

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 17th November, 2004

The House met at 9.00 a.m.

[The Temporary Deputy Speaker

(Mr. Poghisio) in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.607

COMPENSATION FOR MR. FRANCIS
MWILU'S NEXT OF KIN

Mr. J.M. Mutiso asked the Minister of State, Office of the President:-

- (a) whether he is aware that Administration Police Sergeant, P/NO 80042773, Mr. Francis Mwilu, was killed while on duty on 13th April, 1999; and,
- (b) what compensation was paid to the next of kin.

The Temporary Deputy Speaker (Mr. Poghisio): Is the Minister not there? We will leave this Question until the end then.

Next Question!

Question No.560

UPGRADING OF SABAKI-MARAFA
-BARICHO ROAD

The Temporary Deputy Speaker (Mr. Poghisio): Is Mr. Kombe not there? We will leave his Question until the end.

Next Question!

Question No.877

HARDSHIP ALLOWANCE FOR TEACHERS
IN NYANDO DIVISION

Eng. Nyamunga asked the Minister for Education, Science and Technology:-

- (a) whether he is aware that out of the five divisions in Nyando District, only

- teachers in Nyando Division do not receive hardship allowances;
- (b) whether he could explain the criteria used to award hardship allowances to teachers in the other divisions;
- (c) whether he is further aware that this anomaly has caused exodus of teachers from schools in Nyando Division; and,
- (d) when he would correct the anomaly.

The Temporary Deputy Speaker (Mr. Poghisio): Is the Minister not there? We will leave this Question until the end.

Question No.482
KSB BORROWING FROM SUGAR
DEVELOPMENT FUND

Mr. Osundwa asked the Minister for Agriculture:-

- (a) how much money was borrowed by the Kenya Sugar Board from the Sugar Development Fund to construct the Sukari Plaza in Nairobi;
- (b) how much has been repaid to the Sugar Development Fund since then; and,
- (c) whether the loan was in conformity with the Sugar Development Fund's lending manual.

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

Mr. Osundwa: On a point of order, Mr. Temporary Deputy Speaker, Sir. I have not received the written reply, so I am at a very big disadvantage.

The Minister for Agriculture (Mr. Kirwa): Mr. Temporary Deputy Speaker, Sir, I sent copies last evening and I instructed my office to dispatch one to the Leader of Government Business and to my honourable colleague. I do not know exactly what has happened in between.

The Temporary Deputy Speaker (Mr. Poghisio): Apparently, there are no copies here. Mr. Osundwa, what do you have to say about that? Can we go on?

Mr. Osundwa: Mr. Temporary Deputy Speaker, Sir, this Question touches on billions of shillings, and I really wanted to interrogate the Minister on it.

The Temporary Deputy Speaker (Mr. Poghisio): He can give you a copy now.

Mr. Osundwa: I want to use the Minister's reply, if he has it.

Mr. Khamasi: On a point of order, Mr. Temporary Deputy Speaker, Sir. We have raised this issue before. You heard the Minister say that it is only yesterday that he sent copies of the answers to this Question, hopefully to Parliament here and the Leader of Government Business. But in our Standing Orders, it is very clear how the answers to Questions like this should be treated. This is not a Question by Private Notice. It is a Question that has been in existence for some time. Could we be told within what period Ministers should send answers to Questions that have been asked by Members?

The Temporary Deputy Speaker (Mr. Poghisio): You have raised a valid point. All Ministers know when they should send answers. If they do not know, we will remind them that they are supposed to send the written answers 10 days before they come to answer it orally.

If you go to Standing Order No.35, it is very clear that the written answers should reach the Clerk very early, not on the day before the Question is asked orally. The Minister is actually supposed to send 15 copies. So, I take it that Ministers have been warned before, and I think we are going to do that again. Ministers know that they have an obligation to the House.

Mr. Osundwa, what do you have to say?

Mr. Osundwa: Mr. Temporary Deputy Speaker, Sir, I request---

The Assistant Minister for Roads and Public Works (Eng. Toro): On a point of order, Mr. Temporary Deputy Speaker, Sir. When you say "early enough", how many days in advance should the answers be sent? If the Minister sent the answers yesterday and they have not been given to the Member, is it now the fault of the Minister or there is something wrong with the administration of Parliament?

The Temporary Deputy Speaker (Mr. Poghismo): I want you to know that those answers are not even with the Clerk, as we speak. So, it cannot be the fault of the administration of Parliament, because if they came as required, there would be no problem with distributing them. But right now, they do not even have them.

Hon. Members, if you want me to read the relevant Standing Order, I can do so. Basically, Standing Order No.36(5) says:

"When the Speaker directs that a Question is in order, the Clerk shall, as soon as possible, forward the Question to the Minister of whom it is asked, and the Question for oral reply shall be placed in the Order Paper for reply not later than 10 days after the day upon which it is so forwarded to the Minister or if the House is adjourned before the expiry of such a period of 10 days, within the first four days or such longer time period as Mr. Speaker may allow, during which the House meets after such adjournment."

Standing Order No.36(6) says:

"Upon receiving a Question for oral reply, the Minister shall within the period specified in paragraph (5) submit to the Clerk 15 copies of the reply."

Now, the period given here is ten days. That means that the Clerk of the National Assembly needs to receive copies of the response. Even if the Clerk received copies of the response yesterday, all copies should have been in his office. Basically, the earlier this is done, the better so that the relevant people are given these copies. Unfortunately, with regard to this particular Question, copies of the written reply are not even with the Clerk. That means they are not with Mr. Speaker. So, that makes it even more difficult for us to follow.

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

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Osundwa, we need to move on. We are taking too long to resolve this matter.

Mr. Osundwa: Mr. Temporary Deputy Speaker, Sir, I sympathise with the House, but I would like to request that this Question be deferred to tomorrow afternoon, during which time I expect the Minister to have supplied me with the written reply.

The Temporary Deputy Speaker (Mr. Poghismo): I think we have dealt so much on this. Mr. Osundwa, the Minister has heard and I have made this point very clear. Therefore, he will pass a copy of the answer to you so that we proceed. I think Minister has a lot of explanations to give because he seems not to have copies of the written response.

The Minister for Agriculture (Mr. Kirwa): Mr. Temporary Deputy Speaker, Sir, I have the answer with me!

The Temporary Deputy Speaker (Mr. Poghismo): You have the answer, but we do not have copies of the same.

The Minister for Agriculture (Mr. Kirwa): Mr. Temporary Deputy Speaker, Sir, if a copy of the answer was sent to the Clerk of the National Assembly yesterday, and it is not there today, what am I supposed to do? I am ready to answer this Question. Immediately I read the first three answers, I will be able to hand the copy to Mr. Osundwa, if that is in order.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! Order! I will do something on this issue. While the Minister is sorting out the answer to give to Mr. Osundwa, let us move on to the next Question.

Mr. Osundwa, we will come back to your Question.

An hon. Member: Let me volunteer to photocopy it!

The Temporary Deputy Speaker (Mr. Poghisio): Order! We do not have a photocopier in the Chamber. When I say that copies of the answer will be sorted out, that will be done administratively. None of you needs to volunteer to photocopy anything for us.

Next Question, Prof. Mango!

Prof. Mango: Mr. Temporary Deputy Speaker, Sir, although I have not received a copy of the written reply, I beg to ask Question No.642 on the Order Paper.

Hon. Members: Again!

Question No.642

STAFF/FACILITIES FOR KHUNYANGU
SUB-DISTRICT HOSPITAL

Prof. Mango asked the Minister for health what measures she is taking to post the necessary staff and to install the requisite facilities at Khunyangu sub-district hospital which was upgraded from a health centre last year.

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, may I request that I be given two minutes to make a copy for her?

Prof. Mango: On a point of order, Mr. Temporary Deputy Speaker, Sir. Would I be in order to request that this Question be deferred to Tuesday, next week, please?

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, that is fine with me. I could bring the response on Tuesday, next week.

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! I do not understand why you are deciding for yourselves what to do.

Mr. Ogur: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for me to ask that subsequent Questions where Ministers do not have written replies, be deferred?

The Temporary Deputy Speaker (Mr. Poghisio): You need to change the Standing Orders because it is not provided for!

Again, this is a case of another Question with no copies of the written reply. Even the Chair does not have a copy. I will skip this Question and come back to it later.

Next Question, Mr. A. Haji!

Question No.554

ALLOCATION OF LATF MONEY
TO MANDERA DISTRICT

Mr. A. Haji asked the Minister for Local Government:-

(a) how much money has been allocated to Mandera District from the LATF fund since its inception;

(b) how much money was allocated to projects in Mandera West Constituency and;

(c) if he could consider increasing the total allocation to the constituency.

Hon. Members: Do you have a written reply?

The Assistant Minister for Local Government (Mr. Kamanda): Mr. Temporary Deputy Speaker, Sir, on which Question?

(Laughter)

The Temporary Deputy Speaker (Mr. Poghisio): Are you the Assistant Minister for Local Government?

The Assistant Minister for Local Government (Mr. Kamanda): Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Poghisio): Which Question are you answering?

The Assistant Minister for Local Government (Mr. Kamanda): Mr. Temporary Deputy Speaker, Sir, Question No.554.

The Temporary Deputy Speaker (Mr. Poghisio): All right, proceed!

The Assistant Minister for Local Government (Mr. Kamanda): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The amount of money given for the LATF fund for the whole period is Kshs142,934,375.

(b) On the project in Mandera District, I would wish to inform the House that it is not allocated on the basis of the constituency, but on the basis of local authority. However, about two weeks ago, I tabled the list of all 210 constituency projects. We have undertaken about 17 projects in Mandera District.

(c) We are not able to increase the allocations because this is done by the Ministry of Finance and the Central Bureau of Statistics (CBS).

Mr. A. Haji: Mr. Temporary Deputy Speaker, Sir, while I appreciate the reply given by the Assistant Minister, there could be many projects that have been initiated in Mandera West Constituency, but none of the projects have an impact on the community because the amount of money allocated is not enough. I do not know what, for instance, Kshs100,000 can do for a school. Does the Ministry just give this money to the local authorities to spend the way they want, or it is given with specifications on how it should be spent? Are there guidelines on how to spend this money?

Mr. Kamanda: Mr. Temporary Deputy Speaker, Sir, once the money is disbursed to local authorities, it is their responsibility to decide on how they will spend it. However, if the hon. Member could work with the local councillors and advise them on how they can use that money, maybe they could follow his advice.

Mr. Muiruri: Mr. Temporary Deputy Speaker, Sir, the LATF funds are a lot. The allocation for Mandera District is Kshs140 million. In Thika District, I know this money is shared among elected councillors and quite a bit of it goes to the nominated councillors and then they conspire---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Muiruri! What is your question?

Mr. Muiruri: My question is whether the Assistant Minister is satisfied with the unfair distribution of this money. It is given to councillors through corruption!

Mr. Kamanda: Mr. Temporary Deputy Speaker, Sir, I am not satisfied with its distribution. The last time this Question came up, I said that we were working on a new proposal on how to eliminate the loopholes which are facilitating misuse of this money by local authorities.

Mr. Manoti: Mr. Temporary Deputy Speaker, Sir, it is a known fact that this money is grabbed because there is nobody to control its use. Since the money belongs to *wananchi*, why can the Assistant Minister not allocate it to certain projects, so that it is not misused by councillors?

Mr. Kamanda: Mr. Temporary Deputy Speaker, Sir, that is not true. Some of this money is supposed to service debts and pay salaries to council workers. However, we are coming up with a policy to see how best we can deal with the issue.

Mr. Serut: Thank you, Mr. Temporary Deputy Speaker, Sir. I think the hon. Member will agree with me that some of this money is allocated to certain projects, which are under county councils. The Ministry allows the money be transferred to a general account, and then councillors end up using it as allowances. When will the Assistant Minister stop approving the transfer of this money to a general account?

Mr. Kamanda: Mr. Temporary Deputy Speaker, Sir, that is not true. First of all, this money is given out directly to local authorities by the Ministry of Finance.

Mr. Shaaban: Mr. Temporary Deputy Speaker, Sir, many projects which have been funded by Mandera County Council have never taken off. In the past five years, there have been many projects which are supposed to have been implemented, yet they have not, although money was allocated to them. Is the Assistant Minister aware of that?

Mr. Kamanda: Mr. Temporary Deputy Speaker, Sir, I am aware of that. Part of the 2004/2005 Financial Year funds will be used to complete some of the stalled projects.

The Temporary Deputy Speaker (Mr. Poghisio): Next is Dr. Ali's Question.

Question No.498

CLEAN WATER FOR BUTE TOWNSHIP

The Temporary Deputy Speaker (Mr. Poghisio): Dr. Ali is not here. We will come back to that Question at the end. The next Question is by Mr. Ndambuki!

Question No.741

IMPLEMENTATION OF REP
IN KAITI CONSTITUENCY

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Ndambuki had asked that this Question be deferred to Tuesday, next week

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, this Question was deferred last time because Mr. Ndambuki was not here to ask it. I request that you bury it once and for all.

The Temporary Deputy Speaker (Mr. Ndambuki): Mr. Ndambuki has spoken to me about it. He is not in, owing to a good reason. He should also have spoken to you and made you aware of his reason for being absent. If he does not make it here to ask the Question next week, we will drop it.

(Question deferred)

Question No.846

ISSUANCE OF TITLE DEEDS
TO KHWISERO RESIDENTS

Mr. Arungah asked the Minister for Lands and Housing:-

(a) given that 90 per cent of Khwisero residents have no title deeds for the land they occupy, what he will do to rectify a situation; and,

(b) whether he could simplify the transfer process in cases of succession and reduce costs involved, in view of poverty levels.

The Assistant Minister for Lands and Housing (Mr. Ojode): Mr. Temporary Deputy

Speaker, Sir, I beg to reply.

(a) Khwisero Constituency is a registered area. Title deeds for land are at the Kakamega District Land Registry. Residents of the area who wish to collect their title deeds can obtain them from the said registry, after paying the necessary fees.

(b) I cannot simplify the transfer processes in cases of succession, because succession is a court process which I have no control over.

Mr. Arungah: Mr. Temporary Deputy Speaker, Sir, I thank the Assistant Minister for that answer. However, as you know, in order to invest, one has to either have saved or borrowed some money. For one to access loan facilities, they must have at least a title deed. As I said earlier, at least 90 per cent of my people do not have title deeds owing to two reasons. One is because the cost of title deeds collection is beyond their means. On average, it costs Kshs10,000 to complete a simple procedure for obtaining a title deed. If these people cannot afford this money, then it means that they cannot obtain their title deeds. I would like the Assistant Minister to tell me why it should take 6 months to one year to obtain a title deed in a straightforward case like when a widow loses a husband.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, it is not true that 90 per cent of Khwisero residents do not have title deeds. It is, however, true that 90 per cent of the residents have not collected their title deeds, which are at the district registry office. I urge the residents of Khwisero to go and collect their title deeds, which are lying at their District Lands Office on payment of Kshs125 and an additional amount of Kshs250 for every registered hectare of land. This should be done with immediate effect!

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, there are many areas in this country where land has not yet been adjudicated. People are desperately in need of title deeds. What is the Government's plan, in terms of ensuring that it adjudicates all land so that people can have title deeds?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I have been on record before, saying that all parcels of land for which title deeds have never been prepared will have them prepared. This includes title deeds for institutions. This is quite a process. One has to conduct surveys, do mapping and finally prepare a title deed which can be obtained upon payment for it.

Mr. Waithaka: Mr. Temporary Deputy Speaker, Sir, I think the hon. Member's concern, and I am sure this is what the Assistant Minister is trying to say, is that there are so many people who have died in his constituency and the widows cannot collect the title deeds because they do not have the necessary papers. I am made to understand that for one to get the papers after filing for letters of administration of the estate of a deceased person, he or she has to go to Kakamega. Could the Assistant Minister, in liaison with other relevant Ministries, make sure that there is an appropriate registry at Butere so that the people of Khwisero can file for letters of administration to get those documents to enable them get the title deeds? Even if the widows went to collect the title deeds---

The Temporary Deputy Speaker (Mr. Poghio): You have asked your question!

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I believe you are aware that succession is a legal court process as laid down by the Succession Act, Cap.160 which provides for the Law of Succession. The Ministry has no control over a court process. So, the question of simplify filing the court process does not arise. The best the hon. Member can do is to bring an amendment to Cap.160 of the Succession Act to suit whatever he needs.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, this Ministry has the sole authority of issuing title deeds. This Ministry has issued thousands of fake title deeds, including those for Government land. What is the Ministry doing to repossess and redistribute state-owned land that has been grabbed by a few people including some people in this Government?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I want to assure hon. Members that my Ministry is not responsible for any fake title deeds. It will never be! I want to assure the hon. Members that we will never issue any fake title deeds. On the issue of repossession of grabbed land, we are waiting for the Ndung'u Report. Once the Ndung'u Report comes out, we will act.

Mr. Arungah: Mr. Temporary Deputy Speaker, Sir, given the poverty index in Khwisero, could the Assistant Minister consider waiving the charges so that my people can collect the many title deeds that are lying idle in Kakamega Registry?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, Kshs150 or Kshs250 per hectare is not so much. I am not in a position to waive Kshs250.

The Temporary Deputy Speaker (Mr. Poghisio): Next Question by Mr. Mukiri!

Question No.829

SETTLEMENT OF SQUATTERS IN NGONGONGERI
SETTLEMENT SCHEME

Mr. Mukiri asked the Minister for Lands and Housing:-

(a) whether he is aware that over 300 families in Molo Constituency have resided in Ngongongeri area for 40 years as squatters;

(b) whether he is further aware that the Government established Ngongongeri Settlement Scheme but the above families were never considered and the farm was given to outsiders; and,

(c) what the Government's criteria on allocation of land in settlement schemes is.

The Assistant Minister for Lands and Housing (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I seek the indulgence of the Chair to defer this Question to next week because the answer which I have is quite unsatisfactory. Part of the answer says that: "The Ministry is not aware that 300 families were evicted". So, I think it is unsatisfactory.

Mr. Mukiri: Mr. Temporary Deputy Speaker, Sir, then could he answer it next week on Wednesday morning?

The Temporary Deputy Speaker (Mr. Poghisio): Well, then it is deferred.

(Question deferred)

For the second time we are going to Mr. J.M. Mutiso's Question.

Question No.607

COMPENSATION FOR MR. FRANCIS
MWILU'S NEXT OF KIN

Mr. J.M. Mutiso asked the Minister of State, Office of the President:-

(a) whether he is aware that Administration Police Sergeant, P/No. 80042773, Mr. Francis Mwilu, was killed while on duty on 13th April, 1999; and,

(b) what compensation was paid to the next of kin.

The Assistant Minister, Office of the President (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, I apologise to the House for coming late. The Question had been substantially answered. Hon. J. M. Mutiso made a follow-up on the question of compensation. Indeed, he was right that apart from the death gratuity that we had already paid, there was another amount which is

known as The Killed-on-duty Pension which is payable to the widow and the children by way of compensation. I have had a brief discussion with the hon. Member. I have assigned this particular file to an officer and I have been given assurance that by the end of this month or early next month this money will be paid.

Mr. J.M. Mutiso: Mr. Temporary Deputy Speaker, Sir, I oblige to the Assistant Minister's answer.

The Temporary Deputy Speaker (Mr. Poghisio): Very good. Next Question for the second time by Mr. Kombe!

Question No.560

UPGRADING OF SABAKI-MARAFA
-BARICHO ROAD

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Kombe is not here? The Question is dropped.

(Question dropped)

For the second time, Eng. Nyamunga's Question!

Eng. Nyamunga: Mr. Temporary Deputy Speaker, Sir, I arise to ask Question No.877 and I would like to point out that I have not received any written reply.

Question No.877

HARDSHIP ALLOWANCE FOR TEACHERS
IN NYANDO DISTRICT

Eng. Nyamunga asked the Minister for Education, Science and Technology:-

- (a) whether he is aware that out of the five divisions in Nyando District, only teachers in Nyando Division do not receive hardship allowance;
- (b) if he could explain the criteria used to award hardship allowance to teachers in the other divisions;
- (c) whether he is further aware that this anomaly has caused exodus of teachers from schools in Nyando Division; and,
- (d) when he will correct this anomaly.

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I would like to apologise to the House for coming late. I also would like to apologise to the House that I do not have the answer with me. I have discussed with the hon. Member and we have agreed that we defer the Question to next week, with the House's indulgence.

The Temporary Deputy Speaker (Mr. Poghisio): What is the reason for you not having an answer?

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, the officers are getting the answers from the constituency.

Eng. Nyamunga: Mr. Temporary Deputy Speaker, Sir, could I have the Question deferred to Tuesday next week?

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! The more Questions we defer, the more time is consumed the next time and more Questions will be deferred. I

would like to ask that both the Questioners and the Ministers deal with the Questions with the seriousness that they deserve. There would have been absolutely no reason for a Minister to come and say she has no answer because the Question is on the Order Paper. This Question is going to be deferred but it concerns me because of the number of Questions that are being deferred for reasons like that.

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): On a point of order, Mr. Temporary Deputy Speaker, Sir. Some of us take our work very seriously but sometimes it does take time to get the proper answers from the constituencies because of communication problems. It is better we have proper answers than come here with answers that hon. Members will not be satisfied with. So, I do take my work very seriously.

The Temporary Deputy Speaker (Mr. Poghisio): Order! I really do not want to argue with the Assistant Minister. The fact is that the Assistant Minister has no answer right now. The Question does not just surface on the Order Paper since you know it is going to be there. It takes somebody's time and so we are not going to allow that kind of argument.

Mr. Omingo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do sympathise with the Assistant Minister who takes her work very seriously. Is it in order for the Assistant Minister to cry foul because of the inefficiency of officers under her?

(Applause)

The Temporary Deputy Speaker (Mr. Poghisio): That Question is deferred.

(Question deferred)

Next Question, Mr. Osundwa!

Mr. Osundwa: Mr. Temporary Deputy Speaker, Sir, you can see that the Government is seriously under-performing! However, I will ask my Question!

Question No.482

KSB BORROWING FROM SUGAR
DEVELOPMENT FUND

Mr. Osundwa asked the Minister for Agriculture:-

- (a) how much money was borrowed by the Kenya Sugar Board (KSB) from the Sugar Development Fund (SDF) to construct Sukari Plaza in Nairobi;
- (b) how much has been repaid to the Sugar Development Fund (SDF) since then; and,
- (c) whether this loan was in conformity with the SDF's Lending Manual.

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

(a) The Kenya Sugar Authority (KSA) borrowed Kshs117,940,825.30 from the Sugar Development Fund for the construction of Sugar Plaza in Nairobi.

(b) The KSA/KSB has not made any payment to the SDF towards liquidation of the borrowing.

(c) Although not explicitly provided for within the SDF lending policy, the KSA made a judicious decision to construct headquarters and save Kshs13,797,938 per year in rent. The provision for expenditure was duly made in the 1999/2000 financial statement.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! Consultations are getting loud and hindering communication. We cannot follow what the Minister is saying, and it is in the interest of all us to hear him. Consult quietly!

Mr. Osundwa, had you received the answer?

Mr. Osundwa: Yes, Mr. Temporary Deputy Speaker, Sir.

I want to thank the Minister for that answer although it came a bit late. However, he misunderstood my Question. I asked how much was borrowed and he said over Kshs117 million was. I also asked how much was repaid and he said that nothing has been repaid. This was a loan and it was money meant to develop sugarcane and not construction of the headquarters in Nairobi. This money was borrowed about eight years ago with interest. How much is the KSB going to repay because it was not a grant but a loan?

Mr. Kirwa: Mr. Temporary Deputy Speaker, Sir, the KSB would want to pay back the money, but when it gave us the estimates for last year, it was not possible to accommodate a repayment within its budget. We re-adjusted the budget and told the KSB to make a provision so that it could be paying Kshs9 million every year for the next 20 years to clear the amount.

Mr. Wamunyinyi: Mr. Temporary Deputy Speaker, Sir, this Ministry has the tendency of taking issues and Questions raised by hon. Members for granted. The answer that has been given is totally misleading and unacceptable. There are specific provisions which provide guidelines on how monies at the SDF should be spent. We have money meant for sugarcane development, infrastructure, rehabilitation and grants to research in this country. Specifically, there is 0.5 per cent of the 7 per cent set aside to SDF for administration of the KSB. Why did the Ministry approve transfer of the money meant for development of sugarcane and rehabilitation of factories to construction of headquarters in Nairobi? How much sugarcane is planted in Nairobi? Could the Minister tell the House why he did not stick to the provisions and guidelines given in the SDF expenditure guidelines?

Mr. Kirwa: Mr. Temporary Deputy Speaker, Sir, I made it very clear that when the SDF was formed, the KSB, or KSA at that particular time, rented premises at the NSSF Building. Inclusive of the rent and parking fees, the KSB was spending Kshs15 million annually. It, therefore, resolved, and gave a proposal to the Ministry at that time, that it would be important for the organisation to have its own premises, so as to reduce the cost of rent. That was approved by the KSB Board and money was borrowed on the understanding that it was going to be refunded. The refunding process is in progress.

Rev. Nyagudi: Mr. Temporary Deputy Speaker, Sir, the Minister has said that this money was borrowed and the KSB is making a saving of Kshs13 million. Why can it not use that Kshs13 million over the eight-year period to repay that loan?

Mr. Kirwa: Mr. Temporary Deputy Speaker, Sir, I have answered that question!

(Rev. Nyagudi stood up in his place)

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Minister, just answer the question by the hon. Member! You answered Mr. Osundwa's question!

Mr. Kirwa: Mr. Temporary Deputy Speaker, Sir, I said that the KSB gave a budget last year. Within its own limits of 5 per cent, its budget was not adequate to cover the loan repayment. We, therefore, told the KSB to adjust its budget and provide Kshs9 million every year for the next

20 years to repay the loan.

The Temporary Deputy Speaker (Mr. Poghisio): Last question, Mr. Osundwa!

Mr. Osundwa: Mr. Temporary Deputy Speaker, Sir, Kenya has seven sugar factories, all located in western part of Kenya. The KSB has 13 directors, all from Western Kenya. Could the Minister consider it prudent to sell the headquarters and relocate it to the sugar belt?

(Applause)

This is because directors claim a lot of money from the KSB in form of allowances and hotel accommodation when they come to Nairobi to transact business, which should be done in the sugar belt. Could he consider selling this headquarters?

Mr. Kirwa: Mr. Temporary Deputy Speaker, Sir, that is the obtaining position now. How about if there is investment in sugar production in the next coming years at the Coast Province? Shall we relocate the headquarters to the Coast Province? I am not in a position to consider that suggestion as of now because it would not be a prudent management decision.

The Temporary Deputy Speaker (Mr. Poghisio): Thank you. That is the end of Ordinary Questions.

We will now go to Questions by Private Notice.

QUESTIONS BY PRIVATE NOTICE

KILLING OF PEOPLE BY GANGSTERS IN TIGANIA CENTRAL DIVISION

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

(a) Is the Minister aware that a gang that has been terrorising residents of Tigania Central Division attacked Mikinduri and Kiguchwa Markets on 3rd November, 2004, killing two people, injuring many others, including Mr. Francis Ndwaru, Chief Thiangichu and Mr. John. Machira?

(b) Is he further aware that property worth thousands of shillings was taken by the said gang?

(c) Why are the policemen at Mikinduri Police Station doing nothing to curb the activities of the gang?

The Assistant Minister, Office of the President (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, I beg the indulgence of the House and the Chair on this particular Question. We needed some confirmation of some information from the ground. I have been assured that by the end of today, I will have the information. I have also requested the hon. Member to consider my request. If possible, I would like to come on Thursday with the answer.

Thank you.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Munya, what do you have to say about that?

Mr. Munya: Mr. Temporary Deputy Speaker, Sir, I have no objections as long as I will not get a superficial answer.

The Temporary Deputy Speaker (Mr. Poghisio): Okay! Then it is deferred to Thursday, next week.

(Question deferred)

Next Question, Mr. Sirma!

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, I have not received a written reply to my Question.

DIVERSION OF RELIEF FOOD
IN KOIBATEK DISTRICT

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

(a) Is the Minister aware that nine bags of relief food were dispatched to Kabor Primary School in Koibatek, vide Dispatch Advice No.13587 on 7th September, 2004?

(b) Is he further aware that the consignment as collected by vehicle Registration No.KAD 065T never reached the intended destination?

(c) Could the Minister explain the whereabouts of this food, and what action he has taken to punish those responsible for the diversion of the food?

The Assistant Minister, Office of the President (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, Dr. Machage will be coming with an answer to this Question in the afternoon.

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, you are aware that the Order Paper for the afternoon is already out. The Government does not take our Questions seriously and I do not know whether we are going to stand by and allow it to decide when it wants or does not want to answer our Questions.

The Temporary Deputy Speaker (Mr. Poghismo): This is a very serious matter! It is not that the hon. Questioner is unavailable, but that the Assistant Minister was not sure whether the Question was on the Order Paper. Is that what you were trying to tell us? Is the Assistant Minister not aware that there was a Question today?

The Assistant Minister, Office of the President (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, I must admit that we have some difficulties in the Office. We are divided into various departments. This particular Question does not fall within my department. However, I would like to assure the hon. Member that we are taking his Question very seriously. I was informed that he would be here this morning, but he is not here. So, I seek the indulgence of the House for the Question to be deferred.

The Temporary Deputy Speaker (Mr. Poghismo): I really have a problem with this kind situation. Ministers know that Questions by Private Notice are very urgent. That is why we categorise them as such. If the Minister is unaware that the Question would come up this morning, or if something has cropped up, he should have explained. We can defer the Question to tomorrow, but we need an explanation as to why there is no Minister with an answer to it. While seeking that explanation, I will defer the Question to tomorrow. Is that okay, Mr. Sirma?

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, I will oblige to your ruling. However, I would like the Government to take the work of this House seriously. Whether the Office of the President is split into departments or not, that is not our business. It is our right to receive answers to Questions.

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Sirma, you have made your point.

(Question deferred)

Next Question, Mr. Ngoyoni!

Ms. Abdalla: Mr. Temporary Deputy Speaker, Sir, I wish to apologise for Mr. Ngoyoni. He is in Marsabit flagging off the "Great Trek."

The Temporary Deputy Speaker (Mr. Poghisio): Ms. Abdalla, you do not just rise and speak. You have to somehow get the attention of the Chair. What has Mr. Ngoyoni sent you to say to the House? We can accept his apology, but what do we do with the Question?

Ms. Abdalla: Mr. Temporary Deputy Speaker, he sent me to apologise for him and seek for deferment of the Question to next week.

The Temporary Deputy Speaker (Mr. Poghisio): I do not see why a Question by Private Notice should be deferred until next week, but his wish will be granted. So, the Question is deferred.

MEASURES TO REDUCE CHILD
BIRTH DEATHS IN LAISAMIS

(Mr. Ngoyoni) to ask the Minister for Health:-

- (a) Is the Minister aware that three in every 10 child births are lost in Laisamis Constituency due to lack of medical facilities?
- (c) What plans does she have to reverse the situation?

(Question deferred)

The Temporary Deputy Speaker (Mr. Poghisio): Next Question, Mr. Wamunyinyi!

REPAIR OF SCHOOL CLASSROOMS IN
KANDUYI CONSTITUENCY

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

(a) Is the Minister aware that on 8th October, 2004, several schools in Kanduyi Constituency were damaged by strong winds leaving many pupils without classrooms?

(b) What is the Minister doing to ensure that the classrooms are repaired to allow pupils continue with learning?

(c) Could the Minister consider establishing a permanent emergency fund within the Ministry to cater for these kind of emergencies?

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I have already discussed with the hon. Questioner and we have agreed that the Question be deferred.

An hon. Member: This Government is not serious!

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, the Government takes its work very seriously. It is only that the holiday that we had on Monday scattered the officers in the Ministry. That is what happened. Otherwise, we are taking our work seriously.

Mr. Sambu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the Assistant Minister withdraw her excuse that the holiday that we had on Monday disrupted her officers? I would call that an insult to the Muslims of this nation. The Muslims did not cause this Government to sleep. She has to withdraw that excuse.

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I do not even need to respond to that one. It is common knowledge that on Monday, Government officers were not at their stations. They have to be at their stations to collect the information. So, the issue of insult to Muslims does not arise.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order! Hon. Members, relax! Mrs. Mugo, could you also relax? Basically, you were explaining your problem in a more difficult manner.

(Applause)

Order! Order! Madam Assistant Minister, by last week, we all knew that Monday would be a holiday. We all know that holidays come. We have holidays that interfere with our weeks, but that does not stop the

officers from bringing answers to Questions. So, today has been a bad day for the Front Bench. Probably, we need an explanation from the Leader of Government Business as to why today things are going on this way. So, Mrs. Mugo, do not try to explain your problems in that manner. Do not say that officers were not at their stations. Work in the Government and in Parliament continues. We must not be held back by those kind of explanations. I would expect both the hon. Questioners and Ministers to take the business of this House as a priority. Even if it means burning the midnight oil, you will be doing so for Parliament. That is what I want to ask of this House.

Yes, Mr. Wamunyinyi!

Mr. Wamunyinyi: Mr. Temporary Deputy Speaker, Sir, as you rightly said, Questions by Private Notice are urgent and, therefore, answers must be provided in the shortest time possible. In this case, we are talking about a school whose classrooms have been blown off. When you want to defer the Question to some other time next week when those children have no classrooms---

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Wamunyinyi, we have to decide whether this Question is being answered or not. So, do not go into that direction.

Mr. Wamunyinyi: Mr. Temporary Deputy Speaker, Sir, I want to remind you that yesterday, Parliament could not transact business due to failure by Members of the Front Bench. Even today, we have a similar problem. Questions are not being answered. So, I would like you to take this matter very seriously. I need an answer to the Question tomorrow afternoon!

The Temporary Deputy Speaker (Mr. Poghisio): Very well! The Question is deferred until tomorrow afternoon.

(Question deferred)

Next Question, Mr. Mbau!

DISBURSEMENT OF FUEL LEVY
FUNDS TO DISTRICTS

Mr. Mbau: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Roads and Public Works the following Question by Private Notice.

Considering that the year 2004 is coming to an end, could the Minister table the districts in the country that have received the 24 per cent money from the Fuel Levy Fund for the fiscal years 2002/2003 and 2003/2004?

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Temporary Deputy Speaker, Sir, a lot of accusations are being levelled against the Front Bench. Even the best student,

who scores 100 per cent, there are times when he scores 70 per cent.

Mr. Temporary Deputy Speaker, Sir, in the Financial Year 2002/2003, no districts received the 24 per cent money from the Fuel Levy Fund. However, during the Financial Year 2003/2004, a total of Kshs---

(Mrs. Ngilu was applauded as she withdrew from the Chamber)

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

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

In the Financial Year 2002/2003, no districts received the 24 per cent money from the Fuel Levy Fund. However, during the Financial Year 2003/2004, a total of Kshs350 million was disbursed to the districts as part of the 24 per cent Fuel Levy Fund, and I have a big list, which I cannot read, of the 71 districts that received a total of Kshs350 million.

I would like, however, to clarify that although it is reflected as 2003/2004, this money was spent this Financial Year.

Mr. Mbau: Mr. Temporary Deputy Speaker, Sir, my concern is, that while the Assistant Minister states that during the relevant year no money was received by districts, and I know very well that the Fuel Levy Fund was never, during the said year, put on hold, where did the 24 per cent Fuel Levy funds collected from motorists go to?

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, this money was used on on-going projects which the Government had committed itself to in the previous years before the Kenya Roads Board Act became operational. If I may just give an example, in the Financial Year 2001/2002, a total of about Kshs1 billion of the 24 per cent component was used on Class D, E and other roads. The following year, 2002/2003, a total of Kshs766 million was used for the same roads. During the Financial Year 2003/2004, a total of Kshs744 million was used for the same class. In addition to the Kshs744 million, this is the extra amount of Kshs350 million that has gone to the districts this Financial Year.

Mr. Billow: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has shown that the total amount that has been spent has been reducing from Kshs1 billion in 2001 to almost Kshs350 million this year. Could the Assistant Minister tell the House the total amount of the levy collected in 2003/2004 so that we can determine how much the 24 per cent actually should have been? That is legally what we are required to spend. How much was the total amount?

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, I do not have the figure for the total amount of the Fuel Levy funds, for the financial years 2001/2002, 2002/2003 and 2003/2004. But if the hon. Member could ask a separate Question, to seek the breakdown of the total amount and the amount spent on 24 per cent, 15 per cent and 57 per cent, I would be able to reply.

The Temporary Deputy Speaker (Mr. Poghisi): Eng. Toro, I think the 24 per cent is calculated out of some figure, and that is what the hon. Member wants to know.

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, I agree with you. What I am saying is that, the amount that I have read here is not the total component of the 24 per cent, because some money out of 24 per cent has been paid to the municipalities, the City Council of Nairobi and even to the Department of Urban Development, which is part of the 24 per cent.

Mr. Billow: On a point of order, Mr. Temporary Deputy Speaker, Sir. The question is very clear: How much of the 24 per cent from the Fuel Levy Fund was spent during the Financial Year 2003/2004? If you say it was Kshs350 million, then the whole amount should be around Kshs1

billion. Are you saying that the total Fuel Levy funds collected in 2003/2004 was less than Kshs1 billion so that 24 per cent amounts to only Kshs350 million? Could the Assistant Minister do some homework before he answers this Question, because that is very critical? We need to get the actual amount.

(Eng. Toro moved to the Dispatch Box)

The Temporary Deputy Speaker (Mr. Poghisio): Order! Both of you cannot be on your feet!

Mr. Billow: Mr. Temporary Deputy Speaker, Sir, my point of order---

The Temporary Deputy Speaker (Mr. Poghisio): Order! You can even see for yourself that one of you needs to yield. You cannot both be on your feet!

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, if the hon. Member was paying attention, I said that the Kshs350 million that has been sent to the districts this Financial Year, which was meant for the last Financial Year, was in addition to the Kshs740 million that was sent to municipalities and Urban Department of the Ministry of Local Government and also the City of Nairobi. If you can do your quick arithmetic - which I know you are capable of - that is in excess of Kshs1 billion.

The Temporary Deputy Speaker (Mr. Poghisio): I do not know where we are heading to with all these questions. With regard to this 24 per cent, if the hon. Member is asking for the total amount which was collected that particular year, it should be readily available. That is what hon. Members are asking for. I believe that the Ministry of Roads and Public Works would be very interested in how much money was collected that year. That is basically what the hon. Members are asking for. When can you bring the answer?

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, I said if I am asked that as a specific Question, I would be able to answer, because the amount varies from year to year. So, the amount that was collected in 2001/2002 is different from the amount which was collected in 2003/2004, and 2004/2005. So, if that specific Question was asked, we could be able to work out the percentage. But I do not have it off-head.

Mr. ole Metito: Mr. Temporary Deputy Speaker, Sir, I have seen the answer given by the Assistant Minister. Some districts received Kshs6 million while others received Kshs1 million. Could the Assistant Minister tell this House the criteria they used to determine how much goes to each district?

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, the criteria that was used is not easy for me to say. As I said, when we took over, there were already some commitments by the Government, and the Minister who was there before might know the criteria which was used. For example, in the year 2001/2002, the amount that was sent to the districts, out of the 19 districts that benefitted, 11 districts were in the North Rift region. In the year 2003/2004, seven out of 12 districts in the North Rift received the bulk of the money from the 24 per cent Fuel Levy Fund.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. The question is very specific. Hon. Members would like to know the criteria. The figures that we have on this answer are showing that Kisumu District, in Nyanza Province, received Kshs5 million, Suba District received Kshs8 million while Kakamega District received Kshs2.5 million. Could the criteria be that the Minister comes from those places and that is why they got that money?

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, as I said, it appears that there was no criteria used. I can only talk about the criteria that we are using now. I cannot talk about the criteria that was used before. For example, in the year 2001/2002, the criteria that was used---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Eng. Toro! Order, hon. Members!

I cannot allow this to continue. Our own Standing Orders prohibit us from casting aspersions on other Members of this House. So, when a question is asked and breaches the Standing Orders, I have to intervene. Question Time is for us to seek information by questions and answers. It is wrong to bring an idea that the Minister comes from a certain area! Also, to try to show that this country has no criteria is not acceptable. I am sure that in the Act itself, there is a criteria that is followed. That is what hon. Members are asking for. If the answer is not there, it is better to say that you will bring it next time. Therefore, I would like to ask the House to control emotional pronouncements that may indicate that we are casting aspersions on each other, or we are creating doubts in the minds of the public that we have no answers to the questions they ask. I am sure you all know that Questions are brought because members of the public, through their Members of Parliament, ask them. They should be taken seriously. The question that was asked was: For there to be a difference in the amount disbursed to the districts, there must be a criteria. You can tell us that for sure!

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, as I said, I can only give the figures. They are historical facts of how the money was used. But there was no criteria used on how the 24 per cent was to be equitably distributed. That criteria was not used. But I can only give you the facts of how the money was used and on which roads. I have that information. But, as for the criteria and whether the Act was used on the 24 per cent, they were not!

The Temporary Deputy Speaker (Mr. Poghisio): That is surprising!

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

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! It must be a very serious point of order, Mr. Munya!

Mr. Munya: Mr. Temporary Deputy Speaker, Sir, according to the answer given by the Assistant Minister, there is Kshs24 million which was allocated to Meru Central and Meru North. But when I look at the roads that were constructed using that money, they are all in Meru Central. Is it in order for the Assistant Minister to mislead the House that there was money allocated for Meru North, when that money was used to construct a road in Meru Central? The answer shows that it was in Meru North! Could the Assistant Minister explain?

(Applause)

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, those are details that should be brought to our attention. When we sent the money to Meru, how it was used--- The hon. Member is free to point out to us that the money was not used in his district, so that we can find out what happened!

Mr. O.K. Mwangi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Would I be in order to ask the Chair to defer this Question in view of the many unanswered supplementary questions by hon. Members? That way, he could bring a comprehensive answer to this House?

The Temporary Deputy Speaker (Mr. Poghisio): What would a comprehensive answer be? If you need a comprehensive answer, then you must have a comprehensive Question. The Assistant Minister is going to answer the Question the way it is asked. If the Question is comprehensive, then the Assistant Minister is going to give you a comprehensive answer. As it stands now, this Question was only asking about the 2002/2003 and 2003/2004 financial years. But he is being asked to table the list of districts in the country that have received the 24 per cent of the money. Let him do the tabling - which he has done - study the tables and ask further questions. The Question was only asking him to lay on the Table a list of districts which received the money. The others are supplementary questions and, therefore, it would be wrong for us to assume that the Question has not been answered.

Mr. O.K. Mwangi: But, Mr. Temporary Deputy Speaker, Sir, even when he has laid the list

on the Table, we cannot ascertain the figures and ask the questions now. That is why I am asking the Chair to defer the Question!

The Temporary Deputy Speaker (Mr. Poghisio): Mr. O.K. Mwangi, you only get a chance from the Chair!

Mr. O.K. Mwangi: I apologise, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Mbau, what do you have to say?

Mr. Mbau: Mr. Temporary Deputy Speaker, Sir, you have seen how this Question has generated interest in Members across the divide. You have also heard the Assistant Minister refer to money that was given to municipalities. The Kenya Roads Board Act stipulates that money should be distributed through District Roads Committees (DRCs). I cannot understand how money was given to municipalities independently. I request the Assistant Minister to table a list of how the 24 per cent of Fuel Levy was distributed among districts, municipalities and other organisations in the former and current regimes! Could the Assistant Minister table that report?

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, I do not have figures of the amounts that were sent to municipalities, Nairobi City Council and Urban Department of the Ministry of Local Government. I do not have those figures now, because the Question asked about the 24 per cent that was sent to the districts.

Mr. Mbau: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has said that he does not have the figures of the money that went to the municipalities. Could he lay on the Table the figures for the districts? I urge the Chair to defer this Question!

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Mbau, I have already made a ruling on that. You can always pursue this Question in other ways, if you like.

Hon. Members, that is the end of Question Time! There are some hon. Members who had requested to seek Ministerial Statements. I start with Mr. Muite.

POINTS OF ORDER

IMPORTATION OF EXPATRIATE FARMERS FROM INDIA

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I rise to seek a Ministerial Statement on the sensitive, emotive and explosive issue relating to the importation of tens of thousands of Indians to come here and be given land to farm. This is at a time when thousands of Kenyans are landless. The Government should be thinking of harvesting rain water because our people know how to farm. Is this true? Also, would such an important matter not have been preceded by a Sessional Paper? This is the House where the representatives of the people are. How can a decision like that be made and be implemented without Parliament debating it? Could we have clarifications on these issues?

The Temporary Deputy Speaker (Mr. Poghisio): To which Minister is your Ministerial Statement directed?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, it is directed to the Minister for Agriculture, and I hope he will consult with the Minister for Lands and Housing.

The Minister for Agriculture (Mr. Kirwa): Mr. Temporary Deputy Speaker, Sir, I have just received this message, and I also learnt through the Press about those discussions. There are no such discussions within the Government circles, be it in the Cabinet or in my Ministry. I will give a comprehensive statement on the issue on Thursday, next week.

PROVISION OF PLANTING SEEDS TO FARMERS IN UKAMBANI

Mr. Ndile: Bw. Naibu Spika wa Muda, ninaomba Taarifa ya Serikali kupitia kwa Wizara ya Kilimo. Katika Masongaleni, Ukambani, watu wengi walikufa kwa sababu ya ugonjwa uliosababishwa na mahindi ambayo yalikuwa yameoza. Mvua imeanza Ukambani na hawa watu hawana mbegu za kupanda. Serikali iko na mipango gani ya kuwasaidia hawa watu? Tuko na wiki moja tu ya kupanda. Serikali imetumia pesa nyingi kununua chakula kutoka nje. Kama ingewasaidia wakulima kwa kuwapatia mbegu, haingetumia hizo pesa. Serikali inafanya nini?

The Minister for Agriculture (Mr. Kirwa): Bw. Naibu Spika wa Muda, kwanza, tumetoa mbegu za kadri Kshs40 milioni, kupitia kwa Wizara ya Kilimo na Ofisi ya Rais. Lakini kama mhe. Ndile anahitaji taarifa kutoka kwa Wizara yangu, nitawasilisha taarifa kuhusu vile tumetoa hizo mbegu mnano Jumanne alasiri.

The Temporary Deputy Speaker (Mr. Poghisio): That is all for those who wanted to seek Ministerial Statements. I have some Ministers who want to issue Ministerial Statements.

MINISTERIAL STATEMENTS

PUBLICATION OF UNAUDITED

ACCOUNTS BY KRB

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Temporary Deputy Speaker, Sir, Mr. Sambu requested for a Ministerial Statement regarding what appeared on a certain daily newspaper, which erroneously gave some wrong figures for the 16 per cent which was sent to certain districts. I beg to issue the Ministerial Statement.

On 11th November, 2004, Mr. Sambu, the hon. Member for Mosop Constituency requested for a Ministerial Statement concerning a Press advertisement which was issued by the Kenya Roads Board (KRB), relating to the Road Maintenance Levy Fund Status unaudited report for the Financial Year 2003/2004. Under the Kenya Roads Board Act, Section 36(4), the Board is mandated to inform the public of its activities and operations through regular publication and such activities and operations shall be accessible to the public, unless there are reasons of commercial confidentiality, or security, justifying exclusions. It is in this regard that the KRB regularly informs the public, through the print media, of its activities and how it has distributed the funds that it has collected through the Road Maintenance Levy Fund and other sources as provided for by the law.

The publication of the unaudited report on 10th and 11th November, 2004, was in conformity with this mandate. However, we have since noted that some of the information that appeared in the print media on the same dates had typographical errors, which have since been corrected by the Board. These errors mainly affected disbursement related to the 16 per cent of the Road Maintenance Levy Fund, which goes to the constituencies. The errors did not, however, affect the substance of the report. The Government policy is to encourage transparency and enhance accountability in its operations. The action of the Board should, therefore, be viewed in this context. The Board should, therefore, be applauded for informing taxpayers how the funds that were collected were utilised during the years under reference.

Mr. Temporary Deputy Speaker, Sir, the actual analysis of the disbursement showing a breakdown of the funds sent to each District Roads Committee (DRC) for the Financial Year 2003/2004, is available to hon. Members who may wish to peruse them. I would also like to urge hon. Members to study carefully the report published by the Board and make constructive suggestions on any area that they feel wanting. This feedback would be useful to the Ministry as it will show areas where we need to make further improvements.

Following the typographical errors that were made, the Board went ahead and on 13th

November, 2004, it put another advertisement which has given the correct figures which were sent to the districts under the 16 per cent Fuel Levy Fund. This is available in the print media. For example, the figure that was shown to have been sent to Mr. Sambu's district, of Kshs42 million, has now been corrected to reflect Kshs14 million. This has been done to other figures that were erroneously given.

Mr. Sambu: Mr. Temporary Deputy Speaker, Sir, I wish to seek two clarifications. First, I would like to know whether the KRB is a State corporation under the State Corporations Act and therefore, should be audited as per the Exchequer and Audit Act. If it is a State corporation, why does it not have a Fund, so that funds are directly remitted from the Ministry to that Fund, so that they do not revert back to the Ministry of Finance? Finally, could the Assistant Minister clarify whether the District Roads Engineer is the sole authority to award tenders, verify whether the roads have been done and make the payments? That is what is happening, particularly in Kapsabet, North Nandi and in many other areas.

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Temporary Deputy Speaker, Sir, the Kenya Roads Board (KRB) is a State corporation and it is governed by the relevant Act. If there is anything that is wanting in that Act, hon. Members of Parliament are free to point out what we would like to amend, so that the Act can be operational in a smoother way, if there are any hindrances. On the issue of the DREs, they do not have the sole prerogative of awarding tenders without consultation. That is why they act under the procurement regulations which are governed by the District Tender Boards. If they act contrary to those regulations then they could be deemed to be acting *ultra vires*.

The Temporary Deputy Speaker (Mr. Poghio): Incidentally, Eng. Toro, I do not know whether I heard you correctly. Are you referring hon. Members to the print media for this information?

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Temporary Deputy Speaker, Sir, the Ministerial Statement sought by Mr. Sambu was as a result of the advertisement placed by the KRB in the print media. The same KRB made the correction through the same print media. That is why I am referring the hon. Members to the two print media reports; one that gave some wrong figures for the districts and the other one that was used to correct those figures.

Mr. Sambu: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister's clarification does not clarify anything because he has not even talked about the DREs. But, nonetheless, he has acceded that the KRB is a State corporation. State corporations do not publish unaudited reports. Section 36 of the KRB Act gives only general information. We know that all State Corporations must submit their accounts to the Controller and Auditor-General. The Controller and Auditor-General will audit the reports and table them before Parliament through the Minister for Finance. Has the law been changed to allow the State corporations to publish unaudited accounts? Further to that, the Standing Orders do not allow us to refer to newspapers as sources of reports from the Ministries. So, could the Assistant Minister clarify this?

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Temporary Deputy Speaker, Sir, the Act allows the KRB to inform members of public and it can only inform them through the media and not otherwise. As they have correctly said, it is unaudited report of 2002/2003. On the issue of using the print media, it is Mr. Sambu who reacted to it. So, if he does not want the print media to be quoted in Parliament, then he should not have sought a Ministerial Statement based on the print media.

Mr. Sambu: On a point of order, Mr. Temporary Deputy Speaker, Sir. We are openly flouting our own laws and Standing Orders. The Assistant Minister does not want to talk about the auditing of the accounts of State corporations which has got a procedure. He has not been a Member

of the Public Investments Committee (PIC) or Public Accounts Committee (PAC). All State corporations are supposed to submit their accounts to the Auditor-General for auditing before they are then tabled in Parliament. Are the State Corporations and Exchequer and Audit Acts now not going to be followed? Are we changing the laws outside Parliament?

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Temporary Deputy Speaker, Sir, no law is being changed. If, according to the KRB Act, placing advertisement in the newspapers to inform the public about the expenditure of the money they received is against the law, there is no problem because that can be stopped forthwith. But if they are not breaking the law, then it can continue!

The Temporary Deputy Speaker (Mr. Poghisio): Very well. Next Ministerial statement by the Minister of State, Office of the President.

LOSS OF NANDI TEA SACCO MONEY

The Assistant Minister, Office of the President (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, following a request for a Ministerial Statement by Mr. John Sambu regarding the loss of Kshs8 million on 28th October, I wish to state as follows.

It is true that on 27th October, 2004, at around 1.20 p.m. the officials of Nandi Tea SACCO, Chairman, Mr. Stephen Lamai and Treasurer, Mr. Joel Kirui, withdrew Kshs8 million from the Eldoret Branch of the Co-operative Bank. They left the bank at 1.30 p.m. in motor vehicle registration number KUY 626, Isuzu Trooper, under the escort of two Administration Police officers, No.93050735, AP Sergeant Julius Muthanya and No.89121207, Corporal Dickson Karoko, all of District Officer's office, Kapsabet.

On their way to Kapsabet, along Eldoret-Kapsabet Road, at Kapng'etich, they were blocked by a motor vehicle registration No.KAP 518J, a Mercedes Benz, green in colour, with four thugs. Three of the thugs came out of the motor vehicle armed. They ordered the two administration police officers to surrender their arms and mobile phones. The thugs ordered the treasurer to surrender the cash box and took the four; that is, the chairman, treasurer and the two administration police officers into the bush, where they emptied the cash box into a container they were carrying. The thugs drove off towards Eldoret.

Mr. Temporary Deputy Speaker, Sir, the incident was reported to Airport Police Unit, Eldoret who, in turn, passed the information to Eldoret Police Station. The particulars of the incident were circulated to the neighbouring divisions, the whole district and stations. The motor vehicle was intercepted by officers from the CID, Keiyo District, who had already received information through the circulation by the police communication network. A shoot-out then ensued between the thugs and the police officers. The thugs jumped into a maize plantation and a combined force of members of the public and CID officers pursued them. Two were arrested and a total of Kshs304,850 was recovered. During the course of the investigation further two police officers from Keiyo Police Division were arrested for the offence of destroying evidence and stealing. The two suspects, Mr. Paul Njoroge George and Mr. Justus Nyaga Wangui were charged before the Principal Magistrate, Kapsabet with the offence of robbery with violence, Criminal Case No.214304. The investigations are still going on in view of arresting more suspects in connection with the offences.

As regards the insurance cover, the chairman of the co-operative society was issued with the Occurrence Book (OB) abstract to enable him follow up the matter with the respective insurance company.

Thank you.

Mr. Sambu: Mr. Temporary Deputy Speaker, Sir, it is ridiculous that two armed

administration police officers, Julius Muthanya and Corporal Karoko were ordered out of the vehicle by four thugs. I have checked with the DC, Kapsabet and he told me that he authorised them to take any calibre of arms they wanted. How could they, therefore, surrender to the thugs? Is this nation still being defended or we are now at the mercy of thugs? It is interesting that two policemen can be ordered to surrender and yet, they are armed! Secondly, could the Assistant Minister come out clear on the issue of insurance because what we want is the tea farmers in that area to be paid? Which insurance company issued this insurance cover because the money should have been covered under the cash on transit cover? Finally, have the Administration Police in Kapsabet and the ones from Keiyo, been charged? What crime have they been charged with, because it should be not less than robbery with violence?

The Temporary Deputy Speaker (Mr. Poghiso): Mr. Sambu, you are only seeking clarification, please!

Yes, Mr. Muiruri then Mr. Serut!

Mr. Muiruri: Mr. Temporary Deputy Speaker, Sir, the story that I heard was like a James Bond kind of story. A sum of over Kshs8 million was withdrawn from a bank. It was under the escort of senior police officers, a sergeant and a corporal. Then, somewhere along the route, they are confronted by thugs who disarm the two senior police officers using guns---

The Temporary Deputy Speaker (Mr. Poghiso): Order, Mr. Muiruri! You are telling us what we have been told by the Assistant Minister and Mr Sambu! You are simply seeking clarification! So, do not repeat what we have been told! Now, what clarification are you seeking?

Mr. Muiruri: Mr. Temporary Deputy Speaker, Sir, the story given by the Assistant Minister is totally unbelievable. It is not practical! Could the Assistant Minister order a much more thorough investigation? He should get an investigation team from outside the area to investigate that case. To me, that is a conspiracy between those police officers and the thugs.

Mr. Serut: Mr. Temporary Deputy Speaker, Sir, could the Government consider reimbursing that co-operative society the money that was lost? That is because from the Assistant Minister's answer, it is very clear that there was collusion between the police and the thugs. Even after some of the money was recovered, it was shared out among the police officers!

Mr. Chepkitony: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister tell us what type of guns the two Administrative Police officers were using to escort that money? Were they pistols or guns?

Secondly, what is the standard weapon recommended for police officers escorting cash? Is it a gun or a pistol?

Thirdly, how come the two police officers from Keiyo who tried to arrest the suspects became victims of the same incident?

The Temporary Deputy Speaker (Mr. Poghiso): Mr. Assistant Minister, I hope you have captured all those questions!

The Assistant Minister, Office of the President (Mr. Mungatana): Yes, Mr. Temporary Deputy Speaker, Sir. I will start with Mr. Chepkitony's clarification. The Administration Police officers used pistols to escort the cash. They were not assault weapons. Ordinarily, when police officers escort cash in transit, they are supposed to be properly armed. In my opinion, they should not have used pistols. They are allowed to arm themselves as per what they consider, in their discretion, to be the risk at hand. So, from a civilian point of view, I am not satisfied. That is why I have said we are carrying out further investigations to ensure that those implicated face the law. We are not leaving anybody out of that.

Mr. Temporary Deputy Speaker, Sir, the police officers from Keiyo became suspects because they blocked the motor vehicle. While members of the public and other officers were

pursuing those people into the maize plantation, the blocked motor vehicle was towed away. So, they became suspects for the simple reason that, ordinarily, scenes of crimes are supposed to be secured until proper investigations and the necessary drawings are done. That is why we believe the officers have some explanations to make.

Mr. Temporary Deputy Speaker, Sir, Mr. Serut asked whether the Government could reimburse the co-operative society the Kshs8 million that was stolen. The liability of the Government in situations such as that is very clear. We are only supposed to beef up security. The owners of the money are supposed to take all the necessary insurance covers and make security arrangements. We only come in for purposes of beefing up security when requested. In many instances, businessmen and other members of the civil society have not found it necessary to involve my officers because they feel confident and secure. I would not commit the Government. I would not consider reimbursing the Kshs8 million in that case.

Mr. Temporary Deputy Speaker, Sir, Mr. Muiruri raised the issue of investigators coming from outside that jurisdiction. In deed, the Commissioner of Police is not restricted to carry out investigations using officers from areas where crime has occurred. He can order any police officer from anywhere to conduct investigations. This is why we are saying that, initial investigations have been carried out. But we are reinforcing those investigations using other police officers from other stations. They will go to the scene. That should satisfy the hon. Member.

Mr. Sambu wanted to know whether security has been surrendered to thugs. I would like to state that, that is not the case. I am personally disappointed that those officers were not able to offer any form of resistance. The officers are properly trained and that is why we believe that, there is more to that matter than meets the eye. We believe that everyone is a suspect. I believe that, by the time we are through with investigations, we shall have arrested a number of those officers.

Mr. Temporary Deputy Speaker, Sir, that should address the other issues about the charges that we are going to prefer. Mr. Sambu said that we should charge them with robbery with violence. Indeed, we have charged the first two officers with robbery with violence. As investigations go on, I believe we shall bring more people to book. We are going to get into the bottom of that and we hope that nothing like that will be repeated in future.

(Applause)

The Temporary Deputy Speaker (Mr. Poghio): Mr. Assistant Minister, I thought there was something about the insurance company. Do you have specific details?

The Assistant Minister, Office of the President (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, about the insurance company, what I said is that, as far as the police are concerned, in an instance like that, it is like---

The Temporary Deputy Speaker (Mr. Poghio): He asked you whether you know the insurance company that covered the cash on transit.

The Assistant Minister, Office of the President (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, we offered the abstract to assist them to go and collect the money.

The Temporary Deputy Speaker (Mr. Poghio): Very well.
Next order!

MOTION

AMENDMENT OF KRB AND CDF ACTS

THAT, in view of the Government's commitment to develop rural road transport

network in the country through the Kenya Roads Board allocations; aware that the tendering and management of road construction at the district and constituency level is riddled with corruption and ineptitude; this House do grant leave to introduce a Bill to amend the Kenya Roads Board Act and the Constituency Development Fund Act to empower the Constituency Development Fund Committee to manage the roads' funds distributed to constituencies, and to ensure that the manual labour and equipment are sourced from within the constituency.

(Mr. Kimeto on 10.11.2004)
(Resumption of Debate interrupted
on 10.11.2004)

The Temporary Deputy Speaker (Mr. Poghisio): Hon. Members, this Motion had been moved and seconded. Therefore, I will now propose the question.

(Question proposed)

Mr. ole Metito: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Motion. First and foremost, I want to thank the Mover of the Motion for bringing such a good Motion before this House.

I would like to support the Motion by emphasising the importance of a good road network for social and economic development of this country. For the sake of development in this country, every hon. Member is interested in having good road in his or her constituency. The local person needs to be given leeway to decide on what is to be done in his or her constituency. He should be allowed to fix a timetable, decide on who should do the job and the manner in which the work should proceed.

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

Mr. Temporary Deputy Speaker, the principle unit of development in the NARC Government is the constituency. It is at the constituency level that the local person, who is also the intended beneficiary of all the development projects, is involved in the decision-making processes. The local person is at this level well-represented in the managerial and governance structures. He is also in a position to monitor, supervise and evaluate the local projects that are going on in the constituency. It is only through the Constituency Development Fund (CDF) that development projects in a constituency can be achieved. I would like to propose that the District Road Committee (DRC) which receives money meant for maintenance of road be devolved to the District Development Committee (DDC). The current system of road maintenance employs a top-down approach which has a lot of loopholes which lead to corruption. In a nutshell, the way the current system of road maintenance operates is such that the (DRC) meets at the district headquarters on a quarterly or biannual basis just to rubber-stamp the work that was previously done or to give priority to the road that have been recommended to them by the civil servants. The civil servants go ahead to do the work and report back that the work has been completed without necessarily showing details about the cost, time taken, quality, who and how the work was done.

Mr. Temporary Deputy Speaker, Sir, the Kenya Roads Board (KRB), last year, released Kshs7 million to each constituency through the DRCs. This is more than the Kshs6 million that the CDF was allocated in the same 2003/2004 Financial Year. However, because of involving the local people right from the planning stages, the CDF was well utilised. This has enabled the local persons to see and feel the impact of the money which has been used to improve their living standards. If the Kshs7 million meant for road maintenance was given to the CDF, I think it would have been utilised well thereby changing the status of road in our constituencies.

Mr. Temporary Deputy Speaker, Sir, a few minutes ago, you heard hon. Members query the criteria used by the KRB in determining what amount of money obtained through the Fuel Levy Fund should be given to each constituency. We have seen a lot of discrepancies. Some districts get as much as Kshs24 million a year while others are only given Kshs1 million a year. That is the kind of discrepancy we want to do away with. We want to get rid of anything that might lead to corruption. We can only achieve that by devolving the responsibility of allocating money meant for the maintenance of road from the KRB; and further from the DRC, to the CDF.

This Motion is timely and I would like to urge the Minister to support it too.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Khamasi): Order, Members! The Minister wants to respond and I think he has an amendment he wants to introduce.

The Minister for Road and Public Works (Mr. Raila): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to speak early on this Motion.

The Government appreciates the spirit of the Motion by hon. Anthony Kimeto because it is geared towards saving the public funds that are distributed to all constituencies for road maintenance.

Mr. Temporary Deputy Speaker, Sir, it is true that the Government is fully committed to developing the rural road network through the Kenya Roads Board allocations because the road plays a crucial role in the economic development of this country. Some hon. Members sitting in this House will recall that the Bill that created the Kenya Road Board was enacted in 1999 and the Board was subsequently inaugurated in July, 2000. The Board is mandated with the oversight of road maintenance in Kenya and the administration of the Road Maintenance Levy Fund. It is also the principal advisor to the Government on road related issues. The Board delegates the responsibility of road maintenance to three key agencies namely; the Department of Road in the Ministry, the District Road Committee (DRC) and the Kenya Wildlife Services (KWS). The Department of Road is responsible for the maintenance of international, national and primary trunk road. On the other hand, the DRC maintains the secondary, minor and special purpose road and other unclassified road both in rural and urban areas. The KWS is responsible for the maintenance of road in our national parks and game reserves.

Mr. Temporary Deputy Speaker, Sir, hon. Members may also recall that the KRB was taken to court because the DRCs as established by the Kenya Roads Board Act mandated hon. Members of Parliament to be members of the DRCs, including being chairpersons. This created the constitutional conflict which provides for separation of powers between the Executive, the Judiciary and the Legislature. It was argued that Members of Parliament being in the legislature cannot, therefore, perform legislative functions and then perform executive functions as members of the DRC. This would have completely ignored the checks and balances that are in place through the separation of powers.

Mr. Temporary Deputy Speaker, Sir, the judgement of the case only allowed the District Roads Committees (DRCs) to operate as long as Members of Parliament were not performing any executive functions. They were to undertake oversight roles only. Against this background, the

proposed Bill is in my view is quite acceptable to the Government in principle. The objective of the Government is to maintain the road network using the most cost-effective method. The DRCs have options in utilising the road maintenance funds. In the light of this, they can purchase, hire or lease maintenance equipment as they wish.

As regards the use of manual labour and equipment, the Government has adopted the Roads 2000 Strategy for the improvement of the rural road network. This strategy specifically addresses the optimisation of the use of labour, equipment and local materials whichever is cost-effective. It will, therefore, be difficult to source all the labour or equipment at the constituency level only. If these directions are adopted, one would wonder what would happen to those constituencies that are not endowed with these resources. It is, however, recommended that, at all times, priority be given to resources from local communities before resources from other areas are considered.

Finally, the review of the Kenya Roads Board Act should be part of a comprehensive legal review which my Ministry is currently addressing. This will review all legal statutes on maintenance of roads which are in existence to ensure a holistic approach to the management of roads in Kenya. In this regard, therefore, I would like to move an amendment to this Motion as follows.

That the Motion be amended by deleting all the words after the word "House" in the 4th line and substituting the following words in place thereof.

"urges the Government to amend the Kenya Roads Board Act to empower the Constituency Development Committees to manage the road funds distributed to the constituencies."

As I have said, we have now set up a very transparent system of funds management at the constituency level. Therefore, we have no problem in allowing the Constituency Development Committees (CDC) to also administer the constituency roads funds. While supporting this Motion, I would urge hon. Members to support this amendment. I give an undertaking to the House that I will soon bring an amendment to the Kenya Roads Board Act in order to give effect to this undertaking.

With those few remarks, I beg to move.

The Assistant Minister for Finance (Mr. Katuku): Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to second the amendment proposed by the Minister for Roads and Public Works.

I want to thank the Mover of this Motion which, in my view, captures the aspirations of Members of Parliament and the people we represent. With the amendment, I want to believe that we, as the representatives of the people and the people at the grassroots level especially those who serve in these CDFCs, would be able to identify the areas which require improvement, for example, infrastructure.

The experience I have with the DRCs is that once hon. Members meet, you will find each of them concentrating on his constituency. When discussing programmes on other constituencies, you will find that hon. Members are not even bothered. I think it is high time that we got a bigger group that is the Constituency Development Committee to be involved because, at the end of the day, it is the Member of Parliament who attends the DRC. When he gets back to the constituency, there are representatives from other parts of the constituency to chip in and decide which roads will be done or what should be done with the money.

We have experienced problems with management of the funds by the engineers. Once they reach the district roads office, hon. Members may not be notified. You may find at times the engineers implementing programmes which may not suit the constituencies. It is high time we devolved this authority to the constituencies so that people at the grassroots can participate in deciding what should be done with their funds.

In some cases, you will find that contractors are given contracts to do works without the

knowledge of Members of Parliament which is very frustrating. You may find that the cost of grading a kilometre is not clear to some of the hon. Members. It is important that we give the authority to the CDCs so that they can decide how to go about it. It is important to give these works to our people, where possible, to do manual work so that we plough back the money to the citizens on the ground.

We should ensure that most of the money goes to local contractors so that we can promote our upcoming contractors on the ground. For example, if it were my constituency Mwala, I would like these jobs to be given to people who can build capacity in terms of construction works. You will find that most of the construction firms are mostly urban-based. I would like to see our people also getting involved in construction work. By ensuring the funds are spent at that lower level, we will encourage our people to also come up with small companies which can manage even manual construction of roads and drifts. This is a very good idea where we can push the money to the CDCs.

Our NARC Government is more focused on ensuring that Kenyans participate in decision-making. Even with the ongoing constitutional review process, I would like to see that as a unit of development and making decisions rather than making decisions from the top and enforcing them on people on the ground. It is important that we develop that unit. We should start by empowering the Constituency Development Committees (CDCs) not only with the money from the development kitty, but also with the money from the Kenya Roads Board (KRB).

Mr. Temporary Deputy Speaker, Sir, I would also like to appeal to the Minister for Roads and Public Works to give guidelines on the cost of constructing roads in the rural areas. As hon. Members, we need to know how much it would cost to grade or put murrum on a road in Machakos District. A circular should be issued to that effect, so that we can supervise the monies to ensure that contracts are not awarded to friends of engineers at inflated costs. We would like to know the minimum and the maximum cost of doing roads in the rural areas.

The other important issue is supervision. We have seen cases where contracts are awarded to contractors to repair roads, but nobody goes to the ground to ensure that they are done to the specifications of the Ministry. As an hon. Member of Parliament or a member of a committee, I may not know how best a road should be done. I urge the Minister for Roads and Public Works to ensure that his officers go to the ground whenever a contract has been awarded to ensure that the roads are done to the specifications of the Ministry. Some of the roads in the rural areas have specific sizes, but when some of the contractors go to the ground, they do them the way they appear. The roads should be done to the specifications of the contract so that Kenyans can get value for their money. We would not like to see a situation where Kenyans are robbed of their money.

Accountability of this money is also very important. These funds should not be audited two or three years later. They should be audited immediately, so that we can see where they have not been used for the intended purpose. If this is done, action will be taken immediately. Hon. Members should be given a report immediately so that we can raise queries on the audited accounts to ensure that the funds are spent properly.

Mr. Temporary Deputy Speaker, Sir, with these few remarks, I beg to second the amendment.

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

The Assistant Minister for Lands and Housing (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I would also like to add my voice to the hon. Members who have supported the

proposed amendment, which I support. However, the 24 per cent of the money which was supposed to be disbursed to the districts has not been released since the inception of the KRB. I also urge the Minister for Roads and Public Works to ensure that the 24 per cent of the money which was meant for the districts is also channelled through the Constituency Development Fund (CDF). If we do not check where the 24 per cent is going---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Ojode! Do you want to move another amendment to the Motion?

The Assistant Minister for Lands and Housing (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I thought that the other 24 per cent---

The Temporary Deputy Speaker (Mr. Khamasi): We want to dispose of this amendment!

The Assistant Minister for Lands and Housing (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, then we will have to introduce another amendment to the proposed amendment. I do not want to contribute to the proposed amendment before it is passed.

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

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

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

(Loud consultations)

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! The rules are very clear here! Everybody should be silent when the Question is being proposed or put! That is what our Standing Orders say!

(Question of the Motion as amended proposed)

Mr. Billow: Mr. Temporary Deputy Speaker, Sir, yesterday, hon. Members had a rare glimpse of the inside goings-on of this Government which demonstrated that the left hand does not know what the right hand is doing. That is what has contributed to the problems we have in this country.

We are in a country where the glaring inequality has been occasioned by lack of proper policies and management practices in the Government. This has led to inequality in terms of development in various regions of this country. There are some parts of this country where a tarmac road does not exist. It does not exist not because the Government does not have resources, but because the Government policies are flawed and the people who are charged with the responsibility of allocating and managing the resources or supervising the works do not carry out their responsibilities to the satisfaction of Kenyans.

Mr. Temporary Deputy Speaker, Sir, the principle of representative democracy states that it is the Government of the people, for the people and by the people. This is something which has changed in this country. Today, we have a situation where the Government is to the people, on the people and at the people. We have not seen representative democracy because people are not involved at all in decision-making in this country. Therefore, the concept that hon. Members have strived in the last few years to introduce, where decision-making comes from the bottom as opposed from the top, is a very important one. We have seen it work in more than one programme. The most important one is the CDC. The essence of the CDC is the participation by the people in deciding what they want to do with the little money the Government has. This is the point many Kenyans should understand. There are aspersions out there that hon. Members want to enrich themselves. The essence of the CDF and the CDC is to allow Kenyans at the grassroots level to prioritise their development because they are the ones who know what they need most so that they can use the little money which is available.

I agree with this Motion that the District Roads Committees (DRCs) have been very inefficient and have not been performing. I come from a district where the engineer who was in charge of roads was transferred because he was inefficient, but the officer who replaced him has not made it any better. As I speak today, we do not know what goes on in that district. We have tried everything possible to bring changes and to understand what is going on and we do not know of. The sad thing is that when this information is communicated to the Ministry, again, there is very little that happens. We have got an officer who can literally sit down and cook up a liability that does not exist. Together with the contractors, they sit down, connive and come up with figures like Kshs2 million or Kshs3 million as outstanding bills. We are asking how the liability arose? We have our money and have asked you to commit it to specific projects; therefore, how did that liability arise under that project? He ignores it, goes ahead and pays people and nothing happens to him as he continues serving this Government.

Mr. Temporary Deputy Speaker, Sir, I think one of the other reasons why these projects have not succeeded in addition to the weaknesses within the Ministry is the lack of equipment within the districts. We passed a Motion in this House a few months ago which mandated this Government to provide specific road construction equipment like graders and so forth to each district. Unless that is done, the purpose of this proposed Bill will also be defeated, because we need to have this equipment in addition to the manual labour. Manual labour is important both for the purpose of creating employment and also for the purpose of reducing poverty. You can get hundreds of people who can work on a road to fill in the potholes and also to assist in spot-patching. I think you can use manual labour as has been done in several constituencies, and it works more effectively than, indeed, hiring a contractor who you pay millions of shillings and who may not carry out the work to the satisfaction of the Government, because of the dealings between the contractor and the engineers.

Therefore, because of the need to enhance transparency and accountability, we must have the roads funds brought in under the Constituency Development Committees, which are community-based, and for that reason, as I said earlier, it is inclusive and participatory. It is made up of community leaders and, therefore, they can identify those roads of top priority within the constituency. They can avoid and minimise pilferage of the funds. The reason why I am saying so is because the amount of money which we give to the contractors without the knowledge of the District Roads Committee can be limited under this Act. This Act is more specific and we are still developing it. I think once we develop our Constituency Development Fund Act properly, we can minimise so that we spend little amounts of money to cover large areas.

Mr. Temporary Deputy Speaker, Sir, there are three things that I need to mention with

regard to the roads in general and that is we must develop standard costs for maintaining roads and grading. What does it cost on average to grade a kilometre of road in a particular region? Unless the Ministry develops that, it becomes very difficult for us to assess the reasonableness of the quotations that have been given and the reasonableness of the amounts of money that have been spent. We must also develop benchmarks in the same way so that we know exactly--- I think this is something that has been included in the economic recovery strategy, that this Government must determine the minimum cost of providing services to the residents of this country. The only way you can determine the minimum cost of providing services is by developing benchmarks and standard costs for this kind of--- I have seen a situation in my district that one engineer gives a quotation which states that according to the Ministry, it costs Kshs10,000 to grade a road, and another one comes and says that it is not true as it costs Kshs100,000 to grade a road. We do not understand because it is the same district and the same equipment which is being used, yet they give you different figures for spot-patching, gravelling and for grading. Unless we develop those benchmarks and standard costs. It is important that the Ministry develops that and circulates it to the districts roads committees in the interim.

The second thing is that the Ministry should empower the District Roads Committees and, subsequently, the Constituency Development Fund Committees to blacklist or, at least, to recommend for blacklisting of those contractors who are engaged in corrupt practices, crooked behaviour or who have developed the tradition of cheating on their contracts. Unless we do that, we will continue wasting money in this country. Those people who looted this country last year, 10 or 15 years ago are the same ones who will continue doing so unless we develop this kind of policy. I think it is important that the Minister specifically requests District Roads Committees in the interim and later, the CDF committees, to recommend those contractors who have breached terms of their contracts, so that they can be blacklisted and they do not continue providing services.

Lastly, I need to mention that in general, in allocating money to the District Roads Committees, we must have due regard to the level of development in the regions. There are glaring inequalities in various regions in terms of development and you cannot allocate the same amount of money across the country, say Kshs5 million, whether you have tarmacked roads or not. Some of us come from places where, today as we speak, I cannot travel to my constituency because the roads have simply been cut off. This includes the main trunk road linking Nairobi, not mentioning those other feeder roads that are there within the district. Therefore, to adopt an across-the-board figure for every constituency is, I think, to disregard the inequalities that exist, and which this Government acknowledged when the figures were released last year.

In addition to that, it is important that you also consider that there are investment opportunities that are sometimes lost because of the lack of infrastructure. It is important that the Government allocates more resources to those areas where it wants to encourage investments, so that infrastructure can be developed in order to attract the private sector to invest in those areas. This is one of the sad things we have seen in this country; that when resources are being allocated, we disregard completely all those issues; for example, regarding investment potential, the need for infrastructure and the lack of development. All those factors are ignored and I think that it is important that we take those factors into consideration.

Lastly, the question of patronage should also be looked at seriously. I think there are times that some of those engineers cannot be dealt with because they claim, or it is claimed that these people have got people outside who support them.

With these few remarks, I beg to support the Motion.

The Assistant Minister for Environment and Natural Resources (Prof. Maathai): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to

this Motion. I want to thank the Minister for Roads and Public Works for the excellent work that he has been doing, as he has been making efforts throughout the country and the encouragement that he has been giving all of us at the constituency level.

I want to address an issue that I have actually raised so many times here before, and I want to hammer it home. Now that the Minister is actually reviewing the Act, I would very much like him to address this issue. This is the issue of soil loss along the roads. A lot of water tends to accumulate along the roads, and it is often not properly guided. This water often causes a lot of soil erosion along the roads and, sometimes, it ends up in people's farms and literally makes gullies as it gushes to the streams. The Ministry of Roads and Public Works must make sure that there is adequate control of water along the roads, and that, where water inevitably accumulates in large volumes, it is properly guided, including, perhaps, harvesting this water so that it does not destroy the roads or destroy people's farms. This is important because the Ministry does not compensate the farmers whose land is destroyed and, sometimes, we have come across areas where the roads are completely washed away because of this massive water that, apparently, road engineers do not pay attention to when building roads.

Mr. Temporary Deputy Speaker, Sir, I would also like to urge the officials of the Ministry of Roads and Public Works to refrain from cutting trees along the highways. I want to encourage this Ministry to have respect for the vegetation that is along the roads. I would like the Ministry to have a budget line which should replace the budget line called "bush clearing." We should remove that budget line and, instead, put a budget line that says "tree planting" so that trees will deliberately be planted along the highways. We can increase our vegetation and tree cover by planting trees along our highways. The road reserves in this country constitute a large amount of land; many acres that can easily be planted with trees, and those trees would make the roads attractive and it would be much more pleasant to drive along our roads.

Mr. Temporary Deputy Speaker, Sir, once we build the roads, and especially at the constituency level and even the major roads, there is very little follow-up or maintenance. I would like to see the Ministry develop a capacity to employ local people who should do some minor works on the roads, so that if the tarmac is tearing away, that repair is done immediately, instead of waiting until we have a huge hole or many holes and we have to literally undo the road before it can be used properly. I have never understood why we cannot have some minor works being done on the sides; a man or woman with a wheelbarrow with some gravels and other materials, repairing small sections of the road, just to make sure that these minor works are done in time to maintain the roads.

The other point is connected to what I said earlier about water. It is quite possible to stop water by creating barriers along the sides of the roads, so that when it rains, the speed of the water is broken. If these are made on a regular basis by local people who are hired by the Ministry, then it is quite clear that we can control the flow of the water and, therefore, prevent soil erosion and keep our rivers clean. Many of our people still drink water from the rivers and, at the same time, maintain those roads. I have sometimes seen roads that literally have gullies along the sides; deep gullies, and yet, when they were built, there were no gullies. But these gullies are caused by fast-flowing water. I have not seen why the Ministry cannot have these gaps created and maintained by local people who are paid a little money, but they can be kept busy and these are some of the jobs that my colleague spoke about.

I also want to say that it has been amazing sometimes to see beautiful roads. When engineers first build roads, they look so beautiful. Every grain of sand is on top of the other. They are so beautiful. When the Minister goes to open the road, it looks so gorgeous. But after a while, the wind and water just wash away the sand and quite often, you see these gullies along the roads. This is because the Ministry does not maintain the roads. Once they open up the roads, they go

away without ever coming back for minor maintenance, not only of the road itself, but also of the area surrounding the road.

Mr. Temporary Deputy Speaker, Sir, the Ministry needs to have a policy on the cultivation along the road reserves. I do not know if there is a policy where people should cultivate on road reserves or not. If we want to allow cultivation on these reserves, we should guide them on what kind of crops they should plant. We should not allow people to cultivate along road reserves since this promotes soil erosion. If we have a policy that states that there should not be cultivation along road reserves, we should ensure that we maintain vegetation.

I have a vision of beautiful roads in this country, with people working on them, trees not being cut, and instead being allowed to grow. I also would like to see the habitats along the roads being so beautiful that people would be encouraged to stop and take a break. I do not see why, along our major highways, there are no stopovers with good parks so that people can stop and enjoy the beauty of this country. We are always in a hurry running from point "a" to "b". The Ministry could create parks along our highways to encourage our people to come out of cars, stop and have a snack as they enjoy the beauty of this country. If we did this, we would definitely help our motorists reduce speed.

Mr. Temporary Deputy Speaker, Sir, we, as Kenyans, must educate ourselves on how to make this country and our roads beautiful. This would also contribute towards promoting tourism because people will have an opportunity to enjoy the country as they drive around. I do not know if hon. Members have noticed how ugly some of our roads look because of some of these issues that I am raising. So, I would like to appeal to the Minister, who, as I said, is doing an excellent job, to bring this aspect into his Ministry. It seems to be lacking. And if it is there, it is not being implemented. I would like to see more beauty along our highways. This will encourage us to enjoy and appreciate our beautiful country. We should not do this for tourists, but also for ourselves. We must learn to look at ourselves as a people who appreciate and love the beauty in this country. This will assist in ensuring that the culture that we see on our roads stops.

Mr. Temporary Deputy Speaker, Sir, I would like to appeal to *matatu* drivers to support the Ministry by reducing the speed of their vehicles and also learning to appreciate this country. It is encouraging that there has been a reduction in the number of accidents caused by *matatus* and buses, but we can still do better for our country.

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

Mr. Sambu: Mr. Temporary Deputy Speaker, Sir, I would like to thank the Minister for accepting this Motion, and bringing in the amendment, which I support. However, the only thing I would like the Minister to note is that the words "this House urges the Government" are not imperative. I would like to ask the Government to amend the Kenya Roads Board (KRB) Act, either by bringing a Bill directly, or take this as a priority and bring the amendment through the miscellaneous amendments which usually come at the end of the Session, which we are drawing near to.

Mr. Temporary Deputy Speaker, Sir, I support what has been said by hon. Members. We had good intentions when we passed the KRB Act. However, the implementation--- I am not blaming this Government, because this started when the KRB Act came into operational. The KRB Act states very clearly that there are three agencies. The agencies involved are the Department of Roads of the Ministry of Roads and Public Works; the Kenya Wildlife Service (KWS), and the District Roads Committee (DRC). It was made clear that the DRC would identify the roads and implement its work programmes. The District Roads Engineer (DRE) was only to help for a period of three years, and then the DRC would employ its own engineer and road supervisors.

A gentleman by the name of Mr. Mwau, for whatever reason, went to court, claiming that

there was a problem with hon. Members being in the DRCs. The Judge, whom I do not want to mention, did not know where to draw the dividing line. I do not want to debate that. Hon. Members are part of all DRCs, either directly or as *ex-officio*. Cap 211, Education Act, allows us to be *ex-officio* members. Therefore, there was nothing wrong with the Bill as originally presented.

The Kenya Roads Board (KRB) Act gave all powers to the DRE and the District Roads Accountant (DRA). That was a disaster because the Members of Parliament can only participate in identifying the roads to be re-constructed and not in any other decision-making. Tenders are being awarded at rates which are not found in Government procurement procedures. I have an example of a road in my own district. This is Road D288, which is from Rivatex, Eldoret, to Chepteruai. I would like the Minister to take note of this.

Mr. Temporary Deputy Speaker, Sir, recently, the DRE, despite what we had said in the DRC meeting, decided to murrum the road. He went and fetched murrum five kilometres away from the road. He brought a lorry and labourers from Kapsabet, while there are many young people in that area who are unemployed. I wonder what happened to the 500,000 jobs that the NARC Government promised to Kenyans. It is unfortunate that the Government may refer to my constituency as an opposition zone. However, it is not. In the last general election, President Kibaki got 12,000 votes from my constituency.

Labourers were brought to Nandi North from Kapsabet. They dug and left the area at 3.00 p.m. The sad part of the story is that, for every 20 metres, the DRE would spend Kshs200,000. A kilometre would have 50 portions, if it is divided by 20 metres. That means that if one portion requires Kshs200,000, then 50 portions would require Kshs10,000,000 to gravel. If this is not a case for the Kenya Anti-Corruption Commission to investigate, then I do not know which other case it will investigate. I support this Bill. As I said earlier, we should not be debating this amendment, but implementing it.

We should accept that different areas have varying climatic conditions.

In the North Rift, there are long rains. Even in Western Province, we have continuous rains from March to November, and I want to thank God for that. However, our engineers do not listen because they say that the Kenya Roads Board (KRB) wants the money back when the financial year ends. This is why I insisted earlier, whether this is a parastatal under the State Corporations Act which is audited by the Exchequer and Audit Act of the Government. If it is, then there is a fund, and once there is a fund, then funds which are voted for that or paid from the Fuel Levy Fund, which is an Act also; once those funds are channelled to KRB, they go into that fund. It is just like we are saying here in Parliament that there should be a fund where, once funds are put in, they should not be taken back to the Treasury at the end of the year. However, we have been suffering because of this excuse that the funds have to go back to the Ministry.

Mr. Temporary Deputy Speaker, Sir, hon. Raila, when answering a Question here, was given wrong information by my District Roads Engineer, who told him that the area Member of Parliament insisted on Kshs2 million going back to the Treasury. I did not insist! It was the District Roads Engineer who said that the financial year is over. However, how do you do a road when you are getting continuous rains from March, April and May and you receive the funds in March? You receive the funds in March and the rains start. How do you do the road? Then when you receive it in July, you return the funds and you want to blame it on the area Member of Parliament.

Yes, it might make political sense if you think that the hon. Member is on this side of the House, but let me tell you through, the Temporary Deputy Speaker, that 2007 is coming and the reality will be faced. We shall show that the funds have been returned and they were not returned because the hon. Member said so. They were returned because you did not want to follow the Exchequer and Audit Act and the State Corporations Act. So, when we are passing this Motion, we

want to know whether the KRB is a parastatal or it is still an arm of the Ministry of Roads and Public Works. That must be made very clear.

The Assistant Minister for Roads and Public Works (Eng. Toro): On a point of information, Mr. Temporary Deputy Speaker, Sir.

Mr. Sambu: Mr. Temporary Deputy Speaker, Sir, I would wish the Assistant Minister to save my time.

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Temporary Deputy Speaker, Sir, may I inform the hon. Member?

Mr. Sambu: No, I do not want any information because of time. You will inform me when you will be replying.

Mr. Temporary Deputy Speaker, Sir, we want to create employment in all areas of Kenya equitably. Making of the side trenches is work for the locals. Why do we bring people from 50 kilometres away? It is sad. For the Committee to work properly let this amendment be passed so that the CDF Committee will be able to administer these funds. I hope that this will come before the end of the Session of this Parliament, so that as we go towards the new year, the CDF committee will be able to manage. It will be more transparent.

I have a bridge which the hon. Assistant Minister knows, which was washed away by water at the beginning of 2003. Thank God, we have heavy rains. We do not complain. We set aside Kshs2 million and it has been returned and I hope now it will be used. It was returned because the District Roads Engineer refused to do anything. He refused and so I hope that this amendment will be brought before the end of the Session.

Mr. Temporary Deputy Speaker, Sir, I support the Motion. Thank you.

Mr. Mukiri: Thank you, Mr. Temporary Deputy Speaker, Sir. I wish also to thank the Assistant Minister for supporting this Motion and the hon. Member who brought this Motion. This is a very important Motion, especially in these times when we are talking about devolution. For the very short time I have been with the District Roads Engineer in Nakuru, I have seen wonders. There seems to be a problem because when you read the KRB Act and the intention of Parliament, you find a very different scenario when you go to the district.

Mr. Temporary Deputy Speaker, Sir, operations at the districts have completely rendered useless the purpose for which this Act of Parliament was enacted. When we attend these District Roads Committees (DRCs) meetings as hon. Members, we find that we are not powerful; we cannot control what the District Roads Engineer (DRE) wants to do. You will attend a meeting, point out to officers priority roads, but after you leave that meeting the DRE creates his own roads. When you tell Government officers to ensure that once roads are done, they should wait before paying the contractors, so that you, as an hon. Member first certify that the roads have been done properly, they go behind your back and pay the contractors.

As an hon. Member, the only thing that you may want is that a particular section of a road be repaired, because most of our roads are seasonal and there may be a section that causes problems every season. However, you may find that engineers have graded all the roads, and do not repair the particular section that you wanted repaired to the required standard. Therefore, this is a very timely Motion, because once this money goes to the constituency, hon. Members and *wananchi* will have control of it.

The reason why the Kenya Roads Board Act has become useless is because of corruption, and the Government needs to be very serious on it. For instance, if you go to Nakuru District, you find that last year we had a problem with our District Roads Engineer, because he squandered our DRC money for the six constituencies that we have. We went complaining to the Ministry, but the only action it took against the engineer was to transfer him from Nakuru to Mombasa. We followed

up the issue and said: "This is a thief! You cannot take a thief from Nakuru to Mombasa, because he will go and steal there." He is a thief because he ate money! I do not know what we call somebody who has eaten people's money. After that, he was interdicted, but that is not enough. These people have to be shown that stealing public money---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Mukiri! You are repeatedly using unparliamentary language! Watch out!

Mr. Mukiri: Mr. Temporary Deputy Speaker, Sir, it is because I am a bit emotional.

However, this engineer, at the moment, is still walking around scot-free. He has not been arrested and no audit has been done on the district fund. We talk about fighting corruption; how are we going to do that if, when hon. Members point out a case where money has been squandered, there is nothing being done? How are we going to fight corruption? This is not the only case I have seen in Nakuru. We have a road that joins the main Nairobi-Nakuru highway. It stretches from Pipeline area to Mau Narok area of my constituency. An amount of Kshs660 million has been spent on that road, which is only 43 kilometres long, but if you go there today, you will not find any road. When I asked a Question the other day, the Minister told me that they are not going to do anything about the contractor. I asked him whether they are going to do that road and he said that they have no money. Already, Kshs660 million has been squandered on a 43-kilometre road, and there is nothing that the Government is going to do. There are so many agencies fighting corruption in this country. We have the Attorney-General, the Minister for Justice and Constitutional Affairs, the Permanent Secretary for Governance and Ethics, Mr. Githongo, and the Kenya Anti-Corruption Commission (KACC). So many anti-corruption agencies are being created but, at the district level, the people who squander Government money are still running scot-free.

The Minister for Roads and Public Works (Mr. Raila): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to attribute cases of corruption that took place in the past to the current Government, when he knows that those cases are actually history?

Mr. Mukiri: Mr. Temporary Deputy Speaker, Sir, you have just heard what the Minister has said. I believe that when one Government comes to power, it takes over whatever the other Government had done. We cannot say the current Government will do nothing about what was "eaten" during the previous regime.

The Assistant Minister for Roads and Public Works (Eng. Toro): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Mr. Mukiri to say that this Government should have taken over the corruption of the previous Government?

Mr. Mukiri: Mr. Temporary Deputy Speaker, Sir, I have just given a case. A sum of Kshs660 million has been squandered on a 43-kilometre road, and the contractor is known. When I asked the Minister: "What are you going to do about it? This is Government money that was stolen." He said: "We cannot do anything." During the campaign for the last general election, we promised to fight corruption. How will we fight corruption when we say that we have to forget about the corruption that was committed during the KANU regime? If the Government is saying that the corruption that was committed during the previous regime is history, let us have that as a public statement, so that we do not keep on asking Questions.

The Minister for Roads and Public Works (Mr. Raila): On a point of order, Mr. Temporary Deputy Speaker, Sir. I hate to interrupt the hon. Member, but he is misleading the House. The Government has not said that it is doing nothing about the corruption that was committed in the previous regime. The Government has carried out investigations and produced a report. Is he in order to insinuate that the Government is doing nothing about past corruption when some of the contractors involved have been blacklisted?

Mr. Mukiri: Mr. Temporary Deputy Speaker, Sir, I have just given the Minister an example. We have a case of a roads engineer in the current regime, who squandered money belonging to Nakuru District. He was transferred to Mombasa. When we followed up the matter, he was interdicted but no audit has been conducted to establish how much money the officer stole from the district. Up to now, the engineer has not been arrested. So, that is what I am complaining about. This is not corruption that was committed in the KANU regime. Corruption is still rife in the public service, and we want the Government to be very serious. If the Government is not serious about fighting corruption, we should not create so many agencies that are supposed to be fighting corruption.

Lastly, today we had a Question about the Fuel Levy Fund (FLF). We do not know how the FLF money is being used. So, the Minister should consider bringing these funds within the ambit of the Constituency Development Fund (CDF). When this money is disbursed to the district, nobody knows how it is allocated. Today, from the list that was tabled here, I learnt that about Kshs9 million has already been disbursed to my district, but I am not aware of it. When I look at the road that this money is supposed to have been spent on, I do not see any work that has been done.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Members, I will call upon the Mover to reply at 12.10 pm.

Mr. Kipchumba!

Mr. Kipchumba: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to make my contribution to this very important Motion. I want to request the Minister to expedite bringing in the Act so that we can do what we intend to do in the new Constitution.

It has been my wish we harmonize all the funds that go to every constituency. I wish that, that could be done very quickly. It is not only the Fuel Levy Fund, but we have funds that also go through the local authorities. If all of us could harmonize those funds, it would be very easy to sit down and prioritize projects so that we avoid duplication of work and at the same time, we are all transparent in the use of the same. As it is now, councillors get their own funds; money from cess and other local authority sources. Councillors will do their own roads, and at the end of it, it would be useless if you did your big main road while the feeder roads are not done, because *wananchi* do not understand the difference between classified roads and those that are supposed to be done by municipalities.

I think it is important that the Ministry of Roads and Public Works comes up with an Act that will ensure that even local authority roads are also supervised by them. It does not make sense that local authorities which have no engineers are charged with the responsibility of overseeing the construction of roads. To me, it does not make sense at all.

Mr. Temporary Deputy Speaker, Sir, first, this Motion seeks to ensure the development of rural roads. The rural roads are the engine of growth and especially in the rural areas for agricultural activities and for other business. It is important that rural roads are given the due attention that they deserve. Therefore, for this Motion to refer to rural roads, it is indeed, very critical that this Government must commit quite some money to the development of these roads.

Like I said before, it is our wish that power is devolved to our constituencies. Since the Constitution has delayed, and it is going to delay a lot longer, I think hon. Members of Parliament must now realize that since they have the power to amend some of the Acts, they must do it quickly so that even if the Constitution delays for a very long time, because this Government is not committed, then the power will still be devolved to our constituencies as and when we want. I think the faster hon. Members realize this, the better for us.

Mr. Temporary Deputy Speaker, Sir, this Act also seeks to ensure that we eradicate poverty.

Why do I say this? If you looked at the Act, which is the objective of this Motion, it says that every constituency will look for its own labour and probably its own machinery, if, indeed, they have them.

Many of us in our constituencies have complained in the past, where engineers will go to other parts of the country and look for contractors who will do the same jobs that can be done by people from our constituencies and deny our own people labour and jobs. At the end of it, they repatriate the little money that would have remained in our constituencies. At times I wonder when this Government says that they are committed to the alleviation of poverty. I think the Government does not understand what eradication of poverty is all about. It is a very simple terminology. Eradication or reduction of poverty means that the people in the rural areas, especially, must be given incomes to sustain themselves. The best way is not to give them handouts, but by ensuring that they work and are paid a small salary, so that they can raise their standards of living. Since the Ministry of Roads and Public Works takes a very big chunk of the funds that are raised in this country, it should ensure that labour-intensive jobs are done using local labour.

Mr. Temporary Deputy Speaker, Sir, I want to talk about a very serious issue which we have never achieved in this country. I want to talk about the "mother of all corruption". The "mother of all corruption" starts with procurement regulations in this country. They are a sure way of promoting corruption. While many of us could identify the roads that are supposed to be done in our constituencies, we play no role in ensuring that tenders are given competitively to those who deserve them. That is the source of all corruption. We are told that, at the beginning of the year, contractors are listed by the Ministry of Roads and Public Works. Those listed are supposed to give us services for the whole financial year. We are treated to a situation where a bag of cement, which costs about Kshs500, is raised to about Kshs800. If the price of an item is almost twice the normal price, then what is corruption?

Mr. Temporary Deputy Speaker, Sir, in order for us to reduce corruption, we must relook at the procurement regulations. They do not make sense at all. We can bring 101 Acts to this Parliament, but as long as the procurement rules are still the ones that we know, we will still be wasting time. Members of Parliament know the problems that we are experiencing with the Constituency Development Fund, as a result of those procurement regulations which are applied everywhere, including in the tendering process for the construction of roads.

Mr. Temporary Deputy Speaker, Sir, apart from amending this Act - I hope the Minister for Finance is here - he should liaise with other Ministries to bring amendments to this Act, so that we could shorten the process. I remember that even last year, the Minister for Roads and Public Works had the same complaint. You require 22 signatures to award a tender for the construction of a road. That is ridiculous. No country in the world would wait for Kenya to sign 22 signatures. By the time you finish, the world will be at a standstill waiting for this country to struggle with its bureaucracy in undertaking its projects.

Mr. Temporary Deputy Speaker, Sir, we are not saying that we want to take over the implementation of those activities. The engineers who are experts in that sector---

Mr. Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Kipchumba! Wind up!

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, I request the Minister to bring the Bill by next month.

With those few remarks, I beg to support.

Mr. Temporary Deputy Speaker (Mr. Khamasi): Mr. Kimeto, you are the owner of the Motion! Please, reply.

Mr. Kimeto: Mr. Temporary Deputy Speaker, Sir, let me thank all those who have contributed to this Motion. Before I conclude, I would like to give two minutes each to Mr. M.

Kariuki, Dr. Kibunguchy, Mr. Sirma and Mr. Miriti.

The Temporary Deputy Speaker (Mr. Khamasi): That finishes your time! I thought you were talking about two minutes each!

Mr. Kimeto: I will give them two minutes each.

The Temporary Deputy Speaker (Mr. Khamasi): How many are they?

Mr. Kimeto: They are four.

The Temporary Deputy Speaker (Mr. Khamasi): That is all right. Mr. M. Kariuki, you have two minutes.

The Assistant Minister for Foreign Affairs (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, I support this Motion. It is quite clear, as the Minister has said, that the various statutes relating to roads need to be harmonised and consolidated, so that there is better focus, and to avoid the multiplicity of too many bodies doing the same thing. At the same time, the functions seem to overlap and, therefore, to avoid duplicity in the functions, it is important to harmonise all statutes.

Mr. Temporary Deputy Speaker, Sir, under the Kenya Roads Board Act, the District Roads Committees (DRCs) are supposed to operate independent accounts from the District Treasuries. That has not been actualised, and we have ended up with a situation where the District Roads Engineer, who also doubles as the secretary and the person who is supposed to do the accounting and prepare the records, has a greater hand in terms of the release of funds through the Treasury. The members of the District Roads Committee merely go there to say which road is going to be done. At the end of the day, we have a District Roads Engineer who can even change the proposal that you have put forward. We actually need greater empowerment at the grassroots to ensure that these committees do proper job by putting the powers under the Constituencies Development Fund.

Finally, the courts have been misused in the past to kill the initiative under the Kenya Roads Board Act. All these arguments about the separation of powers do not hold water in law. It was just a political process to ensure that the Kenya Roads Board Act is not actualised and the hon. Members are not empowered as intended by that particular Act.

With those few remarks, I beg to support.

Dr. Kibunguchy: Mr. Temporary Deputy Speaker, Sir, I would like to thank Mr. Kimeto for giving me this time. First of all, I support the Motion as amended. I would like to go on record by saying that the District Roads Engineers behave the same way in most places. We have heard the cries. They behave the same in Lugari. They are the ones who plan the work to be done, implement, report back, monitor and evaluate the projects. That is totally

[Dr. Kibunguchy]

unacceptable and that is why I support this Motion. Some of this work should be done by the Constituencies Development Fund.

Finally, the spirit seems to be flowing in this House that, eventually, maybe, when we change the Constitution, we will make the next level of devolution of power to be at the constituency level. When we manage our affairs at the constituency level, we are seeing a certain movement in development as opposed to the districts and regional areas as many people have proposed. I hope everybody supports this Motion because the spirit is right. With those few remarks, I beg to support.

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, I wish to thank Mr. Kimeto for bringing this Motion to the House and giving me some of his time. This is a noble issue for our people. The Minister should remove the word "urge", because when you urge the Government to do something, it can decide to do it or not. That is a general term.

I know the Minister is a serious person. I hope he will implement what he has said. We wanted the House to give leave for the amendment of the Kenya Roads Board Act. There is

corruption as usual in the Ministry of Roads and Public Works. Corruption has never ceased to exist. As much as the Minister is fighting corruption with his engineers, I am sure he is fighting it all alone because the other part of the Government is with the corrupt officers. We would also like the procurement procedures to be changed, so that local contractors use manual labour. We want contractors to be urged to use manual labour. The rural access roads scheme, which was there before, should be re-introduced where manual labourers were hired to do the work. The engineers have been taking money from the Constituencies Development Fund by doing what we call "in-house jobs". This is a form of theft.

With those few remarks, I beg to support.

(Mr. Kimeto stood up in his place)

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Kimeto! This is what you invite when you begin doing what you did. You better be calm! Mr. Miriti, you have two minutes. Proceed!

The Assistant Minister for Trade and Industry (Mr. Miriti): Thank you, Mr. Temporary Deputy Speaker, Sir. Let me take this opportunity to thank the hon. Member for the opportunity he has given me to contribute to this Motion. I support it and congratulate the Minister for Roads and Public Works for the good work he is doing.

Mr. Temporary Deputy Speaker, Sir, while I support the Motion, I have an issue with the last part of this Motion which says "distributed to the constituencies." When we talk of money which is distributed to constituencies, we really do not understand whether monies which are taken to provincial headquarters, or which come from the headquarters directly to projects in the constituencies, are also included. This is because, for example, last month, there was a project which was in my constituency on the Nithi Bridge and when I asked the District Roads Engineer whether he was aware of it, he said he did not know who were on site and that he was not informed of that project. So, really, there is some conflict there. We need all the Constituency Roads Committees to be informed of every project which is being taken to the constituencies.

Mr. Temporary Deputy Speaker, Sir, I would also like to inform the Minister that there is inequality in the way the money is distributed. This is because we have districts with less mileage, but they get equal amounts of money with other districts with more mileage.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Kimeto, you have got one-and-a-half minutes!

Mr. Kimeto: Mr. Temporary Deputy Speaker, Sir, I would like to thank all the hon. Members who have contributed positively to this Motion. Let me also thank the Minister for promising to publish a Bill immediately. Mr. Minister, let me request you very kindly---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Kimeto! Please, address the Chair!

Mr. Kimeto: Mr. Temporary Deputy Speaker, Sir, let me inform the Minister that I have about 6,000 people in my constituency who are involved in roads repair work. However, during the year 2002/2003, no roads were improved in my constituency. Let us involve our people in the repair of roads. I would like to request him to come to my constituency and see the number of people who are involved in road repair. I would also like to further request the Minister to move swiftly and allocate the money according to the mileage of roads done in the constituency so that there is fairness.

Whenever there is donor funding, let those funds be channelled through CDF. Let the 24 per

cent from the Fuel Levy Fund also be managed by the CDF.

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

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

Resolved accordingly:

That this House approves that, in view of the Government's commitment to develop rural road transport network in the country through the Kenya Roads Board allocations; aware that the tendering and management of road construction at the district and constituency level is riddled with corruption and ineptitude; this House urges the Government to amend the Kenya Roads Board Act to empower the Constituency Development Fund Committees to manage the roads' funds distributed to the constituency.

PAYMENT OF COUNCILLORS' SALARIES
FROM THE CONSOLIDATED FUND

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:- THAT, considering the significance of local authorities in the development of our country; aware of the rampant misuse of revenue collected from the authorities under the pretext of remuneration for councillors; this House urges the Government to pay the salaries of councillors from the Consolidated Fund.

Mr. Temporary Deputy Speaker, Sir, since I came to this House, this is the third time the issue of remuneration has come up. The NARC Government came into power through fraud by promising everybody that: "Tomorrow, we shall all be going to heaven." One of the lots that are dissatisfied are the councillors in this country.

Mr. Temporary Deputy Speaker, Sir, when the late Mr. Karisa Maitha was appointed the Minister for Local Government, he wanted the dream that the Government had promised to come true. He thought it was easy as a, b, c, d, and invited all the 3,000 councillors to Moi International Sports Centre, Kasarani. I can tell you that after that meeting, you could not talk about Mr. K. Maitha in front of any councillor. Councillors are requesting the Government to honour the promise that it made.

Mr. Sasura moved a Motion in this House last year. We were initially told that it was supported by the Government. But with some few tricks, it was shot down. It was a sad day for councillors in this country. They had filled all the spaces in the galleries here. They realised that what they had been promised was not forthcoming.

The second meeting by the hon. Minister was at the Charter Hall. The chairmen, finance officers and clerks of the various councils and treasuries were invited and given promises. The promises seem unending because the same issues rose up, and again, the councillors were not told of their correct position in the society.

Mr. Temporary Deputy Speaker, Sir, I will be addressing about four issues. The first one is: Why do we need to pay councillors? The second one is: Do we want councillors in this country? The third question is about the wasteful expenditure in the local authorities. Who is to blame for that wasteful expenditure? The fourth issue is that of the Local Authority Transfer Fund (LATF). It cannot be wished away in this Motion. It is the main contributor of money that we intend to use in paying the councillors. Those are issues which are very important.

Mr. Temporary Deputy Speaker, Sir, councillors have been reduced to beggars and people without intelligence in this country. When we go to elect county council chairmen and mayors, councillors are locked up in lodgings and their mobiles phones are switched off. That shows the calibre of councillors in this country. It is a sad affair that councillors cannot stand on their own. They cannot even think. They are only used as voting machines when elections for various council positions are called for. We need credible people. Therefore, we actually need to give them some money from the Local Authority Transfer Fund (LATF) so that they may establish a small fund and add to whatever they collect.

Mr. Temporary Deputy Speaker, Sir, there are many cases whereby councillors are denied even an opportunity to say something about their councils. I want to cite a serious case of the Nairobi City Council. When the new Town Clerk was appointed, the Minister gave directive to the effect that councillors should never be seen around City Hall. They were told to keep off City Hall and instead stay within their wards. Councillors hover around City Hall because they want to beg for their allowances. They have been reduced to mere beggars. We need to change that trend so that respectable and credible people are elected to those positions. How can you really attract professionals to work in councils when decisions are made by councillors who have no idea what management is? Which professional would want to be answerable to such people?

Mr. Temporary Deputy Speaker, Sir, the issue comes down to remuneration. If you must have credible people in the various councils, then you must be prepared to give them good remuneration. That is the only way we can attract professionals in the councils.

When we talk about the new Constitution, we are actually talking about devolution of power and the distribution of resources down to the people. How do we achieve this when we have, as councillors, mediocre people who have no management skills to manage the resources? The councillors are not even sure of being paid their money. I remember a council which had 103 councillors and 40 staff. The councillors could not be given enough money. What could happen in such a case? All the collected revenue is pocketed and the council ends up with no money. So, if the councillors give themselves preference, the workers on the ground will help themselves on whatever money they would have collected. We need to think seriously about this issue. We need to assess whether we need councillors or not. Are they necessary? The political arm of councils is actually being killed. Councillors cannot make a decision on their own because they are busy looking for ways of taking their children to school and helping the electorate. We need to give them something.

Mr. Temporary Deputy Speaker, Sir, if we decide that it is not necessary to have councillors, then we should scrap all the councils. Alternatively, we should downsize the councils and remunerate well the remaining councillors.

Mr. Temporary Deputy Speaker, Sir, time is up, but I believe I still have a lot of time to Move this Motion.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Sirma! Hon. Members, when this Motion resumes, it still has got one hour-and-fifteen minutes. Mr. Sirma, you still have got ten minutes to move the Motion.

Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m