

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 5th July, 2006

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

PRESENCE OF UNITED STATES MEMBERS OF CONGRESS IN MR. SPEAKER'S ROW

Mr. Speaker: Hon. Members, I wish to bring to your attention the presence in the Speaker's Row of Members of the United States Congress. They are hon. David Dreier, Republican, Chairman House Committee on Rules and also Chairman of the House Democracy Assistance Commission; the hon. David Price, Democrat, Ranking Member, House Democracy Assistance Commission and also the Member of Committee on Appropriation; the hon. Donald Payne, Democrat, Ranking Member Sub-Committee on Africa, the Committee on International Relations and the Committee on Education and the Work Force; the hon. Michael Capuano, Democrat, Member, Committee on Financial Services and Committee on Transportation and Infrastructure; hon. Rush Holt, Democrat, Member, House Democracy Assistance Commission, the Committee on Education and the Permanent Select Committee on Intelligence; hon. John Boozman, Republican, Member, House Democracy Assistance Commission, Committee on International Relations, Committee on Transportation and Infrastructure and the Committee on Veterans Affairs; hon. Adam Schiff, Democrat, Member, House Democracy Assistance Commission, Committee on International Relations and the Committee on Judiciary.

The hon. Members are visiting our Parliament under the auspices of the House Democracy Assistance Commission of the United States Congress. Central to the Commission's work, is the provision of technical expertise, enhancing accountability, transparency, legislative independence and Government oversight in foreign parliaments. They are accompanied by senior Congressional and State Department staff. May I take this opportunity on your behalf to welcome them to our country and to wish them a happy and enjoyable stay in Kenya.

PAPER LAID

The following Paper was laid on the Table:-

Sessional Paper No.2 of 2006 on Gender Equality and Development.

*(By the Minister for Gender, Sports
Culture and Social Services)*

NOTICE OF MOTION

ADOPTION OF SESSIONAL PAPER NO.2 OF 2006 ON GENDER EQUALITY AND DEVELOPMENT

The Minister for Gender, Sports Culture and Social Services (Mr. Kamanda): Mr. Speaker, Sir, I beg to give [**The Minister for Gender, Sports, Culture and Social Services**] Notice of the following Motion:-

THAT, this House adopts the Sessional Paper on Gender Equality and Development laid on the Table of this House on Wednesday, 5th July, 2006.

Mr. Speaker: Hon. Members, just before we begin business, I want to reiterate that Question Time will last for one hour only. We have a series of Bills that this House must deliberate upon.

QUESTION BY PRIVATE NOTICE

LAUNCHING OF NATIONAL LIVESTOCK BRANDING PROJECT

Mr. Lesrima: Mr. Speaker, Sir, I beg to ask the Minister for Livestock and Fisheries Development the following Question by Private Notice.

(a) Why did the Minister launch the National Livestock Branding Programme at Chemolingot in East Pokot on 16th June, 2006?

(b) How many districts and at what cost will the branding project be undertaken?

The Assistant Minister for Livestock and Fisheries Development (Mr. ole Ntutu): Mr. Speaker, Sir, I beg to reply.

(a) My Ministry launched the National Livestock Branding Programme at Chemolingot in Baringo District on 16th June, 2006, in order to identify animals in the region with district and location specific brands. This exercise is being carried out simultaneously with free vaccination against major livestock diseases as part of the Government drought mitigation efforts. Branding animals will also help to regulate movement of animals, disease surveillance and check on cattle rustling.

Chemolingot was chosen as a starting point for this region because of the assessed disease situation.

(b) Seven districts targeted for this exercise include Baringo (including Baringo East) Marakwet, Laikipia, Samburu, Trans Nzoia, Turkana and West Pokot. The estimated cost of branding and vaccination is about Kshs820,000.

Mr. Lesrima: Mr. Speaker, Sir, the Assistant Minister has given one of the reasons for branding as to check incidents of cattle rustling. The Assistant Minister is also aware that there have been incidents of cattle rustling emanating from that particular area where branding was launched. My constituents have fallen victims with a lot of cattle stolen, possibly up to 4,000, between January and the time the Ministry was doing the branding. Why was it found necessary to brand cattle in a situation where stolen cattle were being hoarded? Why did the Assistant Minister have to change the programme when we know it was intended to start from Samburu and Laikipia where there are no incidents of cattle rustling?

The Assistant Minister for Lands (Mr. Kamama): On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Member to mislead the House by saying that branding was done in

Chemolingot while it was done in Chemorir? Can he declare his interest?

Mr. Speaker: Order, hon. Members! I know what the problem is, because the Chair lives in Kenya. I think the hon. Kamama should have waited for the Assistant Minister to reply. Every hon. Member is entitled to ask a legitimate Question. It is upon the Minister in charge to reply.

Mr. ole Ntutu: Mr. Speaker, Sir, this exercise of branding animals will be extended to the seven districts. We decided to begin at this particular point but we are planning to extend this exercise throughout the seven districts.

Mr. Wario: Mr. Speaker, Sir, how will branding help in case the raiders are from across the border?

Mr. ole Ntutu: Mr. Speaker, Sir, branding will help a lot because Uganda is also carrying out the exercise. It will be easy for us to identify the animals from Kenya when they are taken to Uganda. The animals will have the district and location marks.

Mr. Bifwoli: Mr. Speaker, Sir, branding is a very good project. Is it just being carried out in Kenya and Uganda or in the whole of East Africa?

Mr. ole Ntutu: Mr. Speaker, Sir, we have no control over Uganda, Tanzania or any other neighbouring country. We have control over our country. That is why we are carrying out the exercise within the Republic of Kenya.

Mr. Lesrima: Mr. Speaker, Sir, my question was not answered. I asked why the exercise was started at the centre of cattle rustling. The hon. Member has asked me to declare my interest. If he has cattle which have been stolen by the neighbouring constituencies, it will be unfair for cattle from Pokot area to be branded in the neighbouring district as belonging to them. Why not start this exercise in a safe area?

The Assistant Minister for Lands (Mr. Kamama): On a point of order, Mr. Speaker, Sir. The hon. Member for Samburu West has said that I have livestock in my place. Do I really have those animals?

Mr. Speaker: Order, hon. Members! I have had occasion to warn hon. Members not to use the Floor of this House to encourage things that may be destructive to the public good. I also do not see anything objectionable about a Minister being queried about the existence of cattle rustling. Any Member in this House, particularly those from those areas who insist there is no cattle rustling, either does not live in Kenya or chooses to ignore facts. The Assistant Minister must reply! I hope no Member will support cattle rustling!

Mr. Assistant Minister could you reply?

Mr. ole Ntutu: Thank you very much, Mr. Speaker, Sir. I have already answered Mr. Lesrima's question by saying that we chose Chemolingot as the starting point because of the recommendations made by the veterinary officer to the effect that foot and mouth disease and other diseases were rampant in that area.

ORAL ANSWERS TO QUESTIONS

Question No.351

WITHHOLDING OF REPORT ON BOMBOLULU GIRLS SCHOOL TRAGEDY

Mr. Speaker: Is Mr. Rai here?

Mr. Rai: Yes, Mr. Speaker, Sir.

Mr. Speaker: I am afraid the Minister has requested that we defer this Question until next

week. Did he get in touch with you?

Mr. Rai: Mr. Speaker, Sir, I received a message through the secretary. The Question is deferred to which day next week?

Mr. Speaker: Ordinarily, that is a clerical issue but I defer it to Wednesday afternoon!

Mr. Rai: It is okay, Mr. Speaker, Sir.

(Question deferred)

Question No.205

ALLOTMENT LETTER FOR KARARACHA
PRIMARY SCHOOL PLOT

Mr. Khamisi asked the Minister for Lands:-

(a) whether he is aware that Plot No.839 in Tezo Roka Settlement Scheme on which Kararacha Central Primary School is located, is yet to receive its letter of allotment despite having met all legal requirements;

(b) whether he is also aware that a donor who was willing to assist the school financially has refused to proceed unless the ownership issue is resolved; and,

(c) when the Government will issue the school with documents of ownership.

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

(a) I am not aware. However, I am aware that the said Plot No.839 was allocated to one Katana Simba in the late 1970s. I am also aware that there are two squatter families and that Kararacha Primary School stands on the same plot.

(b) I am not aware.

(c) As in my answer to "a" and "b" above, Plot No.839, that is Tezo Roka, measuring 13.8 acres was allocated to Katana Simba and has already paid part payments for SFT loans. The only way forward is for the local leadership to engage Mr. Katana Simba, who is now the legal owner, for a possible amicable solution to the problem.

Mr. Khamisi: Mr. Speaker, Sir, as much as I understand the position of the Ministry through the answer the Assistant Minister has given, I would like to inform him that the pupils of that school will sit for their Kenya Certificate of Primary Education (KCPE) examination this year. I do not think it is fair to leave this problem to the local leadership. Could the Assistant Minister intervene in this matter by assuming ownership of that plot and compensate that individual so that he can move to another area? There is no way we can demolish that school to give way to that individual!

Mr. Kamama: Mr. Speaker, Sir, that request is genuine but we have to operate within the beacons of the law. I have said that, that land was allocated to Mr. Katana Simba in the 1970s. He has made part payment of the SFT loans. The only way forward is for the local leadership to engage him to find a solution to this problem.

Dr. Ojiambo: Thank you, Mr. Speaker, Sir. Is the Assistant Minister aware that a number of schools in this country face the same problem of being required to produce title deeds in order to be assisted in many ways and yet the parents are unable to produce those documents? Could the Assistant Minister use his office to either issue a circular or write a letter to all the schools that can give credibility to those who are willing to assist them? Some of those schools cannot even receive the Constituencies Development Fund (CDF) money for development because they lack title deeds.

Mr. Kamama: Mr. Speaker, Sir, again, that is a genuine request. Our officers have express

instructions to assist school committees and Boards of Governors (BOGs) when it comes to acquiring title deeds. I advise the hon. Member to get in touch with our district land registrars for assistance. If she feels that we should remind our officers on the issuance of title deeds, I can assure her that we will do that.

Mr. Kombe: Thank you, Mr. Speaker, Sir. The purported owner of the plot has not developed it at all. How can he get preference as opposed to that primary school which has done remarkable development on the plot? The purported owner of the plot has a letter of offer only and not a title deed.

Mr. Kamama: Mr. Speaker, Sir, this Ministry will not grab plots from genuine owners!

(Applause)

I confirm to the hon. Member that we are ready to assist the school committee but it should sit down with our officers on the ground so that we can allocate Mr. Katana Simba a plot when we establish a settlement scheme to settle squatters. I think that is the only way forward. We will not grab plots from Kenyans who own genuine title deeds.

Mr. Khamisi: Mr. Speaker, Sir, the problem of this school is similar to the problem many schools in my area face. Almost 90 per cent of the schools in Bahari Constituency are "squatters". I brought this issue to this House so that the Government can do something. Could the Assistant Minister tell this House what he will do with the schools that are built on squatter land? This is because the issue of a title deed does not arise when a school is a "squatter".

(Applause)

Mr. Kamama: Mr. Speaker, Sir, you will recall that during the Madaraka Day celebrations, His Excellency the President instructed us to go and solve the squatter problem in the Coast Province. We are committed to solving this problem, and we will start with Bahari Constituency.

Question No.220

TITLE DEEDS FOR KAITI RESIDENTS

Mr. Speaker: Order, hon. Members! Mr. Ndambuki has requested that his Question be deferred until next week! Could I get an appropriate date from the Minister? Mr. Kamama, which day of the week will be okay with you?

The Assistant Minister for Lands (Mr. Kamama): Mr. Speaker, Sir, I will be available next week. So, I have no objection.

Mr. Speaker: I defer the Question to Tuesday next week!

(Question deferred)

Question No.389

AMBULANCE FOR HAMISI HEALTH CENTRES

Mr. Khaniri asked the Minister for Health:-

(a) whether she is aware that Hamisi, Seremi, Banje, Shiru, Tigoi and Likindu

health centres do not have an ambulance to transport referral patients; and,
(b) when an ambulance will be made available to the health centres in the area.

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

(a) I am aware that Hamisi, Seremi, Banje, Shiru, Tigoi and Likindu health centres have no ambulance to serve referral patients at the moment.

(b) Hamisi Health Centre will be considered together with other health centres on each facility-priority basis to be allocated ambulances in the current financial year; that is 2006/2007.

Currently, there is an ambulance at Vihiga District Hospital which can be used to transport patients from Hamisi, Seremi, Banje, Shiru, Tigoi and Likindu health centres wherever there is need.

Mr. Khaniri: Thank you very much, Mr. Speaker, Sir. I confess that I am very dissatisfied with the answer given by the Assistant Minister. He has told us that there is an ambulance in Vihiga District that can be used by those health centres. Some of those health centres are 60 kilometres away from the district hospital. The ambulance at the district hospital is old and cannot cover the entire district. Could the Assistant Minister consider allocating us one ambulance to serve in the constituency because we do not have one?

Dr. Kibunguchy: Mr. Speaker, Sir, I know that the problem of lack of ambulances throughout the country is big. This year, the Ministry will buy enough ambulances and donate, at least, one per district. As far as Vihiga District is concerned, the priority areas are Tiriki East and Tiriki West divisions. Those divisions will be considered for the allocation of ambulances when we buy some this year.

Mr. Gitau: Thank you, Mr. Speaker, Sir. You are aware that most health centres in the country do not have ambulances. You are also aware that the Minister for Finance has started to repossess or collect vehicles from Ministers. Is it not possible for the two Ministers to come together and sell those limousines and buy enough ambulances for all the health centres in the country?

(Applause)

Dr. Kibunguchy: Mr. Speaker, Sir, I agree with the hon. Member for Juja 100 per cent. That is an excellent idea. We shall discuss with the Ministry of Finance and see how best this can be done. However, on our own, as I have said, we will buy, at least, one ambulance for every district in the country this year. That will go a long way towards easing the problem of lack of ambulances in the country.

[Mr. Speaker left the Chair]

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

Mr. Ligale: Mr. Temporary Deputy Speaker, Sir, in today's newspapers, the Ministry of Health is reported to be in possession of equipment worth Kshs700 million. Could the Assistant Minister tell us how he intends to distribute the equipment to the health centres in the constituencies?

Dr. Kibunguchy: Mr. Temporary Deputy Speaker, Sir, what the hon. Member has said is true. We have acquired equipment worth about Kshs1 billion. At the Ministry, we do not recognise constituencies but districts. We will distribute the equipment to every district in the country.

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

[Mr. Speaker resumed the Chair]

Mr. Khaniri: Mr. Speaker, Sir, it appears to me that there is a lot of favouritism and discrimination when it comes to the allocation of ambulances. Could the Assistant Minister tell us the criteria he uses to distribute the ambulances?

Dr. Kibung'ochy: Mr. Speaker, Sir, I thought I made it very clear that we will allocate one ambulance per district. So, every district will receive one ambulance. You can take that from me and you can also take it to the bank.

Question No.429

MEASURES TO EASE FLOW OF
TRAFFIC IN NAIROBI

Mr. Marende asked the Minister for Local Government:-

(a) whether he is aware that the country is suffering losses in excess of Kshs5 million on every working day computed from man hours lost and fuel consumed attributable to traffic jams in the City of Nairobi; and,

(b) what urgent measures he is taking to ease the flow of traffic in Nairobi.

Mr. Speaker: Where is the Minister for Local Government?

(Mr. Shaaban remained seated)

Hon. Members: Mr. Shaaban is here!

(Laughter)

The Assistant Minister for Local Government (Mr. Shaaban): Mr. Speaker, Sir, I was having a chat with my colleague.

Mr. Speaker: Order! The Assistant Minister is taking this matter very lightly! He is in fact telling the world that he is very inattentive in Parliament and that Parliament can wait for his answer! Could you apologise to the House for being inattentive?

(Laughter)

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

(a) I am not aware that the country is suffering losses in excess of Kshs5 million on every working day due to traffic jams in the City. However, I am aware of the prevailing traffic jams in the City and appreciate that a lot of time and fuel is wasted due to the same.

(b) (i) An Inter-Ministerial Committee headed by the Permanent Secretary, Ministry of Transport and comprising of officers from the following Ministries and departments has been formed to come up with the recommendations for rapid interventions to be undertaken by the Government in order to ease traffic congestion within the City:-

The Ministry of Roads and Public Works, Ministry of Local Government, Ministry of

Transport, the Nairobi City Council (NCC), the Traffic Police and the Transport Licensing Board (TLB).

(ii) The Government, in conjunction with the NCC, embarked on major roads rehabilitation projects in the city in the last three years through joint funding from the Fuel Levy Fund and the NCC's general funds. The NCC has undertaken rehabilitation of 12 roads at a total cost of Kshs447 million.

(iii) Other rehabilitation projects currently on-going are as follows:-

(a) Second Avenue Eastleigh, 3rd Street, 7th Street, 15th Street and General Waruinge Street.

(b) Mutindwa Link Road

(c) Repair of Sunken Car Park

(d) Construction of a public transport facility in Westlands

(iv) Four junctions are to be signalised and six signal lights on junctions along Kenyatta Avenue will be rehabilitated in the coming financial year.

(a) Procurement of a contractor to execute the rehabilitation of the Central Business District (CBD) roads by tender is at an advanced stage.

(b) Procurement of contractors to undertake rehabilitation and construction of Pangani (Northview, Agoi, and Mukinduri Lane and access). Karen and Maringu roads are also on-going.

(c) Procurement of contractors to undertake construction of Likoni Road missing link is on-going.

(d) Procurement of four contractors to undertake routine maintenance work is at an advanced stage.

(v) The Kenya Government, with the assistance of the Government of Japan, has undertaken a study of the infrastructure needs. This covers Nairobi Metropolitan Area.

(vi) The Kenya Government, with the assistance of the Government of Japan, intends to realize the construction of three missing link roads. This is currently at the design stage.

(vii) Designs are presently underway for the construction of Kasarani-Baba Dogo Road connection and Ole Odume Road missing link to connect Ngong Road to Argwings Kodhek Road.

(viii) The Kenya Government, with the assistance of the Government of China, intends to rehabilitate Mombasa Road, Uhuru Highway, Museum Hill Road and Limuru Road up to UNEP and will increase capacity and improve the junctions. It is the Ministry's commitment to ensure ease of mobility and every available option is being evaluated to reduce the amount of time spent on the roads.

Thank you.

Mr. Marende: Mr. Speaker, Sir, I appreciate the answer that the Assistant Minister has given. It is a serious attempt to provide some kind of answer. However, this matter was first raised in this House by myself on 4th November, 2005. It is because of the gravity of the matter that I have had to re-visit it in the interest of all Kenyans. At that time, the Minister said, among other things, sentimentally, that the traffic flow and congestion in Nairobi had been so for over 20 years because it had been neglected by the KANU Government. Those were the words of the Minister. He then said that he only required six months and the situation would have been corrected because he appreciated it was grave and it needed to be attended to. Instead, what we have witnessed is that the situation has been compounded and it has become more grave. Now it takes you three hours if you want to go to the airport.

Mr. Speaker: Ask your question!

Mr. Marende: Mr. Speaker, Sir, could the Assistant Minister indicate to this House how

long he requires - now that he has had more than two years - to walk the talk instead of; the rhetoric that he has once again given to this House?

(Applause)

Mr. Speaker: Order, Mr. Marende! How long am I going to ask hon. Members to use acceptable language in the House? I started saying this when my hair was all black. It is now all white! Mr. Marende, do not aggravate the matter. Hon. Members do not do rhetoric, they speak!

Mr. Marende: Mr. Speaker, Sir, I withdraw the word "rhetoric". Could the Assistant Minister be so kind as to indicate to the House how long he requires to walk the talk? Kenyans do not want lip service! They want action. How long does the Assistant Minister require to act?

(Applause)

Mr. Shaaban: Mr. Speaker, Sir, the hon. Member should appreciate that the Ministry of Local Government has done a lot in the development of infrastructure. I have given many indications of the roads being undertaken and the ones to be undertaken. He must also appreciate that, for the last three years, there has been a lot of improvement in development of infrastructure in Nairobi.

(Applause)

However, a lot of money is required in order for us to decongest the city. Nairobi generates about 50 per cent of the Fuel Levy. If that will be voted by this House to the Ministry of Local Government, then we will really decongest the city and we will comply.

Mr. Muiruri: Mr. Speaker, Sir, the Assistant Minister has given a very long answer that has no answers at all.

(Laughter)

We are referring to the pain of getting from Githurai to the City Centre, which takes you three hours. We are taking a further, perhaps, three hours from Embakasi to the City Centre. It is painful that we waste a lot of time. This is a very big problem and Nairobi is the only city in the world where you find all these problems.

An hon. Member: He does not know what he is saying!

Mr. Muiruri: Mr. Speaker, Sir, we have been to all over the world and we know about traffic jams. When will the Assistant Minister, collectively with the Ministry of Transport and other relevant Ministries and the police, come up with clear cut policies? It is a question of building roads. It is a question of expanding Jogoo Road which has been there for many years. It is a question of expanding Thika Road and the road to Kangemi. This is a question of constructing roads to make sure that traffic jams come to an end.

Mr. Speaker: Are you debating?

Mr. Muiruri: Mr. Speaker, Sir, when is this going to be done?

Mr. Shaaban: Mr. Speaker, Sir, I will give the hon. Member another long answer. There is the Nairobi Metropolitan Master Plan which is going to come in order to decongest the city. However, I have just said that if this House would vote the necessary funds that the Ministry requires in order to develop these infrastructures, we will do the job immediately.

Mr. Munya: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to say that this House should give him more money when he has not put it in the Estimates? Could

he make a request so that we can pass it?

Mr. Speaker: The valid point of order by the hon. Member for Tigania East is whether this House has ever declined to allot the Ministry of Local Government any money that was in the Estimates.

Mr. Shaaban: Mr. Speaker, Sir, the Ministry of Local Government put forward its budget. However, its budget was slashed by the Ministry of Finance. So, we can only operate within our allocation.

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

Mr. Speaker: Order! Order hon. Members!

For the record, the Assistant Minister is trying to shift blame from the Executive to Parliament. He should say that the Treasury has not given them money.

Mr. Shaaban: Mr. Speaker, Sir, that is exactly so. The Treasury has not given us enough funds. It has not given us what we had asked for. However, there are plans to decongest the city.

Mr. Angwenyi: Mr. Speaker, Sir, I think the Leader of Government Business is here and he should take note of this issue. He should take his Ministers and Assistant Ministers for a seminar on their responsibilities in this House. We do not know if the Ministry of Local Government has ever made a request to the Treasury for these funds but it was rejected. The Assistant Minister is now shifting blame to Parliament. We are tired of this habit of Ministers blaming each other in the House. We should hold this Government to account on this matter.

Mr. Shaaban: Mr. Speaker, Sir, my answer is that unless we are given the necessary funds---

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

Mr. Speaker: Order, Mr. Ojode!. Let us hear the Assistant Minister!

Mr. Shaaban: Mr. Speaker, Sir, I have just said that the City of Nairobi generates 50 per cent of the total revenue from the Fuel Levy, but we are given less than 3 per cent of this levy. This city also generates 50 per cent of the total revenue of this country, but the City Council of Nairobi is given a very small amount of money. So, unless we are given sufficient funds, we will not be able to undertake the jobs we are supposed to undertake.

Mr. Ojode: On a point of order, Mr. Speaker, Sir. Am I in order to ask the Assistant Minister to tell this House how much money he has requested from the Treasury for purposes of constructing by-passes and expansion of the existing roads?

Mr. Shaaban: Mr. Speaker, Sir, if the hon. Member will ask that as a different Question I will be able to answer it.

As I have said before, decongestion of this city is not only the work of the Ministry of Local Government. It is also the work of the Ministry of Roads and Public Works and that of Transport, among other Ministries.

Archbishop Ondiek: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to say that they do not have funds when they are collecting revenue every day?

Mr. Shaaban: Mr. Speaker, Sir, I have not said that we do not have funds. I said we do not have enough funds.

The Assistant Minister for Health (Dr. Kibunguchy): On a point of order, Mr. Speaker, Sir. I want your guidance on an issue. When the Assistant Minister was answering the supplementary question by hon. Muiruri, hon Muiruri himself walked out of the House before the Assistant Minister finished

answering it. Could you give us guidance on hon. Members asking questions and then walking out in the middle of answers to their questions?

Mr. Speaker: I really have nothing to say about that. I am not a prefect in this House. So, it is this House that should judge hon. Members accordingly. It could be because they are not serious in their questions, or do not expect good answers.

The Assistant Minister for Water and Irrigation (Mr. Wanjala): On a point of order, Sir. I beg to seek your guidance again. You have said that you have no answer on an hon. Member asking a question and not waiting for an answer. How about when a Minister who answers a Question and then walks out before supplementary questions are asked?

Mr. Speaker: I will deal with him or her very firmly.

(Laughter)

Mr. Marende could you ask the last question?

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

I am sorry, hon. Members! I have to finish up supplementary questions on this Question. I promised that by 3.30 p.m we must be on the Bills.

Mr. Marende: Mr. Speaker, Sir, in view of the interest that this Question has generated; noting that there are many hon. Members who want to ask supplementary questions but have not been able to do so due to lack of time; taking into account the unsatisfactory answer so far given by the Assistant Minister, would I be in order to request that this Question be deferred?

(Applause)

Mr. Speaker: Order! I have given this Question a lot of time. The problem emanated from hon. Members, beginning with the Questioner. He took too long to put precise questions. If you take all the time talking, what time do you think the Assistant Minister and other hon. Members will use? So, you pay by suffering the consequences of talking too much.

Mr. Marende: Mr. Speaker, Sir, could I ask one last question?

Mr. Speaker: Okay, but do not talk too much.

Mr. Marende: Mr. Speaker, Sir, my last question is that, from the answer given by the Assistant Minister, you will see that he is unable to indicate when he will deal with the problem of traffic congestion in Nairobi and other urban areas. Could he confirm that his Ministry is helpless and is unable to give Kenyans any hope on this matter?

Mr. Shaaban: Mr. Speaker, Sir, my Ministry is properly functioning. It has done a lot in terms of improving infrastructure and rehabilitating roads. When you walk around Nairobi, you will know that its roads are better than they were three years ago.

As I said before, decongestion of the city is not only the job of the Ministry of Local Government. There is also the Ministry of Roads and Public Works, which is also supposed to build bypasses, so that we can decongest our roads. New infrastructure is being developed by constructing bypasses to divert traffic from the Central Business District. There is also the concessioning option, which is being explored by the Ministry of Roads and Public Works. There is also the Kibera-Langata missing link, which is being surveyed with a view to opening it up. A request has also been made to the Chinese Government to do the dualing of Ring Road, which is a link between General Waruinge Street and Murang'a Road. There is also the planned dualing of Enterprise Road between Homa Bay Road and Mombasa Road, among other roads.

Mr. Speaker: Mr. Shaaban, had you forgotten to read all that information before? Anyway,

let us move on to the next Question.

Mr. Shaaban: Mr. Speaker, Sir, my answer has been long simply because the Ministry of Local Government does a lot of work. I could not have answered the Question just with one line.

Question No.280

SUBSIDY FOR CDF WATER PROJECTS
IN NYAMIRA DISTRICT

Mr. Masanya asked the Minister for Water and Irrigation:-

(a) what measures he is taking to subsidise water projects started by Constituencies Development Fund (CDF) in Nyamira District constituencies.

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

My Ministry is providing technical assistance which involves drawing of plans and designs and supervising construction of CDF-funded water projects in Nyamira District in line with the CDF Act. Projects undertaken by the CDF committees are not usually included in my Ministry's budget proposals and part of the CDF money is used to facilitate provision of the technical services.

Mr. Masanya: Mr. Speaker, Sir, I thank the Assistant Minister for the answer. He has talked about the technical staff. I know that technical staff in Nyamira and elsewhere have no vehicles and are not provided with lunch. They have no capacity to check the quality of water. How does the Assistant Minister expect these people to deliver good quality service if they lack all those things I have mentioned?

Mr. Wanjala: Mr. Speaker, Sir, as far as our Ministry is concerned, all our district offices have got vehicles. Even today, we have not returned all the vehicles because some of them are still providing service. All we need from the CDF committees is facilitation of our workers, say, pay them some allowances. On the whole, we have vehicles on the ground and they are operational.

Mr. Bifwoli: Mr. Speaker, Sir, the Assistant Minister should tell this House what measures he has put in place to appreciate the work of the CDF. If the CDF committees can allocate some money to be used by Ministries in constituency projects, the Ministries should in turn allocate money to the projects that the CDF committees have come up with. What plans does this Ministry have to fund the projects that have been started using the CDF money countrywide?

Mr. Wanjala: Mr. Speaker, Sir, in most cases, the CDF committees sit after the Budget has been made and so we are not able to tell which project they intend to undertake. However, we have a Water Trust Fund. This is an organisation within our Ministry and we encourage hon. Members to come up with proposals which they should forward to the Water Services Board in their respective areas. Those proposals will be then forwarded to the Water Trust Fund for more funding.

Mr. Masanya: Mr. Speaker, Sir, could the Assistant Minister tell us how much money has been allocated in this year's Budget for Nyamira District to cater for water projects?

Mr. Wanjala: Mr. Speaker, Sir, at the moment, I do not have the figures because he was talking about---

Mr. Speaker: Mr. Wanjala, you do not have to worry. It is his business to look at the Printed Estimates.

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

Question No.398

STOPPAGE OF COFFEE FARMING

ACTIVITIES IN KANGUNDO

Mr. M. Maitha asked the Minister for Co-operative Development and Marketing:-

(a) if he is aware that coffee farming activities have been abandoned at Kwa Matingi, Wendano, Matuu, Kianzabe and Kayatta farms in Kangundo;

(b) if he is also aware that the shareholders of these farms get no dividends when their directors borrow money from banks against the farms' title deeds for their own use;

(c) if he is also aware that many of the directors have initiated legal proceedings to sustain their positions at the expense of shareholders; and,

(d) what the Minister is doing to ensure that these farms are returned to the shareholders through general meetings.

The Assistant Minister for Co-operative Development and Marketing (Mr. Mwenje):

Mr. Speaker, Sir, I beg to reply.

First and foremost, some of the organisations that have been mentioned are companies and not co-operative societies. Wendano, Matuu and Kianzabe are private companies which are outside my jurisdiction. I would advise the Questioner to address that matter to the office of the Attorney-General for an appropriate answer. My reply is, therefore, restricted to co-operative societies which, in this case, are Matingi and Kayatta.

(a) I am aware that coffee farming activities in the two societies had earlier been neglected by previous committees. However, the societies are currently rehabilitating the coffee farms.

(b) I am aware that the two societies have not paid dividends to their shareholders as no surplus had been realised. I am also aware that the two societies had borrowed money for societies' coffee development, but I am not aware that they have borrowed money against the societies' title deeds for their own use.

(c) I am not aware of any legal proceedings initiated by the management committees of Kwa Matingi Farmers Co-operative Society and Kayatta Farmers Co-operative Society to sustain their positions at the expense of shareholders.

(d) I ordered for fresh elections in all co-operative societies in April, 2005 which included Kwa Matingi and Kayatta farmers co-operative societies whereby the current officials were elected by the shareholders in their respective General Meetings.

Mr. M. Maitha: Mr. Speaker, Sir, although the Assistant Minister said that he is aware, I feel that he has been misled by his officers. In Kayatta Farm, all the coffee trees have been uprooted. In fact, 80,000 acres have been leased by the directors to Del Monte Company Limited. In Kwa Matingi Farm, there are no employees because they have stopped going to work. This is because they have not been paid their salaries. Could the Assistant Minister send an independent team to investigate what is actually taking place in those farms?

Mr. Mwenje: Mr. Speaker, Sir, that is not correct. I do not even have to send anybody on the ground to know what is happening. From the figures I have, I can tell what is happening. The farms have been improving. In fact, they are realising the required amount of money that is expected of them.

At the moment, Kwa Matingi Farm has taken Stabex funds to the tune of Kshs4.3 million. They have also been funded by Kenya Planters Co-operative Union (KPCU) to the tune of Kshs12 million. The only thing that I know the hon. Member has a problem with is the current chairman. I agree that the current chairman has been messing up the society's matters. For that reason, today, I ordered for his suspension. He is no longer a member of the management committee and chairman of the co-operative society.

Mr. J.M. Mutiso: Mr. Speaker, Sir, this issue of management of co-operative societies in Machakos District has become a huge concern to us, particularly when the District Co-operative Officers collude with chairpersons to allow societies to borrow beyond their borrowing limits. Could the Assistant Minister also consider suspending or sacking the District Co-operative Officer because he was in cahoots with the chairman of the co-operative society?

Mr. Mwenje: Mr. Speaker, Sir, that is not correct, but it can still be investigated. However, after my investigation, I found that the chairman himself did what he did without the authority of the rest of the management committee. That was the reason why we suspended him this morning. But the District Co-operatives Officer, so far, is doing a good job. If I find out that he is also in cahoots with any of these management teams, I will also consider whether we require to suspend him. But, at the moment, I have no information that he colluded with any of them.

Mr. M. Maitha: Mr. Speaker, Sir, I stand by my words, that in Kayatta all the coffee trees have been uprooted. The Assistant Minister is talking of suspending the chairman of a society. Is he aware that the Chairman of Kwa Matingi Farmers Co-operative Society was arrested by the Criminal Investigations Department (CID) officers with Kshs40,000 treated money which he was given by a farmer whom he had authorised to go and pick coffee for himself?

Mr. Mwenje: Mr. Speaker, Sir, I may not be aware of what he was charged with, but I have evidence that he was taken to court. I do not have the details as to what the hon. Member is referring to. But that person was charged in court in connection with this issue. That is why, when I got the information this morning, I suspended him. He is no longer a member of the management committee and neither is he the chairman of that co-operative society. They will have to elect somebody else.

Mr. Speaker: Very well. Yes, Mr. Vice-President!

MINISTERIAL STATEMENT

NOMINATION OF FISCAL ANALYSIS/ APPROPRIATIONS COMMITTEE MEMBERS

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Speaker, Sir, in accordance with Standing Order No.154(1), the House Business Committee has nominated the following Members to serve as Members of the Fiscal Analysis and Appropriations Committee:-

Hon. Simeon Lesrima, MP
Hon. John Kipchumba Lagat, MP
Hon. Nicholas Biwott, MP
Hon. Billow Adan Kerrow, MP
Hon. Amina Abdalla, MP
Hon. Chrysanthus Okemo, MP
Hon. Samuel Poghio, MP
Hon. Julius Arungah, MP
Hon. Elias Mbau, MP
Hon.(Eng). Muriuki Karue, MP
Hon. Oloo-Aringo, MP
Hon. Stephen K. Manoti, MP
Hon. Daudi Mwanzia, MP
Hon. Charles Owino Likowa, MP
Hon. Kiraitu Murungi, MP
Thank you.

Mr. Speaker: Very well.
Next Order!

Mr. Twaha: On a point of order, Mr. Speaker, Sir. There is no Member from the Coast Province in that Committee!

(Laughter)

Mr. Speaker: There is no Standing Order that requires that there be hon. Members from the Coast Province in that Committee!

Next Order!

BILLS

First Readings

THE FINANCE BILL
THE LICENSING (REPEALS
AND AMENDMENTS) BILL

*(Orders for First Readings read - Read
the First Time - Ordered to be referred
to the relevant Departmental Committees)*

Second Reading

THE STATISTICS BILL

The Minister for Planning and National Development (Mr. Obwocha): Mr. Speaker, Sir, I beg to move that the Statistics Bill be now read the Second Time.

Mr. Speaker, Sir, this is one of the shortest Bills to be presented to this House. The revised Statistics Act is proposed in this Bill to provide for the establishment of the Kenya National Bureau of Statistics. This is basically the main purpose of this Bill. As we all know, statistics is a powerful and crucial tool for decision-making in our development agenda. Quality statistics enables us, as a country, to measure achievements towards fulfilling our national and international obligations. For example, in the implementation of our Economic Recovery Strategy for Wealth and Employment Creation, the Government is expected to continuously monitor whether policies and programmes, as outlined in the Strategy, are yielding results. The effectiveness of such monitoring depends on availability of qualitative data.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, no country can have quality statistics unless it has a well functional national statistical system which includes producers and users of statistics and a robust national statistics office. Therefore, in 2002, the Central Bureau of Statistics embarked on the preparation of a five-year strategic plan for the national statistical system, covering the years 2003/2004 to 2007/2008. The plan aims at reversing the decline in the production of national statistics witnessed in the 1980s and 1990s, and has set out a strategic direction for the provision of timely official statistics and a framework for enhancing resources.

Mr. Deputy Speaker, Sir, the strategic plan which, was approved by the Government in 2003, recommended the revision of the Statistics Act, Cap.112, as part of the reform agenda for the

Central Bureau of Statistics. The main purpose for seeking the enactment of this legislation is that the current national statistical system is not well defined and lacks a strategic direction. Therefore, currently, the Bureau is using the Statistics Act, Cap.112, which was enacted in 1961. This Act is outdated and needs to be revised. It was last revised in 1972. It can no longer adequately support the production and management of statistical information given the changes in the economy, particularly in the last 30 years. As a Department of the Ministry of Planning and National Development, it lacks the autonomy and flexibility it needs to operate as a highly technical institution. So, we want to move it as an agency.

To that extent, the Act has constrained the Bureau, particularly with regard to its role in co-ordination of the country's national statistical system. The Ministerial Nationalisation Report of the then Ministry of Finance and Planning in 1999 and other studies conducted on the Central Bureau of Statistics (CBS) recommended that the Department be restructured and transformed into a semi-autonomous Government agency. That way, the CBS would be able to respond effectively to its mandate of providing timely, reliable and affordable statistics for informed decision-making. In addition, the CBS would co-ordinate, supervise and provide strategic direction to the National Statistical System in the light of the rapidly increasing demand in data.

The Bill, therefore, proposes to confer professional independence to the current CBS to enable it to:

- (1) Attain the needed operational flexibility.
- (2) Hasten its decision-making process.
- (3) Establish partnership and collaboration with other organisations.
- (4) Negotiate for funding from the Exchequer and donors.

Mr. Deputy Speaker, Sir, the highlight of this Bill is that the Revised Statistics Act as proposed in the Bill is to provide for establishment of the Kenya National Bureau of Statistics. This will be a body corporate and a principal agent for collecting, analysing, publishing and disseminating statistical information in Kenya. The new Bureau will also be expected to co-ordinate, supervise and provide a strategic direction to the National Statistical System. Its specific functions will include the following:-

1. Planning, authorising, co-ordination and supervising all official statistics and programmes undertaken within the National Statistical System.
2. Establishing standards and promoting the use of best practices and methods in the production and dissemination of statistical information across the National Statistical System.
3. Collecting and compiling, analysing, abstracting and disseminating statistical information on matters specified in the First Schedule.
4. Conducting the population and house census every ten years and such other census and surveys as the Board may determine.

As you know, we have had our population and house census conducted since Independence after every ten years, 1989, 1999 and the next one will be done in 2009.

5. Maintaining a comprehensive and reliable national socio-economic database.

The Bill also includes clauses which allow for establishment of the Bureau, its objectives and functions, establishment of the Board of Directors, its functions and composition. The Board shall consist of a Chairman appointed by the President and five other members appointed by the Minister responsible for statistics.

The Bill further provides for establishment of the Director-General's position who will be the Chief Executive of the Bureau and the Secretary of the Board. The Bill also contains clauses on areas from which the Bureau shall collect statistical information. This has been expanded to include such areas as information, communication and technology, informal sector and environment. It provides for dissemination of information to the public and provision of special

information or report to the users.

The Bureau shall continue to be funded by the Government, taking note that the official statistics is a public good, through budgetary allocation by Parliament for the purposes of this Act. The funds will also be provided by development partners in form of grants and loans. Funds made available to the Bureau for the purpose of carrying out its functions shall be audited and reported upon in accordance with the Public Audit Act. The Bill was first published on 12th August, 2005. However, the Bill could not be brought here and we re-published it in March, 2006.

Mr. Deputy Speaker, Sir, what I am saying, therefore, is that basically our system has been in place but we want to make it more autonomous and turn it into a parastatal. This is one of the shortest Bills and I expect that since we do not have qualms with the manner in which we collect our statistics, this House will pass it in one day.

With those remarks, I beg to move and request hon. Wetangula to second.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, I rise to second the Bill. As the Minister has rightly said, this is a short, straightforward, yet very important Bill. No country can develop coherently until and unless it has its statistics in order. The statistics should be correctly gathered and reflect actual facts so that it can guide the allocation of various activities of Government.

Indeed, we already have the CBS which has been functioning. The Bill intends to revamp, re-energise and re-engineer the work and activities of the Board.

(Loud consultations)

Mr. Deputy Speaker: Order! The troublesome corner is at it again! Mr. Angwenyi, I hope we do not reach a time when the Chair will have to separate the hon. Members who sit there. We have problems with that corner almost permanently.

Proceed, Mr. Wetangula!

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, the Bill seeks to establish a Board that will be responsible for the day-to-day management and running of matters of statistics. This is important. I hope that when this Board is set up, it will open active and functional branches all over the country so that our statistics are updated literally on a daily, weekly, monthly and annual basis. Statistics on birth, death, poverty and wealth indexes can be updated and upgraded all over the country if the Board has offices everywhere.

I just want to point out to the Minister that Clause 8(2) needs to be made succinctly clear. It says in part: "A person shall not be qualified for appointment as the Director-General unless such person has an advanced degree in the relevant field and at least, ten years experience in the management of public institutions." This is left hanging, although when you look back, you will see that the relevant field is described in Clause 5(3). I think Clause 8 should clearly point out that the relevant field "as defined in Clause 5(3)" so that we do not leave it to any doubt. We have seen cases where Ministers appoint people who are unqualified and hide in the law saying it has given them the leeway to do that.

Mr. Deputy Speaker, Sir, on Clause 17, I would like the Minister to clearly indicate that the census cycle will be ten years. Indeed, he has already said that. But we want it in the law. If our census cycle is ten years, then it must be embedded in the law so that we do not get into a state like the Democratic Republic of Congo when it was called Zaire that went for 30 years without a census. Everything was done on guesswork. This has happened in many other counties. This creates a mis-match in development. It even leads to the plunder of national resources. We know of countries where, whenever they have a census, every region wants to over-state its population so that they can attract resources. So, if we have a ten-year cycle and offices are opened in every

region where records are kept on a daily, weekly, monthly or annual basis, it then becomes easy to keep statistics and to direct resources.

Mr. Deputy Speaker, Sir, Clause 22 is equally important. We do not want the information given to statistical officers to be used as an instrument of witch-hunting nationals of this country. So, it is good that the Minister has provided for the protection of information that the officers will pick from any Kenyan so that it is not used to undermine the freedom of Kenyans. Equally, such information may, under certain circumstances, especially if such information disclosed to a statistical officer discloses a commission of a criminal offence or acts that are prejudicial to the security of the State, I think the Minister should have a rider to this clause that information shall not be disclosed once gathered provided that, for example, such information leads the State to know that the provider of that information is a drug trafficker, a money launderer or a criminal of some nature. Then, that information will be necessary and helpful for the orderly governance of the country. We must protect the good people, but we should not use the law to protect the bad people. This is universally accepted.

All in all, Mr. Deputy Speaker, Sir, the Bill is straightforward. After the passage of such a Bill, we want to see the country benefitting from improved information. I would want to see a situation where the Ministry concerned computerizes all its centres related to statistics so that it is easy to update the information available. You have seen the harrowing process through which the manual entries are made during the national population census when trying to get accurate figures. In fact, we sometimes end up either overstating or understating facts and figures. So, if we can follow this up with computerization, that will be good.

Mr. Deputy Speaker, Sir, Clause 12, which allows the Board to manage and acquire funds, is equally important. This is such an important office for every Kenyan in the country that we should not, under any circumstances, give room for foreign funding. We know the conditions that come with foreign funding. I will not want to see any situation where, like it is provided in Clause 12, that the Board should or may accept donations. Who is giving these donations? You may have donations that will force the management of the Bureau to subvert statistics to say that we are either more or less than what we are, depending on what the donor wants. We have seen this happen before. This provision should not be in this Bill, and I hope my friend will look at it. I am sure that, as a Parliament and country, we can fund our statistical office to give it the necessary independence that it requires to gather information which is truly and wholly Kenyan and, therefore, serve the interests of this country. Otherwise, as the saying goes:- "He who pays the piper calls the tune". For example, you will accept funds from some country which wants us to overstate the number of gay men in this country and then start saying that we are trampling on them. You may have some donors who may want us to overstate the population of women or men in this country for devious reasons! The Minister should look at this issue when we come to the Committee Stage.

Mr. Deputy Speaker, Sir, I do not think I need to belabour the point. The Bill is good and we need to pass it. We hope to operationalize the Bureau in a revamped manner so that it can serve this country. As we wait for the ten-year cycle to get an accurate figure of how many we are, they can roll out projections every year and say:- "We have increased by this percentage, we have died by this percentage and so on and so-forth".

Equally important is the keeping of statistics relating to poverty and wealth indices in this country. We are all excited about the Constituencies Development Fund (CDF). But we also know that some constituencies are not getting their fair share of the CDF allocation because of inadequate statistics. We also know that there are some constituencies whose poverty or wealth level are unknown. It is only through this that we will be able to make sure that we have accurate information that will help us to have equitable development and equitable distribution of resources

in the country.

With those few remarks, I beg to second.

(Question proposed)

The Minister for Roads and Public Works (Mr. Nyachae): Thank you, Mr. Deputy Speaker, Sir. I am going to be very brief.

The Bill is all right, at least, for some of us. It is a good Bill because establishing an autonomous body is a good thing. But I expected certain areas to be emphasized a lot more this time. The statistics we have seen over the years have been produced through some kind of survey that has been done countrywide, but the people out there do not know how you arrive at these figures. A way must be found to ensure that before these statistics are made national figures known to Kenyans countrywide, people need to know at the district level, probably through the District Development Committee (DDC). They should be told:- "This is how your poverty is". They should be told how their education levels are and how their agriculture is, so that they can respond and enlighten those who are collecting the statistics. But as things stand at the moment, statisticians go out, fill forms and nobody knows what they have gathered. Then next thing we hear is that the Ministry has come up with a document indicating that this area is poor and that area is poor to such and such an extent. But nobody knows how they arrived at that conclusion.

Mr. Deputy Speaker, Sir, my colleague has just mentioned the CDF. We have seen figures which differ from one area to the other. When we ask:- "What has caused this difference?" we are told:- "These are the needs of that area because your population wants this or that. The other area has fewer people than your area". But nobody knows because the census was done some time back and now we are being given figures which we do not understand. For us who are elected leaders, including councillors, when national allocations are done, we face our people down there and they tell us: "Our neighbours in constituency so-and-so have been given so much. What factor was used for them to be given this much more than ourselves?" When you start seeking clarification regarding this information, we are told that they have used statistical figures from the Ministry of Planning and National Development. We do not understand these figures! Even right now, I do not understand how they arrived at certain figures in my constituency and nobody has come forward to tell me what is happening. I appeal to the Ministry concerned that, once they have set up this parastatal, they must create a structure which will operate in the grassroots so that people are briefed. They should go there and give the people the preliminary information they have gathered and let them comment again. This may cause some revision to be done to the statistics. For one or two professionals to go out there, carry out some survey and think that they have got all the answers, is not correct. Even, we, Parliamentarians, who represent our people here, do not know all the problems in our constituencies. We do not know all the needs of our people. How can somebody travel from Nairobi to my constituency, collect data for one week, come back to Nairobi, and pretend to have gotten all the answers to the problems afflicting my people and then come up with figures? It is good that we develop a system of consultation. It is also important for this Department to be understood much more. The Department does not even organise seminars to tell us about its programmes. Nobody knows what its officers do. They just do their things very quietly out there. In the last financial year, a sum of Kshs650 million was spent to assess the level of poverty in the country. Some figures were subsequently published. We were told that some particular areas of the country were the poorest and yet we know that the areas that were reported to have been the poorest by that survey were, indeed, not the poorest. The areas that were poorest were left out of the survey.

Mr. Deputy Speaker, Sir, it is true that most areas in this country are poor but the way the

level of poverty is assessed is, definitely, questionable, especially if you consider the amount of money that was spent on the exercise and the kind of report that was subsequently published. I will give an example of an area I know well. I worked in Central Province and happen to have a lot of knowledge about that area. So, to be told through such a survey that Kabete is the richest constituency in the whole of Central Province is not correct. I am yet to be convinced that, that is, indeed, the case, because I do not believe it.

Mr. Deputy Speaker, Sir, Kabete Constituency includes Ndeiya where there is no water. It is not correct to say that, that constituency is the richest in the whole of Central Province. Karai area, which has no water, is also part of Ndeiya which is within Kabete Constituency. You just wonder how the Central Bureau of Statistics arrived at the conclusion, that Kabete is the richest constituency in Central Province.

An hon. Member: Which is the richest constituency then?

The Minister for Roads and Public Works (Mr. Nyachae): Mr. Deputy Speaker, Sir, that is what we need to know; and how the Central Bureau of Statistics arrived at those figures. We need to know what factors the Department uses to arrive at such conclusions. Let the Department debate those factors with other people.

Mr. Deputy Speaker, Sir, sometimes I make a joke about how the Central Bureau of Statistics arrived at the conclusion about Kabete Constituency being the richest in the whole of Central Province. That, whoever went there to collect the data must have seen a lot of livestock from Maasailand, which had come to graze along the border of Maasailand and Kikuyu Division in the areas of Karai and Ndeiya, and thought that they all belonged to the people of Karai. Those must have been Maasai cattle that were included in this survey, because the people of Karai do not have many cattle.

Therefore, the Central Bureau of Statistics needs to work with the people on the ground. They need to consult the people. The people need to know that officers from the Central Bureau of Statistics are going there to look for certain information. The people should then be let to tell their problems in education, agriculture, *et cetera*. That information should then not only be released to the public through the Press. The information should be released to the operational Ministries, so that they can use it when implementing their various programmes.

With those remarks, I beg to support.

Mr. Lesrima: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this debate.

Mr. Deputy Speaker, Sir, in supporting this Bill, I would like to start by saying that the Central Bureau of Statistics is one of the Departments that have been marginalised by the Government over the years. If you look at its headquarters; Herufi House, which is sandwiched between the Central Bank of Kenya and Treasury Building, in a dilapidated condition, you will understand what I am talking about. It is a pity that the Bureau's officers are not even here to take notes, taking into account the sentiments expressed eloquently by Mr. Nyachae. There is need for the Central Bureau of Statistics to communicate much more effectively.

Mr. Deputy Speaker, Sir, I am told that statisticians by their nature, are very reserved people. I know that the officers working at the Bureau are very qualified, and that they do a lot of good work. Some of them have even a library covering the East African region. So, it is time we de-linked it from the Ministry of Planning and National Development and gave it resources in such a manner that is sustainable. The Bureau should also access resources from donors through the Treasury. We are also part of the international community and we should be able to work out our own autonomy.

Mr. Deputy Speaker, Sir, I would say that one of the reasons why there have been lots of complaints in the manner in which we allocate resources, is because the Central Bureau of

Statistics has not been adequately funded to enable it collect statistics nationally. For instance, the Government has been determining poverty indices using statistics of Coast Province to base it on the statistics for the North Eastern Province. I understand that there has been recent investment to ensure that statistics from the North Eastern Province can now be collected accurately and utilised. It has all been a question of lack of resources. So, autonomy will assist the Central Bureau of Statistics to get out of this problem.

I believe that is why the Minister is proceeding cautiously. When you divide resources under the Constituencies Development Fund (CDF), you divide 75 per cent equally and play about with the remaining 25 per cent on the basis of a complicated resource allocation formula. This brings out some very interesting figures in CDF allocation, where you have a constituency in high potential agricultural area getting Kshs60 million and a constituency in extremely ASAL area, like mine, getting Kshs40 million. For instance, a recent economic survey indicated that we are 83 per cent poor. I believe that once the Central Bureau of Statistics becomes autonomous, it will do its work much more effectively.

Mr. Deputy Speaker, Sir, I know that so much data has been collected through welfare monitoring surveys, which are conducted on intervals of five or ten years. We have been talking about the 1997 Welfare Monitoring Survey. One of the things we should do in parastatals is to use local resources. One of the problems is sending staff from Nairobi to collect data at the grassroots level. It would be good to utilise the local people at the grassroots level for data collection, because they are adequately educated.

The Central Bureau of Statistics should also come up with educational programmes to enlighten the people on its activities, since in statistics, you cannot count everything. You rely on what experts call "sampling frames". These are not issues that can be understood easily by everybody. The department can be sustained through the sale of materials it collects. I do not want to say much but, in conclusion, I would like to say this is a straightforward Bill that has been long overdue.

With those few remarks, I beg to support.

Mr. Khamasi: Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to contribute to this debate. First of all, I would like to say that if a foreigner came here, he would wonder how our Government is functioning without the Bill being an Act of Parliament. I want to thank the Minister for Planning and Natural Development for bringing the Bill to this House. It is a simple Bill that requires us to give consent so that it becomes an Act of Parliament. If you do not have data, it is very difficult to arrive at good conclusions. It is in this regard that we have seen very funny decisions being made and our resources being distributed in the most unfair and skewed manner. I want to believe that has been so because we had not established a proper bureau of statistics. I think the Bill is good and we need to go ahead and pass it.

Currently, the figures that are in place at the bodies which give statics to our Ministry of Finance and other Ministries which distribute national resources must be wrong. First, I want to agree with what hon. Nyachae said; that, we need ownership of that information by the populace of Kenya. For instance, if you look at the objectives of this Bill, you will see that one of them is to conduct population and housing census after 10 years and other such census as the board may require. Every 10 years after the census exercise is carried out, there have been a lot of queries. The accuracy of the exercise has always been questioned time and again. The manner in which the exercise is done is sometimes covered in secrecy. The results take long to be published and one wonders what the cause of such delay may be. No wonder, when distribution of national resources is taking place, we see data that is not correct being used.

I have a very classic example, which perhaps, I should share with this House. It is information about a constituency which neighbours mine. My Shinyalu Constituency was hived off

from Ikolomani Constituency. We have the same people living in those constituencies, eating the same food and, in fact, you cannot tell the difference between someone who lives in Ikolomani with one who comes from Shinyalu. To my surprise, I was told that Ikolomani is one of the poorest constituencies in Kenya. It is ranked among the poorest constituencies. I then wondered where the statistics had come from, yet Shinyalu Constituency was carved off from Ikolomani. The poverty is to an extent that when CDF allocations are being made, Ikolomani gets more money than Shinyalu, which has a bigger population. I was wondering how we can rationalise the figures. Where did people get the figures from? One cannot understand. It is important that we get the figures from the right place and make good use of them because occasionally, some bad use has been made out of them. It is important that we use the figures properly.

I would like to tell the Minister that we need affirmative action in many parts of this country, particularly when it comes to resources allocation. You will find that a Budget is presented to this House and we approve it. Recently, we were told in a seminar that the Ministry of Finance no longer distributes allocations on behalf of Ministries. It is the work of the Ministries to distribute the resources it has been given. That is the practice now. Last year, we saw water finances going to areas where there is water. Areas which, genuinely, needed the resources mostly got peanuts.

On the issue of roads, as we are talking, the biggest chunk of last year's allocations went to areas which have good roads. Areas which do not have a single kilometre of tarmac road did not get a single penny. One wonders how we use statistics. We hope that the Minister for Planning and National Development will implore his counter-part in the Ministry of Finance so that when statistics are well established, affirmative action will be used as the answer to the problems in our country and we will have fewer complaints. As I said, this is a very simple Bill that we need to pass so that it becomes law for the benefit of Kenyans.

I support.

Prof. Anyang'-Nyong'o: Thank you, Mr. Deputy Speaker, Sir, I rise to strongly support this Bill for the reason that the hon. Members have given today; that, it is long overdue. In my language, it is said that when a calf is born as you look after a cow, even if you were not present during its conception, the calf becomes yours. The calf in this case was conceived when I was a Minister for Planning and National Development, when I was looking after the cow. However, since it is being born when my friend Mr. Obwocha is taking care of the cow, I concede that the calf is his, although the conception of the calf was under my husbandry.

I remember submitting a Cabinet Paper on this Bill and explaining to the Cabinet the significance of the Bill. One of the things I want to remind this House is that the Kenya Bureau of Statistics is one of the best in Africa, and has all along maintained very high standards, even under harsh circumstances when the Government requires statistics to be used to prove certain political points. However, what I have realised all along is that the Kenya Bureau of Statistics should be given a certain amount of autonomy from the parent Ministry, so that it can be a corporate body with perpetual secession and a common seal; a body which shall, in its corporate name, carry out certain functions more or less as a parastatal, if not a parastatal. What this Bill does in the final analysis is that it gives the Kenya National Bureau of Statistics the corporate and legal personality it has been looking for, for very long, not only to defend the good professional work the bureau has been doing for a long time, but to shield it from all manner of political pressure that may come as Governments change from one time to another so that the high standards of collecting and using statistics for policy making are maintained.

Mr. Deputy Speaker, Sir, the second thing that I want to remind this House is that, contrary to the current belief expressed by my dear friends *Mzee* Nyachae and Mr. Khamasi, the statistics should be collected by public approval, consent and participation. The public can participate, but

very rarely will statistics be collected by public approval. That would be populist. If you look at Clause 22(1) of the Bill, it reads:-

"No person shall publish or show to any other person not employed in the execution of a duty under this

Act any of the following:-

- (a) An individual return or part thereof made for the purposes of this Act;
- (b) An answer given to any question put for the purposes of this Act; or,
- (c) a report, abstract or other document containing particulars comprised any such return or answer so arranged, as to identify such particulars with any person or undertaking, except with a prior written consent of the person making the return, or giving the answer, or, in the case of undertaking, the owner, for the time being, of the undertaking."

Mr. Deputy Speaker, Sir, that means we want to shield statistics from subjective feelings. Mr. Nyachae said very clearly that when some cows were counted somewhere, the people collecting the data were not aware that those cows were counted elsewhere. So, they did not belong to that neighbourhood. That can be true and I do not doubt the hon. Member's submission. But, usually, in statistics, there are provisions which talk about margins of error. Any collection of statistics must allow for margins of error, which include the cows that moved from one neighbourhood to the other, as Mr. Nyachae observed. Those are items that could be accounted for under the margins of error. Statisticians do not have a 100 per cent proof of whatever they are doing. But when they are analysing and calculating data, they allow for two things - degrees of freedom and margins of error. In that regard, moving cows may interfere with degrees of freedom, but they will be accounted for in the margins of error.

Mr. Deputy Speaker, Sir, the second thing that I would like to say is that statistics are extremely important in calculating poverty indices. But poverty indices are gross data. In other words, they are like Gross Domestic Product (GDP). When you talk about GDP, you take the gross wealth of a nation - that is GDP per capita - and divide it by the population. That is when you get the GDP per capita. It does not mean that Dr. Khalwale earns the same amount of money as the peasant he has employed in his yard to collect cow dung to put in his garden. The two of them earn vastly different sums of money but, when it is averaged, it is assumed that they all fall within that GDP per capita. That essentially means that the concerns of my friend, Mr. Khamasi, that Ikolomani and Shinyalu may be neighbours but they may have different population densities are well understood. So, when you are calculating the poverty indices in the two constituencies, one may enjoy a lower or higher poverty index than the other, which will affect the amount of money they get from Constituencies Development Fund (CDF). That is the risk we take when we try to be fair in terms of distributing CDF according to poverty indices. That is one of the reasons why the 75 per cent of the money is distributed equally, and the other 25 per cent is distributed in accordance with the differences of poverty indices occurring in various constituencies. Still, even when we do that, margins of error will occur. That means that a man called Mr. Khamasi will complain that his constituency may, indeed, fall within that margin of error, when we consider the whole nation in the distribution of CDF money.

Mr. Deputy Speaker, Sir, the third point, which is extremely important is that, in making plans for infrastructural development--- Quite often, in order to have efficiency gains and maximum resources, some infrastructure may develop in certain areas prior to other areas. That means that, if you put an infrastructure in a certain area and stimulate economic activity there, the area will produce more wealth than another one. If that wealth is then used to build a natural resource for creating more infrastructure, then more infrastructure will be created much more efficiently nationally than if we did it otherwise. What do I mean? It may look rather cruel and

marginalise certain sectors. But if you look at the history of Kenya, you will find out that there is a higher distribution of infrastructural resources in high potential areas in terms of agricultural development than other areas. That was a decision that was, perhaps, made in the colonial times. It should now be reversed because economic conditions have changed. But even then, in order to stimulate fish production in the lake--- Since the lake is the only natural resource that produces fish, Mr. Nyachae needs to prioritise the building of a ring road around the lake, so that those resources could be exploited much more urgently. It is the only vast area that is producing those resources. It is better to do so than say: "I will build a ring road around Lake Kenyatta at the Coast." It is a smaller lake and may not have as much fish as Lake Victoria, which needs to be opened up much faster, so that we can exploit the Kshs7 billion worth of fish in that lake. Those earnings could even go up to Kshs10 billion! That way, we can earn more foreign exchange for this nation.

Mr. Deputy Speaker, Sir, the use of those statistics in national development is extremely important. An autonomous qualified body should be given the freedom and autonomy to gather those statistics and advise the Government, without interference from people who "second-guess" what statistics are all about. We can all "second-guess" what statistics are all about. But we should allow those who have been trained to collect statistics to advise us, so that we can make better national policies for our own development. It has often been said in this House that certain figures collected by the Kenya Bureau of Statistics - which is now going to be Kenya National Bureau of Statistics - are wrong. I would like to caution hon. Members against making such categorical statements. To state that a statistical figure is wrong means that you have better machinery and equipment to collect the right figure. But quite often, when we say that figures are wrong, that means we can guess what the figures are. But we do not have the qualification, equipment or knowledge to get the right figure. It takes a long time before statisticians release their figures for public consumption. That is why hon. Members complain that it takes too long to release demographic or population figures. I would rather a national bureau of statistics takes a long time to refine its figures than release them to the public unrefined.

Mr. Deputy Speaker, Sir, population census data has caused wars in this world. The first Nigerian civil war could be explained by the use of population census data. Although they have been carrying out census after census, Nigerians have always been afraid to release the results. Kenyans are much better. We collect our census data after every ten years. It takes us long to release them, but we eventually release them. Usually, it does not take more than two years to release those figures. Those figures are delayed because statisticians would like to know that they have tested and re-tested the validity of those figures, before they are released for public consumption.

Mr. Deputy Speaker, Sir, the other statement that I would like to correct hon. Members is on the question of ownership of statistics by the populace. That is an "attach and go" issue. When statistics do not favour you, you disown them. But when they favour you, you own them. That has been a historical problem all through. I think we should do what this Bill expects us to do. Let us make sure that the law we are putting in place establishes an agency that will have the competence, good governance and the authority to collect, analyze and release correct statistics which we will have confidence in.

Secondly, we have to establish an agency whose management will protect the collection of national statistics of all types from pollution. What do I mean by "pollution"? I mean that, when statistics are collected, they should be protected from certain social forces which would like to smuggle into those statistics, get information and fault their real nature. It has often been said that when we collect statistics about income distribution--- One of the biggest problems in Kenya is that, our income distribution curve is extremely retrogressive. We have very few people earning a lot of money and a huge majority earning very little money. In deed, 56 per cent of our population

is locked out of the market. Yet, we recite that statistic as if it is something to be proud of. If you lock out 56 per cent of your people out of the market, you are saying that you are consigning yourself to under-development. If 56 per cent of your population is not participating in the market, it means that you have prohibited certain forms of industry from being developed in your economy. Anyone who wants to invest in your economy will know that there will be nobody to buy the commodities they will be producing. Let me give you an example. Today, if you were to establish a shoe-making factory other than Bata Shoe Company in Limuru, you will find it very difficult to penetrate the market. That is because there are only two players. One is Bata Shoe Company which has managed, for a very long time, to produce very good shoes at a low cost. They have imported labour-saving machinery and have perfected the designs of good shoes from *mitumba* shoes. They can sell first-hand shoes almost at the price of *mitumba* shoes, and compete effectively. If you were to come in, you would either come into the *mitumba* market; in which case you will not establish any industry, or try and compete with Bata Shoe Company, which has a tremendous efficiency in shoe production. The only thing you can do is to make sure that there is tremendous demand for shoes in this country that would warrant the establishment of another factory, which would be a little bit less efficient than Bata Shoe Company. But because Bata Shoe Company cannot satisfy the market, you will be able to find that market. You can only do so if the 56 per cent of the people living below the poverty line are brought into the market to buy your shoes.

Mr. Deputy Speaker, Sir, therefore, one of the biggest enemies of our development is the retrogressive income curve. We should have an income curve which is much more like a basin, than a bell. In other words, we should have people with reasonably distributed income, with quite a number of people at the top, but not the few that we have at the moment. All of us should fit in between the middle. At the moment, that is not the case.

Mr. Deputy Speaker, Sir, what we did when we collected data on the geography or system of poverty distribution in this country was to ring the warning bell. It was a wake up call to Kenyans that the kind of income curve and poverty distribution we have in this country is very dangerous to our development. It is for all of us to make sure that we know that information and do something about it.

What this Bill is trying to do is to make it possible for Kenya National Bureau of Statistics (KNBS) to collect and release that data, because it is recognised as an autonomous and authoritative organisation to do that. We should not blame data on Mr. Obwocha as the Minister for Planning and National Development or Prof. Anyang'-Nyong'o because, when it is released, it shows the Government in bad light. That is what I was told! I was told that the Ministry was trying to release that data because the Liberal Democratic Party (LDP) wanted to portray the Government in bad light, so as to win the Referendum. That is not the case! That data was produced by a well trained professional assisted by a well qualified cadre. Although the Kenya Bureau of Standards is under the Ministry of Planning and National Development, it should be an autonomous organisation advising the Government on how best to know the facts about the economy and use them for better planning.

Mr. Deputy Speaker, Sir, one of the things I like about this Bill is that it gives responsibility and authority to the Director-General to bear the task of being the person with the final say on the release and use of the information by the Government.

Clause 23(2) reads:-

"The Director-General may, with the approval of the Board, cause statistical data collected by the Bureau to be disseminated to the public after ascertaining its accuracy and safeguarding the confidentiality with respect to the information."

Mr. Deputy Speaker, Sir, this particular clause will now protect the Minister from being bombarded by polluting forces regarding the accuracy and innocence of data released to the public.

This is an extremely important provision in the Bill. It is the Director-General who shall be responsible for the accuracy and dissemination of information. He shall also be responsible for safeguarding the confidentiality with respect to the information given.

Mr. Deputy Speaker, Sir, we must understand that the source of certain forms of statistical data, when collected by the Bureau, must remain confidential. Otherwise, individuals who give that information may be subjected to harassment by God-forsaken politicians who think that the data is contrary to their political mission or belief. That will defeat the importance and use of statistics in our policy-making system.

Mr. Deputy Speaker, Sir, Clause 24(1) reads:-

"Any person who hinders or obstructs the Director-General or any authorised officer in the execution of any powers conferred under this Act, commits an offence and shall be liable, on conviction, to a fine not exceeding Kshs100,000, or to imprisonment for a term not exceeding 12 months, or to both."

My feeling is that, knowing the rate of inflation in our economy, Kshs100,000 will be a very small figure in the next five years. However, for the time being, I think it is prohibitive enough. I think the Minister should add a rider during his submission, that KNBS should be allowed to review that provision after five years, so as to make it increasingly difficult for people to interfere with the collection of statistical information and its use by that corporate agency.

Finally, I would like to draw the attention of hon. Members to the Second Schedule on page 440 Section 5 - Disclosure of Interest. It regards Board members. It reads:-

"If a member of the Board is directly or indirectly interested in any contract, proposed contract or other matter before the Board at which, the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting, and as soon as reasonably practicable after the commencement thereof, disclose the facts, and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during the consideration of the matter."

Mr. Deputy Speaker, Sir, I am drawing the attention of the Minister to this particular provision. If my wish would be carried out, I would like the Board to be composed of men and women who would not have any vested interests whatsoever in the procurement process of the Bureau, either in terms of securing printing materials or sale and purchase of equipment. The Bureau is like an intensive care unit in terms of policy-making in the Government. It is a very sensitive institution. If members of the Board who are responsible for policy-making and running the Bureau, go into it with rent seeking interests, either directly or indirectly, they will jeopardise the work of the Bureau and will bring it into disrepute.

This provision indicates that the members of the Bureau may, at one time or the other, be interested in contracts that the Bureau wishes to enter into. My wish is that members of the Board should not at any one time, be put in a position where they have any interest whatsoever, in a contract or a procurement process in the Bureau. For example, if members of the Board of the Central Bank of Kenya have an interest in the process by which the bank identifies a body that prints the currency, then we are in extreme danger.

Mr. Deputy Speaker, Sir, although this particular section protects the Board members from being involved in contracts in which the Board wants to secure certain services, my wish would be that when the Board members are appointed, when they are being sworn in or when the Board is being inaugurated, it may be made very clear to them by the Minister that at no time, whatsoever, should any member of the Board be found in a position where they have to exempt themselves from a Board meeting because they are in one way or the other, connected to a contract. That is the beginning of the original sin. They will, thereby, have lost their virginity as members of the Board.

Clause 5(i) states that a disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made. We know that once an interest is established, and even if it is recorded and the Board member goes away, he will have colluded or somehow influenced other Board members to act in his or her interest when he is gone. So, the most important thing is to prevent the sin before it is even detected and excused by Board minutes.

If I was redrafting this Schedule, but now it is too late, I would have done it differently. I think it is the responsibility of the Minister and the Permanent Secretary concerned to make sure that we do not go this far where minutes will have been recorded that a certain member of the Board is the owner of a certain printing firm in which the Bureau has got a contract and, therefore, has been excused. I would like these people to be as clean as Caesar's wife.

Clause 5(iii) states that a member of the Board who contravenes Sub-paragraph 1 commits an offence and he is liable to a fine of Kshs100,000 or to imprisonment for a term of six months or both. A member of the Board who commits this sin should be dismissed from the Board. I would like the Minister to bring an amendment to this Second Schedule to say that once a person commits this sin, there is no need of fining him and letting him to continue at the Board. He should be fined, thrown into prison and dismissed. If he goes back to the Board, he is likely to find another *panya* route to bring back his funny contracts and agencies and make use of his position at the Board and award himself contracts.

Mr. Deputy Speaker, Sir, while concluding, one of the things which we should do when we are passing this Bill, is to acknowledge the good work that the Kenya Bureau of Statistics has done for this country. You may not realise it, but if you go to Rwanda, you will find that when the Rwandese were trying to establish their bureau of statistics, their people were trained here. They got our people there to go and start their bureau of statistics and we have acted as a centre of capacity building in the region. Indeed, the Rwanda Bureau of Statistics is an out-grower of the Kenya Bureau of Statistics. We need to increase our capacity to capacity-build in Africa in terms of training people in statistical gathering, analysis and publication of statistical information that our Bureau of Statistics has done so well and made our nation proud.

With those few remarks, I beg to support.

Mr. Angwenyi: Thank you, Mr. Deputy Speaker, Sir, for giving me a chance to contribute to the debate on this very important Bill.

First, I want to commend the Minister for moving with speed to publish this Bill and bring it to the Floor of the House. It has taken years before a Bill such as this one could be brought to this House. I am glad that my colleague, Prof. Anyang'-Nyong'o, recognised that it took a long time to conceive this child. I believe the idea was miscarried several times. We need to have a body that we can depend on to seek information on the management of this country. As you know, information is the key to any management system.

As we sit here today, we really do not know what the rate of unemployment is in Kenya. We are told by some faulty statistics that the rate of unemployment in Kenya is between 14 and 20 per cent, when, in fact, if you walk in the streets of Nairobi, you will think they are market places. This means that our people are not employed. That is why you can find them all over in towns. I estimate the rate of unemployment to be over 70 per cent in Kenya.

Mr. Deputy Speaker, Sir, during the referendum, you could hold instant huge *barazas* because our people are unemployed. We no longer have land where you can tell people to go and farm like the late Jomo Kenyatta used to tell people to do. There is no vacant land even in Mwingi which used to be fallow some years ago. Recently, the Government attempted to create new districts, but it did not know the population of the districts which were to be sub-divided. That is why, for example, Mwingi District, with a huge population of close to 750,000 people could not be sub-divided, when some small districts, some of which are refusing to be sub-divided, like Narok

District, are being sub-divided. The basis of the sub-division was population. This is because we have wrong demographic statistics.

These days, we share out resources on the basis of constituencies. If I ask the Minister or the former Minister for Planning and National Development to tell me what is the population of his constituency, he cannot tell me and yet we are sharing out resources in this country on the basis of population.

Prof. Amyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to say that I cannot tell what the population of my constituency is? I know exactly what it is. It is 155,000.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I do not know what statistics he has used to get that information. I do not have it for my constituency.

In fact, I was astounded to see that Karatina Town is shown as having a higher population than Kisii Town. As a result of this, I devoted my own resources and asked university students to go and conduct a population census of Karatina and Kisii towns. From that survey, I discovered that Kisii Town has four times the population of Karatina Town and yet, Karatina Town gets more resources than Kisii Town. Is the former Minister for Planning and National Development telling me that they knew that the population of Kisii Town is four times that of Karatina Town and yet they stated in their records that Karatina Town has a higher population than Kisii Town?

Mr. Deputy Speaker, Sir, I am saying that none of us actually knows or can access records of even the prospects for the creation of our constituencies. As we sit here, we do not even know the population of Kenya. The last census we had in 1999 indicated that we were about 30 to 31 million people but I believe today we could be probably closer to 40 million and yet we are basing the sharing out of resources on that faulty information that cannot be updated regularly. We should make decisions that are based on informed information. That is all I am saying. So, I expect the Kenya Bureau of Standards (KBS) to be staffed with the people who have got the knowledge to gather information. They should also be given the facilities and equipment required so that they can carry out the census.

Mr. Deputy Speaker, Sir, last year there was a question raised in this Parliament as to why the Ministry of Planning and National Development had spent Kshs645 million to survey the poverty index in Kenya. If you give me Kshs645 million Kitutu-Chache will be a developed constituency. It will match some of the developed areas in the developed world. With Kshs645 million I can do all the roads to bitumen standards in Kitutu-Chache and yet that money was sunk to find information which should have been found in the KBS which is supposed to update its records every time. That is what I am saying.

Mr. Deputy Speaker, Sir, currently, we receive bursaries from the Ministry of Education and those bursaries are based on enrolment in secondary schools. I can give an example on that. My constituency was given some amount of money for bursaries for the financial year that ended almost a week ago and my neighbouring constituency which I know has got less enrolment than mine was given more money. Why? Because of the faulty statistics from the current KEBS. The list was skewed to achieve a particular aim. The HIV/AIDS prevalence rate in Kitutu-Chache is about 14 per cent. In the neighbouring constituency which received more money than mine, the HIV/AIDS prevalence rate is about 6 per cent. So, therefore, I have got more HIV/AIDS orphans than that other constituency. These orphans are the people who are supposed to be supported by these bursaries but they cannot access them because we do not have the statistics to show that I have got more orphans than that neighbouring constituency.

Mr. Deputy Speaker, Sir, this country cannot move without having proper information and that is why I commend this Ministry for bringing up this Bill. I hope when we create the KNBS it will be independent enough to do good work and provide for the nation. The reason why I am

saying that it should provide proper information for the nation is because currently there is a Budget which has been tabled in this House. Allocations have been made in that Budget. These allocations have been made on the basis of the statistics that the Government has. You might find that Othaya Constituency has received more money for water than Kibwezi Constituency but if you walked through Othaya Constituency you can see water everywhere. In fact, you might need to wear gumboots to walk through Othaya Constituency but if you went to Kibwezi Constituency you may have to wear slippers or sandals because the place is dry and there is no water. However, you cannot blame the people of Othaya Constituency. You can only blame the people who have given this information that the water is needed more in Othaya Constituency than in Kibwezi Constituency.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, therefore, I am saying that let this Parliament approve this Bill and let us ensure that this KNBS is properly managed. The management of the KNBS cannot be influenced by Ministers. There is a culture which has evolved in this country very fast whereby a Minister goes to head a Ministry and all of a sudden he changes the manpower in that Ministry by bringing in his tribesmen. When he is transferred his tribesmen are removed by the person who comes in. If he is dishing out projects he dishes to his constituency or tribesmen. That is why every Tom, Dick and Harry is now trying to run for the presidency of this country so that they can loot this country for their own constituencies and tribesmen. That is why you have got to consider the tribe of a person running for a national office. We must do away with that culture which does not consider professionalism; a culture which takes first and foremost ethnicity as a qualification for appointments.

I hope hon. Obwocha will not follow some of his predecessors who had staffed that Ministry with their tribesmen all over. I beg Mr. Obwocha not to spoil the name of our community. Do not push everybody out because this is a very bad culture. It is a culture which can lead this country into chaos. For example, here is a young man or woman who is qualified and has gotten a job and he or she is removed immediately the boss who was there and who happened to have been from his or her ethnic group is removed. Such a culture can also make people not to make decisions because they will fear that if I remove this person who is not performing I might be seen to be trying to remove him or her because of his or her ethnicity. So, we must move away from the culture of nepotism, ethnicity and unprofessionalism. We can only do that if we have proper information in the KNBS.

With those few remarks, I would like to support.

Mr. Ahenda: Mr. Temporary Deputy Speaker, Sir, I salute you for giving me this chance to say something about the KNBS. I am very grateful to the Minister for having taken the initiative for establishing the KNBS. The very bureau in particular has been in existence. If you allow me to revisit the old adage about "who husbanded the cow that hon. Obwocha is now milking, it is all logical that if you take your cow for insemination either naturally or artificially, you have also played a big role. However, I am made to understand that this same Bill was before this House some time last year.

Mr. Temporary Deputy Speaker, Sir, there is something very important that is lacking in our planning system which makes most of our planners fail and that is a data bank. I will perhaps ask the Minister that in establishing the Act, he should include a data bank. Collecting statistics and

keeping them somewhere gathering dust will not help us in proper planning. We are doomed if we do not have data banks in our cities, municipalities, schools or everywhere. I am actually inclined to admit that our planners fail because of lack of data. If a data bank is established it will help enhance and achieve development goals for the future of this country.

Mr. Temporary Deputy Speaker, Sir, Clause 8 of the Bill talks of the appointment of the Director-General of the Kenya National Bureau of Statistics (KNBS). If I take a cue from Mr. Angwenyi's contribution, though the qualifications for the Director-General are stated here, the Minister may use his powers to appoint anybody closely connected to his ethnicity.

Mr. Temporary Deputy Speaker, Sir, our development achievements in terms of data, particularly the ever rising population within our cities has been hampered because of lack of statistical data. This information should be kept in our data banks. This information can be collected easily and disseminated for the purpose of development. Mr. Temporary Deputy Speaker, Sir, Clause 20 of this Bill is on the power to access information. It gives the Director-General the sole authority. There are some organisations that might have their own data and be interested in getting data from the KNBS. That prohibitive clause might not give them access to the data. I am not giving an open blanket for data collected and kept in our data banks to be disseminated in any way. However, I will give a typical example to explain this. A few weeks ago, I saw data on how the City of Nairobi wants to expand its water system. It is a pity that they do not have any data worth its salt at all. What is being collected is haphazard. They do not know, for example, how many litres of water is consumed in a particular estate in a day. They do not even know at what peak hours this estate gets the highest flow of water. These are the omissions that we get at the expansion, planning, development and improvement of the living standards of residents of Nairobi City if such data is not kept.

If such data is kept by the KNBS under lock and key, then the City Council of Nairobi or any other person interested in such data to help in planning might not find it easy to access. A contractor or developer who comes to put up a city estate somewhere would visit the Director-General of the KNBS and get that data. With that information, he would put up an estate with the necessary facilities that will sustain it for the next 25 or 30 years. If that information is under lock and key, then we will have a problem. We will have data that cannot be used for development. It will also be a problem for us to collect little information from the Director-General to help in planning. If we enact this Bill, Ministries and even councils will have a window where such data can be accessed and used for the purpose of quick development or statistical achievements.

Mr. Temporary Deputy Speaker, Sir, let me at this juncture also pay tribute to the Central Bureau of Statistics (CBS) which has actually stood out in this region for many years. Collecting data is not an easy task. Statisticians are normally hard pressed people. They know that bad statistics released to the public can create chaos. So, I would like to pay tribute to the CBS which has stood out for many years with their meagre resources and some difficulties collecting data all over the country. They have actually achieved some level of development due to their statistical bank. However, a lot is still outstanding that can be achieved if this Bill is passed. We will have proper machinery and structures put in place for the CBS to move on with data collection. That is important for the development of this country.

There has been a misconception that the CBS only deals with the census after every ten years and then they just store that information and wait for the next census to be conducted. That is not what the CBS is all about. Statistics vary even in the medical field. There is no Ministry which does not require input from the CBS. We all know that many arms of Government consult the CBS before they embark on doing anything. They read their files to make sure everything is statistically correct in all areas. That is why my thumbs are up for the CBS which has stood the test of time.

Mr. Temporary Deputy Speaker, Sir, this is the time for this Bill to make the CBS stronger.

If this Bill will make the CBS more efficient and make our cities and Government departments work, the time to enact this Bill is now.

Mr. Temporary Deputy Speaker, Sir, let me turn to the First Schedule of the Bill which has listed the matters concerning which statistical information may be collected, compiled, analysed, abstracted and published. This list is not exhaustive. I have gone through it. Despite the fact that this schedule has given a number of bodies to collect data, it is not their exclusive right because some of them might have their own data banks somewhere. Some of them can be collaborating or become partners with the KNBS.

Mr. Temporary Deputy Speaker, Sir, I will give an example of the Nairobi City Council (NCC). They are trying to collect some data. They are not perfect but they are trying to do something about it. They can improve that to a standard whereby the "Kenya Bureau of Standards (KEBS)" might go to that bank and collect that data for their own use. The KEBS might also go out directly to collect their own data. What I have in mind is that if they do that, it should be party for sale of that information they are collecting, if the other articles do not prohibit them as it states that the so-called data or statistics collected by the "KEBS" is only kept under their custody. However, this will also help them so that they collaborate and the data collected either by the "KEBS" or the individual can merge together or work in conformity to get a unified data that can be used for the benefit and development, not only of that particular body, but the data also goes beyond the barriers. You can be working in the Ministry of Health, for example, and the data you collect there is required by the Ministry of Education. The officials of the Ministry of Education should go directly to the Ministry of Health to collect that data without passing through the "Kenya Bureau of Standards (KEBS)". If that provision is made---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Ahenda! You have been referring to the KEBS. Are you referring to the Kenya National Bureau of Statistics or the Kenya Bureau of Standards? I think you are confusing the two!

Mr. Ahenda: I am sorry, Mr. Temporary Deputy Speaker, Sir. Thank you for that correction. I have in mind the Kenya National Bureau of Statistics (KNBS).

I was saying that if the data collected by the Ministry of Health is required by the Ministry of Education, the KNBS should have a window which can help them to access that data faster without going through the Bureau. This will avoid delays in getting the data. There is a lot bureaucracy in getting information from the Ministries. Some of them have even delayed development. I have in mind some investors who came from Europe to carry out development projects within the City of Nairobi. However, getting authority from the Planning Department took them through hell and they packed up their bags and went back to Europe. This happened because releasing such a small bit of information to go and start some development was not forthcoming in time. As such, data is so important that if a window is not created for different Ministries and departments to collaborate, either through the KNBS or directly; though it will take place, the time consumed and money wasted might not even be worth the KNBS data that is being kept under lock and key and not released in time to the right people, because of some prohibitive clause within the Bill. It states that only the Director-General would release the data, and at his discretion and as he so wishes.

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

The Assistant Minister for East African Community (Dr. Khalwale): Thank you, Mr. Temporary Deputy Speaker, Sir. I want to start off by congratulating my brother, Mr. Obwocha, for taking a bold step and doing what his predecessors were unable to do, in view of the fact that the issue of statistics at the national level can actually be a stabilising or a politically destabilising factor. Therefore, no wonder that, probably, his predecessors were unable to do what he has done. I congratulate the Minister!

I am supporting this Motion because I believe that statistics are very important for planning in terms of resource allocation, disease control, disaster management and improvement of education standards in any country. Indeed, statistics are the national centre that would be the reference point for variable data.

Mr. Temporary Deputy Speaker, Sir, as I contribute on this Bill, I am thinking about the packaging of statistics. It is important that as we create this all-powerful parastatal, simplification should be a catch word. Sometimes statistics can be available, but unless they are packaged in a simple manner, they would be very difficult to get, for example, the identity of a Kenyan these days. A Kenyan has ten different ways of identification. If you are in Kenya, you can be identified by your national identification card (ID), your voter's card, your birth certificate, your National Hospital Insurance Fund (NHIF), your National Social Security Fund (NSSF) card, and your passport. You can also be identified by your driving licence and baptismal card if you are a Christian or God-fearing person. Lastly but not least, you can be identified by your marriage certificate. It is important that statistics be packaged in a simple manner so that information like this can be found on one card carried by a Kenyan to be accessed by whoever wants information on him to get it quickly and efficiently.

Mr. Temporary Deputy Speaker, Sir, when the Government is going to be faced with good statistics, after we have passed this law, we would like it to respect those statistics. When I say this, cases abound whereby when the Government is either allocating resources or putting in place structures that would determine how resources are controlled, sometimes the Government does not respect those statistics. For example, recently, when the Government ordered that new districts be created in this country, so many cases abound where leaders in various affected districts came together, made proposals based on statistics, and some so-called influential people have been delaying implementation of the proposed districts because they want to change what is guided by mathematical statistics to suit political expediency or whatever interests they have. A case in point is the division of Kakamega District into Kakamega North and Kakamega South. When you look at the fiasco that is currently delaying the creation of these new districts, it has nothing to do with statistics. Currently, if you divide Kakamega District as proposed by those leaders into North and South, you will find that the population has been cut by half. Since some political interests are insisting that Kakamega Municipality should not be found in Kakamega South, they are delaying the implementation of the new district. I request the Government to respect the statistics that allow Kakamega Municipality to be in Kakamega South and enact the new district.

Mr. Temporary Deputy Speaker, Sir, at the beginning, I talked about the issue of resource allocation. The catch word these days in the new way of doing things in the NARC Government is the Constituency Development Fund (CDF) and the Constituency Bursary Fund. These funds, as we all know, are based on population and poverty index. Hon. Members have said before that when we look at the discrepancies in the amounts that our various constituencies receive, we wonder whether the Minister who was there when the idea of CDF was being implemented decided to play politics. When we look at distribution of the CDF funds and bursaries in this country, we see a big disparity. I wonder why, all of sudden, constituencies in Nyanza Province became very poor. Was this by design by Prof. Anyang'-Nyong'o to ensure that---

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

The Temporary Deputy Speaker (Mr. Khamasi): Order. Mr. Angwenyi! We do not conduct the business of this House in that manner.

Proceed, Dr. Khalwale.

The Assistant Minister for East African Community (Dr. Khalwale): Mr. Temporary Deputy Speaker, Sir, it leaves me wondering whether Prof. Anyang'-Nyong'o, when he was the Minister for Planning and National Development, deliberately gave the impression that those

constituencies were poor so as for them to access bigger packages of bursary funds and CDF money. I hope the Minister for Planning and National Development, hon. Obwocha, will not engage in a similar kind of deceptive initiative. I am saying that this is factual. If you get to Gem Constituency and Kisumu Rural, which borders Emuhaya Constituency, you will see that there is no difference between these two constituencies. But you will find that what is allocated to Emuhaya Constituency is smaller than what is allocated to Kisumu Rural Constituency. I truly submit that this is not coincidental. For instance, Bahari Constituency in Coast Province got Kshs60 million for the CDF. However, Bahari Constituency has less than 12 five-star hotels that provide employment to the local people. A constituency like Nyaribari-Chache has no single five-star hotel.

Mr. Temporary Deputy Speaker, Sir, may I also mention that Eldoret North Constituency got a whopping Kshs61 million. If you walk through Eldoret North Constituency, you will find that it is a very rich constituency, compared to Ikolomani. Why then should Eldoret North Constituency get all this money? If it is a question of population, it is known that the most densely populated constituencies are not in the Rift Valley Province but in Western Province.

I now want to mention a few clauses that should be amended by the Minister. Clause 4(2) gives us the objectives and functions of the proposed bureau. I suggest that we add to Clause 4(2) a new subclause 4(2)(f), which should read: "This parastatal will be responsible for ensuring that the Electoral Commission of Kenya collects, compiles and analyses all statistical information or matters under its purview". This subclause will be useful because we all know the importance of statistics relating to voters in this country.

Clause 5(1) deals with the management of the bureau. It says that the management of the bureau shall vest in a board of directors which shall consist of the following: a chairman, who will be appointed by the President. I propose that the Minister should have a relook at this issue of the President appointing the chairman of this board. In view of the fact that statistics can be used to determine the outcome of an election and allocation of national resources, it is important that the chairman be appointed by the President but subject to approval by Parliament. In this way, the President will not appoint somebody who will be politically correct.

I also propose that to Clause 5(1)(d), we add a fourth paragraph. Paragraph (d) provides for members appointed by the Minister to represent bodies recognised by the Government. These are the private sector, non-governmental organisations, research institutions and the public universities. I propose that we add to this list the Kenya Medical Association and/or the Kenya Medical Practitioners and Dentists Board. This is because matters of population, birth and death are best understood by medical professionals.

I also propose that in Clause 5(3), which provides that a person shall be qualified to be appointed under this subsection (1)(d) if such a person has a university degree in either of the following: statistics, information technology, economics or social sciences, we add to this list a degree in medicine, especially in public health. This is because these are professionals who truly understand the science of population dynamics.

Finally, I propose a relook at the First Schedule. In this Schedule, the Minister is dealing with matters related to statistical information, which may be collected, compiled, analysed, abstracted and published. I propose that besides the 42 items, which I have no quarrel with, we add item Nos. 43, 44, 45 and 46. I, therefore, propose that the Minister considers Item No. 43 to be on voters, while Item No. 44 should be the disease pattern in terms of morbidity and mortality. This is an important thing when one moves into an area hit by epidemic. You can imagine the folly of not including these issues in view of the fact that we have a national agenda to control HIV/AIDS. If we have this information, it will allow us to have clear-cut statistics on the morbidity and mortality trends of the HIV/AIDS and other infectious diseases. Item No. 45 should be on statistics on birth

and death rates.

With those many remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Khamasi): I want to advise that we must mind our Standing Orders. We should not repeat any material that has been used by another hon. Member. If you do so, you will be contravening the Standing Orders. Please, bear in mind this fact.

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

On the outset, I want to support the Bill. Statistics can be used to prove anything or nothing. It depends on the way we use it. You will find that someone can be used to prove a point to favour certain people, or deprive them of a benefit. This Bill is welcome. We want to insist that once we pass it, it should be implemented immediately for purposes of distributing government resources equitably.

Mr. Temporary Deputy Speaker, Sir, I have seen in the Bill that the Minister will appoint the date when it will come into force. This will render the role of Parliament meaningless. The Bill says that it will become operational when the Minister will deem that fit. It is important for us to fix a time frame within which the Minister should operationalise the Bill. If a law is debated and passed by Parliament, and then it is assented to by the President, it should become operational within one or two months. So, we do not want to give Ministers who are lazy an opportunity to sit on Bills. Some of them have failed to provide operational guidelines or policies which could aid in the implementation and actualization of Acts of Parliament. It is through a Bill like this one that our people can enjoy the benefits stated herein.

Mr. Temporary Deputy Speaker, Sir, with regard to appointments, as hon. Members have already said, it is critical that we vet people with good character and substantial credentials to serve in various positions of this body. What has been ailing us in the past is that for as long as you can shout the political slogan of the appointing authorities, then you are rewarded with appointment to a national office. As a result, we have led this country into misery and wastage in terms of Government resources and value for money we place on the kind of bodies that we set up.

Mr. Temporary Deputy Speaker, Sir, I want to sound a word of caution to the fact that we should not be forming parastatals for the purpose of providing jobs for our friends. This point must be understood clearly. If you look, for example, at the Kenya Anti-Corruption Commission (KACC), they draw so much money from the Exchequer, and yet when they complete investigations they hand them over to poor Mr. Amos Wako, who has staff who are paid only a tenth of the salaries that the staff at KACC get. I think it is only fair that we have corporations that can deliver. We should not form corporations for purposes of political expediency and guzzling of resources from the Exchequer.

Mr. Sambu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the speaker on the Floor in order to impute improper motive on the staff of the Attorney-General, that they do not implement resolutions made by KACC to prosecute simply because they earn only a tenth of what the KACC staff earn?

The Temporary Deputy Speaker (Mr. Khamasi): No, he is out of order!

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, truly, it goes without saying, and you know it, that the people hon. Wako oversees are not properly motivated. I think that is just a fair statement. Even when they have done the job from KACC, it is not right to deny hon. Wako the capacity to implement whatever resolutions that might have been made by KACC because all the money is out there in KACC or other amorphous bodies. That is actually what I wanted to say. I am not trying to cast aspersions on anybody. However, these are facts that we must state. We need to capacitate Government organs to implement whatever is brought on board. I think anybody who has been living in this country knows the ratio of salaries of those people working in parastatals

and the salaries earned by civil servants who are living in abject poverty.

Mr. Temporary Deputy Speaker, Sir, we have parastatals similar to this one that were created for political expediency to reward the politically correct individuals with jobs. We need to have appointments matched with competence. I have seen here in this Bill restrictions in terms of dissemination of information. It is critical that if information is to be relayed and used by the people of this country--- We all know that information is power. Mr. Bill Gates is a great man in this world simply because of his ability to manage information.

According to this Bill, we are going to charge some fees on the exercise of retrieving information. This means that the poor folks out there in the countryside have to pay something before they access information. For all intents and purposes, accessing information should be free of charge so that Kenyans can put across whatever point they want to. If I want information for a particular purpose and I am forced to subscribe for it, I am not too sure what the Minister will charge, administratively, as the cost of accessing that particular information. I think that is private. For purposes of educating and empowering people, we require to have information free of charge. That is why it is important to enable people to think independently.

Previously, Government documents used to be stamped "Strictly Confidential" even when the matters in those documents actually affected you. So, we do not want to get to a situation where people doctor information for political expediency then the same information is kept out of the public domain. We want information to flow without any cost being incurred by the people.

Mr. Temporary Deputy Speaker, Sir, I have looked at some items listed for the purposes of collecting data. Information, once collected, should not gather dust on the shelves. When we were decrying the fact that only 0.2 per cent of our country is under forest cover, and yet we require about 7 to 10 per cent forest cover, I am sure that the previous Government and the present one had information about the status of our forest cover. Why should we just sit idle when crucial information is gathering dust on the shelves? All we have been doing is to watch from the ivory tower. That amounts to participating in the running down of our institutions even after being cautioned and we have the information.

This is the time that Kenyans should demand for value for their money. The fact that we have allowed information to gather dust on shelves has caused us this misery we are in. For example, if information regarding HIV/AIDS could be availed to people, particularly in areas where people still believe that HIV/AIDS belongs to a certain tribe, community, sect or age--- If such information could be circulated to people and they be told that amongst those in hospital, the ones in a particular age bracket are in danger and so on, people would develop some caution as a result of that information. So, as we collect information, let it not gather dust on the shelves.

Finally, this piece of legislation is good. However, let us utilise the information that is given to us. We need to circulate it freely. Let us give the Minister three months, after the Bill has received Presidential assent, to implement this law so that we can be able to give Kenyans value for their money.

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

Capt. Nakitare: On a point of order, Mr. Temporary Deputy Speaker, Sir. Under Standing Order No.87, the material that has been presented by speaker after speaker on the Floor of this House is the same and, therefore, repetition. Will I be in order to ask the Chair to call upon the Mover of the Motion to reply?

The Temporary Deputy Speaker (Mr. Khamasi): I am inclined to accept that application. I will, however, let the House decide on that.

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

The Minister for Planning and National Development (Mr. Obwocha): Mr. Temporary Deputy Sir, I would like to cede a few minutes to hon. Prof. Wangari Maathai.

Prof. Maathai: Thank you, Mr. Temporary Deputy Sir. Allow me to thank the Minister for giving me a few minutes to contribute to this Bill.

Indeed, statistics are extremely important for planning. We are very happy because the Minister has brought this Bill. In fact, we support him for doing that. However, it is one thing to gather statistics, and a completely different thing to use those statistics. I want to call upon the Minister to ensure that there is enough data collected with regard to issues impacting on our environment.

There are a lot of terrible things happening on our land and I am not sure that we are collecting enough data about it. For example, are we collecting data on the rate of the melting of ice on Mt. Kenya and Mt. Kilimanjaro? Are we collecting data on how many rivers from these mountains are no longer flowing? This also, of course, includes the Aberdares Forest. These statistics are extremely important. This is because if we do not monitor what is happening to some of these ecosystems, we can one day wake up and find that we no longer have rivers. We will also find out that our rainfall pattern will have changed.

Mr. Temporary Deputy Speaker, Sir, I want to use the area between Mai Mahiu and Baruk as an example. Except for the Delamare Estate, that whole area is quickly turning into a desert. I do not know to what extent our statisticians are keeping record of what is happening to an area like that and many other areas in our country, which are gradually becoming a desert. It is partly because we have allowed people to practise subsistence agriculture in areas that should have been left for grazing.

We should also have statistics on the number of animals we should allow to graze per hectare, for example, in order to prevent desertification. This is some of the data that we should collect in order to protect our environment.

With those few remarks, I beg to support.

The Minister for Planning and National Development (Mr. Obwocha): Mr. Temporary Deputy Speaker, Sir, I really want to thank every hon. Member who has contributed to this Bill. This is my first Bill that I have moved as a Minister.

Mr. Temporary Deputy Speaker, Sir, I would like to respond to a few issues that have been raised. The first one is about the Kshs650 million in the Kenya Integrated Household Budget Survey. This money was used to collect data for the purposes of poverty analysis. This was to improve the Consumer Price Index and also to find out our household consumption. The money was used in three parts. The first part was used to train the research assistants all over the country, who were going to collect the data. We had to train them on how to carry out the exercise. The second part was used to buy vehicles and other equipment like computers, that were helping us to carry out this exercise all over the country. The last part was used to pay the actual people who were carrying out this exercise and to buy materials. That is how the Kshs650 million was used.

Mr. Temporary Deputy Speaker, Sir, I have noted the issues that have been raised by hon. Members. Particularly, issues were raised pertaining to Clause 5(3), that we must define it clearly so that we capture the qualification. We will take that into account.

Mr. Temporary Deputy Speaker, Sir, another issue was raised about the period that we do our population census. If we look at Clause 4(2)d, it says 10 years' cycle. So, that has been captured.

We will also consider the issue of funding; whether it should still be there or not. I do appreciate the sentiments of Messrs. Sirma, Nyachae and Khamasi. I have taken all these into account.

In Clause 23, there is a disconnect in the printing and, therefore, we will bring it as an amendment, to make sure that the missing link is captured.

Mr. Temporary Deputy Speaker, Sir, on qualifications, I noticed also that mathematics is part of statistics. So, we will also ensure that somebody who is qualified in mathematics will be included.

On the issue of the requirement of a person who has worked in public institutions, we could also find people who have worked in the private sector who may qualify.

Mr. Temporary Deputy Speaker, Sir, I appreciate what hon. Anyang'-Nyong'o has said. If persons who are working for the common good were to appreciate the manner in which he has appreciated, instead of us criticising every legislation that we bring just because it is Government; we would all help this country. We want this institution to be autonomous without being influenced, so that it can bring out what the country needs, not what the Minister needs. So, I captured the sentiments that they were in good faith, including the sentiments of Prof. Maathai.

Mr. Kagwima: On a point of information, Mr. Temporary Deputy Speaker, Sir. The Minister mentioned, in passing, that he noted that mathematics is part of statistics. I want to inform him that mathematics is a major subject in statistics. People even study statistics as a major in the study of mathematics.

The Temporary Deputy Speaker (Mr. Khamasi): Order! That is a back-door way of contributing to the Motion. You were definitely informing the Minister.

Proceed, Mr. Minister!

The Minister for Planning and National Development (Mr. Obwocha): Mr. Temporary Deputy Speaker, Sir, I am willing to be informed. Education is a continuous process. I am willing to take information that is helpful, and I have taken it and we will synchronise maths and statistics in the Bill.

I also appreciate the contributions of Messrs. Ahenda, Angwenyi and Dr. Khalwale, and we are going to consider the proposals they have made.

In the current law on parastatals, the appointment of chairmen is the prerogative of the President. You submit three names as a Minister and he chooses one of them. Whether he is number one or two or three in the list, he chooses randomly. If you want to change the law, you are at liberty to do so.

Mr. Temporary Deputy Speaker, Sir, if we have funds, Members have to look at this issue of poverty index. But we lack the funds to re-look at this issue. In any case, experience will tell us whether this issue came out well or not. But as I have said, the research assistants we trained may not have done a good job. We will try and look at that. If we have funds, we can go into it.

With those remarks, I beg to move.

(Question put and agreed to)

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

Second Reading

THE WITNESS PROTECTION BILL

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Witness Protection Bill be now read a Second Time.

This is a very important Bill, particularly in our war against corruption. It is a good coincidence that I am moving this Bill when this morning, the National Action Plan against corruption was launched. The issue of witness protection is very important in the administration of the criminal justice system and, in particular, as I stated earlier, it aims at unravelling and successfully investigating and prosecuting corruption.

Mr. Temporary Deputy Speaker, Sir, this Bill has been baptized "The Whistle-Blower's Bill" to protect the whistle blower. It is only this morning that the workers' representative stated at the launch of the National Action Plan that many workers in this country have been dismissed from their places of work merely because they have reported instances of corruption against their bosses. We know and we receive many letters from retired civil servants who were dismissed sometime ago and most of the allegations they make is that they were dismissed or their services were terminated because they reported instances of corruption in their work places. We also know that many people are even afraid to report to the police instances, not just of corruption, but of any crime. They fear that if they do so and are known by the perpetrators of the crime to have done so, their lives will be in danger. We have seen that when independent commissions of inquiry are appointed, people who hitherto had not bothered to report to the police because of their fear, somehow feel confident that they can now give their evidence there.

Mr. Temporary Deputy Speaker, Sir, I will be very brief when moving this Bill. This is a very important Bill dealing with the protection of whistle blowers. Of course, Clause 2 is the definition clause, and Clause 3 deals with who is a witness. In that definition, you will notice that the witness is not just a person who has given or has agreed to give evidence before criminal proceedings in court, or before any hearings or proceedings under any authority, or before commissions of inquiry; no, it goes and embraces a wider circle. Even if a person is not going to formally give evidence in court, he can qualify as a witness if, under Clause 3 (c), he has blown the whistle by just reporting what is going on to the Commissioner of Police or to any law enforcement agency.

Mr. Temporary Deputy Speaker, Sir, even though a person may not give evidence, the definition is wide enough to include any person who may be related to him family-wise, or who may be somehow related to him and whose life may be in danger because of that connection. I recollect that at the time I used to do some work for the United Nations in Colombia, I was mainly concerned with the families of witnesses who had reported crime to the law enforcement agencies and left the country because they knew that if they stayed, they would be killed. However, their fleeing the country did not spare their families and friends from being injured by the drug barons.

Therefore, the definition of a "witness" in this Bill, is wider than just a person who will give evidence in court. It includes people who may just give a statement to the police, which will trigger criminal investigations that may result in a conviction. It also includes the family members and other relatives who may, because of that action, be also in similar danger. That is provided under Clause 3(2).

Mr. Temporary Deputy Speaker, Sir, these people are also protected from civil proceedings under Clause 33, which provides as follows:-

"No action or proceedings, including disciplinary action, may be instituted or maintained against a witness in respect of-

- (a) any assistance given by the witness to the court and to the law enforcement agency; and,
- (b) a disclosure of any information made by the witness to the court or to a law enforcement agency."

This clause is similar to the clause we have given under the Anti-Corruption and Economic Crimes Act. So, the "witness" has a wider definition and encompasses every person. However, not

every witness will be allowed to benefit from this definition. First of all, what is a "Witness Protection Programme"?

Mr. Temporary Deputy Speaker, Sir, Part II of the Bill puts in place the Witness Protection Programme, which will be under the control of the Attorney-General. Under this programme, certain action may be taken, such as allowing witnesses to establish a new identity as well as relocate to another place; to provide accommodation and reasonable financial assistance to the witness, as well as counselling and vocational training services.

Why provide counselling for a witness? If you are going to change somebody's identity by name and everything else, some people might react psychologically differently. So, there is need for some counselling to see whether this person can, really, be fit for the Witness Protection Programme. It is the Attorney-General who will decide on who qualifies for this programme.

Mr. Temporary Deputy Speaker, Sir, the considerations that the Attorney-General takes into account are clearly spelt out in Clause 6 of the Bill at page 610. In other words, the Attorney-General does not just act arbitrarily in deciding who should benefit. The Attorney-General shall not, for instance, facilitate a friend of his to benefit from the programme by qualifying and providing him with financial assistance so that he can lead a good life. There are considerations that the Attorney-General must weigh in while taking such a decision.

One of such considerations include the seriousness of the offence to which the relevant evidence and statement relate. This is a very important aspect because, if this programme is to be very generous in terms of who qualifies to benefit from it, then the coffers of the State may not be able to sustain it. The first consideration should be how serious the crime is. We should consider if it is a crime that involves injury and can put somebody's life in danger. In this, we are talking about organised crime like terrorism, drug trafficking, corruption and international crime. In other words, crimes which are so serious that the perpetrators can have the intention to cover their crime by injuring the whistle-blowers or potential witnesses who give evidence against them. We are all aware that these things are now possible, even in the Republic of Kenya. The other consideration is the nature and importance of any relevant evidence, nature of perceived danger to the witness and the witness's relationship to other witnesses, and other factors as outlined in Clause 6. So, those are the factors to be considered by the Attorney-General. Once he has done that, he has to enter into a memorandum of understanding with the person who agrees to participate in the Witness Protection Programme.

There are a number of legal issues which may arise if one is changing identity. What happens to the legal outstanding obligations of that person who was known as "X" and will now be known as "Z"? What happens if he or she has other cases pending in court, because going there under the old name would disclose their identity? Of course, there is a provision within the Act that the records of someone's former identity must be kept by the Attorney-General. What happens to his passport or identity card, and many other issues of that nature? What about if there is a case against him or his properties have been attached under his old name? The Bill has taken care of different kinds of situations, difficulties and challenges which would arise if someone changed identity.

The Bill also provides that the Attorney-General can also grant the disclosure of identity on temporary basis. Clause 10(3) deals mainly with the provisions of protecting the witnesses from identification. It provides penalties of people who might disclose the true identity of the witness who has been protected. That becomes an offence. It provides that the Registrar of Persons can have a new entry in the registration of births and deaths. It also provides for the fact that all the orders that are required to be carried out under the Act will be carried out at the High Court level, owing to the importance of the matter. The proceedings relating to the issues will also be heard at the High Court, *in camera*, so that we do not have the cases being reported in the Press, or people

coming into the courtroom and knowing who the witness is, although he may be referring to himself as "X". The powers of the High Court to issue requisite orders have all been set out in the Bill. There are also provisions for cancellation of the programme and the person reverting back to his former identity. It also shows what can happen in all those circumstances. All that has been set out in the Bill.

Mr. Temporary Deputy Speaker, Sir, I can just mention one offence - information not to be disclosed. The information regarding that matter should not be disclosed. If any person discloses such information, he is guilty of an offence and liable, on conviction, to a fine not exceeding Kshs500,000, or to imprisonment for a term not exceeding three years, or both. All the consequential amendments have been properly taken care of in the Bill. This Bill is long overdue and I urge this House to pass it as quickly as possible.

I had asked Prof. Maathai, who is a layman, to second the Bill. I thought that this Bill would be supported by a non-lawyer because the issues related to this Bill are quite high.

With those few remarks, I beg to move and request Prof. Maathai to second the Bill.

Prof. Maathai: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to second this Bill. It is a privilege to do so. I agree that this Bill is badly needed in our country to fight organised crime, crime related to corruption and drug trafficking. Every time a witness is required to give evidence, there is a strong fear of repercussion. They ponder about what could happen to them. That is so because people who are involved in corruption, organised crimes or drug trafficking can do a lot of damage if they know the person who passed on the information to the authorities. It is important for people who have information to give it without fear of repercussion. It is very important to protect such people. Otherwise, we will never get on top of those crimes. Those crimes are committed by our brothers, sisters, co-workers and other Kenyans. Sometimes we know them, but we are so fearful of what they could do to us. It is amazing to know the amount of fear that those people can instil in our fellow citizens. So, it becomes very important for those who are concerned, especially the relevant Ministries and departments, to receive information and have those who have brought such information well protected. As you know, we have introduced community policing. I believe that it can do a lot of good in our community. But even as we try to promote that concept, one of the greatest obstacles is the fear that people have in giving that information to the police or the chiefs. They are always afraid of information leaks. It will be known that they are the ones who gave it and they could be in great trouble. So, if such an excellent concept as community policing is to succeed, it is very important for people who give information to feel protected.

Mr. Temporary Deputy Speaker, Sir, one of the most serious crimes that needs to be focused on by the Government is drug trafficking. To me, the war on drugs is even worse than the war against corruption. The war on drugs is a war to protect our future generation. We can do no greater crime to the future generation than to fail to protect them. While we can get hold of corrupt people and put them in jail, people who give our children drugs ruin them forever. Even if we arrest them, we can never get back our children! We need to be extremely serious about drugs. It could make whatever we are doing a waste of time. In future, we could look back and say we lost generations through drugs. The Government spends a lot of money to try and protect its citizens from drugs. It is a shame that our country has been considered not only a conduit for drugs, but a place where drug are consumed in large proportions. Those of us who have seen what is happening in high schools and, sometimes, in primary schools ought to be very concerned about the increasing drug abuse in our country. It is very important for the Government to get the information it requires in order to act. Therefore, we need to protect those who give us the information.

This Bill is not supposed to encourage witch-hunting. It is not supposed to encourage people who want to square things with others. The spirit of the law is to protect our people. It is to

ensure that, indeed, we have a State that is managed responsibly and accountably, and is responsible not only to the present generation, but also future generations.

Mr. Temporary Deputy Speaker, Sir, I therefore, feel very strongly that this Bill has been long overdue.

I beg to second.

(Question proposed)

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Thank you very much, Mr. Temporary Deputy Speaker, Sir. The importance of this Bill cannot be over-emphasised. You must have read in books, newspapers or seen on films about an organisation prevalent in the United States of America (USA) and Italy called *Cosa Nostra*. It is commonly called the "Mafia". That organisation deals in organised crime and money laundering. They were very notorious for boot-legging in the prohibition years. They also deal in drugs.

Mr. Temporary Deputy Speaker, Sir, whenever a "don" - that is what they are called - is arrested and prosecuted, witnesses and their whole families either die or disappear just before the trial. They hypnotise witnesses to the extent that when they get to court, they suddenly suffer from amnesia. They cannot remember anything or anybody; cannot see anybody or hear anything. This intimidation is so common in an arena where crimes of mega-corruption, drugs and dirty money are prevalent.

Mr. Temporary Deputy Speaker, Sir, of late, we hear a lot about corruption and drugs in our country. You will recall that, recently, we were told that we have the largest cache of drugs ever impounded in this region. In crime, there is the famous doctrine of crime fighting back. Criminals are no longer wayward characters in the society. Criminals are organisations. Criminals and criminal organisations sometimes are bigger than governments. You certainly know the case of Escobar of Colombia. You know the recent cases that have emerged here; investors who have now been described as dangerous international criminals and many more. If those Armenians were here with their bare chests, gold, tattoos and dark glasses, who dares to go to court to testify against them? This is a cycle everywhere.

In Italy, over and above the legal protection of witnesses, if you are going to testify against the *Mafia* you wear a mask to go to court, or you stand in a cage with electronic devices to twist and disguise your voice, so that nobody can know who you are. In that cage, nobody can see you. The law has allowed that, that is the only way to fight crime when crime fights back.

Mr. Temporary Deputy Speaker, Sir, it is important, therefore, that Kenya, not being a country where hard drugs emanate; but being a country enjoying a dubious distinction of a mega-route of drug trafficking, must find ways and means of fighting the offenders without hurting the whistle blowers and those who take the courage to go to court and testify, and also to protect their families.

Recently, you heard of the case of a policeman who was brutally murdered in Mombasa because he was on the trail of criminals. Such cases happen, that all of us do not know. Some happen and are made to look like accidents. You have heard of cases of people leaping from the 20th floor of a building under inexplicable circumstances. When you investigate, you find that they did not leap, but they were made to leap by the criminals. That is the reason why this Bill is very critical. We must protect witnesses who take the courage and volunteer to testify against hard criminals.

Mr. Temporary Deputy Speaker, Sir, we must protect witnesses and their families. It is putting the onus on the Attorney-General to decide ways and means of protecting these witnesses, including giving them new identities and relocating their residences. I believe that the people who

are being tried in the Kshs6 billion drug haul are "small flies". The real guys are elsewhere. If we were to put such guys on trial, the Bill even allows the Attorney-General to relocate the witnesses out of the country temporarily or permanently, depending on need. This is done everywhere. I have no doubt, in your vast reading, you read the case of the *Odessa File* where witnesses in the Nuremberg Trials had to be given new identities and unlimited resources to go and settle in South America in little minute villages where nobody would ever know that hon. Mutula Kilonzo who testified against hon. Muturi is staying there.

Hon. Members: To testify on what? What are you implying?

(Laughter)

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, it is with a light touch since these are my learned friends. We need a little humour in the House.

That way, the world was able to put to trial and bring to book the perpetrators of the holocaust. I have been told recently that a similar protection of witnesses has been put in place in Rwanda, to protect witnesses against the perpetrators of genocide and here we must protect people who will testify against hard criminals.

Mr. Temporary Deputy Speaker, Sir, the rest are administrative details in the Bill on how to identify witnesses, their needs, and so on. I just want to request the Attorney-General that in Clause 5(3), he should also entertain a written request for protection of lawyers of families because he is only limiting it to the witness or a law enforcement agency. A lawyer representing a family or a witness should also be allowed to be part of the category that can request the Attorney-General to offer protection.

Mr. Temporary Deputy Speaker, Sir, equally, the law provides that the protection may not be forever and when you have such a benevolent law, there are always con characters who will pretend to be witnesses in need of protection. The law also covers them and they will be punished if the Attorney-General finds out that they are impostors. This is available in other jurisdictions as well.

Mr. Temporary Deputy Sir, so on the overall, the Bill is supportable and good, that when you go to the High Court to determine who deserves protection, the proceedings are in camera. That again is good because if you want to protect somebody, you cannot expose them in an open court. So, with all these provisions, it is a good start. It is a law which we are bringing into the country for the first time. I am sure law being a dynamic process, we will continuously revise, review and amend it, and make it better.

With those few remarks, I beg to support.

Mr. M. Kilonzo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this landmark Bill. It is in order that I congratulate the Attorney-General and the Government in general for coming up with this kind of a Bill.

We, as a country, have suffered a great deal because the attitude towards law enforcement has been that if five criminals commit an offence, then we must convict the five of them. In other countries and, indeed, in developed jurisdictions, it is far better that we score 75 per cent of law enforcement and make sure that the 75 per cent go to jail than aim at targeting 100 per cent and then we lose the entire case. We have had situations in this country where it is clear that among those who are accused, there are people who would easily and happily give evidence against those who were the key offenders. However, they cannot do so because they are intimidated, threatened and, above all, even when they go to police stations to give evidence, they are harassed, treated like suspects and not accorded any opportunity to tell their country what they know. Therefore, I welcome this Bill. On behalf of the Opposition, I would urge the Government to consult far and wide when they want to come up with a Bill like this.

Mr. Temporary Deputy Speaker, Sir, there is not much that we need to say about this Bill. In fact, my good learned friend, Mr. Wetangula, and Prof. Maathai, have put it very clearly. I sincerely do not even want to go into the issues of things like drug trafficking, terrorism and cases such as when a lot of our people died in the bombing in 1998. On the bombing that took place in the North Coast, for example, what the police ended up doing was to arrest everybody, take them to court and prosecute them. It is time to enact this kind of Bill so that those who are in the periphery or even central, can offer State evidence as we call it in other jurisdictions. We will secure convictions and improve our law enforcement.

In other countries, when a person like Mr. Wetangula wants to become full Minister, what he normally does is to show the courage of seeking out criminals and getting them convicted. What is the point of him saying that he is a good lawyer if he cannot get convictions? What is the point of saying Mr. Ringera is a good Director of the Kenya Anti-Corruption Authority (KACA) and every time, he comes up with cases, suspects are acquitted in all manner of excuses because of lack of enough investigations? Once we open this window; and Ms. Karua knows that in seeking to enforce a particular law, a few people can be used as witnesses, that protects them and their families and then we will be able to secure the proper administration of justice as we want.

Mr. Temporary Deputy Speaker, Sir, I do not want to say much about this Bill because I wholly support it. I have made my views known to the Attorney-General and to the Minister for Justice and Constitutional Affairs. Now I am telling my learned friend, Mr. Wetangula, who is looking at me, that I support this Bill.

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

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Kagwima, if you want to contribute to this Bill, you still have a few seconds to do so.

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

The Temporary Deputy Speaker (Mr. Khamasi): What is your point of order, Dr. Khalwale?

The Assistant Minister for East African Community (Dr. Khalwale): Mr. Temporary Deputy Speaker, Sir, in view of the fact that this is a very straightforward Bill, to which hon. Members who are fairly professional in this field have contributed positively, would I be in order to ask that the Mover be now called upon to respond?

The Temporary Deputy Speaker (Mr. Khamasi): Dr. Khalwale, I cannot allow that. We have only had two hon. Members contribute. This is a very important Bill. We need to give other hon. Members a chance to contribute.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Thursday, 6th July, 2006, at 2.30 p.m.

The House rose at 6.30 p.m.