A lot of schools, health centres and water projects were initiated by communities themselves through self-help initiatives. Unfortunately, the mind of the public has now been poisoned that Harambees are no longer useful. If that is true, then we must find another source of funding to fill the gap that will be left when the Harambee spirit ceases to operate. We know that most of the primary schools today, including some secondary schools, were built by *wananchi* through their own initiative and efforts by contributing money.

We know that even if they had not been discouraged, the reigning poverty levels will not permit *wananchi* to contribute to Harambees as they used to do some years ago. As I speak now, poverty, coupled with drought and other natural catastrophes have really diminished the abilities of *wananchi*. Therefore, the Government must support this Bill and also avail the necessary funds for us to continue developing every part of this country. We know that with the abolishment of Harambee, most of the physical infrastructure of schools and health centres will require maintenance. In the absence of funds to maintain these buildings, these buildings will go to ruin and the people will not get the services they are used to while the buildings are in good working order.

I agree with the previous speaker that the resources of this country are being misdirected in many ways. This is a fact which nobody can deny. We know that only nine months ago, we had a change of Government. It seems that with a change of Government, the new Government officials must ride in new vehicles. I do not know whether all the vehicles that were being used by the previous Government became so obsolete that, within nine months every Minister and senior civil servant today has more than one new car. If this money was directed to the constituencies, as envisaged in this Bill, I am sure that *wananchi* will get better services, and they will be very happy.

As I said, some resources are being misdirected. This is very glaring. Even if you look at the Development Estimates, you will realise that there are certain areas which have not been allocated any money, while certain areas have been allocated more than Kshs400 million for water projects. This is a very glaring disparity. The Government of the day could have concealed these disparities if it had given some money to every constituency out of the proposed 2.5 per cent of the Budget. If 2.5 per cent of the national resources is given to every constituency, people will be seeing some development going on and, perhaps, they will not mind so much about this glaring misdirection of resources to the privileged areas of Ministers and PSs.

Mr. Temporary Deputy Speaker, Sir, this country has neglected the youth and that is very sad. The resources of any nation are its people. But we have many educated young people who are unemployed. It is not because they do not want to work, but there are no jobs.

We would like to see money being spent on construction of roads and those young men and women being employed there, instead of using money to buy diesel, tractors and spares. Instead of giving somebody a contract worth Kshs500 million or Kshs700 and he makes a profit of Kshs200 or Kshs300 million, that money should go to the pockets of *wananchi*. Even if they use handcarts or wheelbarrows to construct roads, it would be better! It can even take them three to four years to construct the roads.

We are being told that money is not circulating in the country because all of it has been given to only five or six contractors. That is very sad and if we continue with that trend, a time will come when nobody will be proud to be a Kenyan. We cannot have a few members of the society enjoying all the privileges of this country, and the majority being left to suffer miserably. I hope the Government will take this Bill seriously and implement it immediately.

With those few remarks, I beg to support.

The Assistant Minister, Office of the President (Mr. Tarus): Thank you, Mr. Temporary

Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill on Constituency Development Fund. I think this is a very important time in the history of Kenya because, for the first time, we are taking time to deliberate on our constituencies. For a very long time, we have relied on a particular perspective of development planning. The people in the constituencies have always expected development programmes to be funded. A good example is the Rural Electrification Programme (REP). For the last ten years that the programme has been in operation, many people in the constituencies and different districts have expected to benefit from the donor supported programme. But what happened is that due to lack of appropriate legislation to guide the implementation of the programme, it ended up benefiting only a few people.

Mr. Temporary Deputy Speaker, Sir, going through this Bill, it captures the issues that need to be addressed in the management of that programme. There are very many projects that are planned at the constituency level. But due to lack of coordination, viability determination and Government guidance through the District Development Committees (DDCs), development at constituency level has been very expensive. More often than not, funds are raised and allocated to projects which stall later on.

Mr. Temporary Deputy Speaker, Sir, I hope that the committees that will be formed at the district level will truly represent the interests of the people at the constituency level. The membership of the current DRCs comprises of officers from various Government departments at the district level. In most cases, there is very little participation by people from those areas. They say that Members of Parliament are members of those committees. But Members of Parliament are very busy. Projects that are brought before the DDCs hardly succeed. I wish to thank Eng. Muriuki for coming up with this Bill. It will assist a great deal in introducing some sense of discipline in planning and programme development at the constituency level.

Mr. Temporary Deputy Speaker, Sir, for the first time, the people at the constituency level are going to realise the importance of taxation. That will affect the future leadership at that constituency level. Funds that are voted for utilisation at the constituency level will invite a lot of scrutiny and interest from the people in the way they are utilised. I know that if those funds are not utilised appropriately, it will definitely affect the leadership on the ground.

The Kshs2 million earmarked for constituency development in this financial year maybe insufficient. But I am sure that all hon. Members know that, that is the best way forward. Many people have talked about decentralisation and devolution. I think that is the beginning of implementation of programmes at the grassroots level. The Constituency Development Fund will not only assist in ensuring that there is adequate role of Government in development programmes at the constituency level, but it will also guarantee balanced growth across the country. Just as Mr. Angwenyi said, once we vote funds to the constituency level, projects that are implemented will create effective demand for employment. The projects will be done by the local people and, in the process, there will be what we call backward and forward linkages.

In the process, there will be a tendency to have a development foundation at the constituency level.

Mr. Temporary Deputy Speaker, Sir, I know of constituencies where for very many years, not a single project has ever been seen. I know also that constituencies, whose Members of Parliament are not lucky to be Ministers, have always suffered in the implementation of development programmes. This Bill will provide an opportunity for all the constituencies to be developed equally and to move forward like the rest of the country.

Mr. Temporary Deputy Speaker, Sir, the Constituencies Development Fund Bill is coming at the right time. We know we have been utilising the Harambee system, but as things stand now, the people at the grassroots level have been so overstretched that whenever they plan to build a primary school, they have to do Harambees repeatedly for many years before they build four classrooms. So,

this Bill will come in handy to assist in the implementation and provision of physical facilities, especially educational facilities.

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

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

Mr. Temporary Deputy Speaker, Sir, it is also important to institutionalise planning programmes at the constituency level. Institutionalisation of planning will assist in ensuring that we are able to attract the necessary professional talent at the district and constituency levels to assist in mobilisation of the community and community-based organisations to facilitate participation by the people.

Mr. Temporary Deputy Speaker, Sir, there are many issues that have been raised which I need not repeat. Some of them include voting some of the funds to cater for bursaries. At this time, we know the effects of HIV/AIDS, the poverty levels and the problem of orphans. Having a share of these resources dedicated to funding of vulnerable groups to get education is also very vital.

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

Mr. Salat: Thank you, Mr. Temporary Deputy Speaker, Sir, first and foremost, for giving me this opportunity to contribute on this Bill. I do not think I want to dwell more on what my colleagues have said because we all agree unanimously that this Bill is important. Its importance, as my colleagues have put it, is that there has always been need in this country to empower the taxpayer. In empowering the taxpayer, the best approach is to go all the way back to the constituency level. As Members of Parliament and considering that we are the ones who know what development projects should be initiated in our various constituencies, I am very thankful to Eng. Muriuki for having thought that it is about time the taxpayers were given the mandate to initiate projects within our various constituencies so that they can actually feel that the taxes they have been paying are worthwhile.

Mr. Temporary Deputy Speaker, Sir, this Bill actually cuts the red tape that has been institutionalised in the Government system, where before money is channelled to our various constituencies, it has to go through so many institutions that have been set up. We have had District Development Committees (DDC's) in our various districts and even as new Members of Parliament, we still find that most of the projects that were proposed then are still lying there, unattended to. However, given this amount that this Bill proposes to pass to the constituencies, we will find that in the long run, most of these projects will actually get the necessary attention they deserve.

Mr. Temporary Deputy Speaker, Sir, my colleagues have spoken so much on the need to have this Bill passed and I am not going to persuade any one to pass it, because it is our interest as Members of Parliament, to see to it that we play our role by taking the necessary services closer to our people. I can say that I do not want to repeat what my colleagues have spoken on, but mine is to say that I am happy that this kind of Bill has been introduced when I am here in Parliament and we will one day be seen to have contributed to the development of our various constituencies. So, I do not see any problem with the Bill itself. We should support this Bill because we are all aware that we have development projects that are lying unattended to in our constituencies which will be sorted out once we pass this Bill.

On that note, I would like to support the Bill.

The Assistant Minister for Environment, Natural Resources and Wildlife (Prof. Maathai): Thank you very much, Mr. Temporary Deputy Speaker, Sir. I too want to join my

colleagues in supporting this Bill and in thanking the Mover of this Bill for having thought out and considered the need to introduce this kind of a Bill in the House. Most of us have become almost familiar with the Harambee system and we all know the damage that it has done to our country, even though originally it was intended for development.

Mr. Temporary Deputy Speaker, Sir, today when one attends Harambee, one cannot help, but notice that our people have become extremely poor. They bring to you little money amounting to Kshs5 or Kshs30 while barefooted and poorly clothed. What kind of development can one do with that kind of money? It is no longer possible to get money through Harambees. The only reason why our people continue to do those Harambees is because it is the only alternative left to the them. So, if this Bill is passed, this fund will go a long way towards easing the pain of organising Harambees to get money from people who do not have it.

Mr. Temporary Deputy Speaker, Sir, we also know that in an effort to do these Harambees and to initiate development, corruption found its way into the management of these Harambees. We have seen corruption in parastatals and co-operatives. We have seen our people being cheated and ripped off in the name of Harambees. So, although we really do not want to condemn Harambees, I look forward to the day when development will be done with these kind of funds that I am sure will increase as time goes by and that we shall not leave our people at the mercy of greedy and selfish individuals. It is not that these people are poor, but they are just greedy and selfish. It is in that light, that I want to appeal to our leaders, especially hon. Members, that when the money is finally made available, we should demonstrate a new commitment to our people so that the money is surely used for the purpose it is intended for and that it shall actually go towards raising the standard and quality of life for our people. It is not just the little people who steal. Quite often it is the rich and well placed people who are corrupt. Whereas some people say that people ought to be paid well so that they do not steal, the truth of the matter is that quite often it is those who have the money and hold big positions who steal. People are not corrupt because they are poor! Quite often, they are corrupt because they are selfish and greedy. So, I really hope that when these funds are made available, the hon. Members will introduce in our constituencies a new culture of commitment to our people, transparency and accountability so that every penny of this money goes towards improving the lives of our people and promotes development.

I have been ashamed often, to imagine our own people being exploited by those of us who are educated and have been given positions of responsibility; those of us who are expected to protect them. Quite often, we end up to be the very ones who exploit our people. I am looking forward to the day when that culture will end and those of us who are educated, in high positions of responsibility and exposed, shall be the pillars and protectors of the weak and vulnerable in our society rather than the exploiters.

I want to refer to a phenomenon in our country which is part of our colonial history and I hope this fund will reduce it. From the very beginning, when Europeans came to this country, a culture was introduced where men leave their families to go to work in the urban centres on their own. This culture has done a lot of damage to our society and I do not know to what extent it has been studied in order to ascertain the extent our children and families are destabilised. Men are often away from home as children grow up. Women are left to be the mother and father of the children. Perhaps, as we look at our society today and we see all types of dysfunctional aspects in families, this could be partly because of the culture of migration of men to urban centres and abandonment of families in the rural areas. It has almost become a culture and an accepted way of life in our country.

In South Africa, during the apartheid system, white men were never allowed to live away from their families. They were never allowed as much as to spend their weekends without their families and they were required that when they go home they do whatever they wanted to do, be it going to the theatre, or for walks and so on, with their families. This was because the South African

Government recognised the need for a strong white community through strong family units. On the other hand, it was the African man who was encouraged to migrate into South Africa to work in the mines and away from their families, sometimes many miles away from home. They could leave their countries to go and live in South Africa either in clusters or dormitories. This is something that, again, has become entrenched in our society. It has to do with poverty and we have almost come to accept it. Since many men cannot support their families in the urban centres where they work, they are encouraged to leave their families back home and to come and stay alone in the urban centres. During this time when we are confronted with the HIV/AIDS pandemic, this form of culture has proved to be disastrous to our families because this is how so many of the rural women have found themselves infected with HIV/AIDS which was originally, as you all remember in the early 80's, identified in the urban centres. It is something we ought to think about seriously and remove from our society because it is a colonial legacy. I would especially challenge the religious leaders to look into this issue and try to see how we can ensure that men stay with their families and are not encouraged, because of poverty, to go and live away from their families and never see their children grow up.

This fund will definitely encourage our people to lose a deep sense of dependency that has again become a culture. Due to these Harambees our people have been encouraged to beg. We have become shameless about begging, be it at home, in the streets or abroad. We can carry on begging without feeling ashamed. We need to be empowered to stop this culture and definitely this fund will help us to do so by empowering and encouraging our people to do things for themselves so that they can be proud of themselves and feel that they are in charge of their lives and not at the mercy of donors and non-governmental Organisations (NGOs). It is not that these people are doing bad, but it is because we encourage them to become so fond of begging that they become disempowered and eventually feel that they cannot do anything for themselves.

Mr. Temporary Deputy Speaker, Sir, I am very happy about this fund and I hope sooner than later, it will become a reality so that today's leaders and those who will be elected in the future will be able to truly work with their people through this fund rather than continuing with the miserable Harambees.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I support this Bill.

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

The Temporary Deputy Speaker (Mr. Khamasi): What is it Mr. Kipchumba?

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, given that this Bill has been discussed very many times and in various forums by all these hon. Members, and going by the mood of discussions so far which shows that we are all in support of this Bill; would I be in order to call upon the Mover to reply?

(Applause)

The Temporary Deputy Speaker (Mr. Khamasi): I will accede to what I think is the mood in the House and I will now put the Question.

(Question, that the Mover be now called upon to reply, put and agreed to)

Eng. Muriuki: Thank you, Mr. Temporary Deputy Speaker, Sir.

I will start by thanking all the hon. Members who have contributed on this important Bill. Only a few issues have been raised and I am called to comment upon them. First, there are many countries which have similar provisions---

Mr. Temporary Deputy Speaker, Sir, I would like to donate five minutes of my time to the

Minister so that he can make his remarks.

(Applause)

The Temporary Deputy Speaker (Mr. Khamasi): In the first place, you should have told me that, that was the idea. However, having said that, I will accede to your request. Whom do you want to donate your five minutes to?

Eng. Muriuki: To the Assistant Minister for Finance.

The Temporary Deputy Speaker (Mr. Khamasi): No, the Assistant has got his official time to reply to your Bill, and it is not mandatory that he must actually use this time. It is too bad if he does not want to utilize it.

The Assistant Minister for Finance (Mr. Katuku): On a point of order, Mr. Temporary Deputy Speaker, Sir. As a Ministry, we are ready to respond to this issue, but given the fact that Mr. Kipchumba moved a closure on Debate, there is nothing we can do. So, if you can re-open Debate, then we can talk.

The Temporary Deputy Speaker (Mr. Khamasi): Well, you are completely wrong. This was a Bill moved by Eng. Muriuki, and it was upon the Ministry, when the Debate was going on, to request for their position and to respond to the Bill. Now, it is the mood of the House that the Mover replies. So, can the Mover proceed to reply?

(Applause)

Eng. Muriuki: Mr. Temporary Deputy Speaker, Sir, could I very kindly inquire what the position of the Chair is in regard to the five minutes that I want to donate to the Assistant Minister? Can I donate those minutes to the hon. Assistant Minister?

The Temporary Deputy Speaker (Mr. Khamasi): If the Assistant Minister is [**The Temporary Deputy Speaker**] willing to accept, I have no objection to your request.

Proceed, hon. Katuku.

(Applause)

The Assistant Minister for Finance (Mr. Katuku): Thank you, Mr. Temporary Deputy Speaker, Sir. I want to join my colleagues in thanking the Mover of the Bill because, apart from being an Assistant Minister, I am also a Member of Parliament, and I have a constituency, which would, of course, also want to access these funds for development purposes.

(Applause)

The only issue with the Bill, which will be addressed at the Committee Stage is the mechanism of accounting for the funds, which is not very clear. When we get to the Committee Stage we will look at the mechanism since we must make the accounting system very clear. This is because you cannot have Members of Parliament, who are lawmakers, being involved in the implementation of projects or, maybe, being involved in the accounting of money spent on projects. But as the Bill proposes, we as a Ministry would want to come up with clear guidelines, at the Committee Stage, on how we would wish to have this money accounted for. This will ensure proper accounting of the monies voted for in this Bill. What is important at the end of the day is to see development getting down to the constituencies, so that we can uplift the standards of our communities in terms of services

like health centres, water projects or even educational programmes. When the NARC Government went for the elections, we promised to give services to the people, and that is exactly what we would want to see, irrespective of how we will get to achieve that objective. But when we get to this issue of accounting, I would want Members to be understanding because we do not want it to be seen as if it is Members of Parliament who are implementing this system. We also have in place---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order! Order! Please, can we consult quietly?

The Assistant Minister for Finance (Mr. Katuku): I was saying that this Parliament is on record to have passed a similar Motion on roads, and we have seen a tremendous improvement of access roads in our constituencies. That goes to help the people, and we would want to see more of this. As far as the Ministry is concerned, the only aspect we would want addressed properly is the issue of accountability, which will be done at the Committee Stage.

With these few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to support.

(Applause)

Eng. Muriuki: Thank you, Mr. Temporary Deputy Speaker, Sir. One of the hon. Members did mention that other countries have similar Funds. I would wish the House to compare and contrast those Funds so that we can improve the Kenyan model. When the hon. Assistant Minister was speaking, he raised the issue of accounting for the funds. Every effort has gone into trying to ensure that the accountability of the Fund, both at the national and district levels is fully taken care of by Government officers. We will be more than happy to encourage the Treasury to come up with proper suggestions on how to deal with any problem that may arise.

Mr. Temporary Deputy Speaker, Sir, I would also like to take this opportunity to once again correct an impression that is shared by quite a number of Members, who keep quoting Kshs20 million. The Bill has not mentioned that amount of money anywhere, rather what it has is 2.5 per cent of the Government revenue. If I may repeat, last year the Government's revenue was Kshs280 billion, which worked out to Kshs24.8 million per constituency. I am aware that a report of the tribunal did mention some Kshs20 million somewhere, but that has very little or nothing to do with the Bill. Once the Bill is enacted, we will be looking forward to 2.5 per cent of the Government revenue, which is Kshs24.8 million by last year's figures. Looking at how hon. Mwiraria and the others are doing, next year could even be better.

Mr. Temporary Deputy Speaker, Sir, I also wish to echo the issue of employment in the rural areas. The real reason why we have so many urban slums is because Kenyans have completely neglected the rural areas, allowing them to become untenable. Last but not least, I am calling upon the Minister for Finance, when compiling the annual Budget, to ensure that the projects which come under the Constituency Development Fund are printed in a document of their own, just as it is written in the Bill. This will allow every hon. Member to see the projects in his or her constituency clearly without any confusion, as it has been before. Lastly, let me acknowledge compliments from various hon. Members, who have complimented the drafting and the Moving of the Bill.

With those few remarks, I beg to move.

(Question put and agreed to)

(The Bill was read a Second Time)

*and committed to a Committee of
the Whole House tomorrow)*

Second Reading

THE PRESIDENTIAL RETIREMENT
BENEFITS BILL

The Assistant Minister for Finance (Mr. Katuku): Mr. Temporary Deputy Speaker, Sir, I would like to seek the indulgence of the House to move this Bill at a later stage.

(The Bill was deferred)

The Temporary Deputy Speaker (Mr. Khamasi): Next Order.

Second Reading

THE PERSONS WITH DISABILITIES BILL

The Assistant Minister for Finance (Mr. Katuku): Mr. Temporary Deputy Speaker, Sir, on behalf of the Minister concerned, I would wish to seek the indulgence of the House to have this Bill moved next week.

(The Bill was deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 21st October, 2003, at 2.30 p.m.

The House rose at 6.10 p.m.