

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 4th December, 2008

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PETITION

FREEZING OF FINANCIAL ASSETS
LOST THROUGH PYRAMID SCHEMES

Dr. Khalwale: Mr. Speaker, Sir, I rise to petition the Government of Kenya on the fate of the money frozen by the Central Bank of Kenya and lost through pyramid schemes clandestinely registered as SACCOs in this country. The particulars of the petition are as follows:

THAT, the freeze be lifted to afford---

CONSIDERED RULING

SPEAKER MUST BE NOTIFIED BEFORE
PETITION IS LAID ON THE TABLE

Mr. Speaker: Order, hon. Members! This is a matter on which we have made Communication previously. Before a Petition is laid on the Table of the House, the Speaker ought to have been given notice. I have not received any such notice, Dr. Khalwale!

Dr. Khalwale: Mr. Speaker, Sir, while I was preparing this Petition last night, I took trouble and looked at the Standing Orders Nos.163, 164 and 165. All these Standing Orders that refer to public petitions never informed me that I should give earlier notice to the Chair.

Mr. Speaker: Very well! That may be so, but I have information to the effect that, that has been the practice. I am afraid I will have to order that this matter is deferred until Tuesday, next week, at 2.30. p.m.

(Petition deferred)

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report of the Kenya Anti-Corruption Commission for the year ended 30th June, 2008.

Report of the Commission of Inquiry into the Post-Election Violence.

*(By the Minister for Justice, National
Cohesion and Constitutional Affairs)*

NOTICE OF MOTION

ADOPTION OF CIPEV REPORT ON
POST-ELECTION VIOLENCE

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua):
Mr. Speaker, Sir, I wish to give notice of the following Motion:-
THAT, this House adopts the Report of the Commission of Inquiry into the Post-
Election Violence laid on the Table of the
House on Thursday, 4th December, 2008

ORAL ANSWERS TO QUESTIONS

Question No.296

NON-COMPLETION OF LAND DEMARCATION
IN MUTITO CONSTITUENCY

Mr. K. Kilonzo asked the Minister for Lands:-

(a) whether he is aware that the land surveying (demarcation) in Kyamatu, Endau and Malalani locations has not been undertaken and that surveying in Mutito, Zombe, Kaliku, Thua and Mwitika locations has been done only partially; and,

(b) whether he could explain when the survey work will be completed to enable the residents to have their title deeds.

Mr. Speaker: Minister for Lands! It appears that the Minister is not yet here. So, we will have to leave this Question in abeyance until a little later. As soon as the Minister is available, or the Deputy Leader of Government Business is ready to answer this Question, we will proceed.

Question No.428

EXTENSIVE DAMMING OF RIVER OMO

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

(a) whether she is aware that there is extensive damming of River Omo, the major source of water into Lake Turkana, threatening to dry up the lake; and,

(b) what urgent steps the Government is taking to stop this activity and to save the lake.

Mr. Speaker: Minister for Water and Irrigation! Very well! We have indication that both the Minister and the Assistant Minister are away on urgent Government business within the country. So, I will defer this Question until Wednesday, next week. The Deputy Leader of Government Business does not seem to be aware of this, but that is quite fine.

(Question deferred)

*Question No.561*STALLING OF ELECTRIC FENCING PROJECT
AROUND MT. KENYA/ABERDARE RANGES

Mr. Warugongo asked the Minister for Forestry and Wildlife:-

(a) whether he could explain why the construction of the electric fence around Mount Kenya and the Aberdare Ranges was halted hence putting the people living around these areas to risk of attacks by wild animals and destruction of their crops; and,

(b) what steps he is taking to ensure urgent completion of the fence.

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Speaker, Sir, I beg to reply.

(a) Construction of the fence around the Aberdare National Park has not been halted. The fencing project has been completed. A total of 348 kilometres of electric fence have been completed around the Aberdare National Park, leaving a corridor of 3.5 kilometres, which is supposed to connect the Aberdare ecosystem to the Kipipiri Hill. This will also be fenced to include the Kipipiri Hill. The Kenya Wildlife Service (KWS) is already on the ground doing the final touches.

Further, a plan is in place to fence the Mount Kenya National Park, which will cover 395 kilometres. This is a project under the Mount Kenya East Pilot Project funded by the Global Environmental Facility, the International Fund for Agricultural Development and the KWS.

(b) I am aware that the people living in the areas that are not yet fenced risk being attacked by wild animals. My Ministry, through the KWS, has skilled and well equipped rangers based at the trouble areas. The officers provide rapid response to reported cases of wildlife attacks. The teams also carry out regular patrols. To supplement the ground teams, we have rapid response rangers from the Problem Animal Management Unit based at Nanyuki. This team is normally deployed to high conflict zones.

An environmental impact assessment for the proposed fence around Mt. Kenya is currently under way. Once it is completed and approved by the National Environment Management Authority (NEMA), the construction will commence under the direction and coordination of the KWS.

Mr. Warugongo: Mr. Speaker, Sir, I am happy that today, I have received a reply to my Question. The fence I am referring to is the one around Mount Kenya. I agree with the Assistant Minister that the fence around the Aberdare National Park has been constructed although monkeys have no problem jumping over it and going to people's farms and destroying crops.

The construction of the fence around Mount Kenya had started, but it halted after four kilometres had been fenced. It is the wananchi who were doing the fencing. They were told to work for food, which was not available at some point. All the necessary materials are there. We have cables, posts and other fencing materials. Unfortunately, the animals are still destroying people's crops.

Mr. Speaker: Order, Mr. Warugongo! I have been restraining myself from interrupting you, but take note, this is Question Time! So, at the end of that long address, what question have you asked?

Mr. Warugongo: Mr. Speaker, Sir, when will the 395 kilometres be fenced? So far, it is only four kilometres that have been fenced.

Mr. Nanok: Mr. Speaker, Sir, as I said, the only electric fence that is around Mt. Kenya is 15 kilometres long. The KWS has started bringing in materials in readiness to start the

construction. When the environmental impact assessment report is finalised and approved, then we can start the fencing of the 395 kilometres.

Mr. Lekuton: Mr. Speaker, Sir, the issue of wildlife/human conflict is not a new phenomenon. We have had an increased number of people being killed by wildlife. Yesterday, we talked about foreigners who were paid Kshs64 million, while our people are still languishing in poverty. If this problem continues to persist, what radical measures will the Ministry take to ensure that we do not continue losing lives apart from posting patrol rangers and fencing? People are still dying with those measures in place.

Mr. Nanok: Mr. Speaker, Sir, the hon. Member should agree with me that, indeed, the Ministry has done the best it can to reduce wildlife/human conflict. This year has been particularly a very challenging one. With drought having been reported in quite a number of places in the country, it affects, not only human beings, but also animals. So, the animals have moved out of their habitats. We have also had the perennial problem of land use. If we can solve the problem of land use, then we can clear from the wildlife corridors and human beings can cultivate their land peacefully.

Mr. Warugongo: Mr. Speaker, Sir, the Assistant Minister has not answered by question. When do we expect the fence to be constructed? Is it in January, February, March, next year or two years to come? At least, the people should know!

Mr. Nanok: Mr. Speaker, Sir, it takes 90 days to do an environmental impact assessment and another 60 days to approve the process. If all that is done, we will proceed with the construction.

Mr. I.M. Muoki: Mr. Speaker, Sir, you will recall that we have dealt with a number of Questions on wildlife/human conflict. Almost every Member whose constituency borders a national park is experiencing this conflict. What is the Ministry doing to speed up the issue of fencing around national parks, so that we do not have these conflicts every now and then?

Mr. Nanok: Mr. Speaker, Sir, right now, around the national parks and game reserves, we have established about 1,200 kilometres of electric fence. I have a list here where we are proposing to extent the electric fence, and we will do it. These areas include the Mt. Kenya, Kyulu, Rimoi, Marsabit, Taita-Taveta and Ruma. However, if the hon. Members have other areas which they feel are really critical and we have to construct an electric fence, please, advise us, so that we can look for funds to start the process.

Question No.558

KILLING OF CATTLE BY KWS RANGERS IN
SHABA NATIONAL RESERVE

Mr. Letimalo asked the Minister for Forestry and Wildlife:-

(a) in what circumstances five head of cattle were shot dead by a combined force of Isiolo County Council *askaris* and KWS rangers on 26th September, 2008, in Shaba National Game Reserve; and,

(b) what action he will take against the rangers, Isiolo County Council and KWS Management and also ensure that the owners of the animals are adequately compensated.

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Speaker, Sir, I beg your indulgence here. This Question came to this House last week and my colleague, hon. Wekesa, responded to it. I will give a very short answer because the Question seemed not to be relevant to the Ministry of Forestry and Wildlife. The information we have is that we are not aware of the

incident that took place. There were also no KWS personnel involved in this particular incident. We believe that this Question should be forwarded to the relevant Ministry. The Shaba National Game Reserve is being managed---

Mr. Speaker: Order, Mr. Assistant Minister! Which is this relevant Ministry? You are part of the Government! You should help the House!

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Thank you, Mr. Speaker, Sir. The Shaba National Game Reserve is being managed by the Isiolo County Council under the Ministry of Local Government.

Mr. Speaker: Very well! I will defer the Question and order that it be directed to the Office of the Deputy Prime Minister and Ministry of Local Government to be answered on Thursday, next week. That is so ordered! I have already ruled on this matter. The same reasons apply to Question No.428. This Question is deferred to Thursday, next week.

(Question deferred)

(Question No.428)

EXTENSIVE DAMMING OF RIVER OMO

(Question deferred)

Question No.457

REHABILITATION OF GAKOROMONE MARKET

Mr. Ruteere asked the Deputy Prime Minister and Minister for Local Government:-

(a) considering that farm produce is sold at Gakoromone Market, whether he could urgently consider constructing a roof as well as slabs at the market to protect the farmers and their wares; and,

(b) whether he could consider re-directing the rain water from up-town to the stream north of the market to avoid pollution and flooding in the open-air market.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Speaker, Sir, I beg to reply.

(a) My Ministry is in the process of financing the development of Gakoromone Market to the tune of Kshs150 million. A total of 938 sheds will be constructed. The issue of open spaces will also be addressed. Paved open-air market which consists of 280 sheds, which will accommodate up to 800 traders will also be constructed.

(b) The re-directing of rain water and floods from up-town to the stream north of the market will be addressed by the local authority and instructions have already been given. Laying of over 600-diameter pipes covering a total of 500 metres will solve the problem of pollution and flooding. The council is looking for ways of financing the project because we want to take our efforts to the market. This is a very important market. It is a shame that it is in this kind of a condition.

Mr. Ruteere: Thank you, Mr. Speaker, Sir. I appreciate the answer given by the Assistant Minister. Since this is a very urgent matter, when the work will start at the market? How long it will take to complete it?

Mr. Githae: Mr. Speaker, Sir, as I explained, this is a very important market, not only for Meru Town, but for the entire region. Unfortunately, this financial year, we found out that projects had already been identified and approved. I have instructed Ministry officials that this project should be given first priority in the coming financial year. We are also looking for funds from elsewhere. However, what I can guarantee is that during the next financial year, it will be done. However, in case we get more funds, because we are holding discussions with our development partners like the European Union, then we will construct it. Design work has already started. We will definitely do it next year or during this year if we get the funds.

Mr. Olago: Mr. Speaker, Sir, as a matter of national policy, what is the Ministry doing to harvest rain water to harness floods and ensure that this occurrence does not happen?

Mr. Githae: Mr. Speaker, Sir, have instructed local authorities that this is their primary responsibility, if they are to justify even their mere existence. However, you will find that even before the rains come, they do not open the drainage channels and clear them. This is what causes the flooding. We, as a Ministry, are concentrating on the major capital projects. Flooding is rightly the responsibility of the local authorities. We have instructed them that one of the factors that we will be looking into if they continue to exist, is service delivery. They must collect garbage. In addition, they must take care of flooding.

Mr. Ruteere: Mr. Speaker, Sir, I am very satisfied.

Question No.312

REHABILITATION OF KAPENGURIA
LODWAR ROAD

Mr. Litole asked the Minister for Roads:-

- (a) whether he could confirm when he will repair Kapenguria-Lodwar Road which is an international road linking Southern Sudan and the Port of Mombasa;
- (b) why this road, which is a lifeline to the land-locked Southern Sudan, has been neglected for so long; and,
- (c) when he will repair Wakor Bridge which was swept away by floods in 2003.

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

(a) The Kapenguria-Lodwar Road, otherwise, classified as A1 measures approximately 259 kilometres. Feasibility studies and designs are ongoing and the road will be considered for construction by the Government with the support of development partners upon completion and submission of the reports. The feasibility studies and design of the whole road is expected to be completed by June, 2010, under the funding with the World Bank.

(b) Indeed, the road has not been neglected. The section between Kapenguria and Marich Pass, about 65 kilometres, has been maintained to bitumen standard. My Ministry has been carrying out maintenance works on the Marich Lodwar Road such as bush clearing and drainage works. However, due to increased traffic to Southern Sudan, the condition of the road has deteriorated. Therefore, major rehabilitation work is required.

(c) Wakor Bridge was swept by the floods in the year 2003, but a drift was constructed as a by-pass to enable passage of traffic. However, the Ministry is carrying out the design of a new bridge and will be considered for tendering for construction as soon as the designs are completed.

Mr. Litole: Mr. Speaker, Sir, I am happy to hear the Assistant Minister say that the road is very busy. If a road is busy, I do not know why it should be neglected. He has said that road covers 269 kilometres, but only a section of 65 kilometres is maintained. Is that road not neglected?

Dr. Machage: Mr. Speaker, Sir, just to emphasise that the Ministry has not neglected that road, I will tell you that the World Bank has provided funds through the Northern Corridor Project totalling to about US\$4 million. Of course, it is a crisis for the Government to carry out the studies which I have just told the hon. Member, under a detailed design for the entire sections shown in my statements. How else can I show that I have not neglected this road?

Mr. Ethuro: Mr. Speaker, Sir, I wish to demonstrate to the Assistant Minister how this Government has neglected this road. There is no way you can be talking about redesigning of a road that was already tarmacked if it has not been neglected and is no longer motorable. There are three bridges between Kapenguria and Kainup, Wakor Bridge being one of them. Last time Kainup Bridge collapsed, the army set up a temporary bridge. What will he do to replace the temporary bridges and all the drifts on the three bridges that collapsed on that road?

Dr. Machage: Mr. Speaker, Sir, maybe the word "neglect" is subjective. To my knowledge, I have confirmed to this House that I am aware of the bridge problems in this area. Indeed, I am redesigning the bridges in this area so as to build them a new. I have sought for financing for the purpose of construction of this road. However, due to skirmishes in other African countries, we have had a problem of over use. We could not close the road, being the main nerve for the supply of food and other items to Southern Sudan. That is why this road has actually deteriorated. I am aware of that. However, take it from me that my Ministry has not and does not intend to neglect this road.

Mr. Litole: Mr. Speaker, Sir, last week, the Assistant Minister gave a date to a lady who wanted him to tour a road in her constituency. I also want the Assistant Minister, while on his dates to tour the Kapenguria-Lodwar Road, so that he can see for himself how the road has been neglected.

Dr. Machage: Mr. Speaker, Sir, I will consider his request.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. The Assistant Minister did not answer my supplementary question. I had asked him about the replacement of Kainup Bridge that collapsed and a temporary bridge set up by the army a few years back. When will he build a permanent bridge?

Mr. Speaker: Mr. Assistant Minister, that is a valid concern.

Dr. Machage: Mr. Speaker, Sir, I have taken cognisance of the hon. Member's question. I am doing a feasibility study and designs for all that he has requested for.

Question No.585

UPGRADING OF OUTERING
ROAD TO A HIGHWAY

Mr. Speaker: Where is Mr. Waititu? That Question is dropped!

(Question dropped)

Question No.196

RELEASE OF BURSARY FUNDS
TO LIMURU CONSTITUENCY

Mr. Mwathi: Mr. Speaker, Sir, I have received the written answer to this Question.

However, I think that the Question now has been overtaken by events, because the answer is satisfactory and already the money has been disbursed. So, I do not wish to pursue it further.

Mr. Speaker: Very well! That settles the matter.

Next Question by Mr. Anyanga!

Question No.531

PAYMENT OF HARDSHIP ALLOWANCE
TO TEACHERS IN NYATIKE

Mr. Anyanga asked the Minister for Education:-

(a) whether he is aware that Nyatike, Karungu and Mihuru divisions in Nyatike Constituency are classified as Arid and Semi-Arid Lands (ASALs);

(b) whether he is further aware that teachers in the constituency are not paid hardship allowance; and,

(c) what he is doing to urgently implement payment of hardship allowance to teachers in the constituency.

Mr. Speaker: Is the Minister for Education here? Hon. Members, there is a written request by the Minister that he is away on official Government business that could not wait. The Assistant Minister is similarly not available. So, the Question will be deferred to Wednesday next week.

Mr. Anyanga, is that fine with you?

Mr. Anyanga: Mr. Speaker, Sir, last week you deferred this particular Question to today. Apparently, the Minister and the Assistant Minister are not in. I do not have any objection. It is okay with me.

Mr. Speaker: Very well! That is good enough. Wednesday next week!

(Question deferred)

Question No.513

LACK OF SEWERAGE SYSTEM
IN KERUGOYA TOWN

Mr. Kariuki asked the Deputy Prime Minister and Minister for Local Government:-

(a) whether he is aware that Kerugoya Town has no sewerage system and, hence, many businesses in the town unlawfully drain sewage into Kathigaini and Kacii streams; and,

(b) whether he could explain the criteria considered before a town qualifies for a sewerage system and state when he will construct a sewerage system in the town.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Speaker, Sir, I beg to reply.

(a) It is true that Kerugoya Town, which is the headquarters of Kirinyaga District, has no sewerage reticulation system. It depends on septic tanks and pit latrines. However, the exhauster services are provided by Kirinyaga County Council and Kerugoya/Kutus Municipal Council. Embu Municipal Council sometimes reinforces the exhauster service. It is, therefore, not true that many businesses in town unlawfully drain sewage into Kathigaini and Kacii streams.

(b) Some of the factors considered before a town qualifies for a sewerage system are:-

1. The increase in population density that may lead to overworking of the ordinary septic tank.
2. The nature of the soil. Swampy areas lack better absorption of the water discharge compared to dry areas.
3. Rapid development and demand for more land denies individual plots points for discharging the waste water, hence the requirement for a central treatment area for all the waste water.
4. The increase in supply of fresh water also leads to a proportionate increase in discharge of waste water and, hence, the requirement for a sewerage system.
5. Availability of land for the lagoons.

A survey has already been done for the provision of a sewerage system for the town. AHITI College has offered a 25-acre farm for the construction of lagoons. My Ministry will explore the possibilities of raising funds for the construction of the sewerage system, which is long overdue.

Mr. Kariuki: Mr. Speaker, Sir, I would like to thank the Assistant Minister for the answer that he has given. However, I would like him to note that there is only one dumping area which has been given out by the county council to dump all the refuse in the town. Quite often, this dumping site is full and when it rains, a lot of refuse is drawn into the rivers and it ends up in Thiba River and the water is drunk in Mwea. As a result, very often people get diarrhoea.

When is the Ministry going to look for money, because we need to prevent people from sickness in Mwea because of our inactivity?

Mr. Githae: Mr. Speaker, Sir, it is true that this town requires a sewerage system. It should have been constructed like yesterday. But, unfortunately, this did not happen and, therefore, we have taken it upon ourselves to provide sewerage services to this very important town. We are looking for funds but, in the meantime, just by the mere fact that there is no sewerage system, does not authorise the local authorities to pollute River Thiba. In fact, if there is any local authority that pollutes any river, it should actually be taken to court. They should be prosecuted under the Public Health Act. In fact, the National Environment Management Authority (NEMA) should also be on their backs, because we cannot allow pollution of rivers and other ecosystems.

To answer his question, I am going to give instructions to Kerugoya/Kutus Municipality and Kirinyaga County Council, that they should not, under any circumstances, pollute River Thiba, which is a very important river for the inhabitants of Mwea.

Mr. Mbai: Mr. Speaker, Sir, this problem is not in Kerugoya alone. What plans does the Ministry have to make sure that all the upcoming towns are connected with sewerage systems?

Mr. Githae: Mr. Speaker, Sir, the Ministry of Water and Irrigation is doing exactly that. They are surveying all the major towns so that this can be programmed. The problem is the haphazard manner in which it has been done. There were no standards or policies. But these are being instituted so that as a town grows, then it gets all the relevant services like sewerage and water. So, that is now being done in a programmed and systematic manner, instead of the previous haphazard manner.

Mr. Speaker: Last question, Mr. Kariuki!

Mr. Kariuki: Mr. Speaker, Sir, there is only one question that I asked and the Assistant Minister has not given me an answer. I wanted to know whether the Ministry is looking for money, what is the time frame within which he thinks, as a Ministry, they will be able to secure this money? When does he think they will start the construction of the sewerage system?

Mr. Githae: Mr. Speaker, Sir, the first thing was the survey which has been done. The second one was the availability of land for construction of waste water lagoons. Fortunately, and I wish to thank AHITI, for having donated a 25-acre piece of land, so that the construction of the sewerage system can start. The only thing now remaining is money. We could not look for money

when we did not even know how much was required. We now have a figure. As I said, this year's budget is already exhausted, but this project is also one of the ones which have been identified and will be given the first priority in the next financial year. But as I said, we are also discussing the issue with our donors, particularly, the European Union. They have provided certain facilities and we have also requested them to see if they can also extend these facilities to them, but we have not received any approval. Now that the survey is done, we are seriously looking for the money so that these towns can be like other towns which are headquarters of districts.

Question No.543

NUMBER OF BENEFICIARIES
OF YEDF MONEY IN KURESOI

Mr. Cheruiyot asked the Minister for Youth Affairs and Sports:-

- (a) how many youth groups in each of the four administrative divisions of Kuresoi constituency have received loan from the Ministry through Youth Enterprise and Development Fund; and,
- (b) whether she could provide a list of the youth groups, indicating the amount of money received by each.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua):

Mr. Speaker, Sir, I beg to reply.

(a) In total, 43 groups from Kuresoi Constituency have received loans from the Ministry through the Youth Enterprise and Development Fund. The groups are distributed as follows:-

Kamara Division, 11 groups; Kuresoi Division, 11 groups; Keringet Division, 10 groups, and Olenguruoni Division, 11 groups.

(b) An amount of Kshs1,920,000 has been disbursed to the 43 groups in Kuresoi Constituency as follows: Segha Chamnga Youth Group, Sachagwan Youth Group, Kesai Youth Group, Kazamoyo Youth Group and Exodus Turwet Youth Group got Kshs50,000 each. Ngenya Tumaini Youth Group got Kshs48,000; Kiyo Sauti Youth Group, Kanyori Youth Group and Maisha Mpya Youth Group got Kshs50,000 each.

Kosin Angruet Youth Group got Kshs40,000; Sachagwan Umoja Youth Group, Kshs30,000; Miti Moja Ngaa Youth Group, Kshs30,000; Jitahidi Tegea Youth Group, Kshs40,000; Kapsita Migin Youth Group, Kshs30,000; Young Moreka Youth Group, Kshs30,000; Soin Youth Group, Kshs50,000; Komongu Youth Group, Kshs35,000; Cheptarguei Youth Group, Kshs40,000; Wamkong Youth Group, Kshs35,000; Seiro Youth Group, Kshs40,000; Gidakato Youth Group, Kshs25,000; Sehato Youth Group, Kshs35,000; Tuungane Youth Group, Kshs20,000, and Barageti Youth Group, Kshs50,000.

Additionally, the following groups got Kshs50,000 each: Alliance Mount Youth Group, Tumaini Youth Group, Nyota Agri-parters Youth Group, Kimkasa Youth Group, Nyota East Youth Group, Cheptenya Youth Group, Vision Kiptagich Youth Group, Kamukunji Kureso Youth Group, Topentai Longisa Youth Group, Tuwet Youth Group, Kamwenge Green Youth, Elimu Ngenya Youth Group, Karema and Chegnot Youth Group, Muthaiga Youth Group, Grace Ladies, and Simbo Youth Group, Unistar Youth Group. Finally, Kokigero Kibelio Youth Group got Kshs42,000.

The total is Kshs1,920,000.

Mr. Cheruiyot: Mr. Speaker, Sir, while thanking the Minister for reading the list with the correct accent, I would like to know when the ceiling will be raised from Kshs50,000? Obviously, giving the rising cost of doing business and the prevailing inflation, Kshs50,000 is really nothing

for any group.

Ms. Karua: Mr. Speaker, Sir, the Ministry is assessing the success or, otherwise, of the Youth Enterprise and Development Fund (YEDF), for which you are invited to a seminar tomorrow, and we will make consideration of raising those figures or adjusting them as may be necessary.

Mr. Lekuton: Mr. Speaker, Sir, I was just wondering. The creation of the YEDF, through which we give the youth money to train and do business, is a noble idea. However, in a poor country like ours, how do we possibly give money to youth groups when they have not been trained to do any business? Just for the purpose of clarification, what is the repayment rate of these loans?

Ms. Karua: Mr. Speaker, Sir, I will not give the specific figure of the repayment rate, but the youth groups which are being given these small amounts of money are very faithful in their repayment. The repayments are agreed at the time the loan is given. Training is also being provided for by the Ministry. As we assess the success of this initiative, any suggestions by hon. Members will be taken into account to strengthen the YEDF.

Dr. Khalwale: Mr. Speaker, Sir, could the Minister re-assure Kenyans that, that ceiling applies across the whole Republic? We are disturbed that youth in certain areas of this country, which are deemed to be politically-correct, seem to be having easy access to the money, and they seem to be doing far much better than youth in other areas.

Ms. Karua: Mr. Speaker, Sir, I think the blame goes to the leadership in each area, particularly regarding the level of awareness and access to the YEDF. However, I wish to confirm that these are the ceilings that apply everywhere. I have just read figures relating to Kuresoi Constituency. In my own Gichugu Constituency, these are the rates applicable for youth who ask for loans in groups. When you work as an individual entrepreneur, your business plan will be assessed, and you will be loaned the money accordingly. May I call upon all hon. Members to raise the level of awareness in their constituencies to enable our youth to access this very good Fund.

Mr. Speaker: Last question, Mr. Cheruiyot!

Mr. Cheruiyot: Mr. Speaker, Sir, I have no more questions.

Mr. Speaker: Then we can accommodate Mr. Chepkitony!

Mr. Chepkitony: Thank you, Mr. Speaker, Sir. When the youth apply for money from the YEDF, it takes a very long time for their applications to be approved and for them to get the cheques. What is the Ministry doing to fast-track the processing of these loans, so that it does not take long? Could the process be devolved, so that applications can be approved within every constituency, rather than bringing the applications all the way to Nairobi?

Ms. Karua: Mr. Speaker, Sir, the group loans are accessed at the constituency-level, while those for individual entrepreneurs are accessed through the various financial institutions. The review underway will also look at how fast and how to improve the time within which a person accesses the loan.

Question No.358

INCENTIVES TO INVESTORS TO LOCAL
INDUSTRIES IN MACHAKOS TOWN

Dr. Munyaka asked the Minister for Industrialization:-

- (a) whether he is aware that Machakos Town has no industries, Kenya Orchards Limited (KOL) and East Kenya Bottlers Limited - the only industries previously in town - having re-located to other areas;
- (b) whether he is further aware that as a result, there is massive unemployment in

the town and its environs; and,

(c) what steps he will take to encourage investors to put up industries in the town for the benefit of the residents.

The Minister for Industrialization (Mr. Kosgey): Mr. Speaker, Sir, I beg to reply.

(a) Machakos Town currently is still a medium-scale industries, namely, Eastern Flour Mills and many bakeries. In addition to these two industries, the Kenya Industrial Estates (KIE), as a parastatal under my Ministry, has 34 sheds in Machakos Town, which are fully occupied by entrepreneurs dealing in engineering works, metal fabrication, carpentry workshops, garages, flour milling and food processing units, which have created employment opportunities in that area.

(b) I am aware that KOL, which was located at Maua Hills, relocated to Nairobi and then to Juja. I am further aware that in the year 2000, Coca Cola Savco acquired Eastern Kenya Bottlers of Machakos. In the year 2004, Savco merged with Nairobi Bottlers Limited, Flamingo Bottlers in Nakuru and Eastern Kenya Bottlers to form one bottling entity, which serves Nairobi, Central, Rift Valley and Eastern provinces. As a result of this merger, the East Kenya Bottlers Plant in Machakos was closed down.

(c) Machakos Town has several micro and small-scale enterprises located at the KIE, as I have just said. Also, Masaku Jua Kali Association Sheds provide employment opportunities for the residents.

Further, Mr. Speaker, Sir, I will advise the residents of Machakos Town to start value adding enterprises by utilising the raw materials available to them locally. The Government has availed funds through the women and youth programmes for this purpose. There are also several opportunities provided by the firms in Athi River Town and its environs including the Export Processing Zone (EPZ).

(c) As part of this industrialization process, the Ministry is organizing industrial investment fora in collaboration with local authorities in identifying the local resource base, potential investors and ways of improving the infrastructure in order to promote value addition enterprises. We will go to Machakos to conduct an investment forum.

The Ministry already has an office in Machakos headed by a District Industrial Development Officer (DIDO). The office provides facilities for the development of new industries in the area. Potential investors are encouraged to visit our office in Machakos to access information on industrial development opportunities that exist in the area.

Mr. Speaker, Sir, besides KIE, one of the parastatals under the Ministry, we do encourage the development of industries in various towns including Machakos.

Dr. Munyaka: Mr. Speaker, Sir, I want to thank the Minister for attempting to answer the Question. I do not know if he is aware that Machakos is a very old town. It is actually the one that was designed to be the capital city of Kenya and yet there are no big industries there at the moment. The two medium-size industries that he has talked about employ about 40 people only. The other industries he has talked about are in the *Jua kali* sector, that is, self-employment. What is the Ministry going to do to take advantage of the peaceful environment, available land, the market and labour in the town? Maybe we could try to decongest the City of Nairobi and transfer the industries in Nairobi to Machakos.

Mr. Kosgey: Mr. Speaker, Sir, I am aware of the history of Machakos. I do not know why it never became the capital city of Kenya, but it nearly did. I said that we intend to conduct an investment forum in Machakos. We have already done it in a few towns, for example, Kisii, Kisumu, Nyahururu, and Kapenguria. We will conduct the same in Machakos.

As a Government, we promote industrialization by providing an enabling environment for investors to invest. It is true that Machakos is not so far away from Nairobi. The road has been built. There is now a good access road to Machakos Town. The section of the road between

Nairobi and Athi River is being constructed. Therefore, Machakos Town should be very attractive to investors. We will do everything possible to promote the town.

Mr. Speaker, Sir, recently, we inaugurated the construction of a cement factory called the National Cement Factory. It is located about 10 kilometres from Machakos Town. So, there are some efforts to take industries in the rural areas, including Machakos Town.

Mr. Chanzu: Mr. Speaker, Sir, in his answer, the Minister said that they are encouraging those who want to invest all over including the rural areas. What tangible incentives is the Ministry giving those who want to invest in order to encourage them?

Mr. Kosgey: Mr. Speaker, Sir, you know the incentives that the Government already has in place. These are available at the Kenya Investment Authority. One of the incentives include exemption of duty on all capital equipment. Also, if you establish an EPZ, you do not pay taxes for a period of time. So, really, I cannot enumerate all the incentives, but we have them documented. Recently, when we had an investment forum in Kisumu, we listed all those incentives. We shall go to Kakamega too.

Dr. Munyaka: Mr. Speaker, Sir, since we are celebrating 100 years of the Provincial Administration in Machakos District, could the Minister give us a gift by, perhaps, establishing an EPZ in Machakos Town so that the people of Machakos can feel like they are part of Kenya?

Mr. Kosgey: Mr. Speaker, Sir, if I receive an application for establishing an EPZ at Machakos today, I will approve it.

Question No.482

LACK OF PHYSICAL PLANNING
FOR HABASWEIN TOWN

Mr. Affey asked the Minister for Lands:-

- (a) whether he is aware that planning at Habaswein Town has not been undertaken since its elevation to district headquarters; and,
- (b) when he intends to undertake planning of the district.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, on behalf of the Ministry, I beg to reply.

(a) Yes, I am aware that planning at Habaswein Town has not been undertaken since its elevation to district headquarters.

(b) I intend to undertake the planning of Habaswein Town in 2009/2010 financial year after completing the preparation of Giriftu and Eldas townships.

Mr. Affey: Mr. Speaker, Sir, I know that this Minister is a good friend of the people of Habaswein. In fact, we received her there very well.

This town was created four years ago. It, however, seems like there is no intention by the Government to plan for this town. Why has it taken four years to plan for this town? What is the relationship between Giriftu and Habaswein and yet these are in two different districts and different constituencies?

Ms. Karua: Mr. Speaker, Sir, I appreciate the question. I would like to inform the House that the whole of North Eastern Province has had one physical planner traversing all that vast area until August, 2008, when a second physical planner was sent to Wajir East. He currently serves Wajir West, Wajir East, Wajir North and Wajir South districts. The said planner is preparing the development plan for Giriftu, which is the district headquarters for Wajir West. He is expected to complete that task soon and immediately embark on the planning for Habaswein. The Ministry is

seeking a partnership with the CDF of Habaswein just like it has enjoyed the partnership with the CDF of Wajir West to speed up the process. The Ministry will also endeavour to allocate funds for this work.

Mr. Chachu: Thank you, Mr. Speaker, Sir. During the last General Election, many new districts were created in Kenya. Many of them now have district headquarters and professional work in various offices has started. However, this is being done without any appropriate and sound planning in these districts. What is the position of the Ministry with regard to ensuring that sound planning is done so that we can have well-planned towns?

Ms. Karua: The Ministry will do its best to ensure that it increases the number of physical planners and also make provisions for adequate funding to ensure a speedy planning for all the towns and district headquarters that need to be planned.

Mr. Letimalo: Mr. Speaker, Sir, experience has shown that there are many structures that are being constructed haphazardly, without due regard to planning. What plans does the Ministry have to ensure that no structures are erected without plans?

Ms. Karua: Mr. Speaker, Sir, I have just said that the Ministry will ensure that there is speedy physical planning. You will note that most of our urban areas are totally unplanned. We are also calling upon Members of this House, as leaders, to sensitize our local authorities, so that they do not engage in haphazard constructions in our rural or urban areas. The Ministry has noted that fact and it is in the process of working out a comprehensive programme for the country.

Mr. Affey: Thank you, Mr. Speaker, Sir. Perhaps, the Minister might not know this, but if, as she has told the House, there is a planner - the one who is doing planning in Giriftu whose base is now Wajir East--- That officer has no vehicle and tools. Could the Minister consider to empower that particular planner so that he can do his job in all the four districts within the shortest period of time? Could she also assure this House that, as soon as that is done, they will send a planner to Habaswein District Headquarters in Habaswein Town, and not Wajir East?

Ms. Karua: Mr. Speaker, Sir, the Ministry is up and running. But it is constrained by funds. With availability of funds, the Ministry will step up all those areas, providing transport, adequate facilities and personnel for its planning purposes.

Mr. Speaker: Very well! That is the end of Question Time.

(Prof. Kamar approached the Chair)

Mr. Speaker: What is it, Professor Kamar?

(Prof. Kamar consulted the Chair)

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

Mr. Speaker: What is Mr. Ethuro?

Mr. Ethuro: Mr. Speaker, Sir, you deferred my Question, but you did not direct when it should appear on the Order Paper. I am also wondering: Are you satisfied that the Minister and his Assistant Minister could be away at the same time?

Mr. Speaker: Before I make any comment on the second part, I will invite the Deputy Leader of Government Business, Ms. Karua, to respond to that.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, it is unusual, but when it absolutely necessary, it can happen. I do believe that it is absolutely necessary that both be away today. But we will try to ensure that, at least, there is one person to answer Questions.

Mr. Speaker: Very well! Certainly, Mr. Ethuro, I am not satisfied, but the Leader of Government Business has given indication that there is a serious promise of improvement beginning on Tuesday next week.

Prof. Kamar: On a point of order, Mr. Speaker, Sir. On Tuesday, you postponed my Question directed to the Vice-President and Ministry of Home Affairs and ruled that it will be answered today.

Mr. Speaker: Yes and, indeed, the Vice-President and Minister for Home Affairs was present on that afternoon. But given that he is not here this afternoon, I am not certain that he has given any instruction to the Deputy Leader of Government Business. I will, therefore, defer this Question further to Tuesday, next week. The Vice-President and Minister for Home Affairs was aware of it.

Mrs. Shabesh: On a point of order, Mr. Speaker, Sir. I had asked for a Ministerial Statement from the Minister for Environment and Mineral Resources which he promised to reply today, on the reasons for the cancellation of the Kenyan delegation to the UN Conference on Climate Change.

Mr. Speaker: Very well. Do you have any instructions on that, Deputy Leader of Government Business?

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Regrettably not, Mr. Speaker, Sir.

*(The Minister for Information
and Communications (Mr. Poghisio)
consulted the Chair)*

Mr. Speaker: Order, hon. Members! You may be a bit concerned that we have not moved to the next Order as fast as we should. It is because there were necessary consultations at this point between the Chair and the Minister responsible for the Order in Sub-paragraph 2. The position now is that the first Item on Order No.7; the two paragraphs will all have to be deferred to next week. They will certainly be dealt with next week because the necessary amendments as generated by both the Ministries concerned, and the relevant Departmental Parliamentary Committees are not yet in final form. So, it is ordered that Order No.7 is deferred in total to next week.

BILL

Second Reading

THE FISCAL MANAGEMENT BILL

Mr. Ogindo: Thank you, Mr. Speaker, Sir---

Mr. Speaker: Order, Mr. Ogindo! You cannot contribute from the Dispatch Box. You may have to move to the second row or go to the last one.

Mr. Ogindo: Mr. Speaker, Sir, I beg to move, on behalf of Mr. Mbau, who is a Member of my Committee, that the Fiscal Management Bill be read a Second Time.

I want to take this opportunity to move the Fiscal Management Bill. It aims to enact an Act of Parliament to provide for the regulation and oversight on the national Budget process and the establishment of the Budget Office for the oversight of the Budget process and for connected purposes.

Mr. Speaker: Order, Mr. Ogindo! What is your difficulty?

Mr. Ogindo: Mr. Speaker, Sir, the microphone is too high for me.

(Mr. Ogindo adjusted the microphone)

Mr. Speaker: Are you now happy? You come from areas where Kenyans grow to higher heights than yours. Why are you an exception?

Mr. Ogindo: We later realised that we needed shorter ones.

Mr. Speaker, Sir, as you are aware, in this House, we are Members of Parliament representing people, who are taxpayers. To that extent, it is only fair that this Parliament be involved in the Budget making process. To that end, this Bill seeks to involve Parliament in the Budget making process. As contained in the memorandum of the objects, the reasons for this are very well articulated. Among others, I want to add that with the involvement of this Parliament, we are bound to see equity in the distribution of resources. Part I deals with definitions and Part II seeks to establish the Budget Office. The Budget Office is very necessary for this House. As you are aware, most of the hon. Members might not have the time to do their research, and do not have the expertise to deal with budget issues. This Bill seeks to establish a Budget Office, that if so established, will be manned by people with knowledge in economics, accounting and even, possibly, in engineering so that matters contained in the Budget are very well understood by Members of this House.

On that account, we seek to have this Bill passed by the House. Part III of the Bill deals with the enhancement of the oversight role in the budget process. As you are aware, this House has been passing Budgets over the years as a routine, or a ritual. This time round, we want to pass a Bill that will involve the House in scrutinizing the Budget process right from inception. As you are aware, in the recent Budget, due to lack of scrutiny, we passed a Budget of Kshs760 billion. Looking at the other side of the Budget, it was largely to be financed through borrowing. Most of that borrowing is not forthcoming today. If only this House was adequately involved, we could have been able to see whether the underlying assumptions of the Budget were valid and are still valid.

Mr. Speaker, Sir, if you look at Part III, it deals mainly with the principles of prudent financial management. Here, one of the principles of prudent fiscal management is the policy that relates to borrowing. This Bill seeks to regulate the debt component in our Budget. Today, we pride ourselves but our debt is still less than 40 per cent of the Gross Domestic Product (GDP). We do not have a regulatory framework that limits the size of our debt. Most of the debts that we are servicing in the Budget today are debts whose benefits we are not seeing. We are not seeing the benefits because at the point of contracting the debts, this House is not involved, yet we end up mortgaging this country for the rest of our lives and the lives of our children. With this Bill, that kind of mortgaging will be put to a manageable level.

Another aspect of this Bill that will be of great benefit to this House is that it will tend to promote transparency, accountability and responsible management of the economy and the public sector. I wish to say that most of the inequities we are seeing are a result of discretion. What this Bill seeks to do is to reduce discretion. As you involve as many people as possible in the process, the more transparent it becomes. The Bill seeks to engage the entire membership of the House, so that everybody is able to see what is in the Budget and its reason.

Mr. Speaker, Sir, the other aspect of it is Budget execution. Today, as we stand, this Parliament has no say on the Budget execution. What we get in this House is a book containing figures which we then pass and execution takes place behind us. With the introduction of this Bill, we are looking forward to seeing a situation where we will be able to quantify the programmes, the timetable, the time it will take to undertake a project as contained in the Budget. It will make

execution definite and within timelines.

Mr. Speaker, Sir, the other aspect of this Bill that makes it attractive to hon. Members is that it enhances the reporting system on the Budget. In this Bill, it will be a requirement that at certain intervals, certain reports need to be made to the House on a mandatory basis. As the reports will trickle in, we will be able to track the budget on a monthly or quarterly basis. That increased reporting is going to improve the transparency of the budget.

The other aspect of this Bill is that it is going to give this House a microscope, with which to go through the Budget.

Mr. Speaker, Sir, some of the financing items like I said before, the Budget rigidity and flexibility is denied because this House has no say on the non-discretionary items. We end up having a lot of money going out of our Budget through non-discretionary items. With the increased involvement of this House, I am sure it will go through each and every item of the non-discretionary items, so that it is sure on their validity.

Mr. Speaker, Sir, the other aspect of this Bill is going to be the prioritisation. As you are aware today, the prioritisation process of our resources is in the hands of a few. With the involvement of the House, we are likely to see our priorities coming in their right order. You realise to what extent we need infrastructure and food in this country but looking at our Budget, you will see that there is more funding in defence than there is in agriculture. There is more funding in Provincial Administration than there is in agriculture. That is a priority that is upside down. With increased involvement of this Parliament, I am looking forward to a situation whereby this House is going to define maybe, in terms of percentages, how much of its money is going to be spent on infrastructure and social services. I am looking forward to an improved budgeting process from this Bill.

Mr. Speaker, Sir, the other aspect of this Bill is that, in it, we have a compliance report requirement. More often than not in the past, this House has been subjected to a lot of impunity. Most of the times, this House, through the Controller and Auditor-General, has questioned certain improprieties. This has been done always as a ritual. What this Bill seeks to do this time round is to come up with a compliance report that will require each and every Ministry's Vote and Accounting Officer, to give a compliance report that will ensure that all the questions raised in the previous accounts are dealt with before other monies are disbursed to that Vote.

This is a very significant improvement in our Budget process because in the past, it has been taken for granted that all you need is to have your vote go through Parliament and you have a field day. We want to bring this to an end and that is contained in this Bill. It is not going to be an empty threat. We want to follow it with some punishment in the name of withholding the funding for the rogue Ministries.

Mr. Speaker, Sir, another aspect of this Bill is what we call the Pre-election Fiscal Report. In the past, we have had situations whereby in-coming Governments have fooled the nation that they have inherited empty coffers. We want every time we are going for elections to know the state of our accounts and Treasury. This is contained in this Bill and upon constitution of a new Government, we want to know whether they are taking over what was given over by the outgoing regime. That again is another important aspect of this Bill.

This Bill also empowers this House in terms of information. Right now as we speak, there is a lot of information that is crucial to this House. The House has no power of accessing it. A good example is that as Kenyan taxpayers, we want to know what is contained in our public debt register. That is not a public piece of information as it is today. We want to anchor the requirement to avail such important information into the law as contained in this Bill.

[Mr. Speaker left the Chair]

*[The Temporary Deputy Speaker
(Prof. Kaloki) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, among other sources of information that this House would need is where this money is coming from. We want the source of money made public. We want the monthly returns reflecting in the monthly revenue. We would want the monthly returns reflecting monthly expenditures, so that we are able to monitor this Budget on a monthly basis.

The other aspect of this Bill is that we want to engage this House through the Departmental Committee on Fiscal Analysis and Appropriation in the policies that will determine the domestic revenue mobilisation. We want this done through improved tax policies and new creative ways expansion, for example, expansion of new charging methods towards cost recovery. We also want to bring about the response in the public debt management.

Mr. Temporary Deputy Speaker, Sir, right now, it is sad to note that our domestic market in the form of Treasury Bills and Treasury Bonds is not performing. We want to expand this so that the domestic market can be enlarged. Today, it is the preserve of Nairobians. People in Mombasa, Kisumu and Eldoret do not know about the Treasury Bills and yet, we are aware that there is market there for such investments. When we had adequate publicity for the Safaricom Initial Public Offer (IPO), we were able to mobilise about Kshs300 billion. With adequate publicity on this, the domestic market is able to mobilise a lot of funds.

Mr. Temporary Deputy Speaker, Sir, the other thing I want to bring about is that it was contained in the last Budget that we were going to have offshore borrowing as a source of finance to our Budget. As it is today, I wonder whether this is forthcoming and the amount that was tied to that was Kshs33 billion. The trend today, if it is anything to go by, this Kshs33 billion is not forthcoming and that is a danger to the financing of our Budget and we are facing this danger today because the House was not involved in the scrutiny of this Budget. In case this Bill goes through, we are not going to have the kind of situation where financing items are in the Budget that is not forthcoming.

With those nearly many remarks, I beg to move.

Mr. Temporary Deputy Speaker, Sir, I would like to call upon my able colleague, Mr. Elias Mbau, to second.

Mr. Mbau: Mr Temporary Deputy Speaker, Sir, I would like to thank the Chairman of the Parliamentary Budget Committee which is anticipated to be legally anchored in the proposed Bill, for ably moving this all important Fiscal Management Bill on my behalf and on behalf of the House.

Mr. Temporary Deputy Speaker, Sir, as you know, this Bill is long overdue. We have moved along with this matter for far too long. I would like to thank hon. Members for the support they have given to me and the Committee that we have run along with in bringing this Bill for debate today.

Mr. Temporary Deputy Speaker, Sir, the cardinal objective of the Fiscal Management Bill is ideally, to bring the budget-making process of this country into the hands of Parliament. This is because it is known that Members of Parliament are the representatives of the people. At a certain time, there was this dictum that there would be no taxation without representation. In the past, the Budget was formulated, executed and brought here for easy passage by Parliament. It is eventually audited without the involvement of Members of Parliament.

Mr. Temporary Deputy Speaker, Sir, this Bill will play a role kin to the one which is played by the Constituencies Development Fund (CDF). It is going to be like a national CDF in the way of ensuring equitable distribution of resources of this country to every corner of the country through

the Central Government.

Mr. Temporary Deputy Speaker, Sir, in the past, some regions in this country have suffered, depending on which side of the political divide they belonged. It also depended on who was exercising State executive power.

Mr. Temporary Deputy Speaker, Sir, I want to submit and urge my colleagues that the passage of the Fiscal Management Bill will ensure that Parliamentary Committees or Departmental Committees have an input and recommendations considered by whoever will be involved in the budgetary process at the Treasury. This will take this country a long way in terms of distributing resources rationally and prudently.

Mr. Temporary Deputy Speaker, Sir, we are talking about Kenya running towards achieving very noble objectives as enshrined in Vision 2030. Members of this Committee will bear witness to the fact that other not so forward looking countries around Africa and the rest of the world have already put a budgetary committee in place. I would like to cite countries like Ghana, Uganda, South Africa and others. In ordinary times, these countries have looked unto Kenya as a good model in terms of setting the pace.

Mr. Temporary Deputy Speaker, Sir, I want to urge Members to support this Bill. I would also like to urge those who may not have had positive position on this Bill to support it because we do not know who will exercise executive power tomorrow.

Mr. Temporary Deputy Speaker, Sir, this Bill has very good provisions, especially the procedure of incorporating representatives of the people into the process of budget making. We are simply asking the Minister for Finance to lay a Budget Policy Statement on the Table before this House not later than 21st March of every year. When that is done, the statement would be taken up by the various Parliamentary Departmental Committees together with a committee that is going to be in charge of ensuring that this happens; that is, the Parliamentary Budget Committee. The departmental committees would then have time to scrutinise and interrogate the various macro-economic issues, plans, objectives and programmes that are incorporated and proposed by the Minister for Finance, with a view to ensuring that the programmes and objectives reflect the broader interests of the country at large.

Mr. Temporary Deputy Speaker, Sir, as you know, Parliamentary Committees represent every corner of the country. Therefore, should the Ministry of Finance or the Minister for Finance wish to put resources where they do not bear the best interest of the country, for instance, the colossal resources that we have had time and again being put under the Contingency Fund--- These are colossal resources whose value for money is not known. This Committee will ensure that the national revenue is put, apportioned and appropriated as necessary to the best interest of every region of this country.

Mr. Temporary Deputy Speaker, Sir, it shall be expected that after the various Departmental Committees have made their input, contributions and recommendations to a statement laid on the Table by the Minister before 21st March, the same will be included in a report of the Parliamentary Budget Committee. The Committee will present a report to the House, urging the Minister for Finance to consider the proposals and recommendations of the various committees before making the final budgetary estimates. These estimates shall be laid before the House before the 20th June each year. This will assure this House and the country at large that the taxation measures which are included in the report of the Departmental Committee have been approved by the House. Eventually, when the Budget is laid on the Table, hon. Members will feel that they have been involved in the budgetary process. Hon. Members feel okay and easy participating in the debate of the Budget. In the past, information has been withheld from hon. Members. Some hon. Members have also not taken a keen interest in the Budget. It has been a case of many voluminous documents being placed in hon. Members' pigeon holes, and they are expected to go through them

before they come and contribute towards a document that is alien to many members.

Mr. Temporary Deputy Speaker, Sir, we want to be involved to ensure that the various loans or grants that this country receives from other countries are laid bare in the eyes of the public. This country, at any one time, should know what it owes, to who, where and the repercussions in terms of interests accruing from such loans and indebtedness. We shall require the various Appropriations-in-Aid (A-in-A) that are occasionally raised by the various Ministries, departments and other Government agencies, are also brought to bare and to the light of hon. Members. Currently, what happens is that Ministries will raise a lot of monies in form of A-in-A and go ahead to appropriate the same in a manner that hon. Members only get to hear about them through reports of the Public Accounts Committee (PAC). By that time, whatever has been lost, most often than not, has been lost!

As you may know, Mr. Temporary Deputy Speaker, Sir, until now, there is no effective way in which this country is able to redeem monies that have been misappropriated fraudulently by individuals, officers and others. We are proposing, in this Bill, to ensure that there is a clause that will compel departments and Ministries to withhold incurring expenditures until a report from the Treasury, through the Controller and Auditor-General and PAC gives them a clean bill of health.

As you know, Mr. Temporary Deputy Speaker, Sir, today, there are very many cases that have been passed by the Controller and Auditor-General and PAC to the Attorney-General for prosecution and possible redemption of monies lost. But what has tended to happen is that the prosecutor, who is the Attorney-General, has always let those cases go scot-free under the guise of lack of evidence.

Mr. Temporary Deputy Speaker, Sir, we shall be requiring that, through this House, Ministries, departments and individuals are held to account currently, and not after five or ten years. Currently! If they cannot take heat, they should be surcharged and brought to account through this Bill.

Mr. Temporary Deputy Speaker, Sir, I also want to bring to light that this Bill will be requiring the Treasury, on a quarterly basis, to lay on the Table, quarterly reports stating the extent of compliance in pursuit of targets that have been set for the various Ministries and Government departments and deviations that may accrue. The same quarterly reports should clearly state to the House and to the nation what is going to be done between that quarter and the next one, to ensure that matters that may have been deviated are brought back on course. That would also ensure that a Minister, an accounting officer or a head of department knows, for sure, that he or she has only a period - that is three months - to act within the requirements of the law and within the requirement of the interests of this country as expounded in this Bill.

While supporting this Bill very strongly, Mr. Temporary Deputy Speaker, Sir, I want to end my remarks by saying: For instance, if this Bill was already in force, this country would not have had a problem! Hon. Members would not have had a problem! We would not have found it difficult to agree to what the Minister for Finance had initially proposed in terms of hon. Members paying taxes on their allowances.

But I must put it to you, Mr. Temporary Deputy Speaker, Sir, that this business of making hon. Members and the country pay taxes without knowing where the same taxes are going to be applied--- It is the whole idea that has brought hon. Members in a collision course with the tax collectors. I wish that this law will come into effect as soon as is practically possible, so that hon. Members could know, even as I contribute, whatever is going to be the taxable allowance to my kitty. I know the same is going to serve the needs of my people where, otherwise, that money goes on a regular basis.

Mr. Temporary Deputy Speaker, Sir, the time for this Bill has come. I want to urge everybody--- So far, I have not come across any opposition to this Bill. I want to say that this is an

item whose time has come. It can only be considered the next best from the Constituencies Development Fund Act.

Mr. Temporary Deputy Speaker, Sir, I second, and urge hon. Members to support the Bill.

(Applause)

(Question proposed)

Dr. Eseli: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support the Motion. I thank the movers of this Bill, especially hon. Elias Mbau, who came before the House and asked for leave to present the Bill. I would also like to congratulate them for the short time taken to actually bring the Bill to the House. This Bill is long overdue because it removes the mystery around budget making in this country. The mystery surrounding budget making in this country has actually made some Ministers of Finance feel that they are next to God. In fact, some of them believe that they are God himself, because of the mystery surrounding the making of the Budget. I think this mystery surrounding the budget is what has made us talk about an imperial presidency, because what happens is that, there is a situation where the holder of that office, both holds the knife and the yam, and decides who he gives a portion to and who he will not give a portion to, to the extent that some parts of this country have been denied development because of that sort of situation.

Mr. Temporary Deputy Speaker, Sir, I believe that if we pass this Bill, one of the positive outcomes will be that the country might now position itself on the path to industrialization, when this House actually does have a say in the process of budget making.

Mr. Temporary Deputy Speaker, Sir, without repeating too much of what has been said before, the current controversy has been on the taxation of hon. Members and their willingness or unwillingness to pay taxes. As it has been alluded to before, this could be a reflection of the wider feeling of the society - that the wider feeling of the society is that, their taxes appear not to be accounted for properly. If you ask the majority of the people, they would rather not pay taxes if they do not know what those taxes are going to do. But this gives us a chance to account for it.

Mr. Temporary Deputy Speaker, Sir, I like Part III, Clause 2(f), a national budget and budgetary process that promotes transparency, accountability and effective management of the economy and the public sector. Some allocations that we have been coming across, are totally inexplicable. You find something put in the Budget and you cannot explain what purpose that particular item will serve, yet it is there and we cannot question it. In fact, when they bring it here, we just end up being a rubber stamp.

It is important because we are going through a very difficult phase in Kenya's life right now. There is the food crisis, the unemployment rate, especially among the youth and we realise that there are certain things that can be done to alleviate some of these situations. Now, we have a severe food crisis but somebody stands up here and tells us about Kshs700 million to either buy or build a new office for the Prime Minister. That should not be a priority! Surely, we could even come to this House--- That is why I like Part III, Clause 6(4)(a): The Government may deviate from the principles of prudent fiscal management if the Minister states the reasons for the departure. This would have been a very good situation for us to say: Okay; this Kshs700 million should go to food relief or to subsidizing the farmers, so that we ensure that we have food security in this country. At least, we will have a say in the destiny of our country.

As at the moment, we do not seem to have a say in our destiny. In fact, Budget making, for us Backbenchers, is like crystal gazing; you want to know what might happen, or else you go grovelling into Ministries to see whether they can allocate a morsel of that Budget to the people in

your constituency. But if this was opened up, we will know very well why we want to build a water dam in Machakos or in North Eastern Province. We will know why we want to put some boats on Lake Victoria. We will know exactly what we are doing and what we are doing it for. Any officer failing to implement--- That is the more reason why I like this Bill; we will have a chance to reprimand and punish that sort of person. So, if we have someone or a department that is always allocated funds that are never utilised, or if they are at all, it is not in the right manner, we will have a chance to not just reprimand them but also withhold any further budgetary allocation to that department. I think that is the beauty of this; it will force people to work for us rather than for themselves. This is because if any department will fail to meet the standards that we will have set, then they will have to answer for it. Any officer identified who will persistently be a stumbling block or a saboteur will be identified and dealt with. As happens now, there are, indeed, some saboteurs within our system, where you get a budgetary allocation made and funds available, but for some reason, they just decide not to use it because, probably, they want to bring down the Minister in charge of that Ministry or department.

Mr. Temporary Deputy Speaker, Sir, we have heard complaints of Ministers who feel their officers are letting them down by not implementing what was supposed to be implemented by that Ministry. A budgetary allocation has been made and some officers just sit on it. Eventually, some of the money has to go back to the Treasury, or is taken to a different project. At least, we will be able to identify these sort of people and deal with them, once and for all.

I believe we should pass this Bill, so that it becomes an Act of Parliament and I urge the powers that be, the wielders of the knife and the yam, that when we pass this Bill, it will become an Act of Parliament as soon as possible because, without repeating myself too much, it will save this country.

With those few remarks, I beg to support.

Mr. Ngugi: Mr. Temporary Deputy Speaker, Sir, I rise to support this very long overdue Bill. This Bill intends to put this country where the rest of the world is. If you look at Africa, Rwanda, Tanzania, South Africa and Ghana, they already have it. Even if you look further to Canada, USA, UK, Sweden and Finland, all have a budgetary law. So, we are only taking this country to the level of developed countries. Even if you look at Parliament, we spend 75 per cent of our time discussing the Budget, yet it is shrouded in mystery or secrecy. What this law intends to do is to open up the Budget making process; it will involve Parliament in the Budget making process and enhance Parliament's oversight role.

If you take the example of the Vote on Account, the Minister for Finance comes here, reads the Budget and within seven days, we pass it and allow the Government to spend 50 per cent of the budgeted amount without any scrutiny, or Parliament looking at whether that is the right thing to do. What this law intends to do is to say: Does the Government need 50 per cent of the total Budget in seven days? The answer is totally no! Maybe we could approve the Vote on Account for only 25 per cent, then the rest should be scrutinised by the various Committees of the House so that we can see where the money will be spent. Even more important is that this law intends to create a Parliamentary Budget Office. This has been lacking and God knows how we have been operating in these circumstances, where we are supposed to be the oversight body, yet we have no information.

The Parliament Budget Office is the one that will be analyzing the Budget and providing information to hon. Members so that they can play their role. This law is very good for this country, because for once, the Minister for Finance will come to the House and say: "This is the state of the nation. This is the state of the economy. This is how we see it in the next so many years. Based on these assumptions, this is why we are making this Budget." Even in the allocations, this law will require that there be criteria. We will, for example, query how did you allocate so much money to

the Ministry of Public Health as opposed to the Ministry of Water and Irrigation? What was the criteria used to allocate so much money to a small Ministry instead of a big Ministry? For the first time, the Budget making process will be transparent, focused and will not be left to a few technocrats, but will involve everybody who understands where the country is going.

Mr. Temporary Deputy Speaker, Sir, if we take, for example, the Budget that was read, the revenues that were projected to be collected by the Government, there was a deficit. If you look at the Kenya Revenue Authority (KRA), in the first quarter of the year, they were short of the targeted revenue by Kshs10 billion. We are not sure that we will meet the rest of the targets of the revenue, yet if you look at the expenditures that were projected, already inflation has moved from the 11 per cent that was estimated then to almost 30 per cent. This means that the Government, as the major spender, will have to spend two or three times more than what it spends. What does this mean? It means if this law is passed, quarterly reports will be brought to this House and it will be able to guide the Ministries. It will say the inflation rate has moved from 11 per cent to almost 30 per cent, and ask what measures are you putting in place to see that you do not over-shoot the Budget? Even on revenue, we expected Kshs33 billion to come from foreign donors which was to be floated. The Government itself has already said that this is not going to be. So, how are we going to fill the gap for Kshs33 billion?

In the last Budget, it was read that we will raise Kshs8 billion from privatisation. However, we have not seen, as a House, measures to privatise various parastatals in order to raise this amount. But with these quarterly reports that will be provided in this House, the House will be at top of things. It will be able to ensure that the Budget that is read is relevant.

Mr. Temporary Deputy Speaker, Sir, this Bill is the only one that will liberate the economy of this country. It will make the Ministry of Finance and Minister for Finance work harder and be more focused. The Minister for Finance will come to the House to sell a case that has already been sold to Members, because it has been involved in the Budget-making process. After all, the Budget is for the citizens of this country and the House is the representative of the citizens of this country.

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

Prof. Kamar: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support the Bill before the House. I want to thank Mr. Mbau for bringing this Bill. To me, this is the rebirth of the oversight function of parliamentarians. Apart from representation, the oversight function is one of the most important roles of Parliament, especially over the spending by the Government. This has been our failure and undoing in this country for many years. Most times, we have come here to ask Questions that our communities are asking and yet, we are parliamentarians. The reason being that we have no control of the affairs of the process of budgeting and even the monitoring of what has been budgeted for. That is why I am very happy that we have reached a point when we can come up with a Bill - The Fiscal Management Bill - that will answer a number of queries.

Mr. Temporary Deputy Speaker, Sir, I have said that this Bill is a rebirth of the oversight function of Parliament and transparency and accountability by our Ministers and technical staff; the civil servants. I believe that nobody in this House will go against this Bill.

In Clause 10 (1), the oversight function is elevated to very good status.

It says:-

"Upon being laid before the National Assembly, the Annual Estimates shall stand committed to the respective Departmental Committees."

I think that, that is the beginning and this is where we should have always began; that before a Budget is finalised, the Departmental Committee should scrutinise what is going to the respective Ministries.

Clause 10 (2) goes further to say that each departmental committee, according to this Bill, will be allowed to consider, discuss and review. We have had a lot of outcry in this House because

of poor national distribution of resources. This Bill is going to allow Members of this House to discuss, consider and review, if necessary, the Budget in advance.

In fact, Clause 10(3), enables the Committee to have discussions with the Minister, something that has never been heard of in Independent Kenya. So, this will allow the relevant committees to scrutinise the Budget and discuss it with the relevant Minister. That will enable us to control the distribution of resources within the country. So, that is a provision that I think is going to untie this issue of roads being built in one section of the country while some areas are not receiving resources. This is going to be a thing of the past, because it will have been discussed by our Committees. By the time it comes to the House, we will not be rubber-stamping, but agreeing with what our own colleagues in the House will have dealt with.

Mr. Temporary Deputy Speaker, Sir, the other aspect that I believe will really help us in our oversight function is the Quarterly Compliance Reports. At the moment, we do not know, after budgeting, who is supposed to be supervising who. I want to mention the fact that we have extension services in this country. We have District Agricultural Officers and District Livestock Officers, but we do not know who actually supervises them. On the ground, they are supposed to be serving the people. If they do not serve, who supervises them to know what they have done? Better still, the quarterly reports will enable us, as parliamentarians, to cross-check on the ground whether the activities that were approved are actually going in our respective constituencies. That, to me, is the right direction as far as accountability and transparency are concerned.

At the moment, we are not able, as parliamentarians, to know how much has been allocated for what, in our districts or constituencies. After, you are even able to assist your constituents and let them know what their rights and privileges are, from the various departments and Ministries at the local level. So, to me, this is very important. It is good that we are going to demand a Quarterly Compliance Report.

My main reason for supporting this Bill is the issue of withholding approval. This Bill is going to enable Parliament to withhold approval. That comes under Clause 15(2) which says:-

"Where a department has wilfully and persistently failed to implement or respond to audit questions and recommendations, the National Assembly may, subject to such conditions as the expedience, withhold such amounts from the departmental vote for a year as commensurate to the amount in the audit queries."

You are aware that we have a backlog of audit queries. If this Bill is passed, we should be able to make our people accountable. Withholding alone is going to make our people be efficient and

effective in the performance of their duties. This is because, currently, there is nothing that stops them from not performing. There is no checklist to show whether or not you have performed. By withholding, we will be forcing the relevant departments to ensure that the queries that have been raised are actually answered.

Mr. Temporary Deputy Speaker, Sir, currently, we receive audit reports late. After receiving them late, we pass in the House that the audit queries be attended to, but nothing comes back to us. Nothing comes back to inform us whether these corrections have been done or the recommendations have been addressed. To me, this is one of the most important clauses of this Bill. It will be able to enforce efficiency by withholding.

Mr. Temporary Deputy Speaker, Sir, I know that there are many hon. Members who would like to touch on a number of issues on this Bill and I would like to support it because this is the beginning of accountability and efficiency in this country.

The last thing I would like to touch on is the issue of funds in the form of donations and grants from the international community. These funds have never been scrutinised by this House. I happen to be a Member of the Joint Parliamentary Assembly of the African, Caribbean, Pacific and

European Union (ACP-EU). Only last week, we were in Papua, New Guinea, with my colleague, Mr. Kombo. We saw a Strategy Paper that has been signed by Kenya to attract the European Development Fund. The amount of money in question is in billions of shillings. We asked ourselves: "Before this paper was signed, why was it not tabled in the House, so that we could all be aware, scrutinize and ratify?"

Mr. Temporary Deputy Speaker, Sir, this Bill will ensure that any expenditure, be it from taxpayers money or donors, is scrutinised by this House. To me, that will be the best thing that the Tenth Parliament will have done for this country. We must ensure that we receive everything and have it approved by this House. Currently, Members of Parliament have been reduced to desperadoes, who persuade even civil servants to give them support for projects in their own constituencies. That is not right. It is very important that we budget and account for every penny, so that Kenyans can rest assured nothing will be misappropriated in this country.

The Act that will result from this Bill will demand that every expenditure by the Government must come to the House first for approval. To me, that is a welcome move. That is what I am calling "the re-birth" of the oversight function of this Parliament.

With those remarks, I beg to support.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I stand to support this Bill. It has been pending before this House for about four years.

I want to congratulate Mr. Mbau for being so passionate about this Bill. The intentions of the Bill are good. I also want to congratulate the person who originally thought that this was a good idea, Mr. Oloo-Aringo, who tried fruitlessly to convince the Government this was a good move for the country. This Bill has been called many names such as "unconstitutional", "unwarranted" and so on, just because it irritated the Executive, and more so, the Ministry of Finance.

Initially, this Bill was supposed to be called The Budget Bill or the Budget Committee Bill. It is now called the Fiscal Analysis Bill, because the word "Budget" irritated so much the mandarins at the Treasury, because they thought all the budgeting power was leaving them. No country can ever progress without putting in place a budgetary process that has checks and balances. That is the duty of Parliament.

Mr. Temporary Deputy Speaker, Sir, the issue of allocation of resources in our country is the sticking point. In fact, the reason of being a president or a Minister in this country, is so sweet because when people get those positions, they think they will help their tribesmen. This is the only way to stop the Government from misappropriating resources just to please tribes and tribesmen.

We have gone through this thing for such a long time. Even just as recently as last week, at least, two Cabinet Ministers said this Bill is unconstitutional. One of those who was opposed to it is now out of office. So, he has, at least, been quiet. We were told to withhold it, because the Government had a parallel Bill. Of course, this is because the Treasury wanted to have the opportunity of putting some pork barrel into some white elephants during the budgeting process.

Even in the current Budget, which we passed recently, there is a fictitious company called "Kenren." It is a fictitious company which is supposed to be a producer of fertilizer. In the current Budget, it was allocated Kshs400 million. I can assure you that if the law we are seeking to enact through this Bill was in place, and the Budget was being scrutinised by the Departmental Committee on Agriculture, Lands and Natural Resources nothing would have been allocated to this company.

Mr. Temporary Deputy Speaker, Sir, it is very bad. Right now, the Government is trying to buy into De la Rue outside the law. It is the Government paying De la Rue. I wonder in which country the Government should be paying a money maker. Money should come from De la Rue to the Government, and not the other way round. This is happening because many people think that those deals should not go through scrutiny.

One thing which this country should reject is this deal about De la Rue. It fits in the same place as the deal of the sale of Grand Regency Hotel. This Parliament should never allow a corrupt deal to go through outside the procurement and the privatisation laws when people are seeing. We, as a country, should never condone such thing to happen. I know that with the passage of this Bill, such will be things of the past.

Mr. Temporary Deputy Speaker, Sir, in the last financial year, our estimates collections was Kshs480 billion. The cost of Government alone was Kshs400 billion. So, this House should be given authority to deny unnecessary allocations to Ministries. We, as Parliament, need to change the procurement laws. Why would Parliament, for instance, as an institution, procure a ball point pen when you can walk into Uchumi Supermarket and buy one for Kshs10? The procurement laws provide for a tender to be given to the lowest bidder. So, Parliament could end up buying a ball point pen for Kshs400.

Why would the Ministry of Finance, which is the Budget originator, be put through that kind of law, so that a few brokers can make money? So, all expenditure by the Government must be scrutinised and allowed by the people's representatives. That is how it happens in all modern world democracies. This time round, Parliament must play its role. We must insist that, we, as the people's representatives, must have a say in the Budget making process. There is no way out other this.

Mr. Temporary Deputy Speaker, Sir, the Office of the Controller and Auditor-General, either in Switzerland or Great Britain, it is an office within Parliament. That is one change we must make! Right now, the Office of the Controller and Auditor-General works as if it is a branch of the Executive. The Kenya National Audit Office (KENAO) is an independent body. If you go to the House of Parliament in England, you will find that country's equivalent of KENAO is right there, so that Parliamentarians can reach it.

(Applause)

Mr. Temporary Deputy Speaker, Sir, if I find out that there is a deal going on, all I need to do, as a Member of Parliament, is to walk into the Office of the Controller and Auditor-General and say, "Check this deal. Something is happening against the will of the people". The Office of the Controller and Auditor-General must not be looked at as something that comes about to clean up Parliament or a body which Parliamentary Committees just sanction to do an audit after theft has occurred. It can also be used to prevent thievery! In fact, in many developed democracies, for example, Sweden, where I was recently, the Controller and Auditor-General told us that because everything is real time, there are no more cases of corruption. The only complaints they get are from people who have been violated or people who have done something unwarranted to an individual. They do not have cases of misallocation of funds. We need to go that direction.

I want to thank Kenyans. All the pressure Kenyans are exerting on Members of Parliament and the Government is very warranted. This is because the time for change is now. This country must change. We can broaden our tax base. That is not a bad argument. I think Kenyans are doing so well. We, as their representatives, need to catch up with them. The time for change is now. We must open up Treasury, procurement procedures and appointments to public offices to the people of Kenyan.

Mr. Temporary Deputy Speaker, Sir, I want to thank this House because last week, in the National Cohesion and Integration Bill, we passed that no single ethnic tribe shall be employed in one public company except one-third of the employees. This Parliament must scrutinise employment opportunities. You cannot go to a company in Kisumu, say, Kenya Power Lighting and Company (KPLC), only to find everybody there talking in *Dhuluo*, or you go to KenGen

offices here in Nairobi and you find everybody there talking in Kikuyu. That is not the Kenya we want! We passed here last week that no single tribe shall be more than one-third of a public entity. I am surprised the Press has not highlighted that. However, we need to go out and talk to our people and convince them that unless we make necessary changes and live within our means, we will not have a future for ourselves, let alone our children.

With this Bill, the era of white elephant projects will be gone. Yesterday, there was a Question here in Parliament about a road in Kamukunji Constituency. The Government sank Kshs78 million for the construction of that road, but the contractor has never been to the site. Such a thing will be a thing of the past because Parliament will now ask: "Why are we giving that contractor money?" Parliament will have authority so that we do not need to cry all the time against the Executive. If somebody keeps on punching you so much, you get used to those punches. You become very tough. I think Parliament needs to stop punching. We need to be proactive so that we can stop the plunder and the theft in Government. Here is a scenario where so many bad things have happened in our history. Yes, we can forget the past, but we need to define the future with good legislation. We need to agree that it is time to change. We must change with times. This Bill will ensure that there is affirmative action in the allocation of resources. That way, one day, when I become the President of this country, not everything will go to Gem Constituency or Luoland. The Parliament of the day will say no. This Parliament should also pass a law to ensure that the Government does not allocate so much money on water to a place like Kiambu where people have water and yet if you go to Garissa, nobody has water. Currently, Parliament has no say once such a thing is put in the Budget because we cannot change anything after the Budget has been read.

Mr. Temporary Deputy Speaker, Sir, we must take charge as the people's representatives. Unless Parliament changes, I am sure Kenyans will be here to change us.

I support.

Mrs. Millie-Odhiambo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I wish to support this Bill which is not only timely, but necessary. Actually, I am personally shocked because even Community-Based Organizations (CBOs) operate in this manner and yet they are the smallest "disorganized" units. It is actually shocking that we have a whole Parliament which is unable to exercise oversight roles, which is one of its most important functions.

I would like to add my voice in noting that this Bill will ensure that we curb grand corruption and do away with Anglo Leasing and Goldenberg type of cases. It actually gives us an opportunity to mainstream cross-cutting issues in the Budget. For instance, the role of ensuring that the Budget is gender sensitive has permanently been left to civil society organisations. Their voice, somehow, is never felt in the Budget. Now, for once, we will be able to say, for instance, that things that are of concern to women and may not be of concern to men will find their way into the Budget. For instance, for Members of Parliament to get a reduction in the price of sanitary towels, it had to take serious lobbying outside the Government. This gives us an opportunity to do away with running all over like mad people. We can sensibly fix it in the House and talk about issues that concern women, youth and children. I would like to urge the relevant Departmental Committee to amend this Bill so that in the same manner that we provide for a third representation when we are looking at the Budget to ensure that each Vote that is in the Printed Estimates must have a portion that is targeted to, especially vulnerable groups.

I want to add my voice to the fact that this Bill will enhance affirmative action. I come from Suba District and in some of the islands there, for example, Mfangano Island - a very big island - there is no road. Here, I do not mean a tarmacked road. People walk through bushes from one home to the other. If you have a car, you cannot use it even if you get a ferry to the island. Some people, at one time, went to Mfangano Island and laughed at the hon. Member for Mbita, Mr.

Kajwang, that people were seeing a car for the first time in the island. They wondered what the Member of Parliament had been doing for his people if they had not even seen a car. It is not the role of the Minister to give people roads. It is a corporate role of the Government to provide roads.

Mr. Temporary Deputy Speaker, Sir, poor people walk for many kilometres in order to reach the district hospital or a provincial hospital. But for the 16 islands in Suba District, if you are really sick and poor, you cannot swim even if you wanted to. The crocodiles will get you, or you will get tired, or you will drown. So, necessary resources that do not reach the communities that need them will then be accessed because the Government will ensure that marginalised areas get the resources they need.

Mr. Temporary Deputy Speaker, Sir, I support this Bill because it gives us the opportunity to actualise the National Cohesion and Integration Bill that states that resources in this country must be given equitably. It is no longer a choice. It is mandatory that we do it. If we do not do it within the framework of the National Cohesion and Integration Bill, this Bill has given us the authority to do it.

I would like to take note of Section VI that will ensure that there is prudent fiscal management. It will ensure that public debt is sustainably managed. However, I want to encourage the relevant Departmental Committee to amend it and include the provision that public debt is not only sustainably managed, but also prudently incurred. That has not been mentioned. It is presumed. Whenever we talk of prudence, it is presumed that debt will be incurred prudently. There are some debts that we incur that are not necessary or helpful to this country. I also note that Section 6 guarantees the principles of accountability and transparency. It also ensures prioritization that ensures reduction of waste and enhances equity. But again, I want to encourage the Committee that is looking into this to come up with amendments that will ensure that we develop rules or regulations that will enable us to come up with our priorities. That is because if we leave it to somebody's goodwill, it will take us another 20 years given that this Bill has taken too long to come.

Mr. Temporary Deputy Speaker, Sir, I also want to laud the Section that indicates that deviations from fiscal management policies attract sanctions. That is because, as you know, we have a very bad culture of impunity. It is not only in relation to violence, but we also ignore what the law provides. I am happy that this Bill actually provides that any deviation from the fiscal management policies will attract sanctions against the relevant officers. I also want to note that the Budget policy statement that is indicated is necessary. As I had indicated when I was giving my introductory remarks, even in small community based organizations, that is done. I am a lawyer and I am heading a civil society organization. I was called to undertake finance management for non-financial managers because there is no way that you can ensure accountability if you do not have something similar to that policy statement. It is not only necessary, but it is long overdue. It is the current practice worldwide from small groupings to large groupings.

Mr. Temporary Deputy Speaker, Sir, I was actually shocked when I came to this House and we were looking at the Budget. Most of the Ministries were giving us Votes that indicated Development and Recurrent Expenditure. But when you look at them, they were Recurrent Expenditures. It would be a sad day if, by passing this Bill, we further the practice that has been obtaining where we come here to look at how much was paid for tea and sweets. I think Parliament is an important place for us to waste time looking at how much money was spent in tea, milk and sugar. We want to know how much money was spent in development and how equitably it was done.

Mr. Temporary Deputy Speaker, Sir, I would also like to laud Section 14 that gives us a framework for monitoring and evaluation. It is not just enough that the Budget goes through and we do not care whether what we have provided is actually done. So, the three months monitoring

and evaluation framework that is given is laudable. However, I want to encourage, again going by current practice, that we institutionalise the listening of voices of the civil society organisations in the Budgeting processing. They have been involved, but we have not institutionalised it. But going by international practice and even by the practice of this House, let us do it within the law.

Finally, I want to note Section 16 that indicates that material failure to implement previous audits will lead to sanctions. I want to encourage that, as the practice elsewhere, it should not just be as indicated now, but the penalties should be more severe, including criminals penalties.

With those few remarks, I beg to support.

Mr. Lessonet: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to support this Bill. I am here as a Member of the Fiscal Analysis and Appropriation Committee, where the hon. Mbau is also a member. Therefore, I really want to see this Bill going through.

Mr. Temporary Deputy Speaker, Sir, when you look at our country, Kenya, you will find that this year, the Government intends to spend about Kshs760 billion. With Kshs760 billion, you will want to ask yourself: To what extent has that impacted on the lives of Kenyans? You will realise that the impact of that huge amount of money, when you compare it with the budgets of our neighbouring countries like Uganda and Tanzania who are making it with much lesser funds, is very minimal. That impact is minimal because when you scrutinize the current Budget, you will realise that prioritization in terms of expenditure is really upside down. You will be surprised that, even if you were to look at the Budget of 2008/2009, and take cumulatively how much the Government is spending on refurbishment - whether offices for Minister or civil servants - it is going into billions of money. When you compare the cost of refurbishment and look at the priorities in the village in terms of water, roads and electricity, you will see that our priorities are upside down. When you look around this Parliament, and look at the very comprehensive security arrangement in terms of gadgets all over, you will want to ask yourself: How much money went into that security arrangement? You will be told that it is about Kshs300 million. Kshs300 million is enough to ensure that every home in the district that I come from gets clean water. We are here to support this Bill so that we may be able to cut down on such extravagant expenditure by the Government.

This Bill will introduce what we call a Parliamentary Budget Office, which has not been there for the last 45 years that this Parliament has been in place. We know that one of the core responsibilities of Parliament is to pass and scrutinize the Budget. The current law allows us to amend only up to Kshs20. You can only adjust to the extent of Kshs20 in the current law. You realise that you will be amending up to Kshs20 and, at that time, the Minister for Finance has ambushed you with a Budget which you do not have prior knowledge of. The Fiscal Management Bill which is in front of us now will allow us to have prior knowledge of the Budget. A policy statement will be laid by the Minister in this House not later than by 21st March. That policy statement in terms of the Budget will allow hon. Members to scrutinize and decide if it is a priority expenditure in this country.

This Bill will also introduce what we call in accountancy, principals of prudent fiscal management. It will talk about borrowing policy. We want to understand to what extent we can commit our country to borrowing. It will also talk about the fiscal policy which encompasses the taxes that we pay and whether we are over-taxing or under-taking our countrymen. The principles of prudent fiscal management will capture all that. This Bill will also allow Committees to scrutinize respective budgets of Ministries. It will allow, for example, the Committee that deals with roads to scrutinize the respective budget of the Ministry of Roads.

Mr. Temporary Deputy Speaker, Sir, the respective Committees, in scrutinizing the Budget will ensure that priorities are correct. For example, we know that we are going to spend Kshs65 billion this year to finance work on our roads, but how much of this will go into actual

construction? Maybe only Kshs1 billion will go into actual construction. We are aware that this year, we are spending a lot of money to build a residential house for the Vice-President and Minister for Home Affairs. Is that a priority for us? Is it a priority for us to spend hundreds of millions of shillings to build a residential house for a Vice-President? When you go to Europe, you will find that the Prime Minister of Sweden or Great Britain lives in town. But a small country like Kenya is more extravagant than the developed countries where we go to ask for aid. It is those extravagant expenditures which, I know, the relevant Committees of the House will scrutinize, understand and cut down on them.

This Bill touches on public entities which we also know consume a lot of our money. Public entities like the City Council, the municipal councils, parastatals, universities and schools are required to prepare a budget by the 28th day of February. This will enable them to also adhere to the prudent fiscal management.

Mr. Temporary Deputy Speaker, Sir, compliance reporting is the best thing in this Bill. It requires the Minister to comply. Due to the lack of this compliance reporting, the Constituencies Development Fund (CDF) has been under-funded to the extent of Kshs8 billion. The CDF is now claiming Kshs8 billion from the Ministry of Finance. Kshs1.1 billion was not remitted to the CDF in the last financial year, 2007/2008. That tells you that there are constituencies in this country which have not received funds for 2007/2008 due to the lack of this compliance reporting. The Minister has gone ahead and ignored the release of that Kshs1.1 billion and disbursed the money for 2008/2009. So, in a nutshell, the CDF is claiming Kshs8 billion. You can estimate how many schools that money can build or how many homes can be supplied with water. Out of the Kshs760 billion, which this Government is going to spend in this financial year, it is only Kshs10.1 billion, that wananchi are waiting for, courtesy of the CDF Act, which the Government continues to ignore and, therefore, break the law. Failure to remit the Kshs10 billion is tantamount to breaking the law, because the Act is very clear that the Government should allocate 2.5 per cent of the collected revenue to the CDF.

Mr. Temporary Deputy Speaker, Sir, this is going to ensure equity. I want to tell you that the post-election violence which we saw in this country in January, February and March was due to lack of equity in the distribution of resources. We fought because we knew that resources are distributed by the Presidency. We fought because we knew that when your tribesman is in State House, it is your time to get water, good roads, electricity and others amenities. This Bill is going to ensure that, no matter who is in State House, the whole country will still be able to get electricity, water and good roads. We must accept that we fought because resources are centred at the Presidency. It is this Bill that is going to ensure that equity in distribution of resources will prevail in this country.

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

The Assistant Minister for Medical Services (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, I want to thank you for giving me the opportunity to air my views on this Fiscal Management Bill, 2008. First of all, I want to congratulate Mr. Mbau for being very consistent on this matter. We debated the Motion a few months ago and he did not delay. Immediately he got leave of this House to introduce this Bill, he worked day and night and was able to bring to this House what we had requested him to do. I thank him, and I join all the hon. Members who have stood here to very strongly support this Bill.

Mr. Temporary Deputy Speaker, Sir, recently, the world had a problem. There was a global crisis in the world economies. One of the big economies that were affected was that of the United States of America (USA). What happened was that the current President of the USA proposed to the Congress some measures that would rescue the country from the economic demise that it was going through. The President did not just wake up one day and decide that he was going to spend

public money in the manner he wished, dreamed of or thought best. He went to the people's representatives to get approval. It was not possible for him to get the approval, despite the fact that it was a serious matter. The Congress had to sit and create a bipartisan committee to work out details. The same package was sent back to the White House for debate and realignment. When the House had agreed, that matter was then passed with a lot of amendments. So, the people of the USA had a chance to scrutinize the work of the Executive.

Even when the same country was going to war in Iraq, the President had to go to the House and ask for money. He had to get approval from the Congress. The people of the USA had to decide that they were going to spend money in a particular manner. The voting even decides whether you will make it back to the Congress or not. When we recently had a food crisis, we just read in the newspapers that some several million bags of maize were going to be imported. It was a Cabinet decision. This House, the people's representatives, were not consulted. They were not told what was supposed to happen. Today, in one of the dailies, there is a headline that says that there is a cartel that is planning to fleece us and make millions out of our people, because of the process that is going to be followed for purposes of importation of that maize.

Mr. Temporary Deputy Speaker, Sir, so long as Parliament is kept in the dark by not being consulted, then the people's representatives are going to be sitting here and being part and parcel of abetting crime. This is because if the Cabinet approves the importation of maize and then the procedures are not clear, the next thing we will hear is the Press complaining that people are going to make money out of it. If that is the case, then what are we doing? It is very frustrating and I think time has come for this Parliament to empower itself so that the Executive can work truly in consultation with the people's Parliament.

Mr. Temporary Deputy Speaker, Sir, I admire the system that is used in the United States of America (USA), because in the Ministry of Medical Services, we are always counting that at least US\$0.5 billion is going to come to support the war against the HIV/AIDS pandemic. The announcement was first made by the current President of the USA but recently we have been informed that the President-elect together with the new Congress have approved an even better package. That means the people of America are actually consulted and they feel there is something they have to do for Africa. Through the President's Emergency Plan for AIDS Relief (PEPFAR) Initiative, we are getting this money but it is not coming because of the whims of the Executive. The taxpayers, through the elected people's representatives, are having a say in deciding where their money goes.

Mr. Temporary Deputy Speaker, Sir, this Bill needs to be supported by each and every Member of this House. It does not matter what people say or not, but we need to take charge of what happens. Indeed, Section 100 of the Constitution as we know it now, is very clear that we must perform the oversight function as far as looking after the money of Kenyans is concerned. This is what this Bill is going to help us do. In particular, we have sat here to discuss and approve a lot of the committee reports. In particular, we have the Public Accounts Committee (PAC) and the Public Investments Committee (PIC) reports.

In my first term in this House, every year when the reports were tabled, we heard of massive thefts of public resources. The PIC reports say that this is what we have discovered and in its recommendations they say that so-and-so should be investigated and they are thrown back to the Minister for Finance. The next year, again the same theft occurs and yet parliamentary committees were in action but nothing could be done by Parliament to stop a repeat of that theft. So, what happens? The Controller and Auditor-General brings the same report and says that so-and-so stole or this department could not account for this amount of money. We discussed it, condemned those people but the bureaucrats laughed at us outside there because Parliament could not do anything. They are planning for the theft of the same funds next year. It is terrible!

Mr. Temporary Deputy Speaker, Sir, so Clause 16 of this wonderful Bill is saying that we will have power on the recommendations of the Controller and Auditor-General to withhold monies that are supposed to go to a particular Vote-on-Account if there is no proper accounting of money by any department of Government. In essence, if for example, a particular department of Government failed to practise prudence and adhere to sound fiscal management practices, then it is denied money by the exercise of these powers to operate during that year.

Mr. Temporary Deputy Speaker, Sir, this means that Parliament is going to grow teeth to bite and stop the wastage. I predict that what is going to happen is that in due course, like hon. Midiwo said, like what is happening in Sweden, there will be no reports here of people saying that money has been stolen because there will be no opportunity. Those departments that are not doing what they are supposed to do will not be getting any money. Consequently, no public monies will be wasted. As far as I am concerned, we need to pass this Bill like yesterday.

Mr. Temporary Deputy Speaker, Sir, more importantly, we are looking into a new constitutional dispensation and most likely we are going to have an office of a Prime Minister. Not the way it was created now but created in the new Constitution. It is going to be an office that is led by the leader of a political party that has majority Members in this House. Most likely, we are also going to have a President. This President in this new constitutional dispensation will not continue to lord over this House because the leader of the political party with most Members of Parliament will be seated here to make sure that the monies that are going to be passed through this House are not going to be used in the manner in which the Executive feels. The people who will be seated in this House will make sure that monies are going to be spent in a manner in which this country will benefit to the fullest.

Mr. Temporary Deputy Speaker, Sir, we need to start preparing for this scenario. The country is different now. The days when we used to have a big man seated somewhere deciding the fate of millions of Kenyans alone are now over. We are going to run this country as a nation that consults. If you want to spend money, you come to Parliament and speak to it. Parliament needs to be convinced that the money is going to be spent appropriately and it is the only authority that will be passing that money. No dirty sticky hands of the Executive will ever touch money passed by this Parliament. We do not need to say more. We need to pass this Bill today. Let us finish with this Second Reading and then bring it for Third Reading, pass it and make it law.

With those few remarks, I beg to support. Thank you.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, I rise to support the Bill and to say that it is a good idea and it will give Parliament the necessary muscle to play its watchdog role. It is in the light of the comprehensive reforms that are being done within the country. We need forward looking Bills like this one.

Mr. Temporary Deputy Speaker, Sir, since my colleagues in the Ministry of Finance are not present, I expect that during the Committee Stage any adjustments that may be necessary to this Bill will be made but I know that within the Government the idea of the Bill is totally acceptable.

Mr. Temporary Deputy Speaker, Sir, I notice that the Bill is laying down clear principles for prudent fiscal management. We have had disasters in terms of the way we spend our money and also the way we commit the country and future generations with debts that we need not approach in that term. We know that in the case of the Anglo Leasing contracts, we were using a mechanism that cost this country a lot of money and will continue to be a problem in the future. It is, therefore, proper that we have clear policy and legal guidelines on how to commit this country to financial obligation and to do it in a transparent manner. Currently, the law requires that Parliament be informed but the practice has been otherwise. With these clear provisions of the Bill, once they become law, it will be totally

impossible to ignore Parliament. Parliament, on its part, will be expected to play its watchdog role competently and thoroughly to ensure that the nation is not put at risk because of negligence, corruption or both.

Mr. Temporary Deputy Speaker, Sir, I need not repeat the very many things that have already been said by my colleagues. I welcome the idea and urge that Parliament takes this Bill seriously and makes whatever additions or deductions that are necessary before we finally approve it at the final stage.

With those remarks, I beg to support.

Mr. Musyimi: Thank you, Mr. Temporary Deputy Speaker, Sir. I join other hon. Members in supporting this Bill. I would also like to thank Mr. Mbau for a job well done.

Mr. Temporary Deputy Speaker, Sir, I get the sense that the mood of the House is in favour of this Bill. With your permission, I would like to propose that the Mover be called upon to respond.

(Applause)

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

Mr. Mbau: Mr. Temporary Deputy Speaker, Sir, first and foremost, I want to thank Dr. Eseli, Mr. David Ngugi, Prof. Kamar, Mr. Martin Ogindo, the Chairman of the Departmental Committee, Mr. Midiwo, Mrs. Millie Odhiambo, Mr. Lessonet, Mr. Mungatana, and Ms. Karua, who has also responded on behalf of the Government.

Mr. Temporary Deputy Speaker, Sir, listening to the various contributions and inputs, they are very well informed. There is no doubt in my mind at all and in the mind of these hon. Members that they have read this Bill and shared in letter and spirit the objectives and intentions of the Mover.

Mr. Temporary Deputy Speaker, Sir, this Bill is going to liberate this country. I agree entirely that when this Bill becomes law, it will go a long way in preventing evils, ills and malpractices rather than being curative. This Bill is going to give this country and Parliament teeth and ensure we have capacity and authority to scrutinize budgets and to be part of the Government.

With those few remarks, I beg to move.

(Question put and agreed to)

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

Next Order!

THE MERCHANT SHIPPING BILL

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, I seek the indulgence of the House to defer this Bill to another day.

The Temporary Deputy Speaker (Prof. Kaloki): Therefore, the Merchant Shipping Bill is deferred!

Next Order!

(Bill deferred)

MOTIONS

ADOPTION OF REPORT ON PYRETHRUM BOARD OF KENYA

THAT, this House adopts the Report of the Departmental Committee on Agriculture, Lands and Natural Resources on Pyrethrum Board of Kenya, laid on the Table of the House on Thursday, October 23, 2008.

The Temporary Deputy Speaker (Prof. Kaloki): Is the Chairman of the Committee here?

Hon. Members: No!

The Temporary Deputy Speaker (Prof. Kaloki): So, then Motion will be deferred!

(Motion deferred)

Next Order!

ADOPTION OF REPORT ON STUDENTS' UNREST IN SECONDARY SCHOOLS

THAT, this House adopts the Report of the Departmental Committee on Education, Research and Technology on the Inquiry into Students' Unrest and strikes in Secondary Schools, laid on the Table of the House on Thursday, October 23, 2008.

The Temporary Deputy Chairman (Prof. Kaloki): The Chairman of the Departmental Committee on Education, Research and Technology is not here! Therefore, the Motion is deferred!

(Motion deferred)

Next Order!

ADOPTION OF REPORT ON SALE OF GRAND REGENCY HOTEL

THAT, the House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the sale of Grand Regency Hotel, laid on the Table of the House on Tuesday, October 21, 2008.

The Temporary Deputy Speaker (Prof. Kaloki): The Chairman of the Departmental Committee on Finance, Planning and Trade not here?

Hon. Members: No!

The Temporary Deputy Speaker (Prof. Kaloki): Therefore, the Motion is deferred!

(Motion deferred)

Next Order!

ADOPTION OF IREC REPORT
ON 2007 GENERAL ELECTION

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua):
Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, this House adopts the Report of the Independent Review Commission on the General Elections held on 27th December, 2007, laid on the Table of the House on Wednesday 1st October, 2008.

Mr. Temporary Deputy Speaker, Sir, this Report is commonly referred to by Kenyans as the Kriegler Commission Report. We sought this Report, as Kenyans, so that we may find out the strengths and more so, the weaknesses of our election systems and how to comprehensively address them. This Report provided recommendations on how to correct our electoral systems. I would like Kenyans to understand that the mandate we gave this Commission did not extend to finding out who won the elections.

Mr. Temporary Deputy Speaker, Sir, right from the outset, we were very clear in our minds that the issues we wanted delved into is what happened in terms of the mistakes that may have been committed and how to address them.

Mr. Temporary Deputy Speaker, Sir, I would say this Report and the recommendations thereof are an indictment of all of us, as a nation. This is from the Electoral Commission of Kenya (ECK) to the political class to political parties to the citizens themselves to the media to the civil societies and the observers. This includes our foreign friends. Our conduct, collectively, is what led to the violence that engulfed this country immediately after the General Elections of last year.

Mr. Temporary Deputy Speaker, Sir, the object of calling for the inquiry and report was not so that we dwell on the mistakes that we have collectively committed. It is so that we move forward and correct those errors. We, as a nation, are now ready and I am proud that, today, a Constitutional Amendment Bill has been published, and which will help us address some of the urgent reforms recommended by the Kriegler Commission.

(Applause)

Mr. Temporary Deputy Speaker, Sir, we all know and appreciate that our voters' register is not up to date. We went to the elections with over 1.2 million dead voters still on the register and, therefore, those names were capable of being manipulated and used by anyone. Indeed, it is clear from the Report that they may very well have ended up being used. We also have a system that encourages impunity, from returning officers, clerks and election co-ordinators. Everybody within the electoral system can commit known offences and get away with it. That has encouraged impunity. Therefore, there is the recommendation that we need to consolidate and review our electoral laws to ensure that everybody is held to account in the electoral process.

Mr. Temporary Deputy Speaker, Sir, the Political Parties Act, which is already operational, has already addressed some of these shortcomings. With proper enforcement, parties that indulge in malpractices that distort democratic practices will be penalised and could end up being barred from elections. The same applies to candidates or aspirants who commit those offences.

However, the most important thing is that we need very far-reaching electoral reforms and those suggested in the Bill, which has been published today, are in line with the Kriegler Commission. So, as we approach any other election, including the intended referendum in the constitutional review process, we should have a totally new electoral system. We should also have, as the report recommends, a leaner, meaner electoral commission where the commissioners of such a body should be policy makers and should not, they themselves, engage in planning or

undertaking elections, which should be the work done by their secretariat. Those are reforms which most Kenyans have accepted. Actually, the average Kenyan wants to see those reforms implemented, so that we can have elections which everybody is confident with. We can also approach the electoral process without heightening tension in the country and without people having to fight over disputes about the results.

Mr. Temporary Deputy Speaker, Sir, the most important lesson that we should learn from our past horrible experience is that, winning elections is democracy. Losing elections is also democracy. But for people to be comfortable with the results, we must engage in fair and transparent processes. That is what this Report is all about. I would like to urge hon. Members to accept the recommendations, and to also acknowledge that it is not only the Electoral Commission of Kenya (ECK) that may have committed errors. We should acknowledge that we, the political class, are guilty of perpetuating electoral malpractice, especially a culture of violence, a culture of rigging and a culture of corruption during elections. Once we acknowledge that, we will be able to lead the citizens whom we represent into rejecting all those vices and strengthening our democracy so that we can be a civil or civilised society that abides by its own rules.

Mr. Temporary Deputy Speaker, Sir, I need not go through the Report word by word, but to mention that those who discuss only one section of the Report and not the others are not doing ourselves, as a nation, a favour. Let us all acknowledge where we have gone wrong. The media must acknowledge where it went wrong. I have started with us, the political class, including the civil society and the election monitors. Once we acknowledge that, then we will move to correct those mistakes and to strengthen our democracy.

Mr. Temporary Deputy Speaker, Sir, with those very few remarks, I beg to move and seek to be seconded by hon. Mungatana.

(Applause)

The Assistant Minister for Medical Services (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, I beg to second the Minister for Justice, National Cohesion and Constitutional Affairs in moving this Report.

Mr. Temporary Deputy Speaker, Sir, the Report of the Independent Review Commission on the General Elections held in Kenya on 27th December, 2007, sought to specifically examine the integrity of the entire process of electioneering; a process that began from voter registration, nomination of candidates, counting of those votes, transmission of results after counting, tallying of the results of the election, resolution of disputes that came out of those election results and the tallying process and post election procedures. This Report also sought to look at the functionality and independence of the ECK.

So, Mr. Temporary Deputy Speaker, Sir, it is a big Report that needs a very sober debate. There is a lot that one can say, but on the whole, there are a few things that I would like to say. First of all, I would like to acknowledge the work that Justice Johann Kriegler did for this country. This is one of the things that was agreed by the people who were trying to reach a consensus at a time when things were very difficult in this country. I would also like to commend the work of the Vice-Chairperson, Lady Justice Iman Daud Aboud, Prof. Marangu M'Marete, Catherine Muyeka Mumma, Lucy Kambuni, Francis Aywa, Horecio Borneo and Prof. Jorgen Elklit, who was the Secretary of the other Commissioners.

Mr. Temporary Deputy Speaker, Sir, first and foremost, there is need for us to agree with this Report. We need to have a clear constitutional and legal framework, amendments and introduction of new laws into this country, so that we can manage our electoral processes better.

Mr. Temporary Deputy Speaker, Sir, there is a clear requirement, and I agree with the

recommendations in this Report, that the Election Offences Act Cap.56 needs to be looked at afresh. Are we able to punish offences when they occur during electioneering? Are we able to ensure that the candidates are doing the right kind of campaigning? We need to change the laws to punish offenders and inciters, whether they are candidates or otherwise.

Mr. Temporary Deputy Speaker, Sir, The Public Order Act, Cap.56, needs to be looked into afresh. When a candidate is campaigning, or moving his voters, and at the same he has been told that they cannot hold a rally there because another candidate had pre-booked it and this is ignored, what do you do with such a candidate? We need to create some teeth and review the laws that affect public order during electioneering. The same thing applies to the Penal Code. Obviously, we need to change the way we have managed elections Constitutionally and the powers we have given to the Electoral Commission of Kenya (ECK). The recommendations here are profound, and I am happy to note that today, the Bill that will make some amendments on the ECK, the Constitution of Kenya (Amendment) Bill, has already been published. So, this is in keeping with the recommendations that are in the Kriegler Report that we are debating today.

There is need to re-organise the entire structure of the Kenyan electoral management system. In some countries, you have only one person who is the commissioner, then the rest of the system works with that person. In some other countries you have only three commissioners. We need to sit down and agree that there is need to re-conceptualise what our ECK should be looking like. We even need to re-name the ECK, because this is one of the recommendations, so that a new image and concept of transparency are appreciated by the people of Kenya. Even on the issue of the funding of the ECK; are we saying that it should be coming here as a Budget item under the Ministry of Justice, National Cohesion and Constitutional Affairs as it has been happening? There is need to restructure that. For the ECK, or whichever new body we shall come up with, as a Parliament, we need to accept that it needs to have a different way of accessing money. I say this because, for example, in my own constituency, Garsen, we all know where the tallying is going to be done. We all know that it is an empty hall, and that there are possibilities of disruptions. The ECK needs to have enough money to create barriers, because we all know that in 2012, we are going to tally vote totals. We need to have money set aside for that purpose. We all know that we are going to be tallying and the process will need to be better managed. We all know that we need computers. But is the money that we vote here through the Ministry of Justice, National Cohesion and Constitutional Affairs as an item enough?

Mr. Temporary Deputy Speaker, Sir, I am very happy today that we have the Fiscal Management Bill that has a specific item under Clause 15, that says that Parliament and the Budget Office will sit down to approve money for purposes of the elections in the year of the elections. That is a good move, but we need to have money specifically--- I believe that we need direct charge to the Consolidated Fund, so that this body is truly independent. It might be more expensive, but if you think of the losses that we had in the month of January, then it is cheap to spend that money.

Many hon. Members would like to contribute; so, I would like to stop there and just urge the House to adopt this Report, so that we can start implementing it as soon as possible.

With those few remarks, I beg to second.

(Question proposed)

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Motion.

First of all, I would like to commend the Commission for bringing in very powerful

recommendations. Our country was visited by a devil after the ECK announced fraudulent election results. The root cause of the problem early this year in this country was because of an incompetent ECK. One of the recommendations in the Report is that we should disband that Commission. I am happy and I am going to be very short so that we can take appropriate action, so that this Commission is disbanded even tomorrow. You realise that the problem of impunity has been with us since this country attained Independence, because the Executive continues to control and muzzle the independence of the ECK. Therefore, the recommendation by the Kriegler Commission was very important.

Secondly, if we correct this, this country will never again have a problem of ethnicity, when it comes to elections. We should have a country which is cohesive enough, united and all the political parties abide by the law. So, this is a very important Report, which this House should adopt today.

I am sure you know that in every game, the judge or referee is the sole judge of a fair game. In the last general Election, the ECK, as the referee, became a judge of an unfair game. Therefore, spectators rioted, and because of that we lost 1,300 people. We had IDPs to the tune of 500,000, just because of one referee. I just would like to say if the ECK is not in the Waki envelope - I do not know who is in it - as the real cause of the problem that Kriegler dealt with, then it should be put in there.

I, therefore, support this Motion.

Mr. Abdikadir: Thank you, Mr. Temporary Deputy Speaker, Sir, because I have finally caught your eye. I have been informed about time by the Minister, and I will be brief in terms of my presentation.

I have been intimately involved in the discussions on reforms and, so I support this Report most sincerely. I only want to caution that in terms of our transitional arrangements, we should be aware of the need to have a very critical look at the institutions. We have just set up a new Political Parties Act implementation team. Where will that team fall when we do away with the ECK, because it is an office in the ECK and a number of civil servants there are crucial?

In terms of impunity, I believe that it has been very clearly demonstrated in the major debate that has been going on in the country in the last two weeks; this is, basically, the debate on taxation of the allowances of hon. Members. I believe Parliament should give a very good example that it is not immune to the views of the country. The people being sovereign, I believe that Parliament should give very serious attention to how to solve the issue of the taxation of our allowances. Parliamentary leadership is not just about legal leadership, because as the law stands now, Members of Parliament have not broken any law. Parliamentary leadership is about moral leadership also. Since the people have spoken very loudly in the last few weeks, I think that it is very imperative that the perception being created out there; that Parliament is a rogue institution that does not want to hear the people, be corrected, for as they say: "Justice must not only be done but it must be seen to be done." There is a very clear conflict - a moral hazard, I must say - for a institution that sets its own salaries and allowances to be critical of the views of the people of Kenya.

Mr. Temporary Deputy Speaker, Sir, in the same breath, I would wish to take great exception to the tone taken by our media in covering this debate. The code of conduct under the Media Act states that journalists should treat all subjects of news coverage with respect and dignity. This respect and dignity element has been lacking in the coverage of this debate. We have heard people talking about Members of Parliament vomiting on the shoes of Kenyans and so forth. We have seen the media not caring about the other side of the coin. This is a very heavy constitutional issue that requires debate; on whether the Executive can set the salaries and allowances of the Judiciary and Parliament, and whether that power will be misused.

We have issues about human resources and whether when one has a vested interest it will be---

The Temporary Deputy Speaker (Prof. Kaloki): Order! Hon. Abdikadir, are you contributing to Motion No.13? Stick to the Motion!

Mr. Abdikadir: Absolutely, Mr. Temporary Deputy Speaker, Sir. On the issue of impunity, impunity could be by Parliament, the media or any institution.

I am indicating that in terms of impunity, each of our institutions; whether it is Parliament or the media, needs to be aware of the actions that they take, not just in terms of that particular debate that is going on, but also in terms of the wider debate regarding respect for institutions. When you erode the moral authority of Parliament, as the media is doing now, that is impunity. When Parliament decides not to hear the people of Kenya in terms of their cry for action on this matter, that is impunity. That is what my contribution to this debate is all about.

With those few remarks, I beg to support.

Mr. Thuo: Thank you, Mr. Temporary Deputy Speaker, Sir. I will be very brief. I stand to support the Motion.

I will not belabour the points that have been raised. But I want to commend the authors and the people who undertook this exercise for a serious insight into what has caused us problems.

Particularly, I want to mention two areas. First is the Electoral Disputes Resolution Court, which I hope that the Minister who is responsible will be looking at. This is because part of our problem was the fact that we did not trust our resolution mechanisms as currently in our laws. Hopefully, we will create a system that allows us to feel that going to court or a resolution dispute mechanism that is impartial and whose integrity is not in doubt, is going to make life easier.

I also want to mention the issue of the time limit to petition. They should be expeditious so that we are able to deal with the things that harass and resolve these issues.

My colleague who has spoken before me has mentioned a few things on the observations on the media. I want to emphasize impartiality in their contribution.

I also want to emphasize a recommendation on the principle of the limitation of constituencies, being based on voter equality. I want to welcome the recommendation that this be looked at urgently. I insist that this be done. I also welcome the separation of the electoral boundaries review from the Electoral Commission of Kenya (ECK).

Mr. Temporary Deputy Speaker, Sir, overall, I support this Report and I am very pleased that we are able to discuss it today. I hope that it will be implemented.

With those few remarks, I beg to support.

Mr. Affey: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Report. First of all, I would like to congratulate the Minister for steering this Ministry in a manner that it is supported by the rest of this country.

Mr. Temporary Deputy Speaker, Sir, the Kriegler Commission was as a result of the dispute that we had over the election results. It is not right, even as we disband the Electoral Commission of Kenya (ECK), that we wholesomely condemn the electoral body. It is not right that we hold the ECK responsible for the violence that we had. This goes beyond the ECK. It was as a result of the indiscipline of the political class that we witnessed violence and deaths in this country. We must discipline our politicians and unite this country because all of us belong to this one country, and that politics is not a means to an end but rather a way of moving this country forward. Even if we get a commission that is wholly composed of foreigners and if we are not disciplined politically, this country will be in dire need of commissions every time we go to election.

Mr. Temporary Deputy Speaker, Sir, even as we disband the ECK, I do not think the violent reaction that we had in this country was as a result of a mere announcement. It does not take an announcement to kill. There is nowhere in law where it says even if the results are not fair, you

have a right to kill Kenyans or burn children in churches, houses or schools. There is no justification for what we did. So, we need to change our mind set. We need to design a new way of managing our politics.

I do not even understand why we should make the ECK staff to suffer. I would like to request the Minister, and I hope she will pay a little attention to me, disbanding the ECK staff together with the Commission, is punishing them for no apparent reason. Even if we have to disband the 22-member Commission, I request the Minister, for Heaven's sake, to make sure that she retains the staff at the ECK.

Mr. Temporary Deputy Speaker, Sir, we have secretaries and other officials at the ECK, who have nothing to do with what might have happened in the Boardroom where the Commissioners decided the election results. Therefore, to condemn wholesome, the Commission, together with staff, will not be fair to the Kenyans who are working there. In any case, we will replace them with other Kenyans. So, why sack them if we have to replace them with other Kenyans? What is the difference between those who are working there now and those we intend to replace them with? So, let us be very careful how we deal with this matter.

Finally, on the issue of constituencies that my colleague from Juja has just spoken about, it is high time that we reviewed our constituencies. However, there is no possibility of basing the number of constituencies on population. This country has constituencies which are as large as Central Province and Rift Valley provinces combined! So, if we are to change, we could adopt a new principle of one kilometre, one vote, and not one man, one vote.

(Laughter)

Mr. Temporary Deputy Speaker, Sir, we could assume that every one kilometre travelled in this country represents one vote, so that we have parity in this country. Those are the issues which could lead to chaos if we do not manage them very well.

With those remarks, I beg to support.

Mr. Ngugi: Thank you, Mr. Temporary Deputy Speaker, Sir, for allowing me to contribute to this very important Report. I stand to support the Motion.

As we debate this Report, we are talking about democracy and people's rights. When people's rights are eroded, then everything else they stand for is eroded. If people cannot stand in a line and exercise their rights, and those rights be recorded properly, then we have failed in democracy. That is why the institution of ECK is so crucial that it should be manned by women and men of integrity.

Mr. Temporary Deputy Speaker, Sir, this should not only be when we appoint them. It should be a continuous exercise, so that we examine them to establish whether they are up to the challenges they face, at any given time, and whether we can count on them. This should not just apply in general elections, but also in any other election, including election of people to manage cattle dips. Anybody who flouts the people's right to elect a person of their choice should face the law.

Mr. Temporary Deputy Speaker, Sir, I also want to talk about modernisation. We cannot just blame the ECK Commissioners and then go ahead to replace them. We cannot allow the same old tools used at the ECK to be used. This is an era of Information Technology (IT). Once we disband the ECK and replace it with a new one, it should be so modern that as people vote, the results are declared there and then. They should be captured at the headquarters and throughout the country so that when the tallying is being done, the people already know the results.

With regard to the issue of boundaries, it is good that they be reviewed urgently. We should look for an acceptable formula where the principle of one man, one vote; and, one kilometre, one

person will apply. We need to have a formula that will be a win-win situation for people in North Eastern Province and also in densely populated areas. That is the way to go for us. We need to take everybody's concern into account.

Finally, even as we send the commissioners home, let us remember that they have done a good job over the years. If they made a mistake, we should not condemn them and destroy their careers. I think it will be totally wrong to do that. Some of them are men and women of integrity. What was wrong is the corruption that is part of this country. The ECK was corrupted and as a result, we had election results that were also corrupted. I want us to look at the bigger animal that is affecting us in this country, that is, corruption.

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

Mr. Ruteere: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support the adoption of this Report. However, Kenyans seem to forget very easily. Before the ECK Chairman was reappointed, everybody was saying, "Let us reappoint so-and-so". We are now crying that he did a bad job. We do not remember how much we wanted him to take up the job. I wonder how much time we are going to take before we do comprehensive reforms. This is because every commission that comes only manages to do piecemeal constitutional reforms. Now, this Report is calling for the disbandment of the ECK. So, we will go to that section of the Constitution and then amend it. This country needs comprehensive constitutional reforms where everything will be addressed whether it is contentious or non-contentious. These issues that are pending now, they will not be pending come 2012. These issues may burn the country again. This Report recommends that a lot of Acts should be changed, for example, the Kenya Broadcasting Corporation (KBC) Act. It has recommended changes in the way of running the FM stations and so many other things. This is the time for us to look at all the Acts in a comprehensive manner instead of doing piecemeal reforms. We do not have much time within the remaining four years.

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

Mr. Ogindo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this rare opportunity to contribute to this Motion. I rise to support the adoption of the Report.

As Kenyans, we are capable of having one united nation. It all depends on the leadership. What caused bloodshed earlier in the year was totally unnecessary. I do not understand why we always have retirees as members of the Electoral Commission of Kenya. I am glad today that we have a very reform minded Parliament, courtesy of the youthful membership. You realise that right now, the youthful membership of this House has been brought together by the common good that they see in the Bills that we pass here. These Bills meet very little resistance.

Mr. Temporary Deputy Speaker, Sir, Kenya is for us all. If we only appreciate that, then we will not be having the antagonisms that we have. Everybody has a right to lead in this country. Everybody has a right to get a share of the resources of this country. Everybody has a right to positions in this country. If only we can exhibit fairness at individual and collective levels, we will have peace in this country. We are now in search of harmony and reconciliation. You can imagine how much reconciliation will be seen in this country if today, for example, His Excellency the President decides to abolish the notion that is held that certain Government Ministries are a preserve of others. If only the President could decide today that the Ministry of Finance goes anywhere; that the Ministry of Regional Development Authorities goes anywhere, that will send very significant signals in terms of reconciliation. That is what this country needs.

Last but not least, I know we are under pressure for time. I want to urge that as we reform the electoral process, let us put it in the hands of very youthful people. The youth today are colour blind. The youth today are tri-blood. The youth today are technically up to date. Let us also computerise our voting system.

With those few remarks, I support the adoption of the Report.

Dr. Eseli: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me these few moments. I will just say a few things on this by way of supporting. The chicken have finally come home to roost. As they say, a prophet is not recognized at home. What the Kriegler Report has told us here is nothing new. This is something we have always talked about in this country, but nobody has ever recognized it. One, the voter roll is definitely flawed. How can we have a situation where some voter turn-outs are virtually impossible. They are statistically impossible. You get a voter turn out of 80 per cent, 90 per cent and nobody migrated, nobody died and nobody went elsewhere. It is just mathematically impossible. We have known that all long. Take the electoral boundaries. We have always said that there are some people who are so under-represented. It takes the Kriegler Report to tell us to review our electoral boundaries. A new body in charge of the electoral process. We have always said that. If we allow political parties to nominate people to the Electoral Commission and expect them to be impartial, it is virtually impossible. When we keep on saying that it is the ECK that was wrong on December, 27th, I think we are cheating. That is because elections have been stolen in this country since multi-party started in 1992. Every time they have been stolen, we have not killed each. So, there must have been some other reasons why we killed each other. This has made us see that there is something wrong. We called Mr. Kriegler and his team here to put it in black and white, so that we can accept that there is something wrong with us. As we disband the Electoral Commission of Kenya (ECK), let us have a heart for the poor employees, some of whom are just clerks who only follow directions; I do not think that it would be wise to throw them out just like that; it will like throwing out the bath water with the baby. We cannot do that because we need some institutional memory. We have to keep some people for purposes of retaining institutional memory.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Prof. Kaloki): Since there is no other hon. Member willing to contribute, then I ask the Mover to respond.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, may I begin by thanking hon. Members for giving the adoption of this report unanimous support, in terms of their contributions. I appreciate very much the remarks that have been made by hon. Members; I would refer them in particular to the recommendations of this Kriegler Report on pages 153 to 163, and they will be able to see that all the issues that they have raised are captured in those recommendations. May I express the Government's commitment to implement to the letter the recommendations of this Commission's report, which cover all the areas of concern that the hon. Members have mentioned. I would also like to inform hon. Members that in the Constitutional (Amendment) Bill that is already published, and which is going to come for debate in the House, you will once again see the expression of the commitment to fully implement this report, and also the beginning of very far reaching measures, which will help us have a credible electoral system.

Mr. Temporary Deputy Speaker, Sir, may I end by once again beseeching Kenyans to learn to accept responsibility. We cannot afford to say that it is the ECK alone. It is the ECK, yourself, myself and all the other sectors of the society that contributed to the mess that we are in. This report observes that, as political parties, we started rigging within our parties. We started violence within our party elections. The bribery started in our parties. We carried over those negative practices to the national elections, so that even with a credible body and an unruly political class we cannot get credible elections. Once we admit our mistakes, we will move to reforms, so that we can all rectify the negative things that we have collectively engaged in and have brought us to this sorry state. Even if we pass good laws, like those suggested in these recommendation, without internalising democracy, respecting each other as human beings, treating each other as such and generally being mindful of each other's welfare,

we will not be able to build the type of society that we want. I am very hopeful. I have seen the efforts that we have collectively made, as a nation, since we tripped and almost caused our nation to disintegrate early this year. I have seen a collective commitment to put things right. Let us walk the talk together, so that we may usher in a new era and reforms that will make our country proud.

With those many remarks, and once again recording my appreciation to the House, I beg to move.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday 9th December, 2008 at 2.30 p.m.

The House rose at 6.25 p.m.