

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 27th November, 2003

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Member:-
Metito Judah Ole Katoo

(Applause)

COMMUNICATION FROM THE CHAIR

SUPPLEMENTARY ORDER PAPER

Mr. Speaker: Hon. Members, I wish to bring to your attention that there may have to be a Supplementary Order Paper later today.

However, I cannot proceed with the business of the House because of a sore throat. I would like to ask Mr. ole Ntimama, the most senior hon. Member, if he could relieve the Chair. I would also like to ask the House to give him maximum co-operation.

Mr. ole Ntimama, please!

[Mr. Speaker left the Chair]

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

ORAL ANSWERS TO QUESTIONS

Question No.907

DEATH OF SUSPECTS IN GUCHA POLICE CELLS

Mr. Manoti asked the

Minister of State, Office of the President:-

(a) if he is aware that Mr. Abel Oirere Mogire was killed at Gucha Police Cells on 16th July, 2003, while Mr. Lameck Morang'a Tengeya died at Kisii General

Hospital from injuries sustained while in the police cells;

(b) what he has done to prosecute the persons responsible for the two deaths; and,

(c) what immediate plans there are to expand the police cells at the station.

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Abel Oirere Mogire died at the Ogembo Police Station cells, while Lameck Morang'a Tengeya died at Kisii General Hospital as a result of injuries sustained while in police cells.

(b) Five remandees and one police officer were charged with the murder before a court of law on 22nd July, 2003.

(c) The police cells at Ogembo Police Station were expanded and more ventilation put in place after the unfortunate incident.

Mr. Mwanicha: Mr. Temporary Deputy Speaker, Sir, arising from the answer given by the Assistant Minister, I would like to tell this House that cells at Ogembo Police Station are ten by ten square feet. Sometimes, 100 inmates are accommodated in these small cells. He says that they have expanded them. Could he tell us by how many feet were those cells expanded? Will the families of the inmates who were killed in those cells be compensated by the Government?

Mr. Tarus: Mr. Temporary Deputy Speaker, Sir, I cannot say by how many feet the police cells were expanded. However, I know that they were expanded. Secondly, since the case is in court, the issue of compensation will come after the conclusion of the case.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, the two people who were the breadwinners of their families, were killed in police cells which resemble the slavery caverns where our people used to be locked up as slaves before being taken to America or Saudi Arabia to be slaves. Who is going to provide for these families while this case is being pursued if the Government cannot provide them with assistance?

Mr. Tarus: Mr. Temporary Deputy Speaker, Sir, the Government regrets this incidence. We should take note that these are people who were in remand and ask for the understanding of the people who are concerned as the case is being handled.

Mr. Manoti: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister promise that criminals will not be kept in the cells for more than 48 hours as is the case in Gucha because sometimes people can be kept there even for two weeks?

Mr. Tarus: Mr. Temporary Deputy Speaker, Sir, we shall give matters in remand serious consideration to avoid incidences of this nature all over the country.

Question No.862

IMPLEMENTATION OF ARID LANDS
RESOURCE MANAGEMENT PROGRAMME

Mr. Sasura asked the Minister of State, Office of the President:-

(a) what districts are covered by the Arid Lands Resource Management Programme

(ALRMP) in Kenya;

(b) how much money has been spent by the programme in Saku Constituency of Marsabit District over the last 2 years; and,

(c) what is the progress of the programme.

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Districts covered by the Arid Lands Resource Management Programme are Mandera,

Garissa, Wajir, Moyale, Marsabit, Isiolo, Samburu, Turkana, Baringo, Tana River, Ijara, Narok, Mbeere, Trans Mara, Makueni, Mwingi, Laikipia, Kajiado, Tharaka, West Pokot, Kitui, and two divisions of Nyeri District; Kieni West and Kieni East.

(b) The project spent Kshs15,693,110 during the 2001/2 and 2002/3 financial years.

(c) The first phase of the Arid Lands Resource Management Project came to an end on June 30th, 2003. The second phase became effective on 8th September, 2003 at the Kenya College of Communication Technology, Mbagathi.

The project was rated to have achieved considerably in the following areas:-

(i) Improved coordination between the Government and donors.

(ii) Increased sensitivity by the Government to pastoralists issues.

(iii) Improved capacity for rapid

response both for national and community levels through the early warning system operationalised by the project.

(iv) Increased the capacities of communities towards drought preparedness; and,

(v) community based approach to conflict resolution.

Mr. Sasura: Mr. Temporary Deputy Speaker, Sir, the Arid Lands Resource Management Programme is for empowering the communities in the arid lands to try and cater for their survival in respect to the harsh conditions of the area. You have heard the Assistant Minister say that he has spent Kshs15 million over the last two years in Saku Constituency.

Now that he has outlined the achievements of this project at the national level, in terms of drought preparedness, what has he achieved with the money in Saku Constituency? Drought preparedness means building of dams so that rain water is harvested in readiness for drought. How much of this money has been spent in actual infrastructure to prepare for the drought and not the increased sensitivity of the Government?

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, the funds in Saku Constituency were spent as follows: Drilling and equipping of boreholes, purchase of fast moving spares for the boreholes, provision of plastic water tanks for the communities at various borehole sites, support, protection and sinking of community shallow wells, supporting excavation or desilting of pumps and dams, construction of dispensaries and so forth. From the Ministry's point of view, there is response to drought preparedness.

Mr. Korir: Thank you, Mr. Temporary Deputy Speaker, Sir. Could the Assistant Minister consider Mogotio Constituency which is equally an arid region for funding just like the other districts?

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, there is an ongoing review to determine what other parts of the country are arid and deserve to be under this project.

Mr. Abdirahman: Mr. Temporary Deputy Speaker, Sir, recently, the so called arid areas have continued to expand in numbers. I wonder how Kieni East and Kieni West divisions merited to fall in the category of arid lands? Could the Assistant Minister tell us the status of these areas because in the past, funds intended for the ASAL districts have gone to politically-correct districts?

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, I do not know whether the former regime considered Kieni East and Kieni West divisions as politically correct places because the determination of aridity or semi aridity of the two divisions was determined then.

I would also like to ask the hon. Member to visit the region and determine the situation himself.

Mr. Wario: Mr. Temporary Deputy Speaker, Sir, were the said achievements approved by district steering groups?

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, there is a procedure for approving these projects by the district steering groups and, that was indeed done. One could even add that, for

Saku, part of the reason why there was no enhanced performance of these projects is because projects have to be identified by both communities and districts steering groups. It is up to the communities and the local leaders to be part of these projects. There is also a contribution of 30 per cent to these projects. Therefore, the matching funds have to be contributed and so on.

Mr. Ngoyoni: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has told us that certain constituencies are receiving Kshs15 million for projects. Could he tell us how much money each of the constituencies have received from the Arid Lands Resource Management Project [**Mr. Ngoyoni**]

because we have three constituencies in that district?

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, the Question was specific about Saku Constituency. Therefore, I would have to go back to our records to determine that. However, I think that it is important that I mention in this hon. House that the projects that are attended to under this project will depend on the work of the community in terms of identifying them, preparing, and also contributing 30 per cent of the funds. In fact, Kshs15 million is not the ceiling amount because that will depend on the leadership of that area.

Dr. Ali: Mr. Temporary Deputy Speaker, Sir, since we are tired of Government officers writing for us answers which do not exist on the ground, could the Assistant Minister specify those boreholes and dams which were desilted in Saku using that money?

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, I am not aware that these projects do not exist on the ground.

Dr. Ali: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the Assistant Minister tell us which dams and boreholes have been desilted in Saku Constituency?

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, if the hon. Member goes to the Constituency he will note that this information is factual and those things have been done. Therefore, I do not think it is in order to be asked to give the details in terms of a list because that is not what I was supposed to do.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. The professor is reducing the image of our profession as teachers. He gives answers here which you would not expect from professors. The hon. Member has asked about specific projects in Saku on which this Question is based. The Assistant Minister should be having that answer on hand. He can either list them or table them for the House to know exactly which projects were done using this money.

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, I even stopped reading out the list because it was very long. I do not mind giving the hon. Member specific details so that if we consult after this, I will itemise all those and give them to him.

Mr. Sasura: Mr. Temporary Deputy Speaker, Sir, sometimes I wonder whether this Assistant Minister is defending the Government as a constitutional lawyer or as an Assistant Minister answering our questions. Most of these projects do not come from the community as a matter of proposal. They are just imposed upon them by the Office of the President. Could the Assistant Minister assure us that the officers on the ground will ensure equitable distribution of these resources within the three constituencies? Could he also ensure that these projects actually come from the people and not the Office of the President? Could he assure us that much and not as a constitutional lawyer?

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, the projects are supposed to come from the communities. If they do not come from the communities, that is not right. I would like to have that information from the hon. Member.

OWNERSHIP OF MASHIMONI/
DIGO ROAD PLOT

Mr. Obwocha asked the Minister of State, Office of the President:-

- (a) whether he is aware that as a result of the letter Ref.ID/ACPU/SEC/6/21/TY(14) of 22nd May, 2002, the District Officer, Pumwani and the Assistant Chief of Mashimoni/Gorofani/Bondeni are harassing residents of a plot belonging to Abagusii Self Help Group situated on Mashimoni/Digo Road; and,
- (b) whether he is aware that the City Council of Nairobi has confirmed through their letter CPD/FP/4570 of 17th February, 2003, that the group are the rightful owners of the said plot.

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that there was a dispute over a plot that was being occupied by Abagusii Self Help Group that arose out of the re-planning exercise. However, I am not aware of harassment of the members of the said group by either the district officer or the assistant chief.

(b) I am aware that the said group are the rightful owners of plot No.029 issued through allotment letter No.40675/111 dated 23rd December, 1997.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, at least for me, that is a very good answer from the Assistant Minister. I have given a specific letter written by the DO, harassing that group. I would like him to follow up that matter.

Mr. Temporary Deputy Speaker, Sir, now that the Assistant Minister has confirmed that plot belongs to this group, could he give an undertaking that he will write to the Commissioner of Lands and ask her to issue a title deed to this self help group?

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, the hon. Member is correct when he says that this plot No.09 belongs to the Abagusii Self Help Group. On 1st December, 1998, Mrs. Ruth Ongaki whose ID number is 1898795, the chairlady of the group, collected the allotment letter No.40675/111 dated 23rd December. Therefore, she is entitled to register that plot on behalf of the group.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, Mr. Obwocha asked if the Assistant Minister could facilitate issuance of title deeds to this land? In the meantime, could he provide adequate security to safeguard this land from grabbers including the assistant chief and the DO?

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, there is a legal document giving the title deed of this land to the Abagusii Self-Help Group. I do not see why, if the necessary procedures have been followed, this land should not be registered in the name of the Abagusii Self-Help Group. If there are any problems, I would ask the hon. Member to consult with our office as well as the Minister for Lands and Settlement.

Question No.912

KENYA'S JOINING OF MILLENNIUM
CHALLENGE ACCOUNT

Mr. Kagwe asked the Minister for Finance:-

- (a) in view of the immense opportunities that the Millennium Challenge Account will offer developing countries and given that the Fund will become operational next year, what plans the Ministry has of joining the Account; and,
- (b) what conditions Kenya has to meet.

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

(a) The Millennium Challenge Account was established by President Bush in March, 2002, to provide assistance to low income countries whose governments are implementing sound development policies by governing justly, investing in people and establishing economic freedom. Kenya does not qualify for the funding for the year 2004 due to its dismal performance in the category of "governing justly" specifically, in fighting corruption in the past.

Mr. Temporary Deputy Speaker, Sir, as the rules are currently being formulated, my Ministry is working closely with the Ministry of Foreign Affairs to push Kenya's case as a unique one as Kenya is in transition and the current Government has put in place concrete interventions to qualify especially in the broad category of governing justly and more specifically the fight against corruption and maintenance of the rule of law.

(b) The Millennium Challenge Account has proposed 16 indicators to determine eligibility. These are divided into 3 broad categories namely; governing justly, investing in people and promoting economic freedom.

Mr. Temporary Deputy Speaker, Sir, I recently obtained the criteria for assessing the Millennium Challenge Account from the US Embassy here in Nairobi and Kenya's position as at 2002 is fairly lengthy but we qualify on some and not on others. I will lay my answer on the Table rather than read everything.

Mr. Temporary Deputy Speaker, Sir, we are currently working hard to qualify in every respect as soon as possible so that Kenya will receive consideration during the 2005 financial year.

(Mr. Mwiraria laid the document on the Table)

Mr. Kagwe: Mr. Temporary Deputy Speaker, Sir, I thank the Minister for that well documented answer. I also take this opportunity to congratulate him for a job well done with the International Monetary Fund (IMF). I believe that the Millennium Challenge Account and the Africa Growth and Opportunity Act (AGOA) are, perhaps, the biggest opportunities that Kenya has.

Mr. Temporary Deputy Speaker, Sir, by the year 2005, the account will bring in other very qualified nations. Could the Minister speed up some of the areas that we are not qualified---

(Loud consultations)

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could we have some order here?

Mr. Kagwe: Mr. Temporary Deputy Speaker, Sir, I was talking about areas where we are not qualified but we have made a lot of progress. Those areas have to do with governance, accountability and the rule of law. Could the Minister take it upon himself to go back to those people, especially in view of the changes that have occurred, and try to get us qualified for the year 2004? The year 2004 is when we have got the biggest opportunity because countries that have got a per capita income of US\$1435 would qualify. After that, even countries with merely US\$3,000 per capita will qualify and, therefore, our case will become very difficult. Could the Minister try and talk to those people again, so that we can qualify in the year 2004?

Mr. Mwiraria: Mr. Temporary Deputy Speaker, Sir, we are doing everything to qualify in most of those subjects. Some of them we were not qualified earlier this year like voice and accountability, Government effectiveness, rule of law and control of corruption. I believe that in some of those, we will qualify by the end of the year. We are doing our very best on other issues

like immunization, public expenditure and so on. We hope to qualify. I want to assure the hon. Member that we are doing our best.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I know that we have qualified in certain trade policies. But there are some trade policies that we have not qualified. Could the Minister tell us what he is doing on those trade policies that we have not qualified, so that we can qualify and eventually join that account next year?

Mr. Mwiraria: Mr. Temporary Deputy Speaker, Sir, the trade policies that we have not qualified are, in fact, currently being discussed by the World Trade Organisation (WTO). Since Kenya is in the Committee of Five that is leading discussions at the WTO, we hope that our position will be taken care of during the next round of WTO talks.

Mr. Wambora: Mr. Temporary Deputy Speaker, Sir, since it is important for Kenya to benefit from the Millennium Challenge Account, one of the areas that we have not qualified is the primary education completion rate. What is the completion rate that we are expected to achieve? Are we reaching it this year?

Mr. Mwiraria: Mr. Temporary Deputy Speaker, Sir, I believe that primary education completion rate will change because we do not charge fees. Many children will endeavour to pursue education from Standard I to Standard VIII.

Question No.915

TARMACKING OF DONYO SABUK-TALA ROAD

Mr. M. Maitha asked the Minister for Roads, Public Works and Housing:-

- (a) whether he is aware that Donyo Sabuk-Tala Road, D521, is impassable during the rainy season;
- (b) whether he is further aware that five coffee estates namely; Kayata, Muka Mukuu, Matungulu, Kianzabe and Wendano Matuu use that road to transport their coffee produce; and,
- (c) when the road will be tarmacked.

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that Donyo Sabuk-Tala Road, D521, is impassable during the rainy season.

(b) I am aware that five coffee estates namely; Kayata, Muka Mukuu, Matungulu, Kianzabe and Wendano Matuu use that road to transport their coffee produce.

(c) My Ministry, through the Machakos District Roads Committee, will carry out spot gravelling of the sections which become impassable during the rainy season, as plans to upgrade the road to fully gravel standards are made.

Mr. M. Maitha: Mr. Temporary Deputy Speaker, Sir, that is a 21-kilometre road and, as the Minister has said, the road is quite impassable. When he says that money will be disbursed from the Machakos District Roads Committee, it will not be enough to rehabilitate that road which is full of gulleys. Could the Minister consider using the 24 per cent of the Fuel Levy Fund to rehabilitate that road?

Mr. Raila: Mr. Temporary Deputy Speaker, Sir, I have said that spot gravelling is going to be done. That is a Class D Road which falls under the District Roads Committees (DRCs). This year, the Machakos District Roads Committee is going to be allocated Kshs10 million of the 24 per cent of the Fuel Levy budget for grading and spot improvements in the district. I hope that, that particular road will be a priority in the DRC's programme.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, last week, the Minister told us that it takes Kshs1 billion to gravel and murram a road very well. We are told that, that road is 21 kilometres long. Will Kshs10 million be sufficient to gravel a road which is 21 kilometres? In any case, the Kshs10 million is meant for the entire district and not only for that road. Could the Minister, therefore, allocate special funds enough to gravel that road for those people?

Mr. Raila: Mr. Temporary Deputy Speaker, Sir, I believe that the hon. Member [**Mr. Raila**]

did not quite understand what I said. I said: Spot gravelling. I did not say that the entire road will be gravelled. I said that we are going to do spot gravelling on that road this year. A provision will be made for complete gravelling of that road in the next financial year. But for spot gravelling, the amount of money provided is quite sufficient for that particular exercise.

Mr. Kaindi: Mr. Temporary Deputy Speaker, Sir, first of all, I want to thank the Minister for saying that Kshs10 million of the 24 per cent will be used to do that road. In fact, it will be the first time Machakos District will be receiving a token of the 24 per cent. But more importantly, could the Minister bring a schedule to this House showing how the 24 per cent will be used in various constituencies in the country and for which roads?

Mr. Raila: Mr. Temporary Deputy Speaker, Sir, that is a different question. But I wish to say that I am ready and willing to do that. I would like the hon. Member to know that today, the Kenya Roads Board (KRB) was meeting to approve the programmes and budgets submitted to it by the various DRCs. Once that is done, I will be in a position to come and give hon. Members a breakdown of how the 24 per cent will be distributed among all the districts.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, previously, all coffee access roads used to be maintained by the local councils using the money from the coffee cess. Now that the local councils are not doing it, could the Minister either accept to do them or liaise with the local councils to do them? They have all been rendered impassable.

Mr. Raila: Mr. Temporary Deputy Speaker, Sir, that question would be best answered by the Minister for Local Government. However, we are trying to get the local authorities to work jointly with the DRCs. We have given clear guidelines on how cess money will be used to repair roads. That will be done in conjunction with the DRCs. I am sure that the hon. Member and other Members are going to see a lot of improvement in that regard.

Mr. M. Maitha: Mr. Temporary Deputy Speaker, Sir, could the Minister answer part (c) of the Question? When will that road be tarmacked? Is it this financial year or the next?

Mr. Raila: Mr. Temporary Deputy Speaker, Sir, this is a Class B road which basically falls under the District Road Committees (DRC). But I want to inform Members that we are currently re-classifying roads country-wide. We are upgrading some roads from class E, D and so on, to C and B. When that is done and this road happens to be one of those that will have been upgraded, it will then be in our programme for tarmacking.

Question No.327

ELIMINATION OF TICK-BORNE
DISEASES IN BOMET

Mr. J.K. Koech asked the Minister for Livestock and Fisheries Development:

- (a) whether he is aware of the widespread tick-borne diseases in Bomet District; and,
- (b) if so, what the Ministry is doing to eliminate the diseases.

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Temporary

Deputy Speaker, Sir, this question has not been received in my office and, therefore, I do not have any answer at all.

Mr. J.K. Koech: Mr. Temporary Deputy Speaker, Sir, I gave this Question to the Clerk in March this year and I do not understand why the Minister is saying he has not received it in his office.

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Temporary Deputy Speaker, Sir, the hon. Member might be correct that it was sent at that time. But it has not been delivered to my office. This morning when I saw the Question was listed, I called the National Assembly to find out where the Question [**The Minister for Livestock and Fisheries Development**]

was and we never got it. But at about 10.00 a.m., I called Parliament again and asked that the Question be faxed, which they did. This is my evidence; it was faxed this morning at about 11.00 a.m. to our offices and there is nothing much that could be done at that time. It is not our mistake.

The Temporary Deputy Speaker (Mr. ole Ntimama): When do you want to answer it, Mr. Munyao?

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Temporary Deputy Speaker, Sir, I am ready to answer it next week. Hon. Koech is a very good friend of mine and I would not like Parliament to go on recess before I answer the Question.

Mr. J.K. Koech: Mr. Temporary Deputy Speaker, Sir, since I have been in this House for a long time, if the Minister brings the answer next week, I would not mind.

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Temporary Deputy Speaker, Sir, I will answer it next week. But in the event of any difficulty, I will go to Chepalungu and even answer it there.

The Temporary Deputy Speaker (Mr. Ntimama): Very well. That should be the end of that question.

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is the first time I have heard a Minister saying that a Question was not received in his office. I would expect the Clerk to have checked exactly what happened and I would have also expected the Minister to counter-check with the Clerk.

Mr. Temporary Deputy Speaker, Sir, this is a total anomaly and the Speaker's office should check what is happening.

The Temporary Deputy Speaker (Mr. Ntimama): But the Minister has showed us everything; that he received the faxed Question today. Anyway, next Question.

Question No. 551

COMPENSATION FOR TRAFFIC
ACCIDENT VICTIMS

Dr. Ali asked the Attorney General:-

- (a) Whether he is aware that Messrs. Khadija A. Abdirahman, Saidia Hassan and Safi Hassan Abikar were involved in an accident while travelling by motor vehicle registration number GK Z224, Nissan lorry belonging to the Kenya Police and the matter reported vide OB No. 10/2001 Ob 7 dated may 31, 2001 at Isiolo; and,
- (b) what plans he has to compensate the injured individuals.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I beg to reply. As to part (a) of the Question, I am aware. As to (b), the Attorney General is ready to enter into without prejudice, negotiations with the advocates of Khadija Abdirahman, Saidia Hassan and Safi Hassan Abikar, to explore possibilities of an amicable settlement out of court.

Dr. Ali: Mr. Temporary Deputy Speaker, Sir, I wish to thank the Attorney General for that reasonable answer. But I hope that this is not part of the legal jargon where people are sent back and forth. Is the Attorney General prepared to meet with the lawyers by next week?

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, the Attorney General has all the time been willing to meet the advocates and in fact, wrote to the advocates as long ago as 2nd July, 2002, asking that we enter into such negotiations and asking that they give the Attorney General all the documents in support of their clients' claims, medical certificates and views on the quantum of damages payable. So, the ball is in the court of the advocates.

Dr. Ali: Mr. Temporary Deputy Speaker, Sir, I just want to thank the Attorney General.

Question No. 933

NUMBER OF DISABLED CHILDREN
IN SECONDARY SCHOOLS

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

- (a) The total number of disabled children enrolled in Government secondary schools in the country;
- (b) with the implementation of free and compulsory primary school education, what plans the Ministry has for the children; and,
- (c) whether the Ministry could consider paying secondary school fees for orphans and disabled children from under-privileged families.

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Temporary Deputy Speaker, Sir, I beg to reply. (a) The total number of disabled children enrolled in Government secondary schools in the country is 390 boys and 436 girls, making a total of 826.

(b) At the primary school level, all children benefit from the free education programme. But the Constituency Bursary Committees will consider all deserving cases for needy secondary school students.

(c) The Ministry has channelled all bursary money to the constituencies where such cases should be considered.

Mr. Kamotho: Mr. Temporary Deputy Speaker, Sir, I wish to thank the Assistant Minister for that answer. But I would like him to tell the House what the Government policy is, in terms of facilitation of disabled students in secondary schools, since public schools are all built for normal students.

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, the policy of the Ministry is to be all-inclusive. We are trying to encourage secondary schools to have facilities that would make it possible even for disabled children to go to those schools. Secondly, we just got a report from a study that we commissioned; A Rapid Appraisal on the Situation of Disabled Students in Secondary Schools and we are also going to use it to try to improve on the kind of policy that we are thinking over at the moment.

Mr. Kagwe: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister consider giving more attention to schools with disabled pupils? There is a school for the deaf in my constituency which is in a bad state. The deaf girls sleep in a dormitory and if it catches fire nobody can save them because they cannot hear even if you scream that there is a fire. Could the Assistant Minister consider paying more attention to these schools apart from the constituency bursary funds

they are allocated? Could he also consider allowing these students to pursue university education without paying fees?

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, in fact, these are some of the recommendations which are being made in the study we have launched.

(Mr. Sasura murmured something)

I am being reminded by Mr. Sasura that this kind of recommendations are being made at the conference on education. We shall be very happy to consider them. We are trying to formulate a policy which will be more effective, to take care of those needy cases.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House that there is compulsory education in this country? Do we have compulsory education or free primary school education in this country?

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, that was not part of the Question.

Ms. Abdalla: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister consider earmarking a percentage of the constituency bursary funds to cater for disabled children in each constituency?

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, bursary funds are meant for all deserving students. There are some poor students who have many problems than the disabled. I would like to encourage hon. Members and their constituency bursary committees to consider disabled students alongside other students. Otherwise, it will be a bit difficult for us, if we have different categories of needy students.

Ms. Mwau: Mr. Temporary Deputy Speaker, Sir, out of the total number of enrolled disabled children, how many are girls?

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, I think I have given out that number. They are 436.

Maj. Sugow: Mr. Temporary Deputy Speaker, Sir, quite a number of disabled children who have sat for their Kenya Certificate of Secondary Education Examinations (KCSE) have a problem getting their certificates from their respective secondary schools because they have outstanding school fees. Since these children are not very many in this country, could the Assistant Minister consider waiving those outstanding fees in their secondary schools to enable them collect their certificates?

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, given the special circumstances and the fact that their numbers are small, we shall be very happy to consider what the hon. Member has proposed.

(Applause)

Mr. Kamotho: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister tell this House whether there are any special considerations for disabled children when they join institutions of higher learning? Could he also tell us whether there are special considerations for these children when it comes to job allocation after graduating from school?

An hon. Member: But Mr. Kamotho was a Minister for Education, Science and Technology sometimes back!

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, we have disabled students in our public universities. These universities alongside other institutions are being encouraged to mount relevant learning facilities for disabled children. However, the issue as to whether or not we will allocate

jobs to these children, is outside our jurisdiction as a Ministry.

QUESTIONS BY PRIVATE NOTICE

MEASURES TO AVERT FAMINE IN NORTHERN KENYA

Prof. Oniang'o: 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 there is a looming drought that is likely to cause famine in Northern Kenya?

(b) What preparedness plans has he put in place to avert the disaster in order to save human lives?

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am fully aware that due to inadequate long rains and subsequent delayed short rains, many parts of the country are facing drought stress including northern Kenya. (b) The Government, based on results of the recent food security assessment has distributed 54,543 bags of cereals, 9,487 bags of beans and 14,822 cartons of vegetable oil, all worth Kshs115 million to the food stressed districts in northern Kenya. The Government is also involved in school feeding programmes in ASAL areas. This programme is being implemented by the Ministry of Education, Science and Technology. The Government is continuously monitoring the situation through early warning information from the Ministry of Agriculture, the Kenya Metrological Department, Famine Early Warning System, the World Food Programme (WFP), vulnerability analysis and mapping. Based on this information, together with the results of short rains assessment, the Government will put in place the necessary contingency plans and appropriate response mechanisms.

Prof. Oniang'o: Thank you, Mr. Temporary Deputy Speaker, Sir. I have received a copy of the written answer. I would like to confirm that I received a similar answer last time I asked a similar Question on North Rift. In fact, the only difference is the amount of food which has been given out. We have been talking of emergency food needs for these areas year in, year out. The ASAL areas experience food shortages and yet the Government does not seem to be prepared to address this problem. This year, the Government has said that it will use Kshs100 million to mark the 40 years of our Independence. What will famine-stricken people celebrate? Could we be told the amount of food which has been distributed? What preparedness has the Government put in place to avert this disaster?

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, in the answer which I have read out, there is a schedule of the amount of foodstuff which has been distributed to those districts in northern Kenya. I have stated that Kshs115 million has been used to supply foodstuff to this area. Indeed, 23 districts in the entire country have been affected by drought, and the Government has spent Kshs300 million to provide relief food until the rains come. The Government, through the Arid Lands Resource Management Programme, which has now been expanded to cover 21 districts, as we had said earlier on in an answer to another Question, is also working to make sure that the effects of drought are contained. So, the Government has put in place both short-term, medium-term and long-term measures to deal with this particular problem.

Mr. Temporary Deputy Speaker, Sir, I would like to table the document on food allocation as well as the cost of transportation to all the 23 affected districts so that hon. Members can know the amount of food which has been allocated and the amount of money used to transport it so that

they can monitor it.

Mr. Billow: Thank you, Mr. Temporary Deputy Speaker, Sir. It is not only the drought which is responsible for famine in North Eastern Province. The Assistant Minister is aware that over 76 per cent of the people in North Eastern Province live below the poverty line. There is abject poverty in this province. The plants and roots which people could have gathered have died because of the long term effects of drought. What emergency livestock off-take measures has the Government put in place to mitigate against the effect of drought?

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, because the specific Question was about the current looming drought that is likely to cause famine in Northern Kenya, I will be happy to answer that Question substantively.

Mr. Sambu: Mr. Temporary Deputy Speaker, Sir, while our people in the North Rift are starving, maize in the maize-growing areas is being bought at throwaway prices. Could the Government use the Famine Relief Fund to purchase the maize at a better price of, say, Kshs1,500 per bag other than importing? We now understand that there is a ship loaded with over 20,000 tonnes of imported yellow maize. Why give people yellow maize while you can buy our maize at a better price?

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, that sounds like a reasonable proposition which should be explored.

Mr. Khamisi: Mr. Temporary Deputy Speaker, Sir, almost 500,000 people in Kilifi District are currently facing starvation.

(Loud consultations)

The Temporary Deputy Speaker (Mr. ole Ntimama): Order, hon. Members! You are consulting too loudly.

Mr. Khamisi: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister assure this House that the people of Kilifi will also be included in his plan? We are not satisfied with what the Government is doing for those people who are almost starving to death.

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, the Ministry responds on the basis of an assessment of the situation. I would be very happy if the hon. Member also gets his constituency assessed so that the needs can be known for an appropriate response. In fact, the last six districts to be assessed so as to be considered for assistance are Kajiado, Keiyo, Makeni, Mwingi, Machakos and Kitui. When we are asked for assistance, we respond very quickly.

Mr. Mwandawiro: Ahsante Bw. Naibu Spika wa Muda. Kama kungekuwa na mipango kamili ya kukabiliana na njaa na ukame, kwa kweli Serikali hadi sasa ingekuwa imeangaza mambo ambayo yanaendelea Taita Taveta hasa Kishushe. Watu wa Kishushe hawana hata maji ya kunywa.

Bw. Naibu Spika wa muda, Je, Serikali ina mipango madhubuti ya kusaidia watu ambao wanakabiliwa na njaa ama ni kusema wanasema tu?

Prof. Kibwana: Bw. Naibu Spika wa Muda, ningependa kumueleza Bw. Mwandawiro kwamba, Serikali haisemi tu, kuna mipango kabambe ya kukabiliana na ukame na umaskini. Ikiwa ni ukosefu wa maji, tunaweza kumuuliza Bi. Karua jambo hilo. Lakini kuhusu hili swala la kukabiliana na ukame na ukosefu wa chakula, Wizara yangu inaangalia hilo jambo kabisa na ningeomba ikiwa kuna shida kule kwake atueleze, na tutamsaidia.

Mr. Abdirahman: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House that it is the business of the Ministry of Water Resources Management and Development to handle matters of drought preparedness in relation to water, when we know that it is the Office of the President, particularly the Arid Lands Resource

Management Programme which has a drought management component? Why can he not tell us what strategies and specific arrangement they have put in place? We will help him if he does not know. There are elements on water, livestock off-take and many others. Could he tell us, as that is his responsibility?

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, when Mr. Mwandawiro spoke in Kiswahili, he talked about the problem of water in his constituency among other problems. I was responding to that by saying that the Minister for Water Resources Management and Development is best placed to address that particular component of his question. I also addressed the other components of his question.

The Temporary Deputy Speaker (Mr. ole Ntimama): Let us have the last question, Prof Oniang'o.

Prof. Oniang'o: Mr. Temporary Deputy Speaker, Sir, good nutrition is provided by more than just maize, beans and oil. We know that for these people, including children in the schools, this may be the only meal they are having. Could the Assistant Minister tell us whether there are any plans to review the food basket so that we can have a comprehensive food package?

*(Mrs. Kilimo crossed the Floor
without bowing to the Chair)*

Mr. Wario: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to cross the House without bowing to the Chair? Or has she defected?

The Temporary Deputy Speaker (Mr. ole Ntimama): Order, Mrs. Kilimo. Please bow to the Chair!

(Mrs. Kilimo bowed to the Chair)

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, the hon. Member is in order to state that the food basket should be expanded so that the assistance which goes to our people during drought and famine emergencies is more nutritious. I am sure that this is something that our Ministry will consider.

The Temporary Deputy Speaker (Mr. ole Ntimama): Next Question!

INSECURITY IN AWENDO TOWNSHIP

Mr. Owino: 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 in August, 2003, thugs broke into the District Officer's Office at Awendo and stole four guns?

(b) What action has the Minister taken to apprehend the people involved in the incident?

(c) What further action is the Minister taking to restore security in the Township?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that on the night between 2nd and 3rd June, 2003, the District Officer's armoury was broken into and firearms and ammunition stolen.

(b) One police officer who was on duty that night was arrested and arraigned before court. Investigations are continuing in order to recover the stolen guns.

(c) The following measures have been taken to beef up security in Awendo Township:

Awendo Police Station has been allocated a new vehicle and officers who had overstayed at the Station have been transferred. A police dog has been deployed to the Station to facilitate tracking. Also, the number of police officers at the Station has been increased and lastly, day and night patrols have been intensified.

Mr. Owino: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister may not be aware that this policeman who he is saying was arrested and taken to court was actually put in remand for one night and released the following day. Secondly, insecurity in that division is so bad that you cannot walk after 8 p.m. In fact, I am worried because I live near that police station and I am not sure when thugs will attack me when I am at home. Is the Assistant Minister aware that the same guns were used later to kill the son of the Chairman of Awendo Town Council and the culprits have not been arrested up to now?

Mr. Tarus: Mr. Temporary Deputy Speaker, Sir, I am not aware of that. However, I have said that investigations have been launched to recover the guns. There is security re-organisation in that particular police station to ensure that there is adequate security at Awendo Township.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, there have been several such incidents in this country where police stations are raided and firearms are stolen by thugs. What is the Government doing about this, so that we do not have Government firearms in the wrong hands?

Mr. Tarus: Mr. Temporary Deputy Speaker, Sir, I am not sure whether there have been several such cases. These are isolated cases. What the Government has done is to ensure that there is no laxity among the officers at the various police stations and police posts. Where such cases are noted, disciplinary measures have been taken against such officers.

VEHICLES FOR LAISAMIS/LOIYANGALANI POLICE POSTS

Mr. Ngoyoni: 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 both Laisamis and Loiyangalani Police Posts within Laisamis Constituency have been without vehicles for the last five years?

(b) Is he further aware that the two Divisional District Officers' (DOs) vehicles from Laisamis and Loiyangalani are also grounded?

(c) What urgent measures is the Minister taking to provide vehicles to the Police Posts and the DOs?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that both Laisamis and Loiyangalani Police Posts have been without vehicles for the last three to four years, respectively.

(b) I am aware that Laisamis District Officers' Vehicle is currently off the road.

(c) Laisamis and Loiyangalani Police Stations have been prioritised for allocation of new vehicles since their current vehicles are beyond economic repair. The vehicle for the District Officer, Loiyangalani has already been repaired and is currently serviceable, while that for the District Officer, Laisamis is being repaired, and will be back on the road.

Mr. Ngoyoni: Mr. Temporary Deputy Speaker, Sir, I take this opportunity to thank the Assistant Minister. However, could I also bring to his attention the fact that, that police station has been without a vehicle for about five years? I really do not know what those police officers are doing in there. Could he confirm to this House that those two police posts will be allocated vehicles within this financial year?

Mr. Tarus: Mr. Temporary Deputy Speaker, Sir, as I said, we have prioritised this particular area for allocation of vehicles. I anticipate that we will do this before the next new financial year. Once we receive the next batch of vehicles, we will allocate some to this particular police posts, as a priority.

Mr. Karaba: Mr. Temporary Deputy Speaker, Sir, we are dealing with cases of insecurity in this country, with specific reference to the hon. Member's constituency. I would request the Chair to note that police posts countrywide do not seem to have adequate transport facilities. Could the Government come up with a policy that will provide that every divisional headquarters be allocated a certain number of vehicles?

Mr. Tarus: Mr. Temporary Deputy Speaker, Sir, I do concur with the hon. Member that, indeed, every police post should have adequate facilities in order to be effective in their service delivery. However, we are operating under circumstances of scarcity of resources and hence the very reason why we have to prioritise on the allocation of these facilities.

Mr. Sasura: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has repeated severally that they have prioritised those two divisions for the allocation of vehicles. Could he be a bit more specific on when those two divisions were prioritised? Were they prioritised in the last allocation [**Mr. Sasura**]
where they distributed vehicles or in the next financial year?

Mr. Tarus: Mr. Temporary Deputy Speaker, Sir, these two divisions will be allocated vehicles as soon as the Government acquires new vehicles.

Mr. Nakitare: Mr. Temporary Deputy Speaker, Sir, we are still dealing with insecurity in the country. I know Endebbes Police Station in Saboti Constituency which borders Uganda. The police station has no vehicle at all. It is understaffed and policemen have to walk many miles to combat insecurity in the mountains. What steps is the Ministry taking to protect people in those areas?

Mr. Tarus: Mr. Temporary Deputy Speaker, Sir, I congratulate the hon. Member for his election. I want to appraise the House that we have carried out assessment on the security requirements for our country. Provision of vehicles and equipment to our police stations is one of the priorities the Government has taken. So, I assure the hon. Member that as soon as we acquire new vehicles we shall distribute them to these stations.

Mr. Lesrima: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has not given a specific date as to when he will provide vehicles to those two police stations. My Constituency borders Loiyangalani. The nearest Government vehicle is in Addis Ababa which is 400 kilometres away. The other Government vehicle which would be near is in Marsabit, which is 380 kilometres away. The next Government vehicle which is unserviceable is in Maralal at the District Commissioner's office. When will these stations; Laisamis, Loiyangalani, South Horr and Baragoi be allocated some of those 800 vehicles that were purchased recently?

Mr. Tarus: Mr. Temporary Deputy Speaker, Sir, when I said that certain areas have been prioritised for allocation of vehicles, it was based on the requirements of those particular areas. I do confirm that, although we did acquire some vehicles in the past, they have not been sufficient to be distributed to every police post. However, once we acquire new vehicles we shall send them.

Mr. Ngoyoni: Mr. Temporary Deputy Speaker, Sir, for the information of the Assistant Minister, insecurity is very rampant in that area. We have a District Officer and all the police posts without vehicles. Could the Assistant Minister tell this House what these officers are doing in that area? Could he close down those stations? I read in the newspapers that there are 800 new Land Rovers to be distributed throughout the country. Could he tell us whether Marsabit, and more so, Loiyangalani and Laisamis are within that programme of being allocated those Land Rovers?

Mr. Tarus: Mr. Temporary Deputy Speaker, Sir, certainly those regions are part of the Government programme for consideration for allocation of vehicles.

ICU FOR KAKAMEGA
PROVINCIAL HOSPITAL

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

Mr. Temporary Deputy Speaker, Sir, when will an Intensive Care Unit (ICU) be opened at the Kakamega Provincial General Hospital?

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

The Intensive Care Unit at Kakamega Provincial General Hospital will be opened in the next three months. The equipment is already at the hospital and a team to man it has already been posted to the hospital awaiting for installation of the equipment. The Ministry has allocated Kshs1.3 million to renovate a building to house the unit.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, that is the greatest news the six million people of Western Province have heard in the recent past; that this unit will be opened. This unit has remained unoperational because of lack of specialists. Could the Assistant Minister table here the names of the specialists, both medical and paramedical, who will be manning this unit?

Konchella: Mr. Temporary Deputy Speaker, Sir, I have already said that we have posted a team of qualified personnel to the hospital to man the ICU. The information sought by the hon. Member is not part of the Question but I will provide it to the House if it is required.

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has evaded the question. We are all aware of the shortage of personnel in the Ministry of Health. Kakamega Provincial General Hospital has not had an ICU, because it has not had enough staff. Could the Assistant Minister give us the names of the specialists they have posted to the hospital?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, I have not brought with me the names of the specialists posted to the hospital since that was not part Question, but a team has been sent there. I can provide those details later.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I would like the Assistant Minister to re-assure us that he has reserved houses for the specialists he has posted to Kakamega Provincial Hospital. In the past, when medical specialists were posted there, they left due to lack of housing. Could he give us the numbers of the houses he has reserved for these specialists?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, all employees are entitled to house allowance and are free to look for houses within the hospitals and outside. As far as these specialists are concerned, I cannot categorically tell the House that we can provide them with housing. However, they are paid house allowance, and they can rent houses for themselves within Kakamega Town.

Capt. Nakitare: Mr. Temporary Deputy Speaker, Sir, I thank the Assistant Minister for posting the team of specialists to Kakamega Provincial Hospital. But is he aware that Kakamega Town has no modern houses to accommodate expert doctors who would accept employment in that area?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, I would advise the hon. Members to request the National Housing Corporation (NHC) to construct houses within Kakamega Municipality, so that such people can have decent housing.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant

Minister in order to tell us that the ICU is going to be opened in three months' time and at the same time, ask us to approach the NHC to put up houses in Kakamega Municipality, when we know that it takes more than three months to put up a permanent house? Could he take seriously the lives of the six million people in Western Province?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, the hon. Member wanted to know how medical staff in Kakamega can be properly housed and I said that, as a Ministry, we can only construct houses when funds are available and allocate them to the staff. But they are free to rent reasonable houses within the municipality. Also, I advised the hon. Member to encourage the NHC to construct houses within that municipality for staff to rent. Otherwise, the medical staff that are there should be able to do their job, because they can rent houses within Kakamega Town.

Mr. Mwanzia: Mr. Temporary Deputy Speaker, Sir, lack of ICUs at public hospitals is a big problem. Could the Assistant Minister tell us whether the Government has a policy to establish ICUs at all provincial and district hospitals since many lives have been lost due to lack of this facility?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, the priority of the Ministry is to construct ICUs in all referral hospitals, including provincial hospitals. In future, if we have funds, we will do likewise in high capacity district hospitals.

The Temporary Deputy Speaker (Mr. ole Ntimama): Next Question, Mr. Kajwang!

IRREGULAR APPOINTMENT OF KNCHR COMMISSIONERS

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Justice and Constitutional Affairs the following Question by Private Notice.

(a) Is the Minister aware that the appointment of commissioners to the Kenya National Commission on Human Rights (KNCHR) was in contravention of the Kenya National Commission on Human Rights Act, 2002?

(b) Is he further aware that the said appointments were made in contravention of a resolution of Parliament that confirmed the recommendations of the Committee on Administration of Justice and Legal Affairs?

(c) Why did the Minister remove the name of the only nominee from Nyanza Province from the list that was endorsed by Parliament, thereby denying Nyanza Province representation in the Commission?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The appointment of commissioners to the KNCHR was not in contravention of the Kenya National Commission on Human Rights Act, 2002, but in strict compliance with it.

(b) The said appointments were not made in contravention of the resolution of Parliament that confirmed the recommendations of the Committee on Administration of Justice and Legal Affairs. The appointments were done in accordance with the said resolution of this House, and in accordance with Section 6(7) of the Act.

(c) The Minister did not remove any name from the list, which was endorsed by Parliament.

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister, who has given that reply, is a senior lawyer. I insist that the appointments were done in contravention of the law. I have brought with me the Act that we passed here. The Act talks of nine commissioners, and it reads as follows:-

"In nominating or appointing persons as commissioners, the National Assembly and

the President shall have regard to-

- (a) Kenya's ethnic, geographical, cultural, political and socio-economic diversity;
- and,
- (b) the principle of gender equity."

When the Committee on Administration of Justice and Legal Affairs presented its Report to this House, there were names of, at least, one person from every province. Nyanza Province had a nominee in the name of Moris Odawo Onduru. Could the Assistant Minister confirm that the name of Moris Odawo Onduru, as the only representative from Nyanza Province, was also included in the *Gazette Notice* that was issued by the President?

Mr. Githae: Mr. Temporary Deputy Speaker, Sir, the Act is very clear. Parliament was to endorse 12 names of nominees, which were to be forwarded to the President. The President was to appoint nine out of the 12 nominees. That is exactly what the President did. He did so at his discretion after taking into account all the factors specified in the Act. I sympathise with my learned friend. We have more than 42 ethnic groups in this country. It was not possible to have each and every ethnic group represented in the Commission. Also, the Act talks about geographical, cultural, political, social and economic diversity as well as principle of gender equity. Again, it is not possible to have persons from all these categories represented in the Commission. This was the President's sole discretion, which he exercised. Therefore, I maintain that the Act was complied with fully.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I appreciate what the Assistant Minister has said. But out of the nine Commissioners appointed by the President, how many are from the same region? How many tribes have two appointees to the Commission? He seems to be saying that, out of the 42 tribes, if nine are represented in the Commission, 33 tribes are unrepresented. Could he confirm to this House that out of the 42 tribes in this country, nine are represented in the Commission?

Mr. Githae: Mr. Temporary Deputy Speaker, Sir, I said that ethnicity was one of the seven factors that were considered. We also had to consider other circumstances that were listed. An example is geographical representation. I can confirm that if you take into account geographical factors, there is one person from each geographical region. It is the same thing with cultural factors. Culture is not the same as tribe. I think that is where the confusion is coming in. You also have to look at the social factors. That would include people with disability and the youth. All those factors were considered and I can give you the names of those who were outrightly appointed.

They were Mathisi Violet Kadi from Western Province, Philip Tirop Kitur from Rift Valley Province, Karifa Khalif from Coast Province, Fatuma Ali from North Eastern Province, Maina Kiai from Nairobi Province, Godana Doyo Affey from Eastern Province, Catherine Muma representing gender, Lawrence M. Mute representing people with disability and Wambui Kimathi representing special factors which include gender.

Mr. Temporary Deputy Speaker, Sir, this list is as good as it could be. But the point is that we are now opening debate. The list was laid on the Table of this House by the Committee on Administration of Justice and Legal Affairs. What my learned friend is now saying are the kind of things he should have said when that report was being debated. Now, he is opening a debate and it is too late!

Mr. Osundwa: Mr. Temporary Deputy Speaker, Sir, we all know that Nyanza Province has some of the strongest cultures and many tribes. The Assistant Minister works in a Ministry which is deemed to be the legal Government advisor. Could he undertake to advise the President that it is politically wrong to leave out Nyanza Province in those appointments?

(Applause)

Hon. Members: Jibu! Jibu wewe!

Mr. Githae: Mr. Temporary Deputy Speaker, Sir, may I request the Questioner to repeat the question.

Mr. Osundwa: I am saying that the President is being mis-advised by the mafia to leave out Nyanza Province in those appointments. We all know that Nyanza Province has some of the richest cultures and many tribes.

(Applause)

So, if the criteria was tribes and culture, then Nyanza Province qualifies more than some of the places he has mentioned. Could he advise the President properly?

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

Hon. Members: Kaa chini!

The Temporary Deputy Speaker (Mr. ole Ntimama): Order! Carry on, Mr. Munya!

Mr. Munya: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Questioner to say that the President was misled by the mafia? Could he substantiate?

Hon. Members: Yes! Yes!

Mr. Githae: Mr. Temporary Deputy Speaker, Sir, I am not aware of any mafia in this House! What we are saying is that Parliament chose 12 names. The President was to choose nine names and he did that. He took into consideration all the factors listed in the Act. But it is not possible to have all ethnic groups represented. It is not possible to have all the provinces represented. It is not possible to have all the social factors represented in the Commission. If that is what Parliament wanted, it should have established a commission of 500 people.

The Temporary Deputy Speaker (Mr. ole Ntimama): Last question, Mr. Kajwang!

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Nyanza Province constitutes 30 per cent of the population of Kenya. So, you cannot appoint ten people in this country without having three people from Nyanza Province.

(Applause)

Nyanza Province comprises of four main ethnic groups in this country. Those are Suba, Kuria, Kisii and the Luo. You cannot appoint people in this country without considering those four communities.

The Temporary Deputy Speaker (Mr. ole Ntimama): What is your point of order, Mr. Angwenyi?

Mr. Angwenyi: So, what I am saying is this: Could the President be properly advised and appoint a Kuria from Nyanza Province if he does not want a Luo or a Kisii?

(Laughter)

Mr. Githae: Mr. Temporary Deputy Speaker, Sir, since we have now touched on the issue of ethnicity, let me tell this House that actually, there is somebody appointed from Nyanza Province. She is Catherine Muma. So, Nyanza Province is properly represented. But if we want to make appointments based on ethnicity, then, probably, what we need to do when passing the laws is to

say: "All appointments must be in proportion to the tribes". That way, we would have a valid point.

Mr. Kajwang: First of all, the Assistant Minister has said that I should have raised this issue at debate time. The recommendations of the committee were alright. I am not complaining because, at least, Nyanza Province was represented by one person called Maurice Odawo Onduru. So, we passed it and it was supposed to be forwarded to the President. Now, the question of disability, special gender which brings in Wambui Kimathi and the youth was not provided for in the Act. The Act talks about ethnic and geographical factors. If you take into account ethnic factors, the Luos are either the second or third largest ethnic group in the country. If you talk about geographical factors, we are also in Nyanza Province. If you talk about cultural factors, we are different from the Kikuyus.

(Laughter)

If you talk about political factors, we have been in the Opposition for 40 years. If you talk about social and economic diversity, we are the poorest of the communities in this country. So, you cannot stand up here and say that the President was exercising his discretion! He must exercise that discretion according to the law. Could you go and advise the President accordingly?

(Applause)

Mr. Githae: Mr. Temporary Deputy Speaker, Sir, the Question has been properly answered. The Act was fully complied with and it is not possible to have each and every ethnic group represented in the commission. It is not possible to have all the geographical regions represented in the Commission. It is not possible to have all the cultural groups represented in the Commission. It is not possible to have all the political parties represented in the Commission. It is not possible to have all the social groups represented in the Commission. In fact, the only group that could possibly complain would be women, because 50 per cent of the commissioners are not women. The rest are very well represented and, therefore, the President exercised his discretion in a proper manner.

The Temporary Deputy Speaker (Mr. ole Ntimama): Next Order!

POINTS OF ORDER

KENYA'S FATE IN AGOA PROGRAMME

Mr. Ndambuki: On a point of order, Mr. Temporary Deputy Speaker, Sir. I stand to demand a Ministerial Statement from the Minister for Trade and Industry regarding the Africa Growth and Opportunity Act (AGOA). We have seen in the papers and in other media that the United States is insisting that Kenya be a self-reliant country in cotton production by 30th September, 2004. I would like to know from the Minister what steps he has put in place to make sure that we are not cut out from the AGOA programme.

The Temporary Deputy Speaker (Mr. ole Ntimama): Where is the Minister for Trade and Industry?

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, I undertake to inform the Minister accordingly.

The Temporary Deputy Speaker (Mr. ole Ntimama): Who else has been cleared by the Speaker to ask for a Ministerial Statement?

(Mr. Omingo stood up in his place)

The Temporary Deputy Speaker (Mr. ole Ntimama): Mr. Omingo, were you cleared by the Speaker?

FATE OF MOTION OF ADJOURNMENT ON
40 YEARS ANNIVERSARY CELEBRATIONS

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, it is really an issue that requires the Speaker's guidance regarding a Motion of Adjournment that I proposed for the Zero-Hour. That was in regard to celebrations that are supposed to be held with pomp, beauty and pageantry, so to say. However, today, I did not get a clearance from the Speaker and I am wondering as to whether we are going to wait until next week when the Office of the President shall have embarked on celebrations that are illegal. With me here, are 106 signatures of elected Members of Parliament refuting that kind of position. What is the position of the Government because if we wait until next week, it will be too late and the people's representatives have refused this exercise because it is illegal? The money has been drawn from the people's Contingency Fund and according to Prof. Kibwana, these celebrations are actually an emergency. This cannot be accepted and the Government needs to make its position clear today. It is the insensitivity of the former regime that brought KANU this side and if the Government cannot listen to the voice of reason, we are watching them; they may find themselves on this side. What is the Government position about these celebrations?

The Temporary Deputy Speaker (Mr. ole Ntimama): Hon. Omingo, your Motion is with the Speaker awaiting approval and I have not got any communication from the Speaker yet on how to deal with that Motion.

MURDER OF FORMER MEMBER
OF BOMACHOGE

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Last [Mr. Angwenyi] week, I sought a Ministerial Statement from the Minister of State, Office of the President, in charge of Internal Security regarding a promise which was made in this House about three months ago, that the killers of the late hon. Magara of Bomachoge Constituency would be apprehended and charged in a court of law. Hon. Magara was killed about three years ago and to date, his killers have not been apprehended and they are walking freely in the streets of Ogembo Township. The Minister promised to give a response on Tuesday but he did not give it. Could he give it today? I can see hon. Tarus is around.

The Temporary Deputy Speaker (Mr. ole Ntimama): Is there any Minister of State, Office of the President around?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Temporary Deputy Speaker, Sir, with apologies, I regret that I have not been able to come with the Statement today but I promise without failure to bring it on Tuesday next week.

The Temporary Deputy Speaker (Mr. ole Ntimama): Very well. Mr. Weya, you have got clearance from the Speaker and you can carry on.

CONDITIONS OF AID RESUMPTION BY
BRETTON WOODS INSTITUTIONS

Mr. Weya: Thank you, Mr. Temporary Deputy Speaker, Sir. On the 4th of November this year, the Minister for Finance said that as per our negotiations with the Bretton Woods institutions, he would lay on the Table, the conditions Kenya has been given. Could the Minister now lay on the Table the conditions because the negotiations are now over?

(Applause)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, I will give the conditions next week, on Wednesday afternoon.

FATE OF KENYAN SEAMEN HELD
HOSTAGE BY SOMALI WARLORDS

Mr. Khamisi: Mr. Temporary Deputy Speaker, Sir, I stand on a point of order to ask for a Ministerial Statement from the Minister for Foreign Affairs on a case involving eight Kenyan seamen who are being held hostage by Somali warlords at the port of Kismayu. They have been held there since 8th June. Their names are Kaingu Katana Pondo, David Mutiso Wambua, Yusuf Abdalla Shitakwa, Kombo Mwachifuli Kombo, James Likata, Richard Kanja Muchori, Lucas Mutiso Nzioka and Dericos Owiti Ogolla. These Kenyans are victims of a money dispute between the owner of the ship and the warlords. Could the Minister issue a Ministerial Statement and tell this House what the Government is doing to rescue the seamen from those brutal hands and to bring them safely home?

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, we will give the Statement next week but I would urge the hon. Member to get me those details. I am going to Somalia early in the week and I can go and deal with it.

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

The Temporary Deputy Speaker (Mr. ole Ntimama): Mr. Mwanzia, I have not got your name as having been cleared by the Speaker to ask for a Ministerial Statement.

CANCELLATION OF LOANS OWED TO
CO-OPERATIVE BANK OF KENYA

Mr. Mwanzia: Mr. Temporary Deputy Speaker, Sir, I know I have not been cleared by the Speaker. However, this is in respect to a Ministerial Statement which I requested about two weeks ago and it has not yet been brought to the House. I can see the Assistant Minister for Co-operative Development here who said that he would bring it about two weeks ago. I urge the indulgence of the House for direction as to when it is going to be brought to the House.

The Assistant Minister for Co-operative Development (Mr. Kenneth): Mr. Temporary Deputy Speaker, Sir, we will bring it next week on Thursday.

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

The Temporary Deputy Speaker (Mr. ole Ntimama): Dr. Oburu, I think you have got a clearance. Go on!

GOVERNMENT POSITION ON

YALA SWAMP PROJECT

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, I beg to ask for a Ministerial Statement from the Minister for Regional Development on the developments going on at Yala Swamp. There is an investor by the name of Dominion Farms Limited who is investing about Kshs200 billion on a rice project at the Yala Swamp. There is a letter strangely signed by three Ministers, that is the Minister for Regional Development, the Minister for Water Resources Management and Development and the Minister for Environment, Natural Resources and Wildlife stopping the activities at that project when the investor has spent over Kshs250 million on equipment which has been cleared by the Government and it is already on site. More than 200 Kenyans have been laid off as a result of these instructions and I would like a Ministerial Statement from the Minister to state the position of the Government on this issue.

The Temporary Deputy Speaker (Mr. ole Ntimama): Any response from the Minister for Regional Development?

The Assistant Minister for Regional Development (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, we shall bring the statement on Thursday.

SIGNING OF PROTOCOL ON COMMON
EXTERNAL TARIFF AND CUSTOMS UNION

Mr. Obwocha: On a point of order, Mr. Temporary Deputy Speaker, Sir. I asked for a Ministerial Statement from the Ministry of Foreign Affairs on the Customs Tariff Protocol in East Africa and as you know, this one is going to be signed fairly soon and Parliament would like to know what is happening. Could we know whether the Ministerial Statement is ready?

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I have the Ministerial Statement but it has some factual inaccuracies which I do not want to give now. I will give it on Tuesday at 2.30 p.m.

The Temporary Deputy Speaker (Mr. ole Ntimama): Next Order!

MINISTERIAL STATEMENT

STATE OF TEA INDUSTRY
IN THE COUNTRY

The Assistant Minister for Agriculture (Mr. Khaniri): Mr. Temporary Deputy Speaker, Sir, I rise to give a Ministerial Statement on the state of the tea industry in the country since the privatisation of the Kenya Tea Development Agency (KTDA). This is in response to the issues raised in this House on the 13th of November, 2003 by the hon. Peter Munya, Member of Parliament for Tigania East regarding the tea sector.

Mr. Temporary Deputy Speaker, Sir, as hon. Members are aware, tea is the leading foreign exchange earner, contributing about 20 per cent of the foreign exchange earnings. The sector employs over 3 million people directly or indirectly. Currently, tea is grown on 122,000 hectares of which 34,000 hectares is owned by estates and the rest, that is 88,000 hectares, is owned by over 300,000 small-holders. The small-holders produce 60 per cent of national tea production which is processed by 52 factories and the estates sector has 43 factories. In 1998, tea production in the country was 294,000 tonnes with gross earnings of over Kshs33 billion. In the year 2000, the production was 236,000 tonnes, earning farmers Kshs35 billion while in 2001 tea production was

294,631 tonnes, earning farmers Kshs35 billion.

The major destinations for Kenya's tea exports are the United Kingdom, Pakistan, Egypt, Afghanistan, Europe, Middle East and the Russian Federation Countries.

Hon. Members are aware that the tea industry was liberalised on 1st July, 2000 upon the amendment of the Tea Act, Cap. 343. Consequently, countrywide elections were held and new directors elected for both the Tea Board of Kenya and the new Kenya Tea Development Agency (KTDA). While the Tea Board of Kenya remains the apex body charged with promoting and regulating the functions of the tea industry, KTDA was established as the management agent for the smallholder growers. Under KTDA supervision, individual tea factories manage their tea processing, marketing and payment to growers. Tea marketing is, therefore, fully liberalised. Most of the tea is sold in the Central Auction in Mombasa under the auspices of East Africa Tea Trade Association. Only small quantities are sold through direct sales.

Some of the factors which affect farmers' tea earnings are as follows: The last few years have witnessed substantial increase in global tea production far in excess of its demand. This trend has suppressed international prices of tea which has also translated to lower earnings for farmers. Secondly, the tea prices at the Mombasa Auction declined from US\$2.1 per kilogramme of made tea in 2001 to US\$1.53 per kilogramme in 2002 and to US\$1.6 per kilogramme this year. At the same time production costs have continued to rise further reducing tea earnings by tea farmers. Costs of major inputs like fuel, electricity and transportation have also been increasing. Thirdly, it should be noted that payment to farmers is calculated in Kenya shillings per kilogramme of green leaf while payments at the Mombasa Auction are in US\$ per kilogramme of made tea. The operation costs and the conversion factor account for the reduced farmers' earning per kilogramme of green leaf since approximately four to five kilogramme of green leaf yield one kilogramme of made tea. The operation costs incurred during the tea processing usually account for 35 to 40 per cent of the selling price. Reflecting the law of international prices, farmers earnings declined from Kshs28.56 per kilogramme of green leaf in the 1999/2000 Financial Year to Kshs19.23 in 2002/2003.

In discharging its functions as a managing agent, KTDA endeavours to disseminate information, on its activities, to the factories through various channels as indicated below:

- (i) KTDA sends regular reports on tea auctions to factories on a weekly basis.
- (ii) Immediately after the sale of tea in the auction, the broker communicates the prices realised to the concerned factories and credits their accounts accordingly.
- (iii) The KTDA also publishes market reports in the daily newspapers.
- (iv) KTDA-managed tea factories have scheduled board meetings which are held after every three months. During these meetings, quarterly accounts are presented to the respective factory boards for consideration. Many other reports are tabled during the same meeting. They include market reports, factory performance reports and finance or cash flow reports.
- (v) Annual General Meetings for all tea factory companies are held regularly. In these meetings audited accounts are presented to the shareholders.
- (vi) KTDA produces a quarterly report on all its activities which is distributed to all directors of tea factories managed by KTDA.

Regarding the issue of brokers and transparency in auction prices and the assets that were owned by KTDA before privatisation, I wish to state as follows:

- (i) The registration of brokers is banned by the East African Tea Trade Association which is the umbrella body charged with overseeing tea trading in East Africa. The list of brokers is given to producers who then give business to the brokers. The allocation of factories to brokers is done by KTDA Limited Marketing Board in consultation with the respective factory boards. Let me make it

clear that factory boards, in consultation with KTDA, are at liberty to drop any broker if they are dissatisfied with their performance.

(ii) When KTDA Limited was privatised, its assets were taken over by the tea factory companies through shareholdings. All the KTDA-managed tea factories were allotted shares in KTDA Limited on the basis of management fees paid by factories to KTDA from 1994 to 1999. Share certificates were issued to all factories. Miciimikuru Tea Company was issued 4,893 shares. All tea factories have been allotted shares in their respective tea factory companies. The shares were issued on the basis of green leaf tea delivered by farmers to their respective factories for a period of eight years. As such no deductions were made from farmers. Farmers are paid dividends every year for the shares they own in their respective tea factory companies.

In conclusion, due to the current overproduction of tea in the world market, whereby on any given day some 100 million kilogrammes of cheap tea are floating in the world market, the Government is exploring new avenues that will create high demands for Kenyan tea. In this regard, efforts are being made to explore non-traditional tea markets such as the Russian Federation Countries, the Middle East and other African countries. The Government is also encouraging diversification in tea production and processing. Through the tea value adding project, a new approach of blending and packaging high quality tea for over six markets has been introduced. Also, there is a new focus on other teas such as green tea, orthodox tea and eastern tea which fetch higher prices in the market.

On the domestic front, efforts are being made to promote local tea consumption. It is envisaged that this campaign will be emulated by all tea producing countries so as to reduce the amount of tea released into the world market and, therefore, improve prices. These measures will ensure better earnings for the farmer in the future.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I would like to seek some clarification on this matter. The Assistant Minister has said that KTDA does the supervision work on tea factories and that various factories are managed by KTDA.

Kebirigo Tea Factory was supposed to have an annual general meeting at the end of July, but the meeting aborted. KTDA promised that they would hold another annual general meeting to adopt the accounts so that the existing management could elect a new one. From that time, it is now approaching December, no annual general meeting has been called yet they are supposed to be called by the company secretary of KTDA. Could the Assistant Minister tell us what is happening to that extent?

Mr. Munya: Mr. Temporary Deputy Speaker, Sir, I thank the Assistant Minister for that detailed Statement and recommend him for promotion. However, I would like to request him to make sure that the Miciimikuru tea farmers receive their shares. Even though the shares were allocated to the factory, the individual

[Mr. Munya]

farmers have never received their specific shares after all these years.

The Temporary Deputy Speaker (Mr. ole Ntimama): Ask your last question, Mr. Angwenyi!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I thought the Assistant Minister would give us a detailed report; a report to show us what prices our tea is fetching today. Are they lower, for example, than what they used to fetch in 1997/97 when the bonus payment was Kshs20 to Kshs30 per kilogramme, and today this stands at only Kshs3 to Kshs7 per kilogramme? I would have thought that he should have given us the information regarding the cost of building a factory when today, in Kianchore in Kisii, we spend Kshs450 million to construct an operational factory when, in fact, in the private sector it only costs Kshs150 million. I would have thought that we

would have been given information as to why the fertilizers we were using were changed and we were given a poorer quality of fertilizers at a higher cost per kilogramme.

The Temporary Deputy Speaker (Mr. ole Ntimama): Respond, Mr. Assistant Minister! Hon. Members, we do not want to open a debate, let the Assistant Minister respond!

The Assistant Minister for Agriculture (Mr. Khaniri): Thank you, Mr. Temporary Deputy Speaker, Sir. I was not aware of the aborted Annual General Meeting (AGM) at the factory as stated by hon. Obwocha. I will make a follow-up of it and give him a response. Hon. Angwenyi reckons that I did not give a detailed Statement. As far as I am concerned, I addressed all the issues that the hon. Member who asked for the Statement raised, and I would like to urge hon. Angwenyi that if he is not satisfied, he can ask for his Statement or he can bring a Question and we will respond to it appropriately. I will ensure that the shares of Miciimikuru Tea Factory are remitted to the farmers.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. ole Ntimama): Hon. Members, you will notice that we have a Supplementary Order Paper, and I think we have a Motion by the Leader of Government Business.

MOTION

REDUCTION OF PUBLICATION PERIOD OF CONSTITUENCIES DEVELOPMENT FUND BILL

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT this House orders that the publication period of the Constituencies Development Fund Bill be reduced from 14 days to one day.

(Applause)

Mr. Temporary Deputy Speaker, Sir, I am making an amendment as I am moving the Motion. Originally, it was supposed to be two days, but hon. Members should realize that yesterday was a public holiday, and public holidays and Sundays are excluded. The Bill was published on the 25th of this month. That is the reason why we are asking for the reduction of the period from 14 days to one day.

Mr. Temporary Deputy Speaker, Sir, this is a Bill whose history is well known to Members, and I also know that it is very close to the hearts of hon. Members. I, therefore, in moving this Motion, want to assure Members that the Government is fully committed to ensuring that this Bill is completed before the House goes on recess.

(Applause)

[**The Minister for Roads, Public Works and Housing**]

Since Members had an opportunity to discuss this Bill fully in the past, before it was finally taken over by the Government, I will not expect much more debate on it and, therefore, I would like at this stage to invite the hon. Attorney-General to second the Motion.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I rise to second the Motion.

As has been explained, the history of this Bill is well known. It appeared as Bill No.10 - The

Constituencies Development Fund Bill, popularly known as "the Karue Bill". It was then published, 14 days elapsed, and it went through the First and Second Readings in this House. So, this House is very familiar with this Bill, and it is only coming up now because of a constitutional technicality. The Bill, as appears now, has fulfilled all the provisions of the Constitution, and in particular Section 48 of the Constitution, and, therefore, can now proceed.

With those few words, Mr. Temporary Deputy Speaker, Sir, I beg to second.

(Question proposed)

Mr. Samoei: Thank you, Mr. Temporary Deputy Speaker, Sir. I think the history of this Bill is well known to this House, which did approve the Motion initially moved by hon. Eng. Muriuki in the last Parliament. As a result of consultations between hon. Eng. Muriuki and the Minister for Finance, we did find communication from hon. Eng. Muriuki that, indeed, the Government had offered to take over this Bill and make it a Government Bill. We support the reduction of the publication period of the Bill from 14 days to one day to facilitate this very important Bill that will help in constituencies development that will be supervised by Members of Parliament as presented by the Minister.

Since the Bill is very familiar to us, we support.

(Applause)

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. Since what has been said by the previous speakers is enough, may I move that the Mover be called upon to reply?

The Temporary Deputy Speaker (Mr. ole Ntimama): No, I think I will have to give hon. Eng. Muriuki an opportunity to speak.

Eng. Muriuki: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support the Motion. This Bill is long overdue. I notice that a long period has elapsed since we talked of the Bill being taken over by the Government. But I request through you, to clear one point which is important for Members of Parliament to understand. The Bill has not been taken over by the Government because there was any law or Constitution flouted anywhere. Clause 48 required the consent of His Excellency the President, which could be given whether the Bill is a Private one or a Government Bill. However, I have accepted that request fully but let us not be under that illusion. The consent could have been given anyway.

With those few words, I beg to support and move that the Mover be called upon to reply.

(Applause)

(Question put and agreed to)

BILL

First Reading

THE CONSTITUENCIES DEVELOPMENT FUND BILL

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

*the Second Time Today by leave
of the House)*

Second Reading

THE CONSTITUENCIES DEVELOPMENT
FUND BILL

(By Leave of the House)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Constituencies Development Fund Bill, be now read a Second Time.

I do not want to dwell on the history of this Bill, but I am very grateful to Eng. Muriuki, who brought the Motion to this House. He also prepared the Bill and brought it to the House. This is an extremely important Bill, which is fully supported by the Government. It is a Bill which we sincerely believe will help to take development funds to the *wananchi* all over the country. It is a Bill which we feel will, in fact, assist in alleviating poverty by ensuring that the poorest of the poor have a voice in determining what projects they want to do. It will also enable hon. Members to assist the Government in channelling whatever development funds there are to the right areas in their constituencies because they know the problems in depth.

Mr. Temporary Deputy Speaker, Sir, let me now turn to a subject that I am sure will interest hon. Members. I will now go through the Bill and point out the areas where my Bill has not incorporated some of the amendments which were proposed by some hon. Members on Eng. Muriuki's Bill.

First, and perhaps one of the important points is to be found in Section 4(2)(a) on page 1182. Here, we are saying that an amount of money equal to not less than 2.5 per cent, but not exceeding Kshs5 billion of all the Government's ordinary revenue collected in every financial year will go into the Fund. I am aware that there was a suggestion by some hon. Members that the percentage be increased to 5 per cent. Unfortunately, because the Bill had talked about 2.5 per cent from the very beginning, I had, as I said here before, cleared the figure of 2.5 per cent with His Excellency the President three times, including the time when we were at State House with Eng. Muriuki.

The second reason, and this is equally important, is the fact that this financial year, the 2.5 per cent is taking 15 per cent of all the Development Budget. If we were to increase it to 5 per cent, the Government would have very little money to initiate development projects which are essential if the country is to remain, for instance, connected by roads, supplied with water and many things which cut across the boundaries; if we have to provide education and other services.

The second point which I believe is important to draw to the attention of hon. Members is in Section 9(2). This Section states:-

"Once funds are allocated for a particular project, they shall remain allocated for that project and shall not be reallocated during the financial year for any other purpose, whether in that constituency or elsewhere."

The reason for this proviso is to ensure that we use the Constituencies Development Fund for the purpose which the *wananchi* set. So, if you are an hon. Member of a certain constituency and your constituents want a water project X, we do not want that money to be moved even in the Supplementary Estimates. The project should be allowed to continue.

Mr. Temporary Deputy Speaker, Sir, the third area, and this is something which was in the old Bill which I reinstated, is Section 11(1) and (2). This section deals [**The Minister for Finance**]

with the establishment of an emergency reserve. The reason for this is that, in any budgeting exercise, one needs to leave room in case of escalations. You cannot budget exactly and hope to get away with it. Even in Government Budget, we have the Contingencies Fund from which, if there is a shortage somewhere, we can move the money to make sure that, that shortage is met.

For the benefit of the hon. Members and their constituents, once we have budgeted money, we will set aside 5 per cent of it to be used in cases where constituencies had budgeted and cost overruns occurred. This is a safety measure. We are doing this to make sure that what hon. Members have set to do to bring about development in their constituencies is achievable. Without it, we will start having pending bills. We want to make the issue of pending bills a thing of the past.

Mr. Temporary Deputy Speaker, Sir, there is another proposed amendment in Clause 12(2). Here we have introduced a factor. It says:-

"The list of proposed constituency-based projects shall first be submitted to the District Development Committee, for harmonisation, by the respective Members of Parliament for every constituency in accordance with provisions of Part VIII of this Act."

The reason for this is that there are projects which once again cut across the boundaries of constituencies. For example, a dam built for watering livestock could be in one constituency, but the people who graze around will use it without really minding its actual location. In fact, people do not know those boundaries in real life. Therefore, we need to have a venue at which hon. Members and the DDC meet to look at projects which cut across borders, so that they harmonize them. That is really the main reason for suggesting that the DDC be brought in.

Mr. Temporary Deputy Speaker, Sir, we have proposed an amendment under Clause 23(3), which says:-

"Multiple facilities of a similar nature in a particular sector may be considered as one project for purposes of subsection (1), provided that the total cost of such projects shall not exceed 20 per cent of the total annual allocation for a particular constituency."

What we want to do here is to say that, there may, for instance, be need for improvement on roads. A constituency may want to improve five to six roads, they can put all that as one project. This will be acceptable. However, we do not believe that they should be allowed to spend more than 20 per cent on one project. This is for a very good reason. It would be good if they targeted five priority items every year.

Mr. Temporary Deputy Speaker, Sir, Clause 24 deals with the cost of the Constituency Development Committee (CDC). This clause is different from what was in Eng. Muriuki's Bill. I thought that I was talking about the composition of the Constituency Development Committee (CDC).

Eng. Muriuki: On a point of information, Mr. Temporary Deputy Speaker, Sir. Allow me to assist the Minister. What happened is that, in the original Bill, that matter was under Clause 24. However, some clauses were left out in the process of the Minister taking over the Bill. It is under Clause 23. That is the reason he is looking for it and not finding it quickly. It is under Clause 23 which has the composition of the Constituency Development Committee. Perhaps he could look there.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, I thank the hon. Member for that guidance. The amendment there is that, in the old Bill, there should be two councillors only. I thought that it would be useful if councillors from all locations participated--

Hon. Members: No! No! No!

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, please, let me give my views. We are open to discussions. One of the duties of our Parliament is to come here, reason together and agree. Where we do not agree, the vote carries the day. However, one of the reasons I am taking so much trouble to take you through, is for you to see what we have done and why. You would definitely have different views but, give me time at least to complete. That is one area.

The other one is Subsection (f). Under this subsection, there were supposed to be two women. I felt that, in this era of gender sensitivity, I should increase the figure to three. To be quite honest, women are the ones who live with those problems out in the rural areas. They are the ones who go out to fetch water, worry about the education of their children and do the agricultural work. I, therefore, thought that a little bit more representation of women would be something useful.

Under subsection (f), I introduced the District Development Officer. The reason is that we want somebody who will be a convener, as well as a secretary of the meetings of the Constituency Development Committee; somebody who is already knowledgeable in the development of the district, somebody you can really count on to put your work on paper and send it to the Clerk of the National Assembly. Once again, that was what I thought was best but I am open to suggestion.

Under (i), we have included heads of the relevant Government Departments in the districts. The reason for this is that for instance, if you agree to have a water project, the implementation would be carried out by the district water engineer with his team. This is the only way we can give value to *wananchi* by using available resources and personnel in the Government for whom we do not have to pay. If you go out and hire expertise, of course your little sum of money will not go as far as we would have wanted it to. In the same Clause, Subsection 4, there is the contentious issue of the chairmanship of the Constituency Development Committee. I want to draw this to the attention of all hon. Members. I have provided that the chairperson of the Constituency Development Committee shall be elected from amongst the committee members, but shall not be a Member of Parliament. There is a good reason for this. Parliament is the watchdog of the Government when it comes to expenditure of public funds. Those hon. Members who are in the Public Accounts Committee know what job they have to do. I believe it would be very embarrassing if you were to summon a Member of Parliament who happens to be chairman, and may not even have been responsible for whatever mistakes, to come and answer questions on expenditure of Government funds.

I think here I would honestly feel that is better. We have already moved from the chairmanship of MPs in the District Roads Committees and it is working.

Hon. Members: No! No!

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister for Finance to cite the District Roads Committees which we did not agree on? It may have been a circular from the Minister, but we disagreed with it and that has not been implemented. In any case, he is a Member of Parliament and a Minister in the Executive. Why does he think Members of Parliament will be any different?

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, while appreciating the hon. Member's point of order, my job as a Minister is very different from that of chairman of a development committee which is spending money. Quite honestly, all I do is to preside over the division of funds. No Minister in the Government is chairman of the expenditure of funds in their Ministry. The expenditure is done by Accounting Officers who are answerable to the PAC.

Once again, let me repeat the point I made. I came here to explain the changes because I think they are important. I did not want to appear not to tell hon. Members the truth. I also said that

one of the beauties of a democracy is that you come to reason together. I will give you my reasons; you have your own. Let us reason together. We will take whatever method you choose.

Mr. Temporary Deputy Speaker, Sir, the other change is in Section 31 of the Bill which states:-

"All works and services relating to projects under this Act shall be sourced using existing Government procurement regulations."

I did this after very careful consideration. There was an attempt to have special procurement procedures for this Fund, but I felt quite honestly, that it will be taking us back to the problems that we have been having with some of our development partners where---

Eng. Muriuki: On a point of order, Mr. Temporary Deputy Speaker, Sir. I trust I should be given a chance to speak when the time comes. In the original Bill, all our amendments indicated that the existing Government procurement regulations should be followed. This is nothing new. It has been there and this is what we want.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, that was a genuine point of order. If my reading was wrong, because I did it in a hurry, I should be forgiven. I did not even have an opportunity of using my officials to do that because this Bill came in a Supplementary Order Paper. I was not expecting it and I do not have the notes that I would have required to refer to this during this Second Reading.

Mr. Osundwa: On a point of order, Mr. Temporary Deputy Speaker, Sir. I believe that this Bill has been debated before. Is it not in order that we finalise this Stage and then on Tuesday next week, we can come up with amendments to finalise on it? We seem to be taking a lot of time on it and yet the debate was concluded.

The Temporary Deputy Speaker (Mr. ole Ntimama): Wait for the proposal. The Minister is moving the Bill.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, I would, with humility, ask that I be allowed to finish. I am almost through. This will allow the hon. Members to read the Bill over the weekend and see what needs to be amended. I would not have been fair if I had not taken this route. Maybe if it is the view of some hon. Members that I am taking too long, let us move on to Part 7, District Project Committee.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would kindly ask the Minister to take us through slowly. We are not in a hurry. Let him take us slowly. Even if we finish the whole of today going through this Second Reading then next week on Tuesday, we can go on to the Third Reading and First Reading of the Appropriation Bill. What is the hurry for? Take us through slowly please!

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, sometimes maybe I do not quite appreciate points of orders, but I appreciate the offer that I should take a little more time. I was talking about Part 7 on Districts Projects Committees. Here, we are providing for the establishment of Districts Projects Committees. We have amended Section 41 by adding Item "H" "the

[The Minister for Finance]

chairpersons of the Constituencies Development Committees." We want them to be in the Districts Projects Committees because they are the initiators. They are the people who know what the constituents want. We are suggesting that they be part of it.

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

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

On Item 3, once again, we are suggesting that members of the District Projects Committee should elect a chairman from amongst themselves who are not Members of Parliament. There again, I said I am subject to correction, but I think it is good that I draw your attention to the changes in the new Bill.

An hon. Member: And we reject that one totally!

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, Part 8 is on the role of District Development Committees (DDCs). Section 42 provides that a Member of Parliament for each constituency shall table a list of all the projects for that constituency at a meeting of the DDC convened for that purpose. Sections 42, 43, and 44 (1) were reinstated.

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not want to interrupt the Minister for Finance because he is my good friend. But I am feeling irritated. He comes here and refers to DDCs which are not there legally. In law, there is nothing like DDCs. Which DDCs is he referring to? Could the Minister stop misleading this House by referring to non-existent bodies?

(Applause)

The Temporary Deputy Speaker (Mr. Muturi): Mr. Mwenje, from a legal position, you are right. I hope you will still be able to give that opinion when you contribute. I suppose you will. Continue, Mr. Minister.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, I want to refer to Part X - Miscellaneous Provisions. Clause 48(2) states as follows:-

"Out of pocket expense incurred by any person officially involved in the management of the Fund or the implementation of the projects under the Fund, including public officers may be reimbursed, provided that not more than 3 per cent of the total allocation of the financial year may be used for that purpose".

The reason here, as I said earlier, is that we want that money to get to the *wananchi* right at the grassroots. The less we use that money for expenses, the better for everyone.

Mr. Temporary Deputy Speaker, Sir, I believe that this Bill was discussed and went through the Second Reading. We only stopped at the Third Reading. What I thought I will do, having taken over the Bill, was to take the House through the various amendments. I have given reasons for them to enable hon. Members to, perhaps, contribute and respond to, particularly when we get to the Third Reading.

With those very many words, I beg to move that the Bill be read a Second Time and call upon Mr. Kimunya to second.

The Temporary Deputy Speaker (Mr. Muturi): Hon. Members, I wish to correct a procedural error that we have made. We all know that, under Standing Order No. 101(A), all Bills are referred to the relevant Departmental Committees. In order to conform to that particular provision of our Standing Orders, I wish to seek the indulgence of this House to exempt this

[The Temporary Deputy Speaker]

Bill, in view of its substance, having been debated by the House, from the provisions of that Standing Order.

(Question, that the Bill be exempted)

*from the provisions of Standing
Order 101(A) put and agreed to)*

The Minister for Lands and Settlement (Mr. Kimunya): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to second this important Bill that aims to give equitable access to development funds to all constituencies. I also wish to congratulate and acknowledge the efforts of my neighbour, hon. Eng. Muriuki, who has seen the Bill go through the development phases up to this point.

This Bill may appear very simple on the face of it. I can appreciate the stress that my colleague, the Minister for Finance, has been going through as he tried to put it across. It is a complex issue. It touches on each one of us and the emotional attachment to it is clear. It is very good in principle and I fully support it.

However, as we wait to debate it in Committee, I would wish to ask that we take care of some basics to ensure not just accountability, but efficiency in the implementation. I believe that we need to look at some lessons that have been learnt from the past, for example the failure of the District Focus for Rural Development and the problems with the District Roads Committees in some constituencies. I hear every day some people saying they do not know what has happened to their money.

I am aware all these provisions have been taken care of in this Bill and in the amendments that are coming at Committee Stage. But I also note that just this year, we passed the Public Officer Ethics Act and we quickly did it and then, just the other day, we are already asking what we can do with the Harambees. I would like to ask the House to look at this Bill very carefully so that one year down the line, we do not come back here with the intention of amending this Bill, which to us means a lot, but could well fall into the hands of wrong people in those committees and end up messing up our intentions as Members of Parliament.

I wish to re-emphasise the role of the Member of Parliament vis-a-vis segregation of duties with the Executive and their conflict with their oversight role. I would wish that we look at this issue very carefully and look at what options we have to ensure that we can have oversight of the funds without our direct involvement. It would be sad if we are called upon to answer for things passed by others under our chairmanship and we have to appear before the Public Accounts Committee. I also wish to note that we lost valuable time in the creation of the District Roads Committees when some people went to court to challenge the law and I would hate to see somebody going to court to challenge this Bill because of the involvement of Members of Parliament.

I also note that some funds are already going into local authorities through the Local Authorities Transfer Fund (LATF) and the LASDAP. We need to carefully consider what is the implication of this and how the two twin up, to avoid duplication in the projects being approved through the LATF and LASDAP and what we are going to do through the Constituencies Development Fund. We must also avoid competition as we have seen in some of the areas where you find in the District Roads Committees, the councillor following the tractor that has been fuelled through the District Roads Committee because they also have some allocation of funds through their councils. We have seen the duplication between the bursaries at the constituency level and the bursaries at the council level and we need to make sure that all these things are dove-tailed properly and synchronised; otherwise, we would be at a loss to say who is accountable for what and [The who is responsible for what. Let us look thoroughly into this Bill and let not our emotions overshadow its wider implications in the long-term. Let us not have a repeat of what we are having on the Harambees and other things that we are now regretting why we passed them in a rush without looking at the wider implications. I believe between now and the time we go into Committee Stage, we shall have looked at all these things so that we can pass a Bill that will work effectively and efficiently to expedite development in the constituencies.

Finally, We have now taken the Constituency Bursary Fund to the constituency, we have established Constituency Aids Control Committees and now we have the Constituencies Development Fund and, perhaps, this will give us valuable lessons on the whole concept of devolution so that, in future, we will be able to see what devolution means to development and whether we can do it at the legislative level and not necessarily complicating structures within our Constitution.

With those remarks, I beg to second.

(Question proposed)

Mr. Billow: Thank you, Mr. Temporary Deputy Speaker, Sir. First and foremost, I want to thank the Minister for bringing this very important Bill. I think we have seen, over the years, the level of disparity in development in this country. When the new Government took over, Kenyans were billed as the most optimistic people. Kenyans thought they would see a comprehensive change, particularly in the way the new Government would allocate resources. Unfortunately, the Budget that we saw in June did not reflect any new ideas and did not have any commitment on addressing the disparities that we have seen in the development of this country.

Mr. Temporary Deputy Speaker, Sir, today, if you move around this country, you will find that some parts are too developed to be in a Third World country, while others are underdeveloped to the extent of being in medieval stages, and yet the resources of this country have always been allocated by this House. I want to thank Eng. Muriuki for coming up with this Bill. Hon. Members have a stake in the development of their constituencies. It is important for us to understand that we have been disillusioned by the districts as centres for planning. In the same way that there is disparity in the House and at the Ministries, there are many disparities in the allocation of resources within the districts for obvious reasons. The Government officers at the districts have often tended to be used in such a way that they have allocated resources disproportionately so that some constituencies are more developed than others. I think that has contributed to a large extent to the high level of disparity which we have experienced.

Therefore, it is important that as we move ahead in the coming years, this House must think about constituency-based planning. These disparities are not limited to this particular Fund or the Constituency AIDS Control Committees (CACCs) or the Constituency Roads Committees, or the Constituency Bursaries Fund. But the fact that all those have happened is a reflection that there is need to move away from district-based planning to constituency-based planning. For obvious reasons, the politics of this country have always been designed on constituency basis. I think people tend to think and appreciate when development is factored along those lines. Therefore, the Bill is long overdue.

Mr. Temporary Deputy Speaker, Sir, I have a couple of comments to make on this Bill. First, I think it is important that the projects must be initiated by the community. To that extent, the management of the Fund is not the issue. I think the most important thing is the prioritisation of the projects and that the community has a say in determining what projects should be initiated. If this is done, it will go a long way in empowering these communities. For a long time, even when communities have indicated what they want, the Government officials have tended to go for projects of their choice, or the ones in which they can make quick-bucks.

Mr. Temporary Deputy Speaker, Sir, I think the level of funding, of 2.5 per cent, with all due respect, is a good beginning. We should not limit this percentage to a maximum of Kshs5 million. Whatever portion of development budget it eats into, at the end of the day, it is the development of this country we are talking about. In any case, the same funds could have been used

for the development of this country. I think it is important that we enact an open ended Act of Parliament which says a minimum of 2.5 per cent but to allow hon. Members, in future years, to increase this amount depending on our resources. I think our resources are expected to grow because they are not static.

Secondly, I would like to comment on the issue of the chairmanship. Our understanding is that this is not a disbursement committee of the Government. This is supposed to be a consultative committee, which merely sits down to prioritise projects and recommend that they be done.

(Applause)

The reason why we are talking about constituency-based development is so that the hon. Member can have a significant influence in that committee. He is a very important person since he has a stake in the development of that constituency. There is no person in that constituency who has a greater stake in its development than the hon. Member. To deny an hon. Member the opportunity to chair that committee will be the most unjust thing which will be done, in my view. If you look at the composition of the Constituency Development Committee, I still think that it is heavily influenced by the Government. These are the same Government officers at the districts whom we have been trying to run away from who also will be members of this Committee. We want to minimise the red tape we have experienced at the district level and constituency level. The funds have always been there, but the manner in which they have been allocated, used and planning has been done--- If you are on the wrong side of the Government today, I can assure you that you cannot get even a penny of the money that is available for development. If you are not in good terms with a DC and vice-versa, you will never get a single penny of that money. The figurehead of a community is an hon. Member. All the departmental heads, district development officers and the district officers will be members of this committee. The only people who are missing are chiefs. There is no senior Government official who is not in this Committee.

Given this kind of a situation, the hon. Member could still be marginalised at the end of the day. Therefore, the discrepancies we have seen in development will happen again. So, I would like to propose to that the hon. Member will be indispensable as the chairman of this very important committee. We are not saying that we are going to write cheques or that we will be responsible for accounting of the money. There is a Government Department which will do that. But in terms of determining the development projects which should be given the first priority, I think hon. Members will be the right people.

Mr. Temporary Deputy Speaker, Sir, I would like to comment on Clause 39 which deals with District Projects Committees. That, again, is a troublesome area. We are moving away from district-based development towards constituency-based development concept. It will be unfair to be held into the intricacies of the district again. It will cause a lot of red tape, complications and bureaucracies. In my view, the District Projects Committee is unnecessary. The people who are in the constituencies can determine the development projects which should be given the first priority. For these people to come together again, at the district level, is unnecessary and is duplication. It will only enhance red tape. We should do away with this committee. In that context, when it comes to signing of cheques, you will be told that somebody from the District Projects Committee will be a signatory according to Clause 45. That is another complication which is unnecessary. So, we should simplify the process by simply creating a Constituency Funds Committee with the hon. Member as its Chair, but leave the accounting and disbursement of money to a Government authority. In that way, I do not think we will be taking over the role of the Executive.

Finally, may I say that the most important thing in this Fund is accountability. The reason

why we have spent so much money over the years, and realised insignificant development is because of lack of accountability. I believe that all the Ministers who have been here and have talked about the CACCs or the Constituency Roads Committees (CRCs), have been quite positive. The Minister for Local Government has insisted that hon. Members of Parliament must be at the forefront to ensure that there is accountability of the Local Authority Transfer Fund (LATF) at the constituency level. I would like to appeal to hon. Members to emphasize on accountability so that we are not ridiculed and we are not told that the funds were last seen when they were disbursed to the constituency and we have misappropriated them. I think accountability is very important for us. I agree with the Seconder of the Bill when he said that if we succeed here, we can also succeed in the devolution we are talking about. We can come here tomorrow and proudly say that we have succeeded in initiating development projects with the management of the 2.5 per cent of total Government revenue allocated to each constituency and decide to increase it to 5 per cent or 10 per cent. This should be seen as the beginning.

With those few remarks, I beg to support.

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

The Temporary Deputy Speaker (Mr. Muturi): Eng. Muriuki was the brainchild of the whole Bill. Therefore, I will give him this chance to contribute.

Eng. Muriuki: Thank you, Mr. Temporary Deputy Speaker, Sir. Before I make my substantive contribution, I have realised that there is need to follow the procedures by seeking leave of the House. There is another small bit of procedure which has not been followed. I think it is my duty to conform.

When I agreed that my Bill be taken over by the Government, there was need for me to withdraw the original Bill which I had. If I do not do that, some busybody can go to court and challenge all this. Therefore, I hereby withdraw the original Bill so that we can proceed with this Bill.

(Applause)

Having said that, I would also wish to seek the indulgence of the House to look at the history of this Bill so that some of the issues which we are discussing can take shape in one way or the other. First of all, the history of this Bill did not start two weeks ago when it was published. This is an effort which has taken four years. First, I brought a Motion before this House in 1998 and it was passed in 2000. Although the then KANU Government refused to implement it, I had requested for 5 per cent] of the Government revenue. It is important to note that my request in the Motion which was passed by this House was 5 per cent and not 2.5 per cent. We were tricked by the then Government to agree to a lesser amount on a false promise that it would be implemented soon. So, I would like to correct that position and perhaps urge hon. Members---

Mr. Shitanda: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to imply that the former Government was the one which tricked us?

Eng. Muriuki: Mr. Temporary Deputy Speaker, Sir, perhaps in being tricked, you have to interpret who did that and it may be a trickster.

Therefore, whether we are talking about 2.5 per cent or 5.5 per cent, we should give reasons but not to refer to my Motion on that aspect, because we agreed on that figure. When it was not

implemented and then I was forced to come and seek leave of the House, I had to come in full force. Again, hon. Members of Parliament have looked at the pros and cons of where we have been. I have been an hon. Member of Parliament for six years and there is no project in Ol Kalou Constituency, which I represent, which has been funded by the Treasury.

(Applause)

I can duly challenge the Minister for Finance if he can point out one. Therefore, when he tells the House that he is giving 2.5 per cent which is only, say Kshs23 million, I want Kshs49 million because that is the only way, as the hon. Member for Ol Kalou, I can be able to do what I was principally elected to do; which is to guide development and make sure it takes place. When development takes place in a constituency the hon. Member of Parliament is nowhere to be seen; no credit comes his way. But, I will assure you that when development does not happen, the hon. Member of Parliament is the one on fire. He has to explain why there are no roads, hospitals and many other things.

Mr. Temporary Deputy Speaker, this brings me to my second point which is that, we are the ones who are obligated to our constituents. We are obligated by the people who elected us, to guide development in our constituencies. If we have a committee whose sole job is to discuss development, and considering that this is the first time, after 40 years, that an hon. Member is going to be facilitated with some funding, how can you then get some person other than the one who is obligated to do so to be the chairman? That is the person who should be chairing that committee.

Mr. Temporary Deputy Speaker, Sir, even when it comes to the district level, it is a group of hon. Members who are supposed to discuss the affairs of the district. Even though we have included the District Commissioner and the District Development Officer to facilitate the administrative aspect of it, the obligation remains with hon. Members of Parliament. These other people should, in fact, be ex-officio. Again, the chairman of that body must be essentially one of the people who has obligation to bring development there and that is the hon. Member of Parliament. I am aware that there is an argument spearheaded by the hon. Minister for Finance who I respect quite a lot. Let me take this opportunity to compliment him for retaining the body and the framework of my original Bill. As for the details, I have a quarrel here and there, but the original work remains,

Mr. Temporary Deputy Speaker, Sir, there is an argument which is being raised that if you are chairman in your constituency, you will be called to the Public Investments Committee (PIC) and the Public Accounts Committee (PAC). Our Constitution does not have separation of powers; there are 126 Clauses in the current Constitution and none of them talks about devolution of powers. In any case, our Constitution requires that there is no separation. First and foremost, it requires that for any person to be the head of the Executive, he or she must also be a Member of the Legislature and that is His Excellency the President. The hon. Ministers will be questioned by the PAC the same way - if at all - the hon. Members of Parliament would also be called to answer to the same Committees.

(Applause)

Anyhow, the Bill does not require hon. Members of Parliament to do any executive work. It is very specific; we are not going to sign cheques and contracts. That is going to be done by the Executive arm of the Government and, therefore, that line of argument should stop.

Mr. Temporary Deputy Speaker, Sir, there is an animal called a the District Development Committee (DDC). I did a lot of research when I was compiling this Bill, and I never found

anywhere where it is established by statute or any law. So it does not exist. So, I think it is missing the point completely to refer projects to a non-existent body. We have duly established a body called the District Projects Committee (DPC). This committee is a coordination committee so that hon. Members can sit in a panel in their districts. This is where the projects should be tabled. Clause 41 of the Bill very clearly establishes how the hon. Members will consult with their people and bring those projects to this body. Why then do we need us to table them again in a non-existent body?

Mr. Temporary Deputy Speaker, Sir, there is a provision which has been put here where, after calculating whatever percentage we have set aside of the amount to go to the constituency, the Minister goes ahead and puts a ceiling. However, we expect the way the income of the Government grows to be the same way the rest of the country will grow. So, if we calculate the percentage and get Kshs25 million, and the collection of the taxes improves next year, we urge the Government to allocate, say, Kshs30 million or Kshs50 million.

Mr. Temporary Deputy Speaker, Sir, the basic mistake we have done in this country, in the last 40 years, in my view, is to have a tree called "Kenyan Economy." We look at its trunk and branches. Sometimes we even put artificial branches and flowers on it. However, we have never cared to nourish the roots. The tree will never grow. For the first time we now have an opportunity to nourish the tree through the roots; grassroots projects. Therefore, if the economy is able to provide Kshs50 million, let it do so. We cannot accept a limit.

Mr. Temporary Deputy Speaker, Sir, there is a suggestion that we include all councillors in these constituency committees. The considered opinion of hon. Members of Parliament, both at Safari Park Hotel and several informal and formal *kamukunjis*, is that councillors are duly catered for in this process. In Clause 23 of this Bill, the hon. Member of Parliament is obligated to convene locational meetings where the councillors, chiefs and assistant chiefs will attend. Let them discuss. In my constituency, there are ten locations. People in every location will write their own development proposals. When it comes to the Constituency Development Committee, we will not need this crowd. There are some constituencies with up to 40 councillors. We will only need their representatives. Therefore, I very much emphasise that we should have only two and not more.

Mr. Temporary Deputy Speaker, Sir, we had, in our wisdom, proposed only two women. I know that it has been updated to three. However, no reasons have been given for this but, in the same breath, we also wanted two men. The two men have been removed, but we want them to be included.

Mr. Temporary Deputy Speaker, Sir, one of the biggest problems we have in this country is education. I feel very sad when I hear some hon. Members of Parliament say they do not even have a secondary school in their divisions. It is very sad. It means that, not only do they not have a secondary school, but the children also do not go to schools. In my original Bill we had the Education Fund component, which I do not understand why the Minister removed. This bursary component must be retained. We have to put a limit so that we do not allocate all the money to bursaries.

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

*[The Temporary Deputy Speaker
(Mr. ole Ntimama) resumed the Chair]*

Mr. Temporary Deputy Speaker, Sir, there was also an important provision in the original

Bill, but it has now been amended. I want to highlight on areas where there are differences, because I was obligated by hon. Members to ensure that all the provisions in the original Bill are retained in the new Bill by the Minister. We had proposed that if the national committee wishes to deposit its money anywhere else other than with the Central Bank of Kenya (CBK), or to make an appointment, it should seek parliamentary approval. This aspect has been changed to provide that it is the Minister who should give such approval. We may be having an honourable Minister now but we have previously had other Ministers who have not acted in an honourable manner. During their tenure in office, money was put into very dubious banks, which went under. Hence the numerous court cases and the commissions that have been established. So, we want to be giving approval to cardinal changes taking place within the national committee. If the committee wishes to remove its money from one bank and deposit it into another bank, it should seek parliamentary approval. The Constituencies Fund Committee will be looking into such matters in detail on behalf of Parliament, so that we are not taken for a ride.

I would now like to speak on the emergency reserves. It is true that my original draft Bill contained the emergency reserves. It was the considered opinion of the majority of hon. Members of this House that disbursing the available funds and leaving part of it unutilized will not be good. In fact, I do not know what this will achieve. So, we would wish that the committees at the district level be given a little leeway, so that should a roof of a primary school be blown off, they can repair it quickly using the available funds and report the same to the national committee.

(Applause)

Mr. Temporary Deputy Speaker, Sir, a word has been inserted in the Bill, which I do not know its meaning. In my draft, I made reference to "all Government revenue". This phrase has been replaced with "ordinary revenue". I am yet to do some research to find out what "ordinary revenue" means, so that each constituency can still have its Kshs25 million. The word "ordinary" might mean something different from "Government revenue".

Last, but not least, we have had the "Donde Bill" and others, which have gone into the doldrums because it did not have a commencement date. In this view, we had specifically required that this Bill comes into effect one month after it receives Presidential assent. We want that provision retained. We know that games have been played and now the "Donde Bill" has not been implemented. We do not want a similar thing to happen to this Bill.

There was reference to the District Development Committees (DDCs) and to **[Eng. Muriuki]** the removal and approval of the members of the national committee from Parliament. These are cardinal points, which we must have. The Bill is now in the Second Reading Stage. Again, following the procedures, I hope that we will go into the Committee of the Whole House next week, and not today, so that we can have time to draft amendments to address all these shortcomings. I commit myself to draft all these amendments, so that by Monday morning, every hon. Member can have his or her copy.

Mr. Temporary Deputy Speaker, Sir, there is a statement by the Minister for Finance to the effect that taking 2.5 per cent of the national Budget and putting it into the Constituencies Development Fund, is tantamount to taking 16 per cent of the Budget's Development Vote. I would like to say that most of the things that we want to do with this money are not provided for under the Development Vote. For instance, money for repairing a bridge that has broken down, or for building a bridge on an existing road, is provided for under the Recurrent Vote of the Ministry of Roads, Public Works and Housing. In fact, the Kenya Roads Board funds are provided for under Recurrent

Expenditure. When a borehole breaks down at a hospital or dispensary, the funds for its repairs are not provided under the Development Vote. As per the system of preparing the Budget today, such funds are provided under Recurrent Expenditure. Therefore, if you look at it that way, it is actually not 15 per cent of anything. All we are asking for is that 5 per cent of all Government revenue goes to the grassroots.

With those remarks, I support.

Mr. Sasura: Mr. Temporary Deputy Speaker, Sir, we had gone through this Bill and my comment on it will be brief.

Mr. Temporary Deputy Speaker, Sir, essentially, the idea of bringing back expenditure to the constituency level was a result of the earlier experiences we have had in this country. Over the years, the performance of district-based development has been dismal. Let me take this opportunity to thank Eng. Muriuki for bringing the Motion that subsequently led to this Bill. Many people have borrowed a leaf from him. As we can see now, many Government Ministries are ideally trying to focus on the constituencies as opposed to the districts. All this leads to erosion of the confidence we have had in the DDC, as a Government and a people of this country. Along the line of history, we have had various development fora and called them various names. We have had the Social Development Dimensions Programme and the Rural Focus for District Development, among others. The membership of these committees is basically technical. The local interest at the district level is never reflected in them.

It is important to point out why people do not have confidence in the DDCs. It is because the sub-DDCs are no longer there. The sub-DDCs were the fora which used to ensure that development was approached bottom-up. Because the sub-DDCs are no longer there, development is basically top-bottom, and that cannot be ascertained. When you talk about revenue collection, on which this Bill is based, where we are going to get our money from is basically taxation. The revenue we collect aims at expenditure at one point or the other. When it comes to expenditure, successive Governments have failed.

If you look at it critically, you find that the major areas of corruption are in the Recurrent Expenditure at the district level. The Constituency Development Fund basically focuses on development approach of expenditure, because we have lost a lot of funds through Recurrent Expenditure and manipulation at the district treasuries. I do not understand why the Government is finding it difficult to give more than 2.5 per cent of the national Budget to this Fund. That is not money which will necessarily be lost. It will, definitely, go down to the grassroots and to the development of the people of Kenya. So, maybe, the Minister has a task before we actually pass this Bill, to explain to us what prompted him to reduce the proposed 5 per cent to 2.5 per cent.

On the management of these funds, as the previous speakers have said, the role of the District Projects Committee is actually irrelevant in this Fund. As a Member of the Finance, Planning and Trade Committee, I wish to point out that we have looked at this aspect in detail and found that there is no need for the existence of District Projects Committee. Under Clause 39(2), one of the roles of the district development committees is to perform functions as may be allocated to it by the national committee from time to time. This provision gives room for manipulation of the district projects committees from the national level. That is why the inclusion of the district projects committees in this Bill is suspect. It does not augur very well with us. We believe that the membership of the Constituency Development Committee is sufficient and capable of doing its work as earlier intended, without the supervision of the District Projects Committee. I think we need to completely do away with the District Project Committee as proposed by Section 39 of this Act.

Mr. Temporary Deputy Speaker, Sir, talking about the Emergency Fund, we were initially made to understand that the emergency reserve was intended for emergencies at the constituency

level and some percentage set aside for bursaries. But if you look at Section 11 of the newly-published Bill, the Minister has said that a portion equivalent to 5 per cent, which will be called the emergency reserve, shall remain un-allocated and shall be available for emergencies that may occur in any part of the country. You wonder why the Minister has decided to allocate money intended for the constituencies to an emergency reserve which is going to address emergencies in all parts of the country, when we have the Civil Contingency Fund for such emergencies. If there has to be an emergency reserve, it should remain at the constituency level and not for all parts of the country if at all, there is any need for that reserve in this Bill.

(Applause)

Mr. Temporary Deputy Speaker, Sir, I want to comment on Section 19 of this newly-published Bill. That section purports to have Constituency Development Fund disbursement on the basis of a budget ceiling. Part (A) of that section says that half of the amount will be equally distributed among all the constituencies and that, an amount equal to the half specified, shall be divided by the total population of the country multiplied by the number of inhabitants in the constituency as per the last national population census. Over the years, we have seen development in this country taking biased directions. It is very important to point out that many or all parts of this country are not on equal footage when it comes to the levels of poverty. It is very important for the Minister to consider the poverty index of every district or constituency. When we talk about population only, we will definitely leave out districts which are very poor and we will have, in a way, deliberately or otherwise, marginalised poor districts which the Government has put a lot of efforts in addressing their problems. The Arid and Semi-Arid Lands (ASALs) will not benefit from those funds. When we talk about the population, we have people who are very poor but also very few. So, let us include the poverty index of specific districts or constituencies. Over the years, we have seen the way the national cake has been shared. It depends on the size of your sword, panga or pen knife when others are clinging on it by the nails.

Mr. Temporary Deputy Speaker, Sir, it is also important to note that this Bill can be counter-productive to Members of Parliament. That is so in the sense that, if we take the whole of it on our shoulders by way of managing the funds, it can definitely be used against us. However, as it has been said, we are the people who are in charge of the constituencies. If it is the District Development Committee (DDC), we are talking about the District Commissioner (DC). There is no way we can allow other people to be chairmen of the committees in the constituencies and yet, they have not been elected! I have been entrusted by my people to chair the constituency. In other words, I am the "chief executive officer" of that constituency.

(Applause)

So, I cannot sit back and watch my political opponent on the chair while I plead with him: "Mr. Chairman! Mr. Chairman!" That will definitely not be acceptable and the hon. Minister for Finance knows that! I am sure that, deep in his heart, he will not also accept that. I beg to conclude my remarks by saying that Members of Parliament should be allowed to chair those fora.

With those few remarks, I beg to support.

Thank you.

The Assistant Minister for Local Government (Mrs. Tett): Thank you very much, Mr. Temporary Deputy Speaker, Sir. This Bill is long overdue and it is a pity that it has taken so long to come to this House. In the past, we have seen that there is no development in any constituency that

can take place without money. Many a time, when Members of Parliament went for campaigns, they had nothing to show to their electorate. In the end, most of us used to promise things that we could not deliver. We promised to build a road, bring projects and many other things but at the end of it, we knew deep in our hearts that it was literally impossible to bring such development that was needed without any funding whatsoever. The Members of Parliament were helpless in that situation. So, it is indeed a new dawn in this country that we are talking about a Fund that will go directly to the constituency. This will help uplift the poor conditions that exist in the constituency. It will also alleviate the poverty that is deep rooted down in some of the constituencies.

Mr. Temporary Deputy Speaker, Sir, I am also very happy to note that the marginalised areas, such as North Eastern Province, will also benefit equally just like any other area. There is no discrimination and it is in this era that we will see some improvement in the lives of our people.

Mr. Temporary Deputy Speaker, Sir, I do appreciate all that and, indeed, I also do appreciate the Minister giving us three women instead of two. However, what is worrying me more than anything else is that nominated Members of Parliament are totally locked out in this Bill. I am wondering why should some Members of Parliament be locked out while we are discussing development not only for one particular Member but for the whole community in that particular area. Many of the nominated Members are indeed women and we do appreciate the fact that both KANU and NARC nominated many women in this august House. However, the sad thing as I said, is that indeed, we have been locked out.

Mr. Temporary Deputy Speaker, Sir, I am quite sure that many of you will agree with me on this issue. I am also quite sure my Member of Parliament, hon. Gumo, will not object to this idea because we have been in this war together for many years and, indeed, we will need to work together as leaders. Surely, I pose and ask you all men in this august House: Was it really a mischievous move to lock out some of us and is it really fair? You have seen how hard some of us work. You have seen that we are not selfish. We are not fighting. We want to uplift the lives of our people. I would urge this House to delete the phrase "the elected member of Parliament for the constituency", in Section 23 (a) and insert "all Members of Parliament for the constituency", because that does not single out a particular Member but all Members of Parliament are involved. Indeed, we will feel very sad because when we are in this august House, we are not discriminated against whatsoever. We are all Members of the House. We contribute and our contributions are taken seriously.

Mr. Temporary Deputy Speaker, Sir, this Bill should not discriminate. This is a new Kenya. It is a Kenya for all. It is a Kenya for women, men and children. The era of discrimination has gone and we should not repeat the past mistakes. Let us not be selfish. Let us not think that So-and-so will come and be my opponent. This Bill is not about fighting each other. This Bill is about development, transparency and accountability and if all of us leaders in one particular constituency are together, indeed we will have that brotherhood and sisterhood and we will work together. After all, we have another four years to go and the Members should not be afraid that some of us are planning to steal the show. I can assure you that I am not there to steal the show but to work with the people of Westlands. Mr. Minister, I do hope that you will introduce those amendments in the Bill and you will make all of us accountable for whatever will be going on in the constituencies. Please do approve it and let us have those few amendments.

Thank you very much.

Mr. Wario: Bw. Naibu Spika wa Muda, uhuru sijauona, na tunda silibaini. Ijapo tumepigana tukang'oa mkoloni, limebaki kubezana na utu kuto amini. Tunda la Uhuru ni ipi na Mkenya shamba huna?

Bw. Naibu Spika wa Muda, asante kwa fursa uliyonipa. Ningependa kuchukua fursa hii

kumshukuru aliyeleta Mswada huu mara ya kwanza, Mhe. Eng. Muriuki. Kwa hakika, sasa uhuru unanukia. Uhuru wa kisiasa unanukia. Uhuru wa kiuchumi unanukia. Sisi tutajimudu kuhakikisha ya kwamba Mswada huu utapita katika Bunge hili. Nasema hivyo kwa sababu ningependa kuwaambia Wakenya wafikirie Mkoa wa Kaskazini Mashariki. Mkoa mzima baada ya miaka 40 ya Uhuru una kilomita 11 pekee za lami.

Bw. Naibu Spika wa Muda, ningependa Wakenya na Waheshimiwa Wabunge waangaze macho yao na waangalie Wilaya ya Tana River. Wilaya hii, baada ya miaka 40 ya Uhuru, katika kumbukumbu ya historia mashujaa kuzikwa hai katika wilaya hii--- Kenya ikapata Uhuru. Akakuja Kenyatta, Moi, leo tuko na Kibaki, lakini kwa bahati mbaya, wilaya hii haina stima. Katika nchi nzima ni wilaya ya Tana River tu ambayo haina stima. Tutakapopitisha Mswada huu, tutakapopata pesa katika eneo la uwakilishi Bungeni, basi Uhuru niliokuwa nikisema, Uhuru wa kisiasa na kiuchumi, bila shaka utafikia Wakenya.

Bw. Naibu Spika wa Muda, ukiangalia Mswada huu, Kifungu cha 4, Sehemu ya 2(a), walibadilisha ambapo badala ya kutupa asilimia 5 wakapeleka asilimia 2.5. Natumaini Waziri wa Fedha ako na sisi ndani ya hili Bunge na anatusikiliza. Iwapo tutapata asilimia 5 ya pesa kutoka Hazina Kuu, basi pesa hizo zitumiwe kuboresha hali ya maisha ya watu katika mawakilisho yote, Bura, ikiwa mojawapo. Serikali ya Kenya itapata hasara gani ikifanya hivyo? Pesa zilizotengwa ziwe ni asilimia 3 au asilimia 5, zote zitatumwiwa kunufaisha maisha ya Wakenya. Kwa hivyo, sioni ni kwa nini Waziri anatumbia kwamba pesa zitakazotengwa zitakuwa asilimia 16 ya pesa za maendeleo. Ikiwa hivyo, Waziri atabaki na asilimia 74!

Bw. Naibu Spika wa Muda, napendekeza kwamba Sehemu ya 2, Kifungu cha 4(2) kibandilishwe ili badala ya kuwa na asilimia 2.5, tuwe na asilimia 5.

(Applause)

Kifungu cha 11(1) kinazungumzia pesa za dharura. Kutakapotokea janga la asili, mafuriko, moto au maradhi, inasemekana katika Mswada huu kwamba asilimia 5 ya pesa hizi zitengwe ili ziweze kutumika katika sehemu yoyote ya nchi ambayo itakuwa na tatizo. Hivi majuzi kulizuka ukame huko Bura. Kuna pesa za matumizi ya dharura ambazo Serikali imetenga kando lakini mpaka wa leo, hali ya dharura ya ukame huko Bura bado haijashughulikiwa. Kwa hivyo, ninapendekeza kwamba Kifungu cha 11(1) kibandilishwe ili kisome kwamba pesa za dharura zilizotengwa zitumiwe katika mawakilisho wala sio kwa taifa. Pesa zimetengwa ili zivasaidie watu mashinani, lakini tunaambiwa tusizitumie huko mashinani bali tuziregeshe kwa matumizi ya kitaifa. Kwa hivyo, sehemu hii ya Mswada huu, sharti ibadilishwe.

Tukiangalia Kifungu cha 11(2), tuelewe kwamba tunawazungumzia wanachama wa kamati ya kitaifa. Wabunge wenzangu walizungumzia jinsi ambavyo kamati ya kitaifa inayopendekezwa ilivyo haramu. Ni ukweli kwamba hakuna popote, katika Katiba ya nchi, ambapo kamati za kitaifa zinahalalishwa. Pili, mimi ninatoka katika sehemu ambayo haijaendelea. Mtu wa pekee atakayewakilisha watu wangu katika Kamati ya Kitaifa ni mwenyekiti wa baraza la mji. Wengine wote ni watu ambao si wazaliwa wa Bura ila ni watu waliotoka sehemu nyingine za nchi kuja kufanya kazi ya Serikali. Ni vipi watu hao watazingatia maslahi ya watu ninaowakilisha Bungeni? Ninapendekeza kwamba kifungu hiki kibandilishwe ili Kamati ya Kitaifa iondolewe na wanachama wanaojiita "technocrats" waondolewe ili wananchi wachaguliwe badala yao.

Kifungu cha 17 kinazungumzia mtu anayeitwa "Clerk". Huyu Clerk ni ni nani? Huu Mswada unaonyesha kwamba kuna "Clerk" lakini katika kamati ya maendeleo ya wilaya (DDC) huyu Clerk hayuko ilhali ndiye anatakikana kuchukua orodha ya mambo yote ya maendeleo katika

kata na kata ndogo.

Kwa ujumla, Kamati ya Kitaifa haifai kuwepo. Ilivyo sasa ni kwamba sauti ya mwananchi haitasikizwa. Inaposemekana kwamba kila Wizara iwe na mwakilishi wake katika wilaya, awe ni mwakilishi wa mambo yanayohusu maji, barabara na kadhalika, hawa ni watu wengi katika Kamati ya Kitaifa. Hilo litapunguza mwendo wa kupitisha jambo katika mikutano. Wengi wa hao watu sio watu watakaojali maslahi ya wilaya wanazowakilisha ama mawakilisho Bunge. Wao ni watu ambao wamekuja kupata mishahara tu. Wafanye kazi au wasifanye, bado watapata mishahara yao na Kamati ya Kitaifa si muhimu kwao. Ni muhimu kuwateua watu ambao wanahusika kweli na maswala ya wilaya wanazowakilisha. Kwa mfano, kwangu mimi, kamati hii isipoketi, nitahisi hasara imepatikana. Lakini ukimwita District Development Officer (DDO) na umwambie kwamba aitische mkutano wa Kamati ya Kitaifa, hilo si muhimu kwake. Kwa hivyo, Kifungu hiki cha 5(1) kibadilishwe ili kuhishe wakazi wengi badala ya kuleta wataalamu wanaojiriwa na Serikali.

Nimeshangazwa na kifungu cha 23(1). Kifungu hiki kinamruhusu Mbunge kuita wakazi wa mtaa katika mkutano. Katika 23(1), DDO ndiye atakayeitisha mkutano katika wilaya. Huu Mswada tumemtotea nani? Kwa nini DDO awe na uwezo wa kuitisha mkutano na hali sisi Wabunge tuambiwe kwamba tutaitisha mkutano kama huo katika mtaa tu? Mimi sioni kazi ya DDO hata kidogo. Tulipitisha jambo hili ili tuweze kupata uhuru wa kiuchumi katika maeneo tunayowakilisha Bungeni. Hivi majuzi wakati Waziri

alipoleta mabadiliko, wale maofisa wa ununuzi walopofutwa kazi na maofisa wa Maendeleo Wilayani (DDO) wakaambiwa washikilie ofisi ile, yale mambo yanayofanyika katika wilaya, iwapo Waziri angeenda kuangalia DDO ni nani, leo asingempendekeza awe mwenye kuitisha kikao hiki. Huyu ndiye mama wa ufasidi katika nchi ya Kenya.

Bw. Naibu Spika wa Muda, ninaomba ukiangalie kifungu Nambari 48(3) ambacho kinazungumzia pesa za kikao na ruzuku nyingine. Waziri amefungua pengo ili hizi pesa ziliwe na wafanyakazi wa Serikali. Kwa sababu tutakapozungumza kuhusu kamati ya taifa kuwa na marupurupu, je zile kamati za wilaya na maeneo ya uchaguzi pia yatapata marupurupu hayo? Ni pesa ngapi zitakazoenda katika shughuli za maendeleo? Maanake taifa lina kamati kulingana na kifungu Nambari 48(3) na kamati hii ina ruzuku ya kikao. Je, kamati ya wilaya na ya eneo la uchaguzi itakuwa na nini? Ni pesa ngapi zitakwenda kwa maendeleo iwapo pesa zote zitatumika kama ruzuku ya vikao vya kamati? Kwa hivyo, mimi ningependekeza kamati hii iwezeshwe, kama unataka kutumia ofisa wa Serikali kuhusu mambo ya maji, asikwambie kuwa gari halina petroli wala ofisa ni mgonjwa; asilete zile sababu mia moja na moja. Kamati hii iwezeshwe kisheria ili mtu atakapomwita ofisa anayehusika na kazi ya maendeleo inayofanyika katika sehemu ile, ofisa huyo ashurutishwe kufanya hiyo kazi.

Bw. Naibu Spika wa Muda, nikienda kumalizia mchango wangu, wahenga wanasema:

Uhuru gani wangwana, uhuru bila mauni.

Ulapo chako bayana, wala na shaka moyoni.

Walo duni twakiona, sisi wachache.

Angalia Kifungu Nambari 29 ambacho kiliharibu maana ya Mswada huu. Mswada huu unatakikana ulete usawa baina ya Wakenya wote, uangalie wale watu wachache na wale wengi pia. Kuwe na usawa. Kama ni Kshs20 milioni kwa kila wilaya, eneo la uchaguzi, basi Kshs20 milioni ziende huko. Leo mimi mwongo, ukiniambia kuwa nitapewa pesa hizi kulingana na idadi ya watu wangu, bila shaka Serikali itakwenda kudhulumu jamii ya watu wachache katika nchi hii. Mimi ningependekeza kuwa pesa hizi zigawe sawa na sambamba katika kila sehemu uwakilishi Bungeni katika nchi ya Kenya.

Kwa hayo machache, Bw. Naibu Spika wa Muda, naunga mkono.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Thank you, Mr. Deputy

Speaker, Sir, for giving me an opportunity to contribute to this Bill. I must start by saluting Eng. Muriuki for bringing this innovative idea to this House, and which is going to benefit the whole country. I hope that the allocation of the Constituency Development Fund to the constituency is not in any way going to undermine the normal Government of Kenya development projects that have been going on in our respective constituencies. In other words, I hope that this fund is going to be in addition to, and not in place of the existing Government commitments to various projects in our constituencies.

Mr. Temporary Deputy Speaker, Sir, the only worrying thing in this Bill is that we have created so many structures that may hamper, rather than assist, the smooth management of the Fund. I sincerely do not see the need for the National Management Committee for this Fund. This will be a budgetary issue and once the funds are budgeted for by the Ministry of Finance and approved by this House, they should automatically move to the constituencies. I do not see why we should have a National Management Committee that will just create a red tape, that will, perhaps, slow down the implementation of projects and even eat into the same money, if you look at the provisions of Clause 48.

Under this Fund, the management and professional services will be provided for by civil servants who are ordinarily employed by the Government of Kenya and paid for as such. There is absolutely no justification, whatsoever for Clause 48 that provides for civil servants who will assist in the management and implementation of these projects to be paid any allowances. This will create a loophole that may end up causing the usual problems we have with civil servants, where you ask an engineer to go and inspect a road and he tells you he has no fuel. You ask a livestock officer to go and look at some animals in your constituency and he says he has no fuel. When you are asked to fuel the vehicles, the returns are normally four times the normal fuelling cost.

Mr. Temporary Deputy Speaker, Sir, I want to suggest that at the Committee Stage, we move amendments and expunge Clause 48 altogether, so that civil servants who will help in administering the Fund earn their normal salaries from the Government of Kenya. The Committee will be too large for the smooth running of the affairs of the constituency. We have certain constituencies that have up to 25 councillors. If you say that all councillors in a constituency will be part and parcel of the Committee, we will just be bloating the Committee to make it unworkable. We need to have the councillors in a constituency nominate two or three of their own to represent their interests in the Committee. That will make decision-making easier; we will cut down the red tape, and make things work better. We sit in committees with councillors and you know that the more they are, the more trouble you have in arriving at a decision. All we need is a representation from them and not all of them.

I believe that hon. Members of Parliament, whether elected or nominated, have a value to this Fund and its administration. We should allow nominated hon. Members to add value to what elected hon. Members are doing. We should allow nominated hon. Members to sit on these committees. At the end of the day, the elected hon. Member is the chief executive of the constituency and you have nothing to worry about. Your nominated colleagues will only add value to you.

Mr. Temporary Deputy Speaker, Sir, let me talk about Clause 23(1)(b). I do not know whether we have divisional development officers. In my constituency, I have four divisions and I have never seen any. I do not know if the Government will now post divisional development officers who will sit with us to assist us. In many cases, we do not see them at all. Clause 23(1)(e), provides for one person to represent religious organisations. That is enough. Clause 23(1)(f) provides for three women in the Committee. We do not need three women; one is enough. Clauses 23(1)(g) and 23(1)(h) are all right. Clause 23(2) does not make a lot of sense either. It states:-

"The elected Member of Parliament for every constituency shall within the first nine months of a new Parliament convene locational meetings in the constituency to deliberate on development matters in the location, the constituency and the district".

This Fund will be recurrent. It will be there every year and I do not see why the hon. Member should be conditioned to hold a meeting only within nine months of his election. This should be done at the beginning of every year, for example, in May before the new financial year begins when you can sit and determine your projects, and as you get the allocation, then you can implement the projects along the year.

Mr. Temporary Deputy Speaker, Sir, now that it appears that we will unanimously pass this Bill, we need to have a clear policy on Harambee. With Kshs20 million being pumped into each constituency every year, we have to rethink the issue of Harambee as a tool for development. As a Parliament, we should now unanimously agree that unless we are dealing with social aspects like funerals and raising school fees, we should totally outlaw Harambee as a vehicle for development because we are allocating money to every constituency. I want to urge all hon. Members that when we start administering this Fund in our constituencies, we have to be as equitable as possible to all corners of our constituencies, whether they voted for us or not. There is a risk of some hon. Members ignoring areas they think are hostile to them and favouring those they think support them. This will be dangerous and will undermine the spirit of the Fund.

This is the first time that Kenyans will equitably have a taste of the national cake. We have had situations where certain constituencies have gone for ten years without a project being initiated in them. This is the first time we are having the Constituency Development Fund. I want to urge the Minister for Finance and other Ministers not to take this Fund as coming in place of their commitment to develop the country. It should only be in addition to the commitment of the Government to develop the country.

With those few remarks, I beg to support.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, the day we will enact this law will be the day of emancipation of Kenyans. The previous speaker has just said that some constituencies went for ten years without a single project being initiated in them. It has been a lifetime for us. For the last 40 years, not a single project that you can attribute to the Government of Kenya has been initiated in my constituency. This Fund will assist the Government of Kenya to meet the conditionalities it has been given by our development partners. One of the conditionalities is that we should employ most of our resources in development at the grassroots level. So, we are assisting the Minister for Finance to meet his commitment to the donors.

I am surprised that the Minister wants to take us back to those dark old days of the District Development Committees (DDCs). During those days, you and I were being dictated to by a DC; somebody who does not represent the interests of the area he serves. Besides, DDCs are illegal entities in this country. They were devised to block development in our constituencies. So, we must have nothing to do with the DDCs.

Secondly, the composition of the Constituency Development Fund Committee (CDFC) should be determined by the hon. Member of that particular area. If the councillors are included in the CDFC, that will be a recipe for a chaotic discussion on development projects in the constituency.

(Loud consultations)

Mr. Arungah: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to hear what my colleague, Mr. Angwenyi, is talking about. However, there is too much noise, particularly from the Front Bench.

The Temporary Deputy Speaker (Mr. ole Ntimama): Order!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, Mr. Biwott seems to be brewing some problems at the Front Bench!

We should have two councillors in the CDFC as we had proposed earlier and they must be identified by the hon. Member of that particular constituency because the CDFC has been initiated by hon. Members. We are the people who tax Kenyans and we want to take back whatever we tax to them. There is no reason why we should have a District Officer (DO) or a head of department as members of these committees because they have failed to develop our country. Why do we include them in these committees and yet they failed miserably?

Mr. Temporary Deputy Speaker, Sir, I noticed that the Minister wants to marginalise men. As you know, I represent the interest of men in this House. Therefore, we must have representation of men in the CDFC. We must have at least three men. If we will have three women, then we should also have three men, so that they can represent the views and the interests of men in this Committee.

I can see that the six people who will be appointed by the Minister to the National Management Committee (NMC) come from various professions. What roles do lawyers, accountants, or engineers play in the development of my constituency? We must include farmers, pastoralists and businessmen because they are the people who will receive these services in our constituencies. Therefore, I will be moving an amendment at the Committee Stage with regard to the composition of the NMC, if we must have it.

Mr. Temporary Deputy Speaker, Sir, the Minister wants to limit the amount of money which will be disbursed to Kshs5 billion. He has already embarked on a system whereby collection of revenue will improve. We want our people to benefit from tax efficiency. Therefore, the upper limit of Kshs5 billion should be removed. Besides, the lower limit of 2.5 per cent should be increased to 5 per cent. Why would the Minister object to give our people 5 per cent? In fact, 95 per cent of revenue collected by the Government is squandered right, left and centre.

Mr. Temporary Deputy Speaker, Sir, there is this fallacy that there are certain districts in this country which are developed and, therefore, they should be denied their rightful share of the national cake. This fallacy has been peddled for far too long. When we get funds for emergency, we do not allocate to the so-called developed or potential districts. We must give services to these districts the way we do to the rest of the country. For example, if my constituency or district was developed 10 years ago, we must take into cognisance of the fact that the population has increased tremendously. Therefore, the poverty level in those areas, although they are called potential or developed areas, has increased tremendously in the last ten years. Therefore, I commend the Minister for having included the clause that takes care of the population of this country.

Mr. Temporary Deputy Speaker, Sir, I would like to commend the Minister for having received support from donors in the last two days. I hope that support will trickle down to our constituencies so that our people will benefit.

Finally, this House should not deny itself the mandate to serve our people. There are no two ways about it. It is a straight way. Let everybody in Government know that we want to serve our people and we want our resources to get to our people. We want to start demonstrating to our people that we can embrace devolution of sharing out our resources even before we have changed our Constitution.

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

The Assistant Minister for Co-operative Development and Marketing (Mr. Kenneth): Thank you, Mr. Temporary Deputy Speaker, Sir.

I first want to thank hon. Eng. Muriuki for bringing this Motion and eventually agreeing to give it to the Minister who had initially brought it to this House. I think that it is important to look

at the ownership and the eventuality of the Motion, because it is going to belong to the constituency. It is important that if we are talking about a constituency, we stick to it rather than shift to a district. The Minister should take stock of what the District Development Committees (DDCs) have done in the years they have existed before he starts a district development committee. We are voting and discussing on a constituency-based Motion and we must stick to that!

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

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

Secondly, I want to appeal to the Minister to look at the funds in a positive manner. That is the best way of educating *wananchi* on what taxation does for them. We need to tell them that the money that goes to the constituencies comes from the money that they pay. That would play very good public relations for the Minister.

On the amendments that the Minister has brought, and specifically under Section 9 Item II, Funds for Allocation; I think that the Minister must agree to be a little bit flexible. For instance, if he says that funds allocated for a certain project must be for that project, and if that project does not take place, that the money must not be used, we must ask ourselves one question; if that project was for water and you got a donor to give you the pipes, must that money lie idle for one year? I want to appeal to the Minister to look at Section 9 Sub-section II of the Bill and allow flexibility, such that allocated funds can go back to the same committee and have a fresh allocation.

Under Section 11, on emergency funds, I think that we should appeal to the Minister to encourage every constituency to have its own emergency fund. It is important for each constituency to build its own constituency fund. I want to appeal to the Minister that, instead of having a national emergency fund, that 5 per cent, whether used by a constituency or not, should be left intact for the benefit of that constituency.

In Section 23 sub-section I, which is on the composition, I think that we have to look at the composition we have had for the bursary. It does not mean that the larger the committee, the better or the more the work the committee is going to do. For example, I have nine councillors in my constituency. If you look at my neighbouring constituencies, like Juja, it has 30 councillors. If you are going to have a committee of 100 people, they will not work. It is like addressing a *baraza!* I want to appeal that the committee be mandated to have a maximum of 14 people. Let us look at a maximum of 14 members. Let us look at the composition and derive a number that reaches a maximum of 14.

The technocrats should be called upon to give technical advise on projects to be done. The emphasis should be on accountability and not on the membership. We should be talking of how to be accountable to this House and to the people. Therefore, I want to appeal to the Minister to dwell much more on accountability. As to the rigidity of the Bill, we need to look at the issue and say councillors are represented in LATF and county councils. If you look at the scheme that we had on bursary, we only had 14 members and it has taken off.

Mr. Temporary Deputy Speaker, Sir, coming to the chairmanship, I want to think that a certain section of the Public Officer Ethics Bill had a relation to this Bill. You were eliminating the Members of Parliament from presiding or soliciting because you have been managing a constituency account. Let us not be amorphous about it; let us have a direction. Let the elected MP be the person giving that direction. This is very important, if we are going to have a situation

whereby the MP legitimately so--- When I talk of MPs, I want to appeal to the House to also consider nominated MPs because we are one community now. We should sit back and watch a constituency being directed by other people. This will be the subject of quarrels and it will bring bitter hatred. If somebody would like to take direction, let him aspire to be an MP. Otherwise, we will start losing meaning of what an MP is.

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

Mr. Kipchumba: On a point of order, Sir.

The Temporary Deputy Speaker (Mr. Poghio): But he has already left. You cannot direct the point of order to him.

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, it is not directed at him. We are now repeating ourselves over and over again. So, I would like to call upon the Mover of the Motion to reply.

Hon. Members: No! You have just come in!

The Temporary Deputy Speaker (Mr. Poghio): Order, hon. Members! Unfortunately, I am not privy to the fact that you have been repeating yourselves. So, let us at least hear one person and see how it is going. I think there is a lot of interest in this Bill and I will decide as we go on.

Mr. Kipchumba: Thank you, Mr. Temporary Deputy Speaker, Sir. First, I would like to congratulate the hon. Member who first brought this Bill to the House. As many of my colleagues have said, this is a very important Bill because economic development is not just about growth in GDP, but also about distribution of the resources. Clause 19 talks of the distribution of 2.5 per cent of the money. It is my view that the money should be distributed equally between constituencies.

When you look at the rural constituencies, you have a problem in terms of population because many of the rural folk have already moved to urban centres. Therefore, they will be disadvantaged in terms of numbers. When you look at a place like Nairobi, especially the crowded areas of the city, you will realise that the population is very high. If we were to share half of the money in terms of population, then Nairobi and other urban centres would take very big chunks of that money and yet, there could be very little development to be done in those constituencies. The 2.5 per cent is very little. We are calling for 5 per cent of that money. That is very little money of the Gross Domestic Product (GDP). When we talk about 2.5 per cent of the GDP, we still remain with over 97 per cent. Therefore, it is my view that, if we are going to eliminate the harambee spirit, that figure should rise to 5 per cent.

Mr. Temporary Deputy Speaker, Sir, I want to support my colleagues who have rightfully said that the membership of the committee should be re-looked afresh. We all know that we do not participate in the disbursement of Local Authorities Transfer Fund (LATF) money. Therefore, I support my colleagues who have said that we should reduce the membership of the committee, especially the councillors. If you look at Clause 23 (i), it says: "Heads of relevant Government Departments must also be members." What happens if all the heads of departments are more than the people who are supposed to make a decision? In my view, heads of relevant departments should be *ex-officio* members of the committee. They should not participate in voting or making of any decisions. If you look at Clause 23 (ii), it says: "A Member of Parliament is the one to convene all the meetings in constituencies and locations." It negates that by saying that a Member of Parliament must not be a chairman. Supposing a councillor is elected to be the chairman of the committee? Is that acceptable to the Members of Parliament? This Bill does not forbid a councillor from being elected as a chairman. Yet, councillors are also politicians in their own way. I think that is unacceptable. The Member of Parliament must be an automatic chairman of the committee.

Mr. Temporary Deputy Speaker, Sir, while we have inserted a clause that a Member of Parliament must not be a chairman, the Bill proceeds to say: "The Member of Parliament will

submit the list of the projects." If you are the one submitting the projects, it follows that you must be the chairman. Over the years, development in this country has been lopsided. Therefore, as I said before, when you use population as a tool, what happens to constituencies in North Eastern Kenya? We know that many of the resources in the rural areas have been exploited in the past. The same resources have been used to develop urban centres. This Bill is an attempt to re-distribute the resources and ensure that rural folks; people who live in rural constituencies, at least, have a stake in the taxes that are collected in this country.

This Bill should also define the term 'Community Projects'. It is important to understand from the beginning, what a Community Project is. We have seen in the past, in various places, some LATF money being used to construct offices that are used by chiefs and DOs. While they are some kind of community projects, in my view, it is important that we list what projects must benefit from this money. I do not support the formation of a District Development Committee. Clause 22(4) clearly gives an alternative to the District Development Committee. It says: "Constituencies may pull their resources to develop joint projects." Those projects must be approved by their various constituency committees. It does not, therefore, make sense that the various constituency committees can agree on a project and then, they still have to refer to a District Development Committee. As my colleagues have rightly said, this is just an additional burden to the taxpayer.

I also do not personally support the inclusion of a nominated Member of Parliament as a member of this Committee. We all know that nominated Members do not belong to constituencies; they belong to this country. They belong to certain political parties. We know that these funds, as much as it is an economic tool, are also a social and a political tool. What we should be looking at is a way of making the Fund more accountable, to the extent that we know some nominated Members, in many occasions, have never agreed with elected Members. We do not want a situation where an elected Member is taken aback by a nominated Member.

With those remarks, I beg to support.

The Member for Yatta (Mr. C. Kilonzo): Thank you, Mr. Temporary Deputy Speaker, Sir. My name is Charles Mutavi Kilonzo. I am the Member of Parliament for Yatta Constituency.

(Applause)

First of all, I would like to thank the people of Yatta for electing me to represent them in this 9th Parliament. I feel honoured. Now, on this Bill, I would like to thank hon. Eng. Muriuki. I think this Bill could not have come at a better time, than when I am a Member of Parliament. I say this because the role of a Member of Parliament to the people in the constituency has ceased from being that of a lawmaker to that of somebody who is supposed to bring development. For that reason, I wish to support this Bill and say that certain clauses, in particular Clause 2(a), which provides that an amount of money equal to 2.5 per cent of all Government revenue collected in every year shall go to this Fund, are incorrect. If we say that in every financial year, we will use only Kshs1 million to construct dams, it will take us 120 years. I feel that the 2.5 per cent of the gross annual revenue will be a reasonable amount, which will enable us to initiate many development projects.

Mr. Temporary Deputy Speaker, Sir, we are giving the people at the locational level powers to decide on what they want to do with their money. The only difference is that this money is just going directly to the people who will make up their mind on what they want to do with it, as opposed to it coming through the Ministry. That is why the people should be empowered.

Clause 23(1) is basically on the composition of the Constituency Development Committee. What is provided for here is a too large committee. If we take, for instance, 20 councillors and a head of a department from each Ministry, in my estimate, we will have over 60 members. If we

were to pay each of them Kshs2,000 as sitting allowance, we will spend Kshs120,000 per sitting. I propose that, that number be reduced to 15.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order! Hon. Members, he is making his maiden speech. Let us listen to him in silence.

Proceed, Mr. C. Kilonzo!

The Member for Yatta (Mr. C. Kilonzo): Mr. Temporary Deputy Speaker, Sir, all of us know very well that the persons with the highest population in our constituencies are the youth. I propose that the youth should be more represented in this Committee. We tend to have a feeling that it is women who need more representation. I would like to propose that instead of having three women, we should have two, and two persons to represent the youth. I also propose the inclusion of nominated hon. Members.

Clause 23(5) talks about the chairmanship to this committee. It will be wrong for hon. Members not to chair these committees. This is because after five years, it is hon. Members who are answerable to the electorate. So, as hon. Members, the electorate expect us to do the roads---

(Mr. Billow stood up in his place)

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Billow!

The Member for Yatta (Mr. C. Kilonzo): Mr. Temporary Deputy Speaker, Sir, it is only fair that the chairmanship to these committees is reserved for hon. Members, unless an hon. Member opts otherwise.

I come from a very poor constituency. When I go back home, my constituents will like to know from me whether it is true that the new Government intends to spend Kshs100 million for Jamhuri celebrations. I feel that something has gone wrong with us. We should look around and see that we have many problems. If every constituency is allocated Kshs500,000, the constituents will be more happier. People do not attend these holidays and to spend that amount of money to organise for choirs is bad.

Mr. Temporary Deputy Speaker, Sir, let me comment on the lecturers' strike. I think we might have won the war on the *matatus*, but I do not think we will win the war with the lecturers. It is only fair that we give them what is due to them. Most of us have gone through the universities and we strongly feel that the lecturers should be properly remunerated.

Mr. Temporary Deputy Speaker, Sir, we promised that we will create 500,000 jobs per year, but the speed at which we are moving, we will not create any jobs. When I speak here, I represent the opinion of the younger generation. As we debate this Bill, we should introduce provisions which will create employment opportunities at the constituency level. In most cases, money is allocated to a constituency, but it lands in different constituencies. If you will allocate, for instance, Kshs20 million per constituency, I would like to recommend that most of the jobs should be done by qualified people in those constituencies.

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

Mr. Samoei: Mr. Temporary Deputy Speaker Sir, I want to join my colleagues in congratulating Eng. Muriuki who, in the last Parliament, pushed through the implementation of the Bill we are discussing today. I also want to congratulate the Minister for Finance for taking over this Bill and making it a Government Bill, thus giving it the priority that it now enjoys.

However, I want to make comments on the contents of this Bill. The initial Bill by Eng.

Muriuki proposed 5 per cent of all Government ordinary revenue collected. The reasons that have been advanced by the Minister for Finance as to why the figure has changed from 5 per cent to 2.5 per cent are not convincing. He said that he had already cleared the 2.5 per cent figure with the President. The President is a Kenyan and lives just up the hill. I do not think it would cost the Minister anything for him to go back to the hill and tell the President that we are requesting for 5 per cent of ordinary revenue.

(Applause)

Mr. Temporary Deputy Speaker, Sir, the Minister said that he had already cleared the figure of 2.5 per cent and, therefore, it would be a very big story to go and clear 5 per cent. This is not convincing. The other reason that he gave was that this was eating 16 per cent of the monies that were set out for development. The monies set out for development by the Government are to develop our country. This money we are trying to acquire through the Constituency Development Fund (CDF) will also be developing the same country, Kenya. I do not see why there is competition between what the Government is doing and what the CDF will be doing. Both reasons that were advanced by the Minister are not convincing and, therefore, I still propose that we consider, as hon. Members of Parliament, making this figure 5 per cent of the total Government ordinary revenue collected. That way, we can even develop our country and be proud that, even if my constituency is Eldoret North, North Horr, Turkana or Garissa is developed because we are part and parcel of the same country.

Mr. Temporary Deputy Speaker, Sir, if you look at Clause 11, the Minister has inserted something called "Emergency Reserve", which to me, does not make sense at all. Ostensibly, Clause 11 and the Emergency Reserve is supposed to care for calamities and emergencies that arise. I do not think that this is the place to put issues that concern emergencies. This House, in its wisdom, sets aside on a yearly basis a Civil Contingency Fund (CCF) which is supposed to take care of all emergencies in the country. To make it even worse, he has said that it will take care of emergencies in any part of the country. I would rather if it refers to a particular constituency. We are talking about 5 per cent of a figure of around Kshs5 billion, which is Kshs250 million, that will be available at the discretion of the Minister. I do not think we will want to do that kind of thing and provide an avenue where funds can be used without the approval of anybody. We will be providing a loophole that is unnecessary. We have already made those provisions in the CCF---

The Minister for Transport and Communications (Mr. Michuki): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to mislead the House by misreading the Bill and implying that the Emergency Fund is more or less the same as the Civil Contingency Fund? We know that the Civil Contingency Fund is a fund out which you borrow money for emergencies until you pass a Supplementary Estimate, in which case you refund it. This other Fund will be permanent to deal with emergencies in the constituencies.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Michuki! You are giving a lot of information.

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, I want to thank Mr. Michuki, who qualifies to be a grandfather of my children, for giving me that piece of advice. However, I do not think it is valuable at all because the emergencies that are envisaged by the Minister here are the same as they are in the creation of the Civil Contingency Fund (CCF). Although the manner of administration differs, it serves the same purpose. As a result, I do not see why that fund should be there.

Mr. Temporary Deputy Speaker, Sir, if you look at Clause 12, subsection (2), it envisages

that there will be District Development Committees (DDCs). As has been said in this House, the DDCs do not exist anywhere in law. Therefore, it is inappropriate for a piece of legislation like the one we are about to pass to refer to a body that does not exist in law. So, I think that should be deleted. Apart from it being unnecessary, it is illegal for us to make reference to such a body.

On the composition of the CDFC, as has been said by hon. Members here, I do quite agree that the hon. Member of Parliament be its chairman. There is no other logical way to arrive at its chairman.

As has been said, the number of councillors should be reduced to two as representatives of the council. The heads of the relevant Government departments should be made *ex-officio* members. They should not be part of the membership of that committee. Their technical advice should be sought as *ex-officio* members, as and when required. Therefore, that whole effort will help in bringing the membership of the DDC to a reasonable number. As it stands now, in certain constituencies, like mine, where I have 18 councillors, several divisions and eight heads of departments, we will end up having a meeting of close to 100 people. I do not think a meeting of 100 people will produce any meaningful results.

Mr. Temporary Deputy Speaker, Sir, I agree with my friend, Mr. Kilonzo, that we should increase the number of persons representing youth in the constituency to two, so that we have a lady and a man to represent that constituency.

Mr. Temporary Deputy Speaker, Sir, if you look at Clause 23, there are other persons that have been mentioned; two persons to represent religious organisations and one person nominated by non-Governmental Organisations (NGOs). However, the Bill does not say who will recommend these persons. So, to avoid any ambiguity, we should put it clearly that these persons to represent other stakeholders be proposed by the hon. Member of Parliament of that particular constituency.

Mr. Temporary Deputy Speaker, Sir, I want to also agree with Mr. Wetangula that Clause 48 of this Bill be expunged completely because civil servants who will be charged with part of the management of this Fund are already paid by Government. It is my understanding that their pay will be improved. Therefore, there will be no need for them to seek other monies from this Fund.

Mr. Temporary Deputy Speaker, Sir, on the District Projects Committee (DPC), I disagree that we should have a DPC, especially with the function we have assigned there.

Mr. Temporary Deputy Speaker, Sir, Clause 43(1) and (2), envisages a situation where the District Projects Committee can reject projects that have been proposed by the communities. It was not the spirit of this Bill to have several bodies that will make it impossible for the communities to push through projects that they will prioritise. Clause 43 envisages that "the District Projects Committee shall, however, not unreasonably, withhold approval." What approval when the district development committees have prioritised the projects they want and made all the regulations? In my opinion, the district projects committees should serve only one purpose, which Clauses 41 and 42 put in perspective. They should just act as co-ordinating bodies on projects that traverse constituencies.

The membership of the District Projects Committee should be limited to a very small number. I propose that Members of Parliament, the District Commissioner and one other person be the members of the District Projects Committee. The committee will only be co-ordinating projects that traverse constituencies. We should not, again, load it up with the creation of a chairman. In fact, the chairman of the District Projects Committee should be an elected Member or somebody else. We should stop running away from these responsibilities because we have already been elected by the people. The spirit of this Bill calls upon all of us to agree and work together so that, for once, we can have a Fund that can benefit the various constituencies equitably. For the first time in Kenya's history, we can have money from the Government channelled to projects in the

constituencies. The people can identify projects that are associated with the tax they pay.

With those many remarks, I beg to support.

Mr. O.K. Mwangi: Mr. Temporary Deputy Speaker, Sir, first and foremost, I would like to add my voice in congratulating Eng. Muriuki for the good work he has done for this country. This is a Bill which is aimed at developing this country.

I would also like to thank the Minister for Finance for taking over the Bill. We appreciate that gesture. I am, however, disappointed that the Bill before the House is a departure, in some aspects, from the original Bill, which we had previously discussed and agreed to its provisions. I do not understand why the Minister had to introduce so many changes in it.

Also, I would like to add my voice on the issue of the composition of the Constituency Development Committee, particularly Clause 23(h) and (i), which allows the District Development Officer (DDO) to be a member of the Committee. I am not convinced that the DDO should sit in the Constituency Development Committee. I wonder how the seven Constituency Development Committees in Nyeri District, for instance, will deliberate their agenda if it will be mandatory for the DDO to attend all their sittings. If the Constituency Development Committees will be sitting once in a month, each of the seven Constituency Development Committees in Nyeri District will have to wait for seven months before it can approve any project.

Mr. Temporary Deputy Speaker, Sir, I do not understand what the phrase "the relevant Government department in the district" provided for under Clause 23(i), means. If the relevant Government departments are members of that committee, which departments are these you are talking about? We would then be talking about the whole Government because I do not think there are some departments which are more relevant than others. It is not specific because we are not saying it is health or public works, but we are just saying, "relevant Government departments". Which are these departments? I think that is a departure and I am convinced that the Government departments should be co-opted by the committee. If my constituency committee wants the services of the roads engineer from the constituency, because we have divisional departmental heads, then we should co-opt him and invite him into that meeting to give us the advice.

Mr. Temporary Deputy Speaker, Sir, you will notice that there is a lot of contradiction. If you look at Section 23(4), you find that the project proposals should be submitted to Parliament, but when you look at part VIII Section 41, you find that it says: "The Member of Parliament for each constituency shall table a list of the projects for that constituency at a meeting of the District Projects Committee (DPC) convened for that purpose".

The Bill does not say who then, should submit the project proposals to Parliament, and I think the most appropriate person to submit these to Parliament should be a Member of Parliament. Mandated from the constituency committee, the Member of Parliament should be able to submit the list of projects as is provided for in Section 23(4), to the Clerk of the National Assembly. I do not, therefore, see any necessity in having the DPC.

Similarly, if you look at part III Section 12(2), you will find: "The list of proposed constituency-based projects shall first be submitted to the District Development Committee (DDC)". This, again, is contradictory to Section 41 which requires that they be submitted to the District Projects Committee (DPC). The question is, are the DPCs and the DDC the same body? I do not think they are.

Mr. Temporary Deputy Speaker, Sir, secondly, you know for certain that the DDCs have been in existence for some time, and in my opinion, they have actually retarded development instead of speeding it up. Sometimes you find District Development Officers sitting on projects and sometimes the money is returned to the Treasury because it has not been used; sometimes they give

lame excuses. We are now saying that these are the same officers we should use in the Constituency Development Committees for approval of projects. If a constituency committee headed by a Member of Parliament, because I believe the Member of Parliament is the most appropriate person to chair that committee, has approved a community project in his constituency, who is this other person who is going to approve or disapprove?

(Applause)

I think it would be superfluous, and that is one area we should make amendments in, so that we can revert to the original Bill. If we did that, I know we shall be heading for proper development of this country, which the Bill aims for. This Bill is not just for fun! It is for the development of this country at the grassroots, and particularly, those marginalised areas which have not seen the dawn of day in the development of Government projects.

Mr. Temporary Deputy Speaker, Sir, I believe that this House will agree with me that we should amend this Bill so that it can provide for a Member of Parliament to be chairman of the committee, and that, we do not have anything to do with the District Development Committees (DDCs) and District Projects Committees. We should have the constituency committee as a final body to submit the projects to Parliament. I believe that if we do that, we will be heading in the right direction.

Mr. Temporary Deputy Speaker, Sir, on the constitution of these committees, it is my considered opinion that when we talk about having all the councillors in that committee--- On my part, I have got only three councillors in my constituency. So, I am not at a loss on that. However, I know that there are other constituencies which have got even 100 councillors. Imagine those constituencies which have got urban areas and county councils. Those are very many councillors in a constituency, like some areas in the north where you have got about five county councils in one constituency and they have got about ten councillors in each of them. That will mean about 50 councillors from the town councils. Then there are the county councils, urban councils, municipal councils and then city councils. You cannot manage that type of committee. It will be a public rally instead of a committee.

Mr. Temporary Deputy Speaker, Sir, when we come to the area of representation, on the question of having three women and no man at all, I do not understand where we are heading to. I thought we are building a society where gender equality will prevail. So, if we are talking about having two women and two men in the committee, that is fine. After that, we look for the others like two youths. Like my colleague, Mr. C. Kilonzo, said, we should have two representatives of the youth. One should be a boy and the other a girl, and I think that will be a proper committee. With that type of arrangement, I think we shall have a proper Bill if we pass these amendments. I believe we shall be heading for better development for this country.

Thank you very much, and God bless you all.

Hon. Members: Kimeto!

The Temporary Deputy Speaker (Mr. Poghio): Order, hon. Members! It is not possible to continue when hon. Members suggest names of other hon. Members.

Hon. Kimeto had caught the Speaker's eye. What was the shouting all about? Do not direct the Chair!

Mr. Kimeto: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to air my views. I just wanted to also accompany the other speakers by thanking hon. Eng. Muriuki for bringing this Bill to this House. Hon. Eng. Muriuki, let me say thank you very much for bringing this Bill. Let me also tell the Minister that this Bill was originally good.

There is only one way of trying to blindfold ourselves by saying that the hon. Members will not be constituency committee chairmen. This is a straightforward way of denying us, as hon. Members, the leadership of these committees. This should be completely stopped and hon. Members of Parliament should carry the day as far as the day-to-day activities of these committees are concerned.

Mr. Temporary Deputy Speaker, Sir, when you look at Part IV, Types of Projects, Section 22(4) of this Bill says:

"Funds provided under this Act shall not be used for the purpose of supporting political bodies or activities, or for supporting religious bodies or activities".

Mr. Temporary Deputy Speaker, Sir, I think this particular clause ought to be amended so that it can state---

The Temporary Deputy Speaker (Mr. Phogisio): Order, Mr. Kimeto! Use the microphone, please.

Mr. Kimeto: Mr. Temporary Deputy Speaker, Sir, should any church request the Committee to support it in building a church, the chairperson of the Committee should realize that churches constitute development. There is no discrimination when it comes to putting up buildings. We should not discriminate by saying that we should not build a church or an office for the area Member of Parliament. For example, I do not have an office. I would not want to be denied the chance to build an office where my constituents will be coming to see me. Even building of my office should be regarded as part of development in my constituency. A constituency office is different from a KANU office. I would suggest that this particular clause be done away with.

Mr. Temporary Deputy Speaker, Sir, we come to Parliament in order to develop our respective constituencies. We want to tell the NARC Government that they have done a very good thing by accepting to create a development fund. When we shall be given this money, which is about Kshs20 million, that will be equivalent to employing 500,000 people. This is because the fund will be used to create jobs in the constituencies. The fund, surely, will be used in constructing roads and hospitals. This, in itself, is a way of creating the 500,000 jobs. I did my own calculations and I found out that each constituency would get about Kshs20 million. This money will assist people immediately. The common man within the Republic of Kenya will receive this money by way of working in projects that will be started with this money in every constituency.

Clause 43 of this Bill says that councillors will serve as members of the District Projects Committee. We know that councillors have at their disposal the Local Authority Transfer Funds (LATF). I suggest that all the money from LATF be channelled through the Constituency Development Fund, so that it can be budgeted for together with the money provided for in the Constituency Development Fund. If that is not the case, why should we bother to include the councillors in the District Projects Committee? We need to collect all monies from the town councils and constituencies and distribute it among relevant projects. I propose that this Clause be amended to include just a few councillors. In my constituency, there are three divisions and from each division we should have one councillor and a few elderly persons to represent the constituency in the District Projects Committee. We shall have about nine of them, instead of the 13 councillors being proposed in the Bill. It will be very difficult to manage the Committees if the number of councillors is not reduced. We could do with two councillors from each division and a few individuals to represent the whole constituency. We can have a total of nine people.

We should not make this Committee too large. I would want the DDC to come in. Hon. Eng. Karue should bring to this House another Bill on DDCs so that we can use them as instruments of development. If we manage to pass this Bill, we should further address districts. I am afraid that we might not have districts any more if we continue to concentrate on constituencies. The district

representatives will only come to say how much has been spent. Maybe, if the Minister would like to know whether this money has been spent or not, he could send the District Development Officer (DDO) to a constituency to get the information on how far the money has been used, and that is all! We do not necessarily want the constituency-based people to come and say how Members of Parliament (MPs) should use the money! We do not want other people to sit on us because we have been given the responsibility to lead our people by the common men who voted us to come to this Parliament. We want to give them their due respect and tell them that this is their money, and then ask them to tell us whatever projects they want us to initiate and implement. We want to use this money in building new schools and constructing bridges, which in some other areas have been completely washed away by water. If we were to go and request other people to come and prioritize our projects for us, it would become completely difficult to develop our areas. We want this money to be spent by Members of Parliament with the assistance of a few people who we shall identify and recommend to be appointed to serve as the committee members. This can be done every year.

Mr. Temporary Deputy Speaker, Sir, allow me to tell the NARC Government that it has a long way to go. If you continue sending money to members of the public, then you should inquire on how the money has been used. For example, we shall advertise that we have sent Kshs20 million to every constituency. Our people will be able to understand that the money is theirs, and that, say hon. Kimeto, is responsible for controlling the fund. So, they will come up and tell me: "Mr. Kimeto, we want to do this and this". So, the NARC Government will continue to be loved by the people. But let me inform them that if they bring in all those people who ditched KANU and joined the opposite side, they will also be ditched very quickly by the same people. Forget these administrators, otherwise they will ditch you. Give the powers to the people who are elected by the members of the public. They will continue serving the people and the NARC Government. It does not matter which party they belong to, because the money is provided by the NARC Government.

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

Eng. Muriuki: On a point of order, Mr. Temporary Deputy Speaker, Sir. I wish to propose that the Mover be called upon to reply.

(Applause)

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

The Minister for Water Resources Management and Development (Ms. Karua): Mr. Temporary Deputy Speaker, Sir. I want to thank all the Members who have contributed towards this Bill and to indicate that their views will be taken seriously before we proceed to the Committee Stage, so that, where necessary, amendments can be drafted after consultation and taking into consideration the views of the hon. Members.

Mr. Temporary Deputy Speaker, Sir, there has been debate about nominated MPs. We are at a stage where we are moving towards more inclusiveness in everything that we do. That is why the Constituency Development Committees (CDCs) and the District Development Committees (DDCs) are suggesting leaders from all walks of life; from religious leaders to the political leaders, to the civil servants. Once we acknowledge that nominated MPs are national leaders, it would look a contradiction of that spirit of openness and inclusiveness to exclude them from the committees. So, we do hope that consultations will continue before the Committee Stage, and that an appropriate mode of having more inclusiveness as opposed to exclusion will be arrived at, so that every leader is able to contribute to the development of this country.

Mr. Temporary Deputy Speaker, Sir, issues have been raised about this Fund. I want to note that the Constituencies Development Fund is not the only fund that will be reaching constituencies in this country, but is the only one that will go directly to the constituencies. Other Government projects will continue reaching the constituencies through the line Ministries. I, therefore, think it is prudent that we have an emergency fund out of the Constituencies Development Fund to cater for disasters that arise.

A few years ago, we recall the grisly fire accidents that occurred at Kyanguli and Bombolulu. We also know of the annual floods that displace people in Budalangi and Tana River. If we have a fund that is readily available and the area hon. Member has a say in it, we shall be able to respond promptly to national disasters. That does not absolve the Government from its responsibility of handling the Civil Contingencies Fund. It means that we have another response mechanism which can be swift and timely even as we wait for other measures from the Government. When the 5 per cent is not utilised in a given year, we will look into whether it can return to the Fund for the next year rather than to the Consolidated Fund.

Mr. Temporary Deputy Speaker, Sir, we also appreciate what hon. Members have said, that we should take care that the committees do not become too large and unyielding; the issue that if we include all the councillors in the constituency, we may end up with a very large committee. These are issues that will be looked into. It is desirable that the committee has a given number of members. A maximum number should be set, so that the committees are workable and can deliberate in a timely manner.

We shall also look into whether the District Fund Committee is necessary in view of the purpose of the Bill, which is to channel funds directly to the constituency or whether it is just a committee that should take note of all the development projects of the various constituencies in the district for purposes of records and documenting the development taking place in the district. This should also act as a channel of harmonisation of the other development projects coming from the line Ministries. We take note that it would be imprudent to have the district committee act parallel to the constituency committee as this may defeat the object of the Bill.

We shall also look into the issue of the relevance of the National Committee, vis-a-vis the contribution of hon. Members. All in all, the views of the hon. Members will be taken seriously and there will be consultations in the usual manner as the necessary amendments are crafted to be brought to the House at the Committee Stage.

With those few remarks, I beg to move.

(A mobile phone rang)

The Temporary Deputy Speaker (Mr. Poghiso): Order! Whose telephone is ringing? Let us have some order in the House!

The Minister for Water Resource Management and Development (Ms. Karua): On a point of order, Mr. Temporary Deputy Speaker, Sir. May I seek leave of the House for the Committee to sit on Tuesday, next week. We are aware that we discuss Bills on Thursday, but in view of the importance hon. Members place on this Bill, we do request that leave be granted by this House for the Committee to sit on Tuesday, next week.

(Question put and agreed to)

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

THE POINT OF ORDER**DEFERMENT: COMMITTEE STAGE OF
CONSTITUENCIES DEVELOPMENT FUND BILL**

The Minister for Water Resource Management and Development (Ms. Karua): On a point of order, Mr. Temporary Deputy Speaker, Sir. May I seek your guidance whether we should dispose of the question of the House to grant leave for this Bill to be completed on Tuesday, next week, because the Minister for Finance had to travel to Arusha to attend an urgent meeting. We also need some consultation to draft the necessary amendments.

The Temporary Deputy Speaker (Mr. Poghio): Hon. Members, leave has already been granted. The Bill will be disposed of at the Committee Stage on Tuesday.

(The Committee Stage was deferred)

Next Order!

BILL

First Reading

THE APPROPRIATION BILL

*(Order for First Reading read -
Read the First time - Ordered to be
read the second time today)*

Second Reading

THE APPROPRIATION BILL

The Minister for Transport and Communications (Mr. Michuki): Mr. Temporary Deputy Speaker, Sir, on behalf of the Minister for Finance, who has had to travel to Arusha to attend an urgent meeting, I beg to move that the Appropriation Bill be now read a Second Time.

The Temporary Deputy Speaker (Mr. Poghio): Order, Mr. Michuki! Please, refer to the Bill as printed on the Order Paper.

The Minister for Transport and Communications: Thank you, Mr. Temporary Deputy Speaker, Sir. I beg to move that the Appropriation Bill (Bill No.21), be now read a Second Time.

His Excellency the President has signified his consent to this Bill as required. The Appropriation Bill seeks the statutory approval by Parliament of Estimates of Recurrent and Development Expenditures of the Government of Kenya, for the year ending 30th June, 2004, which were laid in this House on 11th June, 2003.

Mr. Temporary Deputy Speaker, Sir, during the allotted time, the following Votes were discussed and approved by the House:-

- Vote 01 - Office of the President
- Vote 10 - Ministry of Agriculture combined with the Ministry of Livestock and Fisheries Development
- Vote 11 - Ministry of Health
- Vote 12 - Ministry of Local Government

Vote 13 - Ministry of Roads, Public Works and Housing

Vote 20- Ministry of Water Resources Management and Development

Vote 21 - Ministry of Environment, Natural Resources and Wildlife

Vote 30 - Ministry of Energy

Vote 31 - Ministry of Education, Science and Technology

The rest of the Votes were approved through the guillotine procedure in accordance with the provisions of Standing Order No.142, Sub-section 7. The Appropriation Bill 2003 contains the details of expenditure provisions for each Vote and also the amount to be applied as Appropriations-in-Aid under each Vote. Clause 2 of the Appropriation Bill 2003 seeks statutory authority for issue out of the Consolidated Fund, a sum of Kshs218,413,035,830 and application of the funds to various services and purposes specified under column II of the Schedule for the year ending 30th June, 2004. This sum includes the amount authorised by Parliament on 24th June, 2003, in accordance with Section 101 of the Constitution of Kenya; the Vote on Account.

Mr. Temporary Deputy Speaker, Sir, Clause 3 of the Bill makes provision for a sum amounting to Kshs44,958,048,155 to be applied as appropriations made to meet expenditure for the various services and purposes specified in the Schedule. This is a Procedural Bill, aimed at giving the necessary parliamentary approval for public expenditure.

Having appraised the hon. Members of the Objects and Reasons of the Bill, I now urge them to pass it, to enable the release of the necessary funds from the Consolidated Fund, to meet the expenditure as contained in the Estimates of Recurrent and Development Expenditure for the financial year 2003/04.

With those few remarks, I beg to move.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I beg to second the Appropriation Bill in the terms articulated by the Mover, hon. Michuki.

I beg to second.

(Question proposed)

Mr. Omingo: Thank you, Mr. Temporary Deputy Speaker, Sir. I am responding on behalf of the Shadow Minister for Finance, KANU. That is why I am talking from the Despatch Box.

I stand to support the Appropriation Bill. There are a few issues that we must raise. We do say always that a good friend is not the one who tells you that you are a good boy throughout; a good friend is one who tells you also that you make mistakes and you can correct them. Even as we vote this 50 per cent of the appropriation of the Government expenditure, there are a few issues that the NARC Government needs to correct.

I have said passionately, as has been done in the past, that it is critical that Kenyans get value for their taxes. Kenyans pay taxes and, therefore, they need to see what that money is doing. I was a tax person. When I crossed over to Parliament to oversee that function of applying the resources of this nation, sometimes I seek that God gives me divine intervention because the kind of money I was collecting from taxpayers for purposes of Government projects has actually been misappropriated. This means that I was collecting money from the taxpayer and dumping it into the ocean. That calls for divine intervention for anybody to be forgiven. I am saying this from a point of knowledge that Kenyans' funds were being utilised on some very unnecessary issues.

I will give an example of the previous regime, and it appears that the NARC Government is drifting close to that particular kind of behaviour. You would find that somebody does a road of, say, 1,000 kilometres, tarmacked without a major bridge. You will find a big white elephant of a

project on which no feasibility study was done and nobody actually went on site. Some of these projects were designed, implemented and paid for on paper. I have a case in point of a road that was linking Machakos and Kayole. When I raised the issue with the person who was supposed to pay taxes, this gentleman told me: "I cannot pay taxes because I was only a conduit to release money from the Treasury through the project, which was actually imaginary." What I am saying is a true, practical and living experience that I experienced.

Mr. Temporary Deputy Speaker, Sir, we are saying that we should learn through the past mistakes of the previous Government. If all of us were like Ms. Karua, I believe we would be making good progress. Unfortunately, some of us are losing direction very fast. It is critical that some of the things we are doing today were also done in the past, which is very expensive. Some are saying that we can spend a third of the money spent by KANU during the 25th Anniversary to celebrate nothing. We are celebrating 40 years of misrule.

I was praying in my heart that NARC, in their wisdom, would actually celebrate ten months of their rule in the Government by actually building even a big destitute children's home sometime, somewhere in Mathare, and we shall be able to celebrate with them. But telling us to celebrate 40 years of misrule, we are missing the boat. One thing that is very critical, and I want to repeat it in the ears of the Ministers present today, is that we are not going to borrow money from the donor community to buy bread and take home. We are not going to borrow money from the donor community to hold parties. We are doing that when the donors are watching today. They have not even packed their bags in the hotels. We are saying shamelessly that we are raising Kshs100 million from the Contingency Fund to celebrate. Please, for heaven's sake, Kenyans are watching the NARC Government. It is not because I hate this Government. I am sure it is more warmer to me than the KANU Government. I love this Government.

Mr. Temporary Deputy Speaker, Sir, unfortunately, it should not drift into the system that was there in the past. We would not like to watch them do that. We want them to govern, even if it means for one term, so that---

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the acting shadow Minister for KANU in order to talk ill about KANU, when he is supposed to defend KANU?

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, I said that a good friend is one that does not keep patting your back that you are good boy. A good friend is that who also corrects you when you are going wrong. I said that the money we borrow, because of that misappropriation, we have pushed Kenyans into debt. Today, as we discuss, Kenya's public debt stands at Kshs648 billion. That translates to 65.9 per cent of the Gross Domestic Product (GDP). What does that mean? If we were to sell Kenya wholesale today, what you will recover from this nation is 34 per cent of the proceeds of the nation. About 66 per cent is mortgaged in debt. It translates to those factual figures. Our children, as they are being born today, are bearing a burden of Kshs40,000, and yet we are saying that we are leaving a legacy for the future leaders of tomorrow. If we learn to live within our means, our tax paying public will be able to pay less than they are paying now.

Mr. Temporary Deputy Speaker, Sir, our projects need to be more viable. There is a report in the Public Accounts Committee (PAC) which has not been laid on the Table yet, where the Government spent close to Kshs600 million to construct a Customs project which realises Kshs2,500 per month in revenue. If we were to recover that money, it would take about 1,000,200 years to recover the cost of that project. We are saying that this Government started on a reform platform. It promised to give Kenyans value for their money and improve their well-being. Unfortunately, it is not working towards that direction. If we do not watch, the patience of Kenyans is running out.

The technocrats who sit in that bench are not giving the proper policy direction. The technocrats who the Government inherited are actually misleading the Government in terms of the policy agenda, in terms of economic recovery. We have fantastic papers in terms of the Poverty Reduction Strategy Paper (PRSP) to improve the wellbeing of Kenyans. Unfortunately, they are dustbin material. When we compare our tax collection, we collect about 22 per cent of our GDP in revenue. That is about double what Uganda collects. That is just half of what Tanzania collects. The growth rate of Tanzania is more than double that of Kenya. That does not make any economic sense in terms of appropriation of our resources. We must learn to live within our means. We must tailor our jackets according to the sizes of our bodies.

With those few remarks, I beg to support.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members. It is now time to interrupt the business of the House. The House is, therefore, adjourned until Tuesday, 2nd December, 2003, at 2.30 p.m.

The House rose at 8.00 p.m.