

## NATIONAL ASSEMBLY

### OFFICIAL REPORT

Thursday, 13th March, 2003

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

### PAPER LAID

The following Paper was laid on the Table:-

Annual Report of the Operations of the Parliamentary Service Commission for the year 2001/2002.

*(By Mr. Oloo-Aringo on behalf of the Chairman,  
Parliamentary Service Commission)*

### NOTICES OF MOTIONS

#### COMPENSATION FOR POLITICAL PRISONERS

**Mr. Wamwere:** Bw. Spika, naomba kutoa arifa ya Hoja ifuatayo:-  
KUWA, ikieleweka kwamba kuzuiliwa kwa muda usiojulikana bila kufikishwa mahakamani kwa Wabunge na Wakenya wengine kulikofanywa na Serikali zilizotangulia kinyume cha sheria za nchi hii, kuhujumu na kudhalalisha haki za binadamu, uhuru, hadhi, utu na uwezo wa Bunge, ikifahamika kwamba waalimu wa vyuo vikuu na Wakenya wengine walifutwa kazi, wakazuiliwa na, hatimaye, wakalazimika kwenda uhamishoni nje ya nchi hii, Bunge hili laisihi Serikali iwalipe fidia Wabunge waliotolewa Bungeni au kuzuiliwa kinyume cha sheria, na pia iwarudishe kazini wafanyakazi wengine waliofutwa kazi kiholela.

### POINT OF ORDER

#### MEMBERS' ATTIRE IN THE CHAMBER

**Maj. Madoka:** On a point of order, Mr. Speaker, Sir. A week ago, we spoke about the attire of Members in this House. Could you guide us on whether the attire worn by Mr. Wamwere is the right one for this House?

**Mr. Speaker:** I have, in the past, asked Members to keep dressed in the manner prescribed by our rules, to keep this House and ourselves dignified. I have, in fact, had occasion to talk to Mr. Wamwere and I understand why he is the way he is! I can assure the House, and I have no hesitation to take his word, that very soon, you will see a totally different Mr. Wamwere!

**Mr. Wamwere:** I would like to confirm to the House that, indeed, I have spoken with you about this issue. But, at the same time, I would like the House to understand that we are living at times when the whole of Africa is moving towards the revival of African culture, traditions and African dress! I think the hon. Member should be congratulating me for being African than being critical!

**Mr. Speaker:** Order! There is absolutely nothing African about the way you are dressed! If you truly wanted to be African in the way your forefathers were, you probably would have been coming here dressed in a lion skin, or some such other attire! But it is not African and there is nothing African about all this! All I am saying is that, unfortunately, Kenya has not had a national dress. It is not my fault that there is no national dress. It is our collective fault. But in the meantime, what the majority are wearing is what has become the norm for official attire in official premises. This is what people expect you to be! So, we expect it to be that way. Mr. Wamwere is quite welcome to initiate a campaign to introduce and popularise a national dress for men and women of Kenya. Until that happens, I will continue to demand that we follow the traditions as they are, except, of course, where it is very closely proximate to what we think is missing. But I do understand why he is like that and he has

talked to me about it. We have talked and agreed and I think you will see a totally different - differently dressed and not a different person, but differently attired Mr. Wamwere!

**Mr. Wamwere:** Mr. Speaker, Sir, I would like to ask a question about decency! To be quite honest, the way I am dressed, I think I am as decently dressed as any other Member in this House! I find it difficult to see why I am less decently dressed than the hon. Member right across the Floor, who is dressed in non-European way. I think this House should have more latitude---

**Mr. Speaker:** Order! The hon. Member you are referring to is dressed in a religious attire, perfectly allowed by the rules of the House. I do not know of that religion which---

**An hon. Member:** *Mungiki!*

*(Laughter)*

**Mr. Speaker:** Order! But we are not going to debate about all that! Next time, hon. Members will turn up here in pyjamas! Actually, what you are wearing is very close to pyjamas! So, could we now leave it at that?

*(Resumption of Notices of Motions)*

**Mr. Manoti:** Mr. Speaker, Sir, I beg to give notice of the following Motions:-

**ELECTRICITY SUPPLY TO RURAL TRADING CENTRES**

THAT, being concerned with the increasing number of unemployed trained youths from youth polytechnics and technical institutions, this House recommends that all trading centres in rural areas be supplied with electricity to enable the graduands to establish small-scale industries instead of migrating to major towns and cities in search of employment.

**ELECTRICITY SUPPLY TO PUBLIC HEALTH INSTITUTIONS**

THAT, in view of the fact that most of the population lives in the rural areas where roads to main towns are poor and medical facilities are inadequate; this House recommends that all public health centres and dispensaries be supplied with electricity to assist the medical staff to attend to the patients effectively, especially during the night.

**Mr. Speaker:** Let me remind the House that Question Time will take one hour only.

**ORAL ANSWERS TO QUESTIONS**

*Question No.031*

**AWARD OF TENDER FOR ROAD C92**

**Mr. Kagwima** asked the Minister for Roads, Public Works and Housing:-

- (a) when the tender to survey Road C92 - Meru Town Chiakariga-Ishiara-Ena, will be opened and awarded to successful surveyors; and,
- (b) when the actual tarmacking is expected to start.

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

(a) The tenders for feasibility study and detailed engineering design of Ena-Ishiara-Meru Road C92 were opened and awarded to the successful tenderer on 21st August, 2002. It is awaiting formal signatures so that the commencement order can be issued.

(b) The commencement of the actual tarmacking will be known when the feasibility study and detailed design is complete, and it will take 15 months after commencement.

**Mr. Kagwima:** Mr. Speaker, Sir, I thank the Assistant Minister for his good answer. This Road has been proposed for tarmacking for a long time. First, it was approved for tarmacking by this House in 1989, and the Ministry advertised the tender in the year 2000. We are now in the year 2003, and we are being told that commencement order has not been signed. Could the Assistant Minister assure us that the commencement order will be signed next week?

**Eng. Toro:** The road will be tarmacked very soon. The consulting engineer, M/s Luji and Partners, who was awarded the tender at a cost of Kshs36,736,047, is awaiting the formal signatures.

The delay occurred because the Minister for Finance had issued instructions that no new works should commence. When my Ministry wrote to the Treasury, it wrote back a letter dated 11th February, 2003, allowing us to go ahead and commission the relevant consultants to continue with the project.

**Mr. M'Mukindia:** Mr. Speaker, Sir, this is an extremely important road which links five districts, namely, Embu, Mbeere, Tharaka, Meru South and Meru Central Districts. It is an old road. Could the Assistant Minister assure this House that once the feasibility study is carried out successfully, the Ministry will embark on tarmacking the road? How long will the tarmacking work take?

**Eng. Toro:** Mr. Speaker, Sir, I can confirm to the hon. Member that the Minister is committed to have this road tarmacked because it will open up other areas. It is a short-cut to Meru from Embu. So, I am sure there will be no delay. Once the feasibility study and the tender process are completed, the project will commence.

**Mr. Wambora:** Mr. Speaker, Sir, this road has had a lot of false starts in the last several years. Could the Assistant Minister tell us how much money has been allocated for work on this road during this Financial Year, and how much money has been earmarked for the next two financial years?

**Eng. Toro:** Mr. Speaker, Sir, the hon. Member would have helped me if he said that a consultant was commissioned to do the design work, and after the design work, the Ministry failed to issue the commencement order.

This time round, the Ministry has commissioned a consultant, namely, M/s Luji and Partners. When the feasibility study and the designs for the road are completed, the Ministry will know the amount of money that will be needed to tarmack the road. That will be the only time when we will be able to budget for the road.

**Mr. Kagwima:** Mr. Speaker, Sir, I want to request the Assistant Minister to consider connecting the headquarters of Tharaka District to this road from a section called "Mukuuni", and then all the way to Marimanti. This is a section which is 33 kilometres long. If it is tarmacked it will enable the District Commissioner (DC) to travel from Marimanti.

**Eng. Toro:** Mr. Speaker, Sir, that will require another feasibility study to be carried out. It is not possible to accept the hon. Member's request when the feasibility study for Road C92 has already been commissioned. Maybe, in the future, the Ministry will look into the possibility of having a feasibility study done for that section of the road.

**Mr. Kagwima:** Mr. Speaker, Sir, if a road passes through a district and the district headquarters, where the District Development Committee (DDC) is based, is inaccessible, it is very unfair. I want to plead with the Assistant Minister to consider awarding the 33-kilometre road as a separate contract, so that the DC and the others are enabled to travel.

**Eng. Toro:** Mr. Speaker, Sir, the length of the road we are talking about is 113 kilometres. This is not a short distance. Unless the DDC gives us another priority, and advises us to abandon the tarmacking of the 113-kilometre road, we cannot abandon Road C92. The 113 kilometre road was given priority, and it is the road the Ministry has undertaken to tarmack.

*Question No.024*

EDUCATIONAL INCENTIVES FOR PASTORAL COMMUNITIES

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

- (a) what programmes he has put in place to ensure that the current education system benefits children from the pastoral communities; and,
- (b) what incentives have been given to children learning in boarding schools in pastoral areas.

**Mr. Speaker:** Mr. Assistant Minister, before you answer this Question, is it not similar to the Question we dealt with last week? Is there any difference?

**The Assistant Minister for Education, Science and Technology** (Mr. Gumo): Mr. Speaker, Sir, the Question is similar to the one we dealt with last week.

**Mr. Speaker:** Are you happy to deal with it?

**The Assistant Minister for Education, Science and Technology** (Mr. Gumo): Mr. Speaker, Sir, the Minister even gave a statement on the same issue.

**Mr. Speaker:** I think so. Mr. Wario, I think we dealt with this issue before through Mr. Sasura's Question.

**Mr. Wario:** Mr. Speaker, Sir, these are two different issues. Mr. Sasura asked about funds and I am asking about the education system. The high poverty level in the pastoral areas is due to the poor education system. The current education system favours people with permanent settlements.

**Mr. Speaker:** Okay, let us hear if the Assistant Minister is comfortable answering the Question. I feel that we dealt with the issue.

**The Assistant Minister for Education, Science and Technology (Mr. Gumo):** Mr. Speaker, Sir, the Question touches on the issue that was raised by Mr. Sasura, but if the hon. Member insists, I will answer it.

**Mr. Speaker:** It is not a question whether the hon. Member insists. Let us understand it, Mr. Gumo. It is an issue of law. If the Question is exactly the same as the one we dealt with a few days ago, then it is forbidden by our rules to be brought to the House again. If you think that the Question is exactly the same as the one we dealt with a few days ago, tell me so. If you think it is slightly different, please say so. Mr. Wario says that his Question is different from Mr. Sasura's. He says that he is not asking about funds. We dealt with a money issue last week. So, what do you think, Mr. Gumo?

**The Assistant Minister for Education, Science and Technology (Mr. Gumo):** Mr. Speaker, Sir, I gave him all these answers when supplementary questions were asked. So, this will come to the same thing.

**Mr. Abdirahman:** On a point of order, Mr. Speaker, Sir. I would like to ask the Assistant Minister to explain further because I have a feeling that this Question is completely different from the one that we dealt with in the sense that it is asking about the alternative arrangements the Ministry of Education, Science and Technology has put in place for children from pastoral families, besides boarding schools. That was the intention, and it has to do with access.

**Mr. Speaker:** Well, maybe, I can cancel part "b" of the Question. Let me hear what your answers are before I decide what to do.

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

The Ministry has put in place the following programmes to ensure that the current Education system benefits children from pastoral communities:

- (a) Free primary education programme
- (b) Subsidised low cost boarding primary schools
- (c) Enhanced bursary in secondary schools commensurate with the poverty levels
- (d) The incentives given to children learning in boarding schools are: School feeding programmes which provide students with free meals in schools, learning and teaching materials and text books.

**Mr. Speaker:** Mr Wario, maybe this Question is different.

**Mr. Wario:** Mr. Speakers, Sir, whenever a Question is raised on education, always, there is a controversy. If you look at these two answers, you will find that free primary school education, unfortunately, has not been implemented in pastoral areas. The Assistant Minister has said that the Government will subsidise low-cost boarding schools. Is primary school education free in these areas?

The Assistant Minister has no policy in place to implement free primary school education in pastoral areas. He has told us now that he will subsidise education in low-cost boarding schools. This is not a solution to the problems facing pastoral areas.

**Mr. Speaker:** Mr. Wario, what is your question?

**Mr. Wario:** Mr. Speaker, Sir, my question is: What has the Assistant Minister put in place to address the problem of high illiteracy level in pastoral areas?

**The Assistant Minister for Education, Science and Technology (Mr. Gumo):** Mr. Speaker, Sir, it is the same question I was being harassed about here. The Minister gave this House a comprehensive Statement. So, I do not know---

**Mr. Speaker:** Mr. Wario, what exactly do you want?

**Mr. Wario:** Mr. Speaker, Sir, to explain to you what we want, I will give the House information on illiteracy levels in those areas. Tana River District is rated 64 in the country when it comes to illiteracy level. Wajir District is rated 68, Mandera District - 67, Garissa District - 69, Isiolo District - 60 and Marsabit District - 65. Look at that high illiteracy level being experienced in those districts simply because the current education system is not meant for pastoral children.

**Mr. Speaker:** Order, now! Let me give you a piece of advice, Mr. Wario. This is because apparently, you are seeking much more than an answer; you want a policy developed on this particular issue. I truly believe that the way forward in this respect is for you to bring a Motion asking the Government to do those various things. You can give all your views, the Government will also give its views and then the whole House can have an

opportunity to ventilate ideas. If I were you, I would withdraw this Question and come up with a Motion. That way, you will not be held back. If you continue with this Question, unfortunately, you will be debarred from having a Motion on the same line. What cause of action would you like to take?

**Mr. Wario:** Mr. Speaker, Sir, I agree with you.

**Mr. Speaker:** So, your Question is withdrawn.

*(Question withdrawn)*

**Mr. Leshore:** Mr. Speaker, Sir, I would like to invite the Assistant Minister to Samburu District to see the problems that are there. This is because this Question will still be raised here even before that Motion is brought to this House.

*(Applause)*

**Mr. Speaker:** Well, just before Mr. Gumo responds, if he wants to, I think I did say yesterday in this House that we, as Parliamentarians, and even as Ministers, know nothing about Kenya. All of us have become parochial. Every weekend, the Minister or the Member of Parliament will be in his constituency holding Harambee or doing other things and the rest of Kenya will never be known. It is time this House knew Kenya.

*(Applause)*

At least, I cannot direct the Ministers. If I had the capacity to direct them, I would direct them to visit the country to see how their Ministries perform across the country. But at least, I can talk about hon. Members. I will ask the Departmental Committees of this House to visit this country to see how Kenya looks like, or see the various problems which affect Kenyans. There is no better Committee suited for this work than the Departmental Committees on Education, Science and Technology and Health, Housing, Labour and Social Welfare. I would encourage Ministers to accompany the Committee Members, if they please. But to ensure that this happens, I will direct the Clerk that before any Committee ever plans to visit abroad, it must satisfy the Speaker that it has visited Kenya to see the problems which affect Kenyans. Last year, we spent colossal amounts of money on Members visiting all over the world. This was kind of tourism.

*(Laughter)*

So, this year, if you must be a tourist, you must be a local tourist. This is because Kenya benefits by people knowing how it is. I would like, for example, the Assistant Minister for Education, Science and Technology to visit North Horr; the Chalbi Desert and see that there are children who live there and they must go to school. If he does this, he will know the problems facing those areas. The same thing should happen to other hon. Members. So, would you like to respond? You are not obligated!

**Mr. Gumo:** Mr. Speaker, Sir, we are already putting that programme in place and very soon we shall visit schools in various areas to see the problems which are there. Although we went to most of those areas when we were campaigning, this time round, we shall visit specific schools. We shall inform the Members of Parliament whenever we visit their areas.

Let us move on to the next Question!

**Mr. Sungu:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** We have left that Question. Mr. Sungu, you will not force yourself everyday to every Question under the pretext of point of order. You are already receiving the attention of Mr. Speaker!

*(Mr. Sungu stood up in his place  
and bowed to the Chair)*

**Mr. Speaker:** Very well!

**Mr. Angwenyi:** On a point of order, Mr. Speaker, Sir. I know the directive you gave was in good faith and to our advantage. But I tend to fear that we might remove the powers of direction from Harambee House to Parliament Buildings.

**Mr. Speaker:** Yes, indeed, there will always be some directions!

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

**Mr. Speaker:** Order! Mr. Angwenyi, if you followed my directive, you would have known that it was quite popular with the House. I am sure it is also popular with you. I would very much love to see you in Mandera. Next Question, Mr. Mutiso!

*Question No.023*

IMPLEMENTATION OF NURSES' CBA

**Mr. M. Mutiso** asked the Minister for Local Government:-

- (a) why the Nairobi City Council has not implemented the Collective Bargaining Agreement of June, 1998, whereby nurses were promoted from Scale 11 to Scale 9;
- (b) what criteria the Nairobi City Council uses to promote nurses; and,
- (c) when he will honour the agreement.

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

(a) The Collective Bargaining Agreement (CBA) in question was signed in 1993 and was reviewed in February 1997 after an appeal by the nurses. However, the Agreement was never implemented. After the matter was brought to my attention, I directed the council to implement the award with immediate effect. This has been done and the implementation took effect from 1st February, 2003.

(b) The criteria used in promoting nurses is based on the scheme of service which takes into consideration several factors such as performance, years served on a particular grade, professional qualifications and availability of vacancies.

(c) The Collective Bargaining Agreement has been implemented and, therefore, this question does not arise.

**Mr. M. Mutiso:** Mr. Speaker, Sir, let me first of all thank the hon. Assistant Minister for issuing an answer to my Question. However, according to the Collective Bargaining Agreement (CBA) of 1997, the council in its minutes book, Page No.1630, approved the CBA and the Medical Officer of Health (MOH) recommended that the nurses be graded as follows:- Those with a single qualification - Scale 11; those with double qualification---

**Mr. Speaker:** Mr. M. Mutiso, how long are you going to give all this information? In fact, the Assistant Minister should know better than you!

**Mr. M. Mutiso:** Mr. Speaker, Sir, in other words, what I am asking is this: According to the CBA there are various grades of nurses, but the implementation took into account only one grade and, subsequently, various grades were paid on the basis of one grade. Has the Assistant Minister tried to find out whether the nurses in all the grades have been properly remunerated and paid?

**Ms. Tett:** Mr. Speaker, Sir, we are still looking at this issue, but the 1997 award was implemented. However, the exercise is still ongoing.

**Mr. M. Mutiso:** Mr. Speaker, Sir, the personal records at the Nairobi County Council show that the nurses are under Scale 10. The pay slips of the same nurses relate to Scale 11. Is the Assistant Minister aware of this difference?

**Ms. Tett:** Mr. Speaker, Sir, I am aware that the old salary scales changed whereby salary Scale 14 became Scale 8 whereas Scale 12 became Scale 7. I am not aware of the other one and if given time I shall check.

Next Question, Mr. M. Mahamud!

*Question No.026*

PROVISION OF WATER TO WAJIR TOWNSHIP

**Mr. M. Mahamud** asked the Minister for Local Government what plans he has put in place to provide Wajir Township with piped water and construct a sewerage system for the town.

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

The Ministry of Water Resources Management and Development and my Ministry have already constituted a task force to identify the best water source for Wajir Township. It is expected that the task force will admit its report within the next two months. Once the report is submitted, the Government will study it and decide on the best suitable option of providing Wajir Township with piped water and a waste water disposal system.

**Mr. M. Mahamud:** Mr. Speaker, Sir, in 1982 a similar task force was appointed by the then Government and we have not got its report to date. Could the Assistant Minister assure us that this is not a bogus task force? If the task force is in existence, what is its membership and terms of reference?

**Ms. Tett:** Mr. Speaker, Sir, that task force was appointed in 1987 and not 1982 and we, as the new Government, are looking at all those issues.

**Dr. Ali:** Mr. Speaker, Sir, I think Wajir Township is the only township which uses bucket latrines in this world. We do not care whether it is the old or new Government which appointed this task force. Could the Assistant Minister tell us who the members of the task force are and when are they going to start their work?

**Ms. Tett:** Mr. Speaker, Sir, I understand that currently residents use wells dug in their respective plots and shallow county council wells as a source of their water. This water is safe for drinking as long as there is no external contamination of the bore holes and wells. The task force is working on this.

**Hon. Members:** Where is its report?

**Ms. Tett:** Mr. Speaker, Sir, I will bring that report next time. My information is that there is a task force in place.

**Dr. Ali:** On a point of order, Mr. Speaker, Sir!

**Mr. Speaker:** Order! Dr. Ali, before you raise your point of order, this is a very new lady Assistant Minister and so do not harass her. She is doing her best.

*(Laughter)*

**Dr. Ali:** Mr. Speaker, Sir, I do not wish to harass the Assistant Minister. However, if she does not have the names of the members of the task force and its terms of service, then the task force does not exist. Could you ask her to go back and get the necessary information pertaining to this task force and, consequently, defer the Question?

**Mr. Speaker:** Order! Madame. Assistant Minister, I think the issue being raised by these hon. Members about the provision of water and a sewerage system in Wajir Township is very genuine. You know, in Wajir when one digs two feet hoping to construct a pit latrine water surfaces instead. So, they have pails. Could you go and look at it and I defer the Question to next week?

**Ms. Tett:** Mr. Speaker, Sir, this Question should fall under the docket of the Ministry of Water Resources Management and Development.

**Mr. Speaker:** So, should I transfer it to the Ministry of Water Resources Management and Development?

**Hon. Members:** Yes, Mr. Speaker, Sir.

**Mr. Sasura:** On a point of order, Mr. Speaker, Sir. I do not quite agree that this Question should be transferred to the Ministry of Water Resources Management and Development because between 1988 and 1999, under the Kenya Urban Transport Infrastructure Programme of the Ministry of Local Government, there was a sewerage programme being undertaken in Wajir Township. So, the issue of sewerage should be left to the Ministry of Local Government. It involves garbage collection and it has nothing to do with the Ministry of Water Resources Management and Development.

**Mr. Speaker:** Well, that garbage has to be driven by water since it does not go alone. The handicap in which we find ourselves is that we cannot have one Question being answered by two Ministers at the same time. So, could the two of you go and discuss this issue?

**The Minister for Water Resources Management and Development** (Ms. Karua): On a point of order, Mr. Speaker, Sir. I think Members of Parliament also ought to familiarise themselves with mandates of the new Ministries. Water and sewerage portfolios are under the Ministry of Water Resources Management and Development.

**Mr. Speaker:** So, you can have the Question and answer it next Thursday.

**Mr. Sirma:** On a point of order, Mr. Speaker, Sir. The Chair is aware about the conflict which has been there between Ministries of Water Resources, Management Development and that of Local Government, which has denied the Government revenue. This component of sewerage and water actually falls under the Ministry of Local Government.

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

**Mr. Speaker:** Order! Order, hon. Members. As far as I am concerned, the people of Wajir want a

working sewerage system, whether it is provided by the Ministry of Local Government or the Ministry of Water Resources, Management Development. This is neither here nor there. So, if the hon. Minister for Water Resources, Management Development thinks that she is capable of doing that, who am I to refuse? So, how long do you want to take in order to answer the Question, Madame Minister?

**The Minister for Water Resources Management and Development** (Ms. Karua): Mr. Speaker, Sir, I will take two weeks, and I assure the House, it will be a fine reply.

**Mr. Speaker:** Very well. The Question is deferred for two weeks.

*(Question deferred)*

Next Question, Mr. Mwenje!

*Question No.039*

WHEREABOUTS OF NAIROBI MAYORAL CHAIN

Is Mr. Mwenje not here? Next Question, Maj. Madoka!

*Question No.007*

MEASURES TO REGULATE MINING ACTIVITIES

**Maj. Madoka** asked the Minister for Environment, Natural Resources and Wildlife:-

- (a) whether he could table a list of all mining companies operating in Taita;
- (b) what is the total value of gemstones mined in the area for the years 1995-2000, and how much revenue in the form of taxes has been earned during the same period; and,
- (c) what mechanism has the Government put in place to regulate prospecting and mining in the country.

**The Assistant Minister for Environment, Natural Resources and Wildlife** (Prof. Maathai): Mr. Speaker, Sir, I beg to reply.

(a) I hereby table the following list of prospecting and mining companies operating in Taita-Taveta District which consists the following:- 74 mining locations, four exclusive prospecting licences, three special licences, and two special mining leases.

(b) The total value of gemstone mined in the District between 1995 and 2000 was over Kshs250 million.

Mr. Speaker, Sir, taxation of prospecting and mining activities is a combination of general business taxes and specific mineral industry taxes. My Ministry is only responsible for collection of specific mineral industry taxes, comprising of revenue accruing from licensing, ground rents and royalties on prospecting and mining activities.

The Ministry collected over Kshs2.1 million from 1995 to 2000, as licence fees and ground rents from such activities in Taita-Taveta District. However, no royalties were due on minerals mined from the district by the year 2000. Currently, my Ministry is reviewing and formulating new royalty rates under the existing Mining Act, and these will be gazetted soon.

(c) Prospecting and mining activities in the country are regulated under the Mining Act, Cap.306 of the Laws of Kenya. However, the taxation of these activities is governed by the normal tax laws as found mainly in the Income Tax Act, the Customs and Excise Act, and the VAT Act.

Mr. Speaker, Sir, the Government has embarked on a review of the fiscal and legal regimes applicable to prospecting and mining in Kenya. In this regard, a new mineral policy is to be put in place this year. A new fiscal regime is also expected to be ready this year. Depending on development with the on-going land law reforms and the constitutional review, a new legal regime could also be ready by the end of the year or early next year, 2004. When ready, these reviews will provide for:-

- (i) Streamlined licensing procedures.
- (ii) Harmonization of laws currently administered by different Government authorities.
- (iii) Enhanced environmental conservation and protection by prospecting and mining activities within the spirits of the Environmental Management and Co-ordination Act (EMCA) No.8 of 1999.
- (iv) A tax regime that recognises the unique long-term and high-risk nature of prospecting and mining ventures as compared to manufacturing industry.



(v) Transparent and fair distribution of benefits from mining activities between the investors, the Government, and the affected community in the mining areas.

*(Prof. Maathai laid the list on the Table)*

**Mr. Speaker:** Thank you, Madam Assistant Minister.

**Maj. Madoka:** Mr. Speaker, Sir, may I thank the Assistant Minister and commend her for giving us a very detailed answer to this Question. Our own concern, and I think it is being borne out by the answer is that, they guess the value of gemstones mined in the district in five years to be only Kshs250 million. I am sure that a single company makes that amount of money in a year. The money made from the production of gemstones runs into billions, and this is what we want to ensure that we have systems put in place that will ensure that this money is collected by the Government.

Having said that, could the Assistant Minister explain why certain people are given special exclusive prospecting licences, special licences and special mining leases, because these individuals have taken large tracts of land which are idle, and they lock other people out from mining in these particular area?

**Prof. Maathai:** Mr. Speaker, Sir, the actual value of gemstones is slightly higher than the one quoted in my statement. This is because not all prospectors declare their production returns, and those who do it, may not indicate the current output. The figure indicated is mainly from one major producer, that is the Rockland (K) Ltd, plus a few others, such as Bridges Exploration Company Ltd.

Since gemstones are of high value, but small volumes, it is possible for most small operations to declare nil production, and it will not be possible for the Government to prove that there was production of gemstones. Gemstones occur in very small pockets. So, unless one is present when a pocket is struck, there is no way one can work out production by merely inspecting the site. Having said that, it does not mean that we, as a Government, should not try to ensure that, indeed, gathered gemstones from our resources are well-known. It is for that reason that we are reviewing the laws that control mining so that we can ensure that we get value for our gemstones.

Mr. Speaker, Sir, I would also like to say that at the moment, it is not clear why these exclusive and special licences are given to specific people. I will find out why these special licences are given and I will come back with the reason, if necessary. I just do not have the explicit reason why there are exclusive and special licenses.

**Mr. Mghanga:** Asante sana, Bw. Spika. Tukitilia maanani kwamba madini katika Wilaya ya Taita-Taveta yanaletwa nchi hii mabilioni ya pesa kila mwaka, lakini mabilioni hayo yanaenda kwa watu binafsi. Tukizingatia vile Waziri Msaidizi ameeleza hapa kwamba kuna mikakati ya kutengeneza sheria mpya ambayo itathibiti uchimbaji wa madini; je, atawatembelea wananchi wa Wilaya ya Taita-Taveta, katika sehemu za uchimbaji wa madini, ili kusikiza maoni yao; na kujionea njia za magendo zinazofanya Serikali kupoteza fedha nyingi? Pia, Waziri Msaidizi ataweza kujionea madhara yanayoletwa na uchimbaji wa madini na, kuona migogondo---

*(Laughter)*

**Mr. Speaker:** Order! Order! Mhe. Mghanga, ningependa kukujulisha kwamba wakati huu ni wakati wa maswali, sio wakati wa Hoja. Uliza swali lako, kwa makini!

**Mr. Mwandawiro:** Bw. Spika, ni lini Wizara ya Mazingira na Mali ya Asili itatembelea Wizara ya Taita-Taveta ili kuelewa hali halisi?

**Prof. Maathai:** Mr. Speaker, Sir, the Minister has already flown over this area and I was also there, so I am a witness, to see the kind of operations that are going on. But I am sure that one of these days, he will travel on the ground to see what should be done. Some of the people who should give guidance are right here. The former Minister, Maj. Madoka, is one of the people who can easily give maoni ile inaulizwa na mhe. Mbunge---

**Mr. Speaker:** Order! Order!

*(Laughter)*

**Prof. Maathai:** I am sorry, Mr. Speaker, Sir. Would I be in order if I asked Maj. Madoka to declare his interest in this matter?

**Mr. Speaker:** Does he have any interest except for being an hon. Member?

**Prof. Maathai:** I am not satisfied, Mr. Speaker, Sir. I have information to the effect that the hon.

Member is one of the prospectors. So, he can give us some of the information that we are being asked to provide.

**Mr. Speaker:** Is that true? Do you have any interest in this matter?

**Maj. Madoka:** Mr. Speaker, Sir, first, I am a Member of that particular area. It is true I do take interest in prospecting in the area. I do have interest and my Question is not based on those particular interests.

**Mr. Speaker:** Order! Order, Maj. Madoka! From the very beginning under the Standing Orders, you were duty-bound to declare your interest in the matter, which you did not do. Therefore, you lose any further opportunity.

Next Question, Mr. Mwenje!

*Question No.039*

WHEREABOUTS OF NAIROBI MAYORAL CHAIN

**Mr. Speaker:** Mr. Mwenje still not here? The Question is dropped.

*(Question dropped)*

**QUESTIONS BY PRIVATE NOTICE**

MURDER OF MR. MUHIA TUBE

**Mr. M. Kariuki:** Mr. Speaker, Sir, I beg to ask the Minister of State, Office of the President the following Question by Private Notice.

(a) Is the Minister aware that Mr. Samuel Muhia Tube was killed on 15th January, 2003, at Kambyamet Scheme in Naishi, Njoro Division by a person or persons known to the family?

(b) Is he further aware that a report was made at Naishi Police Station by the members of the family on 16th January, 2003, and also, on 20th January, 2003, and that the police failed to take any action to apprehend the known suspects?

(c) What is he doing to ensure that the murder suspects are brought to book?

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

(a) Yes, I am aware that Mr. Samuel Muhia Tube was killed on 15th January, 2003 at Kambyamet Scheme in Naishi. However, I am not aware that the suspects in the murder case are known to the family of the deceased.

(b) Yes, I am aware that a statement was made on 20th January, 2003, by some of the family members of the late Tube. In their recorded statements, none of them explicitly mentioned the names of any of the killers of the deceased. The allegation that the police failed to take action against known suspects, therefore, does not arise.

(c) Investigations have been intensified and there are already two suspects in custody who are helping the police with investigations. We are still appealing to the members of the public to volunteer any information that may lead to the arrest of the killers of the late Samuel Muhia Tube.

**Mr. M. Kariuki:** Mr. Speaker, Sir, this is a grave matter concerning the life of a subject and the Government has obligation to protect lives and property. Is the Assistant Minister aware that the reason given by the police for their failure to act promptly was the fact that they did not have means of transport, and secondly, there were no scene of crime personnel and consequently, no pictures were taken at the scene? Thirdly, is the Assistant Minister aware that although this was a criminal matter under investigation, the family of the deceased was called upon to meet the cost of the postmortem amounting to Kshs8,000?

**Mr. Tarus:** Mr. Speaker, Sir, I am aware that Nakuru District has a problem of transport. What caused the delay of the police was lack of a vehicle, but I would like to inform the House that our Ministry is doing its best to ensure that the problem of lack of vehicles in the police stations is sorted out. The Government is in the process of acquiring vehicles for distribution to all police stations in the country. With regard to the issue of postmortem, I would like to confirm that the family of the deceased was charged Kshs8,000. But this arose as a result of the request by the members of the family that they were in hurry to conduct burial and hence, they could not wait for the Superintendent of Police who would have provided the waiver for the postmortem fees with respect to the body of the late Tube. For that matter, we would like to inform the House that the members of the family can visit the OCPD to get their reimbursement.

**Mr. M. Kariuki:** Mr. Speaker, Sir, I raised the question as to why the scene of crime personnel were not deployed. It is an important step in murder investigations that the scene of crime personnel must visit the scene. This was not done. What explanation does the Assistant Minister have for this?

**Mr. Tarus:** Mr. Speaker, Sir, I have already informed this House that the officers of the scene of crime could not get to the scene because of lack of transport. I would like to inform this House that the Ministry is taking this matter seriously.

**Mr. Speaker:** Very well! Next Question!

#### MURDER OF KIPTANUI CHEMITEI

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

(a) Is the Minister aware that on the night of 2nd February, 2003, Mr. Josephat Kiptanui Chemitei was killed by unknown assailants who later stole his goats and the matter was reported at Emiming Police Station on 3rd February, 2003?

(b) What action has he taken to have the culprits apprehended?

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

(a) Yes, I am aware that Mr. Josephat Kiptanui Chemitei was killed on 2nd February, 2003.

(b) Investigations were launched into the killing of the late Josephat Kiptanui Chemitei immediately the report was received at Emiming Police Station. While investigations were going on, two suspects; Mr. David Kipkoech and John Barantatili were killed through mob justice, which is regrettable. The Government is going on with investigations not only in the killing of the late Josephat Chemitei, but also, the killing of the two suspects.

**Mr. Korir:** Mr. Speaker, Sir, while appreciating the answer from the Assistant Minister, I would also like to inform him that the police in that particular station have not been able to respond to distress calls because they do not have the resources. Could the Assistant Minister confirm when he is going to send us vehicles to enable the police perform their duties effectively?

**Mr. Tarus:** Mr. Speaker, Sir, while I do not want to relate this Question to the other past Questions, I would like this House to benefit from the fact the Government is sourcing for vehicles to enable the police to perform their duties. We will ensure that police station has a vehicle.

**Mr. Sirma:** Mr. Speaker, Sir, given the fact that the Government may not be able to provide enough vehicles for that police station, is the Assistant Minister satisfied that the action taken by *wananchi* to protect themselves is in the right direction?

**Mr. Tarus:** Mr. Speaker, Sir, indeed, it is not the right direction. That is why I would also like to state that with regard to the problems arising from issues related to cattle, my Ministry is trying to unite communities that have been hostile to one another. In February this year, leaders from the respective areas had a joint meeting to discuss the way forward with respect to matters arising as a result of cattle rustling. The Government will pursue this particular direction and ensure that there is understanding amongst the people through elders committees. It will also ensure that there is co-operation and support from the leaders on the ground.

#### ARREST OF NATIONAL SOCCER PLAYERS

**(Mr. Khamasi)** to ask the Minister for Gender, Sports and National Heritage:-

Could the Minister explain the circumstances under which National Soccer Players under 17 years, Francis Ochieng' and Nicodemus Anunda, were arrested last weekend?

**Mr. Speaker:** Mr. Khamasi, I am afraid we have a problem with the Question. The Minister is out of the country, while the Assistant Minister has not been sworn in. So, could it be answered on Tuesday next week?

**Mr. Khamasi:** I am much obliged, Mr. Speaker, Sir.

*(Question deferred)*

#### GRAVELLING OF ROAD D288

**Mr. Sambu:** Mr. Speaker, Sir, I beg to ask the Minister for Roads, Public Works and Housing the following Question by Private Notice.

(a) Is the Minister aware that Road D288 section between Eldoret (Rivatex) and Simat Centre was recently gravelled?

(b) Is he aware that the contractor used silt and red soil rather than murrum to gravel the road and as a result the road has been rendered impassable?

(c) Who is the contractor and how much was he/she paid?

(d) Could the Minister take immediate steps to ensure that the road is gravelled according to laid down specifications?

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

(a) I am aware that Road D288 section between Eldoret, Rivatex and Simat Centre was last gravelled in 1997/98 Financial Year.

(b) I am further aware that the contractor used murrum and not silt and red soil to gravel the road.

(c) M/s Rapid Construction Company Limited of P.O. Box 3768, Eldoret was awarded the tender to do the said road at the tender sum of Kshs10,779,191.50.

**Mr. Sambu:** Mr. Speaker, Sir, the Assistant Minister has forgotten to answer part "d" of the Question which he has given me a written reply.

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

(d) The road being classified as D288 falls under the Uasin Gishu Roads Committee, and any maintenance and gravelling works will be as per the priorities set out by the same Committee. However, when the time comes for gravelling, I will make sure that it will be gravelled according to the laid down specifications.

**Mr. Sambu:** Mr. Speaker, Sir, the Assistant Minister has said that this road was gravelled in 1997/98. He has also said that neither silt nor red soil was used apart from murrum. This is a surprising answer because how come then that four years down the line the road is no more. I would like to inform the Assistant Minister that it was silt that was used and now the road has to be re-done.

It appears that the Assistant Minister is not aware that the road is being done. Last year another contract was awarded and the same road is being re-done. Could the Assistant Minister go and confirm that this road is being re-done now because he was not given the right information?

**Eng. Toro:** Mr. Speaker, Sir, I am not sure whether the contract for the works that are being undertaken was not awarded by the District Roads Committee. I would go and make further clarifications because our records show that the Ministry headquarters has not awarded any tender for the re-gravelling of this road.

**Mr. Sambu:** On a point of order, Mr. Speaker, Sir. Does the Assistant Minister exclude himself from supervising works on roads under the District Roads Committee? I know that this is class D Road and the tender was awarded by the Uasin Gishu District Roads Committee. Does that excuse the Ministry from answering questions related to the road here?

**Mr. Speaker:** That is not a point of order. I will allow it as a supplementary question. Eng. Toro, does it mean that all roads funded by your Ministry through the District Roads Committees are not under your responsibility?

**Eng. Toro:** Mr. Speaker, Sir, they are under our responsibility. What I only said was that our records do not show that we awarded a tender last year for the gravelling of this road. The only tender that was awarded through the Uasin Gishu Tender Board was of 1997/98.

**Mr. Speaker:** Are we talking of Uasin Gishu or Nandi?

**Mr. Sambu:** Mr. Speaker, Sir, my people use that road. That is the road that serves North Nandi. However, I was not questioning the tender itself. I wanted to know whether the Assistant Minister is aware that the road was recently gravelled and the gravelling is still going on.

**Eng. Toro:** Mr. Speaker, Sir, I am not aware about the current re-gravelling unless at the end of last year the District Roads Engineer awarded the contract without advising the Roads Department in my Ministry.

**Mr. Speaker:** Order! I think we must get this right, because if we leave it on the loose end, it could be interpreted to be a blank cheque to District Roads Committees to do as they please with public funds and make it a private matter between the hon. Members and the District Roads Engineer. Eng. Toro, is the Ministry responsible or not? If you are, why has the District Roads Engineer not given you the necessary information?

**Eng. Toro:** Mr. Speaker, Sir, the Ministry cannot escape the responsibility and that is why I gave in this House returns from all districts and constituencies regarding the Kshs2 million that was sent last November. The Ministry suspected that the money had been misappropriated, so this would enable hon. Members of Parliament to cross-check what happened to the Kshs2 million. We were not satisfied--

**Mr. Speaker:** Order! Order! I think we must get it right: Members of Parliament will never be the Executive. It is your duty to ensure that the money you give to your officers at the district level is accounted for. It is your duty; but not that of hon. Members of Parliament. When are they going to become accounting for district roads money and when are they going to be in Parliament? Now, will you make a commitment that, that is your responsibility?

**Eng. Toro:** Mr. Speaker, Sir, we will require information from hon. Members of Parliament to be able to execute our commitments. Hon. Members of Parliament are members of the District Roads Committee, and they could give us vital information.

**Dr. Ali:** Mr. Speaker, Sir, is the Assistant Minister in order to cede the responsibility to hon. Members of Parliament when he knows very well that it is the District Roads Engineers and the accountants who are in charge. We do not even see that money. They are the ones who sign the cheques and know how to spend it. How can we be responsible for money that we do not even see?

**Eng. Toro:** I never said MPs are responsible for that. I said it is the members of DRCs and they can be able to give the Ministry vital information about how the money is being spent.

**Mr. Speaker:** We want to get out of this issue as quickly as possible before I give a chance to the other hon. Members. You are saying hon. Members should give you information. Mr. Sambu is now telling you about this particular road, and he is the area MP. You are saying you are not aware. How do you get to be aware if you cannot be informed by the hon. Member or the District Roads Engineer?

**Eng. Toro:** Mr. Speaker, Sir, I undertake to cross check this information.

**Dr. Godana:** Mr. Speaker, Sir, could the Assistant Minister give an undertaking that as regards money spent by the District Roads Committees, the Ministry will give binding guidelines or instructions for the accounts of each Vote, say, per constituency to be published and put up at notice boards and issued to Members of Parliament at the end of the financial year?

**Eng. Toro:** Mr. Speaker, Sir, I am happy that the hon. Member is suggesting that because that is what the Ministry intends to do, so that the DRCs are held accountable for whatever they do. We have already given guidelines as to the next tranche of Kshs2 billion that has been sent on the nature of work that should be done. For example, we have given them guidelines that they should not clear bushes at this particular time because that exercise took about three quarters of the last tranche that was sent last year. We have told them to instead, concentrate on grading of roads using graders or labour force.

**Mr. Speaker:** The Question is deferred for one week.

*(Question deferred)*

#### TARMACKING OF ISIOLO-MOYALE ROAD

**Dr. Galgalo:** Mr. Speaker, Sir, I beg to ask the Minister for Roads, Public Works and Housing the following Question by Private Notice.

(a) Is the Minister aware that vehicles travelling to Moyale from Nairobi now use Garissa-Wajir route covering an extra 300 kilometres due to the impassable state of the Isiolo-Moyale Road?

(b) Could the Minister immediately disburse funds to repair the worst sections of the road, especially the Marsabit-Turbi section, covering about 200 kilometres?

(c) What plans does the Ministry have to tarmac the Isiolo-Moyale section of the Nairobi-Addis-Ababa Highway?

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

(a) I am aware that vehicles travelling from Nairobi to Moyale are using the Garissa-Wajir Route due to the bad state of the Isiolo-Moyale section of the road.

(b) My Ministry is processing for disbursement, Kshs1 million each, to both Marsabit and Moyale districts to repair the worst sections of those roads under the Sixth tranche.

(c) This road is one of the regional roads which is earmarked for development under COMESA and the East Africa Community. However, the road has been proposed for upgrading to bitumen standards in the Medium Term Expenditure Framework (MTEF) budget under the development plan for the financial year 2004/2005.

**Dr. Galgalo:** Mr. Speaker, Sir, while I thank the Assistant Minister for the answer he has given me, especially in part "c" of the answer which is the first time the Government is committed to undertaking that kind of work in that area, I am unhappy with part "b" of his answer, whereby he says he is processing Kshs1 million to

repair a 300 kilometre stretch of an impassable road. Kshs1 million for 300 kilometres translates to about Kshs2,000 or Kshs3,000 per kilometre. What kind of work will you undertake with Kshs1 million for a road that has become impassable and vehicles have to go round an extra 300 kilometres, so as to avoid that problem?

**Eng. Toro:** Mr. Speaker, Sir, that is the money that is being disbursed under the Sixth tranche at the moment. However, during this current financial year, there is a budget of Kshs5 million for Marsabit District and Kshs5 million for Moyale District which is supposed to repair the worst sections of this road. So far, Marsabit has received Kshs2 million and Moyale has received Kshs500,000 for this routine maintenance. The balance of the money will be disbursed before the end of the financial year.

**Mr. M'Mukindia:** Mr. Speaker, Sir, I do not consider the Assistant Minister's answer to be satisfactory. The only other international highway in this country, the Mombasa-Nairobi-Malaba Road receives hundreds of millions of shillings every year from the Government. However, the other road in this country which is internationally recognised, the Nairobi-Isiolo-Moyale Road is being given Kshs2 million for patching up over 600 kilometres. It is not realistic. Could the hon. Assistant Minister tell us why they have consistently ignored the Nairobi-Isiolo-Moyale Road while they have spent so much money on the Mombasa-Nairobi-Malaba Road?

**Eng. Toro:** Mr. Speaker, Sir, you will realise that the current Budget was given by the KANU Government and we cannot change it. The KANU Government allocated Kshs5 million for Moyale and Kshs5 million for Marsabit. However, this Government has identified the Isiolo-Moyale Road which is a class A2 road for concessioning. The feasibility study for the Mombasa-Nairobi-Busia-Malaba Road has been completed and it is now in the design stage for concessioning purposes. After we finish that, the next priority for concessioning will be the Isiolo-Moyale Road. We will look for donors to fund feasibility studies for this road because as the hon. Member said, this road is very important since it will open up the northern part of Kenya connecting to Ethiopia which is currently landlocked. We will have a lot of traffic from Ethiopia to Mombasa Port.

**Dr. Galgalo:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Dr. Galgalo, why do you not give your other colleagues a chance to help you?

**Dr. Galgalo:** Mr. Speaker, Sir, in his written answer, the Assistant Minister said that the Government would provide funds to improve it to bitumen standard in the financial year 2004/2005 and now, he is saying they are looking for funds for feasibility studies. Could he give us the correct position?

**Eng. Toro:** Mr. Speaker, Sir, any road that will be upgraded to bitumen standards has got to be designed. Before designing, a feasibility study is carried out and that cannot be done in one year. We are now in the year 2003 and a feasibility study usually takes about one year.

**Dr. Ali:** Mr. Speaker, Sir, several feasibility studies have been done on this road from 1973 to date. All the money was transferred to other parts of the country. This road has literally everything. It promotes business. What sort of feasibility studies do you want to do and why do you not just allocate the funds to go and tarmac the road?

**Eng. Toro:** Mr. Speaker, Sir, I do not know why the previous Government did feasibility studies and then put them in the shelves.

**Mr. Speaker:** Surely, the last Government did not take away the files. Do those records of design still exist? I can understand the frustration of hon. Members because there are projects for which money is allocated for feasibility studies and design, year after year, for 20 years. Are the documents there or not?

**Eng. Toro:** Mr. Speaker, Sir, designs and feasibility studies get outdated if they take long before they are implemented. That is why we would like to undertake new feasibility studies and designs.

**Mr. Angwenyi:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this House that they have to do new feasibility studies and designs when, in fact, they have already undertaken feasibility studies? Copies of those feasibility studies are in the Government records. Why can they not use them to avoid spending any more money on new ones?

**Mr. Speaker:** For the benefit of laymen like me, what is a feasibility study?

**Eng. Toro:** Mr. Speaker, Sir, a feasibility study is undertaken before a road is paved. First, the study has to show the nature of traffic that will go through that road before design work commences. However, you cannot design a road without knowing what sort of traffic will pass through it. Since I am not aware of the feasibility studies that were done before, I will check from our records.

**Mr. Speaker:** Just to help the House further, I want to demystify all these technical terms. Eng. Toro, to know how many vehicles pass through any particular road, you do not have to drive along that road. You can install a radar on the road, so that it counts the cars as they run over. Does it cost money to put a cable?

**Eng. Toro:** Mr. Speaker, Sir, that is true; that, a radar cannot cost much money. However, our approach for this particular Road A2 is totally different from the one that was conceived before. We want to

undertake a feasibility study based on opening up the northern part of Kenya and Ethiopia to the port of Mombasa. That is the sort of feasibility study we intend to undertake.

**Mr. Ethuro:** Mr. Speaker, Sir, arising from the observation that the Ministry wants to know about the traffic flow, I would like to inform the Assistant Minister that he cannot travel on this road without police escort. Therefore, all what the police at the Isiolo border do is to register all vehicles that passes through that road. So, that information is already available in Government records.

**Mr. Speaker:** Eng. Toro, do you want to comment on that or you do not trust police records?

**Eng. Toro:** Mr. Speaker, Sir, the police records are authentic. That is why any feasibility study based on traffic flow cannot qualify this road to be upgraded to bitumen standards. However, as I said, our approach is now different. It is not based on the number of vehicles that are passing on that road, but on its importance.

**Mr. Sasura:** Mr. Speaker, Sir, the Assistant Minister has said they allocated Kshs1 million to upgrade roads in Marsabit and Moyale districts. A big section of that road is not in those two districts, but it is in Samburu District. What plans does the Ministry have to upgrade a section of that road in Samburu District?

**Eng. Toro:** Mr. Speaker, Sir, since the Ministry did not allocate any money to upgrade the section of that road in Samburu District, we will look into it and see what can be availed to them. Probably, the staff who allocated the money for upgrading of that road thought it was more important to Marsabit and Moyale.

**Mr. Angwenyi:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead this House that the funding for A2 Road is based on a district when, in fact, we know it is based on 57 per cent of the fuel levy?

**Eng. Toro:** Mr. Speaker, Sir, may I enlighten Mr. Angwenyi, who during the last Parliament was a Member of the Departmental Committee on Energy, Communications and Public Works, that a A2 road falls under the departmental roads in the Ministry. That is why the Ministry allocated the money to the districts where District Roads Engineers are based so that they can carry out the repairs.

**Mr. M'Mukindia:** Mr. Speaker, Sir, since this is supposed to be an international highway but it is totally impassable, could the Assistant Minister consider setting aside in the next Budget, Kshs1 billion to actually make sure that this road is passable all the way to Ethiopia?

**Eng. Toro:** Mr. Speaker, Sir, in answer to part "c" of the Question, I said that there are regional roads like A2 roads which fall under COMESA and East African Community Development. The Ministry is sourcing funds directly for the improvement of these roads under COMESA and East African Community. That is why Mr. Raila and other Ministers are now in Arusha, discussing the funding of certain roads which are very important to COMESA industries. So, we might find at the end of it, the Government does not have to fund the paving of this road. The money to pave the road might come from development partners who want to improve on the COMESA/East African Community relationship.

**Mr. M'Mukindia:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to tell us that he has abdicated his duty to COMESA and East African Community? As far as we are concerned, this is the business of the Kenyan Government. What is the Government doing to ensure that this road is passable? We cannot abdicate our duty to COMESA and the East African Community.

**Mr. Speaker:** Well, I think two things arise here. Mr. M'Mukindia says the Assistant Minister is abdicating his responsibility to COMESA and the East African Community. However, much more seriously also, he is abdicating his responsibility to the districts on an international road. How can an international road be a district problem?

**Eng. Toro:** Mr. Speaker, Sir, there are District Roads Engineers in every district. Those DREs are the ones who are responsible for the maintenance of all roads. The DRE, Marsabit is responsible for the section of Road A1 which passes through Marsabit. The DRE, Moyale, is responsible for the section of the road that passes through Moyale. That is why we send money to the DREs who are responsible for particular sections of the roads passing through their districts.

**Mr. Speaker:** Well, let us leave it now. I think I have given that Question enough time.  
Next Order!

## BILL

### *Second Reading*

#### THE PUBLIC OFFICER ETHICS BILL

**The Minister for Justice and Constitutional Affairs** (Mr. Murungi): Mr. Speaker, Sir, I thank you for this opportunity---

**Dr. Ali:** On a point of order, Mr. Speaker, Sir. I would like the Minister to tell us whether he has withdrawn the Constitution of Kenya (Amendment) Bill or not. I thought we had to finish with it today.

**Mr. Speaker:** Well, that Bill has not been withdrawn. As you all understand, under the Standing Orders, the Government has the right to place business on the Order Paper with the consent of Mr. Speaker. The Minister has downgraded that particular Bill. It will come next week, and he wants to proceed with this one and I did consent. So, that Bill is still very much alive.

Proceed, Mr. Minister!

**The Minister for Justice and Constitutional Affairs** (Mr. Murungi): Mr. Speaker, Sir, I beg to move that the Public Officer Ethics Bill be now read a Second Time.

The purpose of this Bill is to provide for an Act of Parliament to advance the ethics of public officers by providing for a code of conduct and ethics for them, and requiring financial declaration from certain public officers and to provide for connected purposes.

Mr. Speaker, Sir, if you look at the Memorandum of Objects and Reasons on page 93, the object of this Bill is to provide for the establishment and enforcement of codes of conduct and ethics for persons holding public office, and for periodic declarations of income, assets and liabilities by certain officers.

Mr. Speaker, Sir, as I said before, this Bill was actually passed through all the three stages by the Eighth Parliament. The only reason why we are back on this Bill, is because the Bill was not assented to by the former President before the last general election. I would also like to confirm that we have not changed anything in that Bill. This Bill is identical to the one that was passed by the Eighth Parliament. It is, therefore, our request, as Government, that the House, again, considers and passes this Bill. The National Rainbow Coalition (NARC) Government has put good governance and the fight against corruption on top of its agenda. We have done so because we recognise that the fight against corruption and good governance is a necessary prerequisite to economic revival and poverty reduction in this country.

If we are talking about job creation, revival of the agricultural sector and the livestock industry, and maintenance of the road network, we have to look into the issue of good governance. The commitment to good governance was emphasised by no other than the President himself when he addressed this House last month. You will recall that the President said that we are going to have a policy of zero tolerance to corruption. The President also said that we would undertake comprehensive public sector reforms with a view to facilitating efficient delivery of service to the public. So, the purpose of this Bill is to put into effect this new policy. President Kibaki said that he is going to be the first person to declare his wealth and liabilities. We expect that to be done as soon as this Bill has been enacted and the necessary formalities completed, which we hope will be in a month's time or so.

Mr. Speaker, Sir, we also want to thank you, because Parliament is taking an early lead in this area. The Office of the Clerk of the National Assembly has already prepared the Code of Conduct for Members of Parliament under the Powers and Privileges Act. We are happy to learn that next week, there will be a *kamukunji* for Members of Parliament, which will consider in detail, the Code of Conduct for Members of Parliament.

**Mr. Muturi:** On a point of order, Mr. Speaker, Sir. Now that the Minister for Justice and Constitutional Affairs is initiating debate on this Bill, is it in order for the Departmental Committee on Administration of Justice and Legal Affairs to hold its meeting outside the precincts of Parliament when we are discussing matters related to ethics of public officers?

**Mr. Speaker:** Is it going to be a meeting or a workshop?

**Mr. Muturi:** Mr. Speaker, Sir, it is a meeting scheduled for Monday, 17th March, 2003, at a private hotel in the outskirts of the City of Nairobi.

**An hon. Member:** Who is going to pay for the expenses?

**Mr. Speaker:** Order! Order! The issue is not who will pay for the expenses. There is much more of importance than the payment of expenses. The Parliament of Kenya is a sovereign institution, and must be respected by everybody. There is no individual or a group of individuals that will be allowed to run this Parliament from outside. As far as I know, every Kenyan, or anybody who is interested, can make representations on any Bill to the correct Departmental Committee, for the purpose of that Committee making a report to this House. To the best of my knowledge, the Departmental Committee on Administration of Justice and Legal Affairs tabled its Report on this Bill yesterday. Therefore, as far as this Bill is concerned, the Committee became *functus officio* and its Members will contribute to this debate like everybody else. I will not entertain, when the Minister has moved this Bill, an attempt by a group of hon. Members to go and have a private workshop outside this House, be it in a hotel or anywhere else, on this Bill. For them to, separately and away from the rest of us, discuss the same Bill



before this House is totally out of order, and I order that it does not happen.

The Committee Members know that it is against the rules of this House and its tradition for them to conduct debate on this Bill outside this House. In my view, it is worse to hold such a workshop during the continuation of a debate. What is it that is being attempted? Is it to stop other hon. Members from expressing their free will and thoughts on the Bill? Who is the organiser of the workshop? I cannot allow that to happen. Once the Minister has moved this Bill, all discussions about it by Members of Parliament will take place on the Floor of this House, and nowhere else. Other Kenyans can air their views outside Parliament, because they cannot access the Floor of this House. However, those Kenyans who can access the Floor of this House will only debate this Bill in this Chamber.

**The Assistant Minister for Planning and National Development** (Mr. Kombo): On a point of order, Mr. Speaker, Sir. Following that ruling, if other members of the Kenyan society want to lobby Members of Parliament, how do they do it?

**Mr. Speaker:** Mr. Kombo, this Bill was committed to the relevant Committee for scrutiny, and that Committee tabled its Report yesterday. In any case, this House is not a Committee. You cannot lobby a Committee and not lobby all Members of Parliament. A Committee comprises of less than 20 hon. Members. This House comprises of 222 Members of Parliament, and all of you can be lobbied by your constituents individually. Your constituents can write memoranda to you, or petition you. They can even talk to you. What I am asking is, when debate on a Bill is continuing, how do you take a group of hon. Members for a workshop on the same Bill? Why not take all the 222 hon. Members to that workshop? If debate on the Bill had not begun, I would understand. However, once debate on the Bill has commenced, the Bill becomes a property of the House; it is not the property of the Departmental Committee any more.

**Mr. Angwenyi:** On a point of order, Mr. Speaker, Sir. This House does not have the capacity to educate us on each and every Bill. The Standing Orders do not forbid us from holding consultations within the precincts of Parliament or outside the precincts. So, an individual hon. Member or a group of hon. Members can hold consultations with people who are knowledgeable on a subject matter.

**Mr. Speaker:** Order! Order! Mr. Angwenyi, you can do that strictly in your private capacity. In your private capacity, I cannot tell you who to meet and who not to meet, what ideas to receive and what ideas not to receive. That you can do; you are free. What I am saying is that when a Bill is before the House, it is wrong for any organisation to take a section of the membership of this House to a workshop to discuss that Bill. Doing so would be taking the debate of this House outside. It is wrong, and I will not allow it to happen.

**Mr. Muite:** On a point of order, Mr. Speaker, Sir. I think there is a misunderstanding here! The House Departmental Committee on Administration of Justice and Legal Affairs has finished with the Bill which the Minister is introducing and we laid our Report on the Table of the House. The workshop on Monday is focusing on the Anti-Corruption and Economic Crimes Bill, in order to enable the Committee to make an informed report to this House. That is the position.

**Mr. Speaker:** Very well! If it is not this Bill, it is alright. If it is this Bill, it is wrong. That is what I said.

Proceed, Mr. Murungi.

**The Minister for Justice and Constitutional Affairs** (Mr. Murungi): Thank you, Mr. Speaker, Sir. While on that, I would like to thank the Departmental Committee on Administration of Justice and Legal Affairs for the hours they put in making sure that the Report on the Public Officer Ethics Bill is ready in record time. We have perused the Report which was laid on the Table yesterday, and I would like to report to the House that the Government accepts the Report and the comments made in that Report in total! The amendments proposed by the Committee are reasonable and we shall introduce them at the Committee Stage.

Mr. Speaker, Sir, as I was saying, the purpose of this Bill is to set minimum standards of conduct for public servants. In this Bill, we intend to define the basic values, principles and set boundaries of acceptable behaviour by public officers in this country. We also hope to provide a legal framework for restoring public confidence in our Civil Service. It is in that regard that we, sincerely, thank you and the Office of the Clerk for being ahead of us in publishing a Code of Conduct for Members of Parliament. We hope that immediately President Mwai Kibaki declares his assets and liabilities, the next group will be Members of Parliament, so that we can set an example to the other public officers in this country. We should not be prescribing water for the others when we are drinking wine. We should preach water and drink water. If we preach wine, we should also drink wine!

Mr. Speaker, Sir, this is a very simple Bill and I want to take a very short time on it. The Bill has a very wide scope and it applies to a very wide range of public officers. If you look at Section (2) of the Bill, it applies to

all officers, employees and members of the Government, Parliament, Judiciary, local authorities, parastatals, universities and the co-operative movement. This definition is the broadest definition of a public officer that exists in our laws. It is intended to cast a very broad net.

Mr. Speaker, Sir, Clause 3 of the Bill establishes various commissions which will bear the responsibility of establishing and enforcing codes of conducts---

**Mr. Speaker:** Just a minute, Mr. Murungi! You have mentioned correctly that we have introduced a Code of Conduct for Members of Parliament. It will be debated in this House and, as the Chairman of the Powers and Privileges Committee, I may ask either you or Mr. Kombo--- I think I will ask Mr. Kombo because he was a very effective Member of my Committee to move it. I think Mr. Kombo should lay the Report on the Table on my behalf, next week. Thank you for recognising that fact, Mr. Murungi.

Proceed!

**The Minister for Justice and Constitutional Affairs** (Mr. Murungi): Thank you, Mr. Speaker, Sir. We assure you that we will support the Bill once it is laid on the Table by Mr. Kombo.

Mr. Speaker, Sir, Clause 3 of the Bill establishes various commissions which will be responsible for establishing and enforcing codes of conducts for various categories of public officers. Clause 3 establishes the various commissions as follows:-

First, the section determines what commission is responsible for a public officer for the purpose of this Act.

Secondly, for the National Assembly, the responsible commission would be the Committee of the National Assembly responsible for ethics of Members. It would be the responsible commission for Members of the National Assembly. So, Clause 3(2) anticipates that there is going to be a committee responsible for ethics of Members. That committee has not yet been established as far as I know by the Standing Orders, but the Powers and Privileges Committee could be the Committee which is being referred to by Clause 3(2)! In my view, there is no need to establish another committee because one like that already exists.

Mr. Speaker, Sir, the Public Service Commission will be the relevant Commission for public officers and employees of state corporations. The Judicial Service Commission will be the relevant commission for magistrates, judges and other public officers in the Judiciary.

**Mr. Angwenyi:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to say that for Members of Parliament, the matter will be determined by a Committee of the House when, in fact, we do have the Parliamentary Service Commission?

**Mr. Speaker:** Order! No way! The Parliamentary Service Commission manages the staff and properties of Parliament. As far as the conduct of Members is concerned, it is the Powers and Privileges Committee, which has already drawn a Code of Conduct for Members of Parliament, and which will be laid on the Table next week. So, that is the correct position.

**Mr. Angwenyi:** I would like to seek clarification. Is the Parliamentary Service Commission not equivalent to the Public Service Commission or the Judiciary Service Commission?

**Mr. Speaker:** Order! The Parliamentary Service Commission does not employ Members of Parliament. It only employs staff of Parliament and not Members. So, you must understand! I think we must understand the mandate of the Parliamentary Service Commission. That is the position and Mr. Murungi is absolutely right. The relevant committee is the Powers and Privileges Committee as set out under the Powers and Privileges Act. By the way, that Committee is the only Committee not in the Standing Orders. It is set out by an Act of Parliament.

Proceed!

**The Minister for Justice and Constitutional Affairs** (Mr. Murungi): Thank you, Mr. Speaker, Sir, for coming to my aid.

Mr. Speaker, Sir, the Parliamentary Service Commission is mentioned under Clause 3(5) and it is the responsible Commission for all public officers in respect of which it exercises disciplinary control. For the staff of Parliament, the relevant commission is the Parliamentary Service Commission. But for Members of Parliament, the relevant commission is the Powers and Privileges Committee.

Mr. Speaker, Sir, the Electoral Commission of Kenya is responsible for the conduct of councillors of local authorities. The Teachers Service Commission is responsible for teachers. The Defence Council is responsible for members of the armed forces. The National Security Intelligence Council is responsible for members of the National Security Intelligence Service. For other officers who are not covered under the above categories, there is provision under Clause 3(10) for creation of other commissions.

Mr. Speaker, Sir, Clauses 4 and 5 establishes a code of conduct and ethics for public officers for

responsible commissions, and each commission is required to prepare and publish a code of conduct and ethics for public officers falling under it within 90 days of the commencement of the Act.

Clause 6 provides model principles of ethics and conduct, which are called "guiding provisions". The codes of conduct and ethics drawn up by various commissions must incorporate these guiding provisions within them. The principles that are contained in these guiding provisions include such matters as efficiency, honesty, professionalism, respect for the rule of law, avoidance of unjust enrichments, conflict of interest, political favour, nepotism and sexual harassment. I will refer hon. Members to the provisions of Clauses 7, 8, 9 and 10.

Clause 7 reads:

"A public officer shall, to the best of his ability, carry out his duties and ensure that services that he provides are provided efficiently and honestly".

Clause 8 reads:-

"A public officer shall-

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and the level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorization or reasonable cause..."

So, the culture of leaving jackets and coats to "do work" in offices when officers are out of offices is now going to stop.

Mr. Deputy Speaker, Sir, an officer is also required to maintain an appropriate standard of dressing and personal hygiene. So, we do not expect public officers to appear in offices with teeth which have not been brushed for weeks, or in tattered clothes. We also expect public officers to discharge any professional responsibility in a professional manner.

Clause 9 reads:-

"(1) A public officer shall carry out his duties in accordance with the law.

(2) In carrying out the duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution".

Part V is about fundamental rights and freedoms.

So, the effect of this particular provision, especially with respect to police and prison officers, is that none of those officers, in performance of their duties, can now torture a person in trying to extract a confession or to instil discipline. It will be contrary to the code of conduct for prison officers in Langata Women Prison to talk to women prisoners when they are kneeling down.

Clause 10 reads:

"(1) A public officer shall not use his office to improperly enrich himself or others".

This is a broad strike against corruption. Clause 10(2)(b) reads:-

"A public officer shall not improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for".

This prevents civil servants from acquiring houses at Kileleshwa Estate at throw away prices. It prevents land adjudication officers from grabbing land claiming that they are members of the clans in respect of the areas which are subject to land adjudication.

Clause 10(2)(c) reads:-

"A public officer shall not for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with public officer's duties that is not public".

For instance, if you have some information about a tender, you cannot use that information to benefit yourself or your friends. Clause 10(3) reads:-

"A public officer may not accept a gift given to him in his official capacity, but, unless the gift is a souvenir or an ornament that does not exceed the value prescribed by a regulation, such a gift shall be deemed to be a gift to the public officer's organisation".

**Mr. Angwenyi:** On a point of order, Mr. Deputy Speaker, Sir. Could the hon. Minister explain whether a goat given to a public officer at a Harambee will be a souvenir?

**The Minister for Justice and Constitutional Affairs (Mr. Murungi):** Mr. Deputy Speaker, Sir, this provision is quite clear. It envisages a situation where we will introduce a regulation showing the value of the gifts. If the set value of a gift is, for instance, Kshs1,000, and an Assistant Minister is given a goat worth

Kshs2,000 in an Harambee, he will have to surrender the goat to the Ministry.

Gifts are one of the easiest forms of introduction of corruption in the Civil Service. For instance, when a District Commissioner is posted to a new district, immediately he arrives at his office, various rich people tell him: "Young man, we can see you have just arrived here and you do not have furniture". So, they give him furniture for his office. Some come and tell him that their former DC had a cow; so they give him a cow to provide milk for him and his children. At that time, they do not make any demands. They know that the man will be useful because he will be granting to them liquor licences; he will be a member of the Land Control Board, and will issue other various forms of licences. So, those gifts are what we call "pre-emptive corruption". You are not being corrupted specifically for that moment, but you are being prepared for corruption in future, so that when in future a person comes to your office, you will remember that he is the one who gave you a sofa set and, therefore, your doors will have to be open to him when they are closed to other members of the public.

Mr. Deputy Speaker, Sir, this provision is important in that it is protecting the Civil Service from these forms of corruption. You may not have done anything, but you may do something which you might repeat in future, for example, renewing a liquor licence. You might get an expensive gift to thank you for what you have done in the hope that when you repeat the exercise, you will confer a special favour to the person who gave you the gift. So, I support this law on gifts. It will really support us in our effort to clean up the Civil Service. The law does not prevent a public officer from accepting a gift from a relative or a friend, given on a special occasion as recognised by custom. For instance, on your twentieth wedding anniversary, your cousin may buy you a kettle or a sofa set to congratulate you for maintaining your marriage for 20 years. Those gifts are accepted under Article 10(4).

**Mr. Kaindi:** On a point of order, Mr. Deputy Speaker, Sir. The Minister has misled the House. He has said that putting this law in place will clean up the Civil Service. The problem is not the expensive gifts, but civil servants' too low salaries. The Minister has not said anything about this issue. **Mr. Deputy Speaker:** Mr. Kaindi, that is a point of argument. When you will to debate, I will give you an opportunity to advance that view.

Continue, Mr. Minister!

**The Minister for Justice and Constitutional Affairs** (Mr. Murungi): Mr. Deputy Speaker, Sir, Clause 11 deals with conflict of interest. It reads:-

"A public officer shall use his best effort to avoid being in a position in which his personal interest conflicts with official duty"

This has been the main problem in our Civil Service, where, as Mr. Raila has explained, civil servants, especially those who deal with the supply of goods or the purchasing officers in various Ministries, have formed their companies and they purchase Government goods from there. So, they are the people who make the tenders, open and accept them onto themselves. This Code of Regulation makes it illegal for an officer to do that kind of business. I think we have to go a little further because this problem is much deeper. The problem of conflict of interest in our Civil Service is much more complicated because the Ndegwa Commission Report has to be looked into afresh. This is because once you give a blanket authority for civil servants to engage in business, of necessity, conflict of interest will arise. You might not trade with your Ministry, but you will be in a position to influence business even from other Ministries. You will be in a position to use your connections within the Government to get business allocated to your wife. So, as Members of Parliament we need to debate this particular provision. It might be necessary for this House to, again, review the Ndegwa Commission Report to find out whether it is not high time that a civil servant became a civil servant and a businessman became a businessman.

*(Applause)*

I would rather we pay civil servants twice their salary, so that they can, like in the colonial days, remain good public officers and leave business to businessmen. It is very disheartening when, for instance, one goes to our universities and finds that students literally educate themselves because under-paid professors are busy selling eggs and milk. We should pay our professors well so that they can spend their time in research and improve their teaching methods and technics rather than looking after goats and chicken in Ongata Rongai.

**Mr. Omingo:** On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to allude to the fact that lecturers live in Ongata Rongai and that is where they sell eggs? I live in Ongata Rongai and they do not do that. I think the Minister is misleading the House.

**Mr. Deputy Speaker:** Mr. Omingo, surely, is that a point of order?

**Mr. Omingo:** Mr. Deputy Speaker, Sir, is he in order to say that?

**Mr. Deputy Speaker:** Order, Mr. Omingo! You should not interrupt the Minister for the sake of it. Continue, Mr. Minister!

**The Minister for Justice and Constitutional Affairs (Mr. Murungi):** Thank you, Mr. Deputy Speaker, Sir. I do not know whether the hon. Member there is mistaking himself for a professor.

The other issue we should look at critically is on Harambee. Clause 12, which deals with Harambee reads:-

"(a) A public officer shall not use his office or place of work as a venue for soliciting or collecting Harambees; or

(b) either as a collector or a promoter of public collection, obtain money or other property from a person by using his official position in any way to exert pressure."

The Departmental Committee on Administration of Justice and Legal Affairs has asked me to clarify what this section actually means in relation to Harambees. I would like to deal with it at a little length. We know what our people have gone through under the KANU Government under the guise of Harambees. Chiefs harassed villagers and illegally stole their chicken and goats in the name of Harambees.

We have seen instances when a Permanent Secretary was invited to Harambee by the Minister, he terrorised every officer below him and sometimes deducted their salaries without telling them, so that the Minister could take Kshs200,000 from himself and friends. But he would not tell the public that his friends were the messengers in his Ministry. Harambee has been a major source of corruption, and it is a culture we should put behind us.

The villagers are very smart. When they plan to hold an Harambee, they target people who live and work in Nairobi. They say that the son of so and so is a manager of a certain bank in Nairobi and the other son is a PC, *et cetera*. So, the villagers sit down and plan how all those people will attend the Harambee and they prepare a big delegation. They may bring you a goat, bananas or yams and report to you that the whole village is expecting you to attend the Harambee and you cannot let down the villagers. Having received this delegation, the urban elite goes to every length to make sure that he appears in the village in style. Sometimes, this might involve stealing from his place of work, so that he can go and impress the villagers.

There is a lot of blackmail and social pressure exerted, especially, on hon. Members of Parliament. This is because every hon. Member knows that when the elections are about to be held, every Harambee is compulsory. There is no question of giving donation to Harambee voluntarily. The old concept of Harambee where many natives held a rock and lifted it together has long disappeared. Today, it is not those many poor people joining hands to move along, but it is a few elites cheered on by the masses who are expected to move the rock. So, I think it is time for us to review the Harambee culture, which is based on distribution and spending. Our people do not ask where the money they spend comes from. The shift should now focus on production; it should focus towards generating wealth rather than merely spending. In the local language, it is like a culture of slaughtering goats without asking where the goats which we slaughter come from.

Mr. Deputy Speaker, Sir, what this Section does is to try and remove pressure from public officers by making it illegal for them to have *Harambee* cards or books in their offices. So, this Section states: "No person shall use his office or place of work as a venue for soliciting or collecting *Harambee*". So, the DC cannot use his office as a venue for asking people to give him money for *Harambee*. So any DC from now on, after we pass this Bill is found with *Harambee* cards in his office, will be in trouble. He might risk being sacked. Any member of the Land Control Board telling people that they have to contribute to *Harambees* before their transactions are approved will also be committing a crime under this Act.

Mr. Deputy Speaker, Sir, the same applies to chiefs. Any chief asking a person to contribute to a *Harambee* as a condition for service will also be in trouble. We would like Members to pass this Bill, especially this particular provision, because its going to remove a big baggage from our public servants and is also going to make delivery of public services cheaper to our people. I intend later on when we are a bit settled down in my Ministry, to set up a task force to investigate and make a report on *Harambees*. We hope to pass a law specifically on *Harambees*, stating which *Harambees* are permissible and which ones are not, because why should a rich man in the village punish villagers by asking them for contributions in order to enable his son to go and study abroad? The poor person cannot have such an *Harambee* because when he call his friends, they cannot even buy the air ticket. So, it is only the rich who are benefiting from *Harambees* meant for the purpose of educating children abroad. We should not use *Harambees* to perpetuate these class differences. Mr. Deputy Speaker, Sir, many *Harambees* for personalised reasons should be banned. We are spending billions of shillings burying dead people. Just go near KICC in the evening and you will see so many people there raising money endlessly every day of the week. We are raising money there to go and bury dead people. In our culture, the dead have become more

important than the living. If you ask your friends to assist you to pay a medical bill when you are alive, they are not available. That money is not there, but the moment you die, they all crowd with huge cheques in order to transport you home. They do not know you are long dead; you are no longer there. It is also time we look at our burial practices and roles to make our burials less expensive. I really I admire the muslims because once you die, you are buried within two days or 24 hours. Why should we preserve a corpse in the mortuary for months on end and then raise Kshs1 million to go and bury the dead? This is the money we should be using for investments.

Mr. Deputy Speaker, Sir, we intend to launch an inquiry into the *Harambee* culture and we want to state by law, which *Harambees* are permissible and which ones are not. There is no reason why we should have double taxation of our people. These *Harambees* for building chiefs' camps and DOs offices and for providing services which the Government should be providing have already been banned by the NARC Government. We were in a meeting organised by the Ministry of Planning and National Development in Mombasa when we said that any *Harambee* that is meant to do what the Government should, should not be done by the people of Kenya. We should not punish the poor people in this country. We should not tax them because those taxes should be used for building chiefs camps. In the past, after we tax them, we come to them again to build the same chiefs' camps again through *Harambees*. This is double taxation and it is unacceptable. The way I see it in the future, maybe, the only *Harambees* which are going to be allowed in this country will be *Harambees* for religious organisations.

**Hon. Members:** *Hiyo mbaya!*

**The Minister for Justice and Constitutional Affairs** (Mr. Murungi): The Members will have the opportunity to express their views. Those were my personal views.

Mr. Deputy Speaker, Sir, I think it is also high time we looked at the practices in developed countries. In fact, I have been to Tanzania, Uganda, Zambia and Botswana and there are no *Harambees* there. In fact, most of these countries are developing faster than us. So, this mentality that *Harambee* boosts development is outdated and it is high time we became more innovative. It is high time we thought about having endowment funds and organising our charities in a more sustainable basis rather than these endless, oppressive, exploitative fund raising meetings every weekend.

Mr. Deputy Speaker, Sir, the other important issue in the Bill is the issue of protecting public property. The Civil Service in Kenya has become a mode of production in its own way. The public officer reports to his office every day not to go and do public work or offer public services, but to go and do his own private business. The office is just a collection centre where one uses Government facilities, secretaries and telephones to call other people to promote one's own business or collect bribes. The public office is used as a centre for personal enrichment. It is not used as a centre for providing public services. We also have no attachment to public property. We also do not properly relate to public property.

Mr. Deputy Speaker, Sir, I do remember when we confronted one of the corrupt civil servants who has since lost his job and he was contributing a lot of money in the district where I come from and some people asked: "Is this not stolen money?" He said: "Yes, but whose money did I steal?", I did not steal money from you people". The wananchi applauded him. Kenyans do not see Government property as their own property. They see it as property of somebody else, so that even if they loot the Central Bank or steal from the Ministry and share a little with the villagers, they will think you are a great son. This is because in many of our cultures, they say it is better to give birth to a thief than to a fool. They also say that where the elephant falls, that is where the grass grows taller. So, they see nothing wrong with us looting the public, so long as we share with those at the grassroots. We have to introduce a new culture where we see Government property as our property and where we protect public property the way we protect private property. I think this is a good provision because it will save this country from looters, plunderers, and thieves of public resources.

Mr. Deputy Speaker, Sir, the other important concept being introduced in this Bill is one of political neutrality in the Civil Service. I am sorry to say that under the KANU regime, our Civil Service had lost its political neutrality. There are very clear cases of Provincial Commissioners (PCs) who were addressing public gatherings and saying: "We are KANU PCs and we do not care; when the other Government comes to power, we will not be part of it." The police and the Provincial Administration had become mere armed KANU youth wingers. We can tell what amount of harassment we went through as hon. Members of the Opposition in this Parliament. I would like to assure hon. Members of the Opposition who are in this House now that so long as I am the Minister for Justice and Constitutional Affairs, I will not allow the police and the Provincial Administration to terrorise hon. Members because they are in the Opposition. Hon. Members will be treated with respect, irrespective of their political parties.

*(Applause)*

Mr. Deputy Speaker, Sir, I recall one time, an Administration Policeman aimed at the then Chairman of FORD(K), our Vice-President now, hon. Wamalwa, intending to kill him at a public rally. The bullet missed hon. Wamalwa and shot his bodyguard. Can you imagine what was going through the mind of that policeman? They had gone through such brain-washing and indoctrination that they saw hon. Members of the Opposition as real enemies, people who deserved to be killed! The NARC Government would like to maintain decency and neutrality of the public service.

Mr. Deputy Speaker, Sir, while saying that, we have to remind the civil servants that the duty of the civil servants in maintaining this neutrality, is to support the policies of the Government of the day. The duty of a civil servant is to implement projects and programmes of the Government of the day. If KANU comes to power again, which I doubt, it will be the duty of the civil servants to implement their policies. But now that the NARC Government is in power, it is the fundamental duty of every civil servant, irrespective of his titles, to religiously enforce the policies and programmes of the NARC Government.

We know that there are lots of KANU moles still in this Government; and who are working day and night to undermine the NARC Government. It is just a matter of time before we catch up with them, because they are neither exercising political neutrality, nor enforcing programmes of the Government of the day. Once we identify who they are, they have no choice, but to go. Very soon we will make a review of all the chiefs, District Officers, and all the District Commissioners, to see who is supporting NARC policies and programmes, and who is not. Those ones who feel that they should continue supporting KANU, which is in the Opposition, then they should go out and fight us from the other side. But we shall not allow them to use the instruments of the public service to frustrate the policies of the NARC Government.

Mr. Deputy Speaker, Sir, Clause 21 talks about meritocracy. It states as follows:-

"A public officer shall practice and promote the principle that public officers should be selected on the basis of integrity, competence and suitability, or elected in a fair election."

Mr. Deputy Speaker, Sir, there is a very good system in Canada, where there is one general examination for every person who wants to enter Civil Service. I think it is high time we introduced such an examination in this country, so that we can establish some basic criteria on which people are being recruited to the public service. This business of one looking for a sister or a brother whenever an opportunity arises, whether qualified or not, has to stop! So, we think this is a very good principle. It will, first of all, professionalise and enable us recruit qualified people. We have many educated people in Kenya now. Getting some with specialised degrees is not a problem; we are even exporting labour! There is no reason why we should employ unqualified people when we have so many talented people walking out there in the streets and going to waste. I think this is a very good provision.

Mr. Deputy Speaker, Sir, with regard to Part VI, which is between Clauses 25 and 30, it is the one which deals with declaration of income, assets and liabilities.

Clause 25 reads as follows:

"A public officer described in the First Schedule shall, annually and as otherwise prescribed by section 26, submit to the responsible Commission for the public officer a declaration of the income, assets and liabilities of himself, his spouse or spouses, his dependent children under the age of 18 years."

You can see that the clause also recognises polygamy. The officers who should make declaration are the following:-

1. Parliament and the Executive:

President  
Vice-President  
Speaker of the National Assembly  
Ministers  
Assistant Ministers  
Members of Parliament.

2. Parliamentary Service:

Clerk to the National Assembly

Public officers in Job Groups "P" and above.

3. Government:

Public officers in Job Groups "P" and above.

4. Courts:

Chief Justice  
Judges of the High Court and the Court of Appeal,  
Registrar of the High Court

Magistrates.

Public officers in Job Groups R2, M4 and above.

Public officers under the administration of the Chief Justice in Job Groups "H" and above, or the equivalent.

5. Local Authorities

Councillors

Public officers on salary scale 3 to 1

Public officers under the administration of the Chief Officer in Job Group "H" and above or the equivalent.

6. Teaching Service:

Chairman and Commissioners of the Teaching Service Commission

Secretary and Deputy Secretary of the Teaching Service Commission

Public officers of the Teaching Service Commission in Job Groups "P" and above

Principals, headmasters and head teachers Graduate teachers in Job Groups "P" and above.

7. Co-operative Societies:

Members of the Committee, within the meaning of the Co-operative Societies Act, of a co-operative society

The two most senior public officers of a co-operative society who are not members of the Committee

Public Officers of a co-operative society in Job Groups "H" and above, or their equivalent

8. State Corporations and other corporations:

Board Members

Chief Executives

Manager/Heads of Departments,

Public officers under the administration of the Chief Executive in Job Group "H" and above, or the equivalent.

9. Public Universities:

Members of the University Council

Members of the University Senate

Vice-Chancellors

Deputy Vice-Chancellors

Principals of Colleges

Registrars

Public officers under the administration of the Vice-Chancellor in Job Group "H" and above, or its equivalent.

10. Disciplined forces:

Officers above the rank, of Lieutenant Colonel or corresponding rank

Public officers under the administration of the Chief of General Staff in Job Group "H" and above, or their equivalent.

The Second Schedule has a form which is going to be completed by the relevant officers. It contains the declaration of income, assets and liabilities. The details include: Name of public officer, date of birth, marital status, employment information, names of spouses, names of dependent children under the age of 18 years, financial statement for, and income including emoluments and the periods in which they are earned. Also, a declaration of assets, liabilities and the signature will be required. So, the law has been simplified and once we pass this Bill, these forms should be prepared and made available to members of various sections of the Public Service.

Mr. Deputy Speaker, Sir, Part V deals with enforcements of the codes. It is quite clear that, it is the Commission which is going to enforce the code. Clauses 34, 35, 36 and 37 deal with enforcement. Clause 35 states:-

"If an investigation discloses that the public officer has contravened the Code of Conduct and Ethics, the Commission shall, within the time period prescribed by subsection (2)-

(a) take whatever disciplinary action it considers appropriate; or

(b) if the Commission does not have the power to take the disciplinary action it considers appropriate, refer the matter to a body or person who does have that power."

For instance, if it is disclosed that a crime has been committed or some corruption has taken place; the Commission, instead of taking disciplinary action, can refer that matter either to the Anti-Corruption Police or the



CID.

Mr. Deputy Speaker, Sir, Clause 36 states:-

"The Commission shall ensure that any action it takes under Section 35(1) is made public in the manner prescribed."

The idea of making this punishment public is to provide a deterrent measure so that the other officers know that so and so committed this offence and he was punished in this and that way. So, tomorrow, other officers will not do the same.

Mr. Deputy Speaker, Sir, Clause 37 refers to possible criminal proceedings. It says:-

"If, as a result of investigation under this Part, the Commission is of the view that civil or criminal proceedings ought to be considered, the Commission shall refer the matter to the Attorney-General or other appropriate authority."

However, this section does not apply to constitutional offices, for which there is a special procedure for removal from office due to misbehaviour. So, it will not apply to judges, the Attorney-General, and members of the Public Service Commission, because there is a special procedure for dealing with those kind of cases.

Mr. Deputy Speaker, Sir, that is, generally, the broad overview of this Bill. Clause 41 gives the Minister powers to make regulations for better carrying out of the provisions of the Act.

Mr. Deputy Speaker, Sir, this is the first time that we, as a Government, are trying to introduce minimum standards of conduct. This is the first time this Government is trying to set the parameters of acceptable behaviour by our public servants. We have had a colonial Civil Service in this country for the last, almost 100 years. This is the time that we are changing colonial culture and attitude. This is the time we want our civil servants to respect the people of Kenya and to protect their human worth and dignity. The time for talking down on the people or giving orders is gone. Under the NARC Government, the civil servants have to be polite, civilised and respect the people of Kenya. That is the basic concept behind this Bill. We are pleading with hon. Members from both sides of the House to give this Bill its proper consideration and to help us to bring in this new culture in our Civil Service.

With those few remarks, I beg to move, and I would like to ask, Mr. Githae to second the Bill.

*(Applause)*

**The Assistant Minister for Justice and Constitutional Affairs** (Mr. Githae): Thank you, Mr. Deputy Speaker, Sir. I rise to second the Bill. I think the hon. Minister has ably gone through the whole Bill and, therefore, I will not repeat what he has said. I will just add some of the concerns that have been raised by my colleagues and members of **[The Assistant Minister for Justice and Constitutional Affairs]** the public about the Bill.

First, the ethics specified by the Bill are the minimum standards. Therefore, the Commission charged with responsibility under the Bill can come up with far reaching standards than the ones specified in the Bill. So, these are the minimum standards as envisaged by the Bill. The Commission can come up with more stringent measures as they may deem fit.

The other thing I would like to clarify, Mr. Deputy Speaker, Sir, is that under Clause 8, a public officer is supposed to treat his fellow public officers and members of the public with courtesy and respect. Therefore, the days of *Bwana Kubwa* mentality will come to an end; the days where civil servants mistreated members of the public will come to an end, and the days where a public servant thought he was the boss of the public must come to an end. We are now saying that public officers are servants and not the masters of the Kenyan public. Therefore, words like, "sorry", "excuse me", "thank you", should be the norm of a public officer and not the usual *Bwana Kubwa* mentality.

Again, Clause 8(d) states that, if you are a member of a professional society or body, you are supposed to observe the ethics and professional requirements of that body. Therefore, this talk about the Judiciary being corrupt also presupposes that the advocates must also be corrupt. It is not only the Judiciary that must not be corrupt, but even the advocates who appear before them and the members of the public must also not be corrupt. Therefore, if you are a member of a professional body, you must observe the ethics and standards of that body. The habit of public officers reporting in the morning at 8.30 a.m. and hanging their coats on their chairs and then disappearing must come to an end. It is a very bad habit that must come to an end. When a public officer reports to the office, he must work as envisaged in the Bill. I wish to clarify a point because there were some people who came to my office alleging that under this Bill the Government is going to lay down the dressing standards, and that dresses like mini skirts have been abolished or banned. I would like to inform the House that they have not been banned. We are only saying that a public officer must maintain an appropriate standard of dress and hygiene.

So this allegation that mini dresses have been banned and that those found wearing them will be arrested is not envisaged in the Bill.

Mr. Deputy Speaker, Sir, another individual also came and told me that under this Bill, maintaining appropriate standards of dress means that *mitumba* dresses have been banned. They have not been banned. In fact, *mitumba* clothing are very smart, and quite a number of us here are wearing *mitumba* suits. We are only asking for appropriate standards of dressing. The other point is where a public officer acts illegally, and the basis of his authority is orders from above. If you work illegally and torture people, you will not be saved by orders from above. It is envisaged that if you are acting in any capacity as a public officer, your duty must not infringe on the rights of other people. I would like to take this opportunity to warn police officers who are fond of torturing people, that once this code of conduct has been implemented, they will not be saved by saying that they acted on orders from above. If a public officer is given orders which are illegal, he should not obey them. He will not be saved by saying that he was obeying orders from above. I think that is a drastic move on the part of the Government.

Mr. Deputy Speaker, Sir, the other issue which people were raising is the habit of having overnight millionaires and billionaires. For example, if upon employment a public servant probably owns one suit which may even be a *mtumba* one, then within six months his wardrobe is full, he is driving six Mercedes Benz cars and within one year he owns 1,000 acres of land, then you wonder how he acquired all that. All what they do, for instance, is to give themselves, their companies or relatives and spouses contracts. Under the Bill, the issuing of contracts by public officers to themselves, spouses, relatives and friends is prohibited. So, I would like to take this opportunity to warn fellow public officers that it is high time they started living within their means. Those days of overnight millionaires and billionaires are over. If anybody who was elected as a councillor thinks he is going to be a millionaire, he had better resign because he will not be an overnight millionaire under this Bill. If one is elected an hon. Member of Parliament and thinks he came here to be an overnight millionaire, under this Bill I am sorry he will not be one. If that was your intention, you had better resign.

Mr. Deputy Speaker, Sir, the other practice prohibited under this Bill is again of public officers acquiring land or other property for themselves. We have had cases of public officers being employed when they do not even have a half an acre of land, and within a year they have got 2000 acres of land. Under this Bill it is prohibited for an individual to allocate himself land or other property from the Government. This trend of acquiring land had reached a very crazy extent. If the House is not aware, there is a public road between Macmillan Library, ICEA Building and the Bank of India which a public servant had allocated to himself. Just imagine a public officer allocating himself a public road in Nairobi. What does he expect the motorists and the pedestrians to use? This kind of behaviour must come to an end.

Mr. Deputy Speaker, Sir, the other habit prohibited by this Act is a public officer using information he has to enrich himself. We have had cases of some people in Treasury - because they are privy to information in the Budget - informing their friends that on a certain day, tax on beer and tobacco would be increased. Therefore, that night, they would buy thousands of beer crates and packets of tobacco in an effort to make a kill. Under this Act, a public officer using that kind of privileged information to enrich himself is prohibited.

Mr. Deputy Speaker, Sir, the other habit which has been prohibited is where a public officer has shares, certain interests or does business in a corporation. This very bad habit has been misused by our public officers, where businessmen form a company, approach public officers and tell them that they have been allocated 25 per cent shares in the company and they are fully paid. How were they fully paid? Did the public officer give them the money? So, a public officer should not accept those kinds of shares. This is the story at Euro Bank. The shareholders say that they were only told that they owned 25 per cent shares and that they were fully paid. This is the kind of behaviour that is anticipated by this Clause which must come to an end.

Mr. Deputy Speaker, Sir, the other issue is with regard to Harambee. The Harambee spirit was a good move and still is, but it has been misused, where public officers use their offices to extort Harambee money from their fellow public officers and members of the public. There were even incidents of the chiefs using the people under them and collecting chicken in order to take them to Harambee because the P.C. or the D.C. would be attending the Harambee. Under this Act, no public officer will be allowed to use his office to collect Harambee money. He must use other means and not the office. A senior public officer is also not supposed to use undue pressure on his juniors or other members of the public. There was a very bad habit in the Lands offices, that if you want to transact any business there, the first thing you are presented with is a Harambee card. Clearly, the intention is that if you cannot contribute, you cannot be given the services which you are entitled to. This kind of habit of public officers using their offices to collect Harambee money must come to an end.

Another bad habit found among public officers is this mentality of *mali ya umma*. For example, an expensive Government vehicle which probably only lacks a headlight can stay in the yard or garage for more than

five years. By the end of five years its value has depreciated. Henceforth, a public officer will be required to ensure that Government property under his care is adequately protected and not misused or misappropriated. Under this Code of Conduct and Ethics, it is envisaged that the Civil Service will maintain its neutrality. We are being asked why we have not sacked all the civil servants and employed the NARC supporters. In Kenya, we follow the British system of governance where the civil servants are expected to be neutral and serve the Government of the day.

Unfortunately, this has not been the case. We have had some PCs, DCs and parastatal chiefs behaving worse than KANU youth wingers. We have had cases of parastatal chiefs misusing parastatal vehicles by giving them to KANU officials for party business. Some have even gone to the extent of giving government property to the *Mungiki* sect adherents. That kind of behaviour must stop. The Civil Service is supposed to be neutral. They are supposed to serve the Government of the day. Under these minimum standards, they are expected to remain neutral. They should not promote any political party. If they do, they will be doing so at their own peril. Under Clause 19, a public officer is required to pay his taxes. There is a big distinction between evasion of taxes and tax avoidance. Tax avoidance has not been prohibited; it is tax evasion which has been prohibited.

There are some public officers from the KANU regime who have stashed away more than Kshs60 billion in foreign banks. The question is: Did they pay tax on this amount of money that they have stashed away in Switzerland and the Cayman Islands? Public officers are now required to pay their taxes and not evade them. Public officers are also expected to live within their means and to meet all their financial obligations. There is a very bad habit even amongst us hon. Members, of issuing bad cheques. Officials of a certain company came to our offices and brought three cartons of bad cheques that had been issued by quite a number of prominent Kenyans. If you are a public officer, you must live within your means and meet your financial obligations. You cannot meet your financial obligations by issuing RTD cheques. That habit must come to an end.

Let me touch on the issue of personnel officers who are public officers. Under this Bill, sexual harassment is prohibited. Therefore, I would like to take this opportunity to warn personnel officers against giving prospective employees in their departments dates after 5.00 O'clock. That amounts to sexual harassment and they should stop that habit. Those personnel officers who are fond of giving female candidates dates after 5.00 o'clock for interviews should know that, that amounts to sexual harassment under this Bill. All interviews must be conducted during office hours and not after 5.00 o'clock or in various hotels.

We have been given the definition of sexual harassment by the hon. Minister. Therefore, I would ask those people who have been termed "bulls of Auckland" and "bulls of Continental House" that it is high time they stopped that habit because that conduct is prohibited under this Bill. There is also a very bad habit by some men of pressing their bodies against women in *matatus*. This amounts to sexual harassment under this code. Therefore, I am appealing to them to stop this habit. I would ask public transport companies to also incorporate these standards envisaged by the Bill. That would also make it illegal for touts to harass women in the *matatus* by pressing their bodies against the backs of the ladies. They should stop this behaviour because it amounts to sexual harassment.

Under the envisaged Code of Conduct and Ethics, rigging of elections, be they parliamentary or civic, is prohibited under this Act. It is high time we stopped this bad habit of rigging elections. We should participate in fair elections. In every elections there must be a loser and a winner. Therefore, you should not rig to ensure that you win because this practice is prohibited under this Code of Conduct and Ethics.

The other concern that has been raised by members of the public and also some public officers is this: What if you do not want to subscribe to this Code of Conduct and Ethics? The solution is very simple. You will be given an option that if you resign before the code of conduct is effective, that is the end of it. If you do not want to subscribe to it, just resign from your job and that is the end of the matter. I am asking those who do not want to subscribe to this code to take the option given to them by Clause 26(3) and resign.

The hon. Minister has gone through the other clauses and I will not repeat them. Therefore, this is a very simple Bill which does not require much debate. It was introduced in the Eighth Parliament where it was debated and passed. In fact, it is only in this House now because the President did not assent to it before the dissolution of the Eighth Parliament. I would therefore request my hon. friends to support this Bill and pass it because with this Code of Conduct and Ethics in place, people in Kenya will now start behaving like a civilised society.

With those remarks, I second the Bill.

*(Question proposed)*

**Mr. M. Kariuki:** Mr. Deputy Speaker, Sir, I rise to support the Bill. I would like to thank the Minister for having brought this Bill.

Mr. Deputy Speaker, Sir, I know the history of this Bill. I have had the occasion to look at the HANSARD and it shows that this Bill was brought by KANU which was the party in power. The debate on the

Bill was concluded on 25th June, 2002. It is most unfortunate that by the time the former President went into retirement, he had not assented to the Bill. So, I believe that this time round, eight months down the road, there is no change of mind on the part of KANU and that they will embrace this Bill without much problem.

Mr. Deputy Speaker, Sir, I wish to support this Bill; first, because it embraces a very important principle of self-regulation. Part IV of this Bill preserves the independence of public officers, but also ensure that the Commissions that will be set up will formulate their own codes. This will ensure that there is no witch-hunting whatsoever on the part of public officers who might be arraigned before their respective Commissions. This is a very positive development and I support it entirely.

Mr. Deputy Speaker, Sir, Clause 21 of this Bill is very significant. A lot has already been said about it by the Seconder of the Bill. As far as public appointments are concerned, I know that quite often there are a lot of concerns expressed, that the people who are appointed to positions of authority by the appointing authority, are either incompetent, or they are favoured. They are appointed because of other considerations and not merit. This puts the President, among other people, in a very accountable position to ensure that people appointed to positions of power are, in fact, competent and of high integrity.

Mr. Deputy Speaker, Sir, as the Seconder of the Bill has already pointed out, one of the major problems of this country has been rigging of elections. This has been done from the highest authority in the land. I think this will be another self-regulation to ensure that we do not any more have a Chief Executive who involves himself in designs to hand-pick people instead of subjecting them to free and fair democratic elections.

Mr. Deputy Speaker, Sir, I am a little concerned by Clause 29 of this Bill. We are living at a time of transparency, yet we are talking about confidentiality under Clause 29. I believe that the purpose of making public officers accountable is to ensure that members of the public are informed about what they have acquired unlawfully. Clause 29 tends to fortify; to make the information totally confidential. There is no way a member of the public who may be willing to offer or challenge certain information disclosed to the Commission by the public officer, will be able to do it. I am proposing that, in fact, Clause 29 is unnecessary. The record of properties declared by public officers should be accessible to any member of the public. However, in Clause 29, there is too much confidentiality. The Bill will be defeated by that very fact of confidentiality. We want public officers to come clean and declare their wealth and income.

Mr. Deputy Speaker, Sir, this is what happens in other jurisdictions. If, for example, you go to New York City today and you ask who is the richest man, members of the public have the information. This is because the revenue authority makes the information public. A man who pays the highest tax automatically becomes the richest man. So, this information should be made public as much as possible because people who have acquired so much property but who do not make their tax remittance should be exposed. So, I propose that this section be amended accordingly, so that the information is made public and public officers account as far as declarations are concerned.

**The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae):** On a point of information, Mr. Deputy Speaker, Sir. The reason why there is this confidentiality clause is because of our African customs. In some communities, it is prohibited even to count the number of your children. It was thought that in order to encourage public officers to list down all their assets, let that be confidential. However, there are provisions under which that information can be accessed. We had---

**Mr. Deputy Speaker:** Order! Mr. Githae, you were limited to giving the hon. Member information on that issue. However, you are now debating and yet you had the opportunity to do so when making your contribution. Once you inform the hon. Member, you should not continue debating.

Continue, Mr. M. Kariuki.

**Mr. Muite:** On a point of order, Mr. Deputy Speaker, Sir. I stand on a point of order to seek your guidance here. You will recollect that as the Chair of the Departmental Committee on the Administration of Justice and Legal Affairs, I made this Report and it was laid on the Table yesterday. You will also recollect that when the Minister was moving the Bill this afternoon he said that the Government accepts in total the Report of the Departmental Committee. Now, if you look at page 6 of this Report, the Committee recommended that Clause 29 be deleted and be replaced with a new one. That is the one which is talking about confidentiality. Clause 29 should be replaced with a new Clause which reads as follows:

"There shall be a register to be kept by the Commission on all public officers upon declaring their income, assets and liabilities, which will be open to inspection."

Mr. Deputy Speaker, Sir, I seek your guidance because the Minister said they accept this Report in toto. The Assistant Minister says they are standing with the original. What is the position of the Government?

**Mr. Deputy Speaker:** The position is that when we go to the Committee of the Whole House, every clause will be scrutinised. The fact that the Minister said he accepts that Report in toto does not mean that clause

will not be subjected to amendment. Mr. M. Kariuki, hold your horses until we come to the Committee of the Whole House where you can submit your proposed amendment and it will be deliberated and acted upon. This is a debate. Scrutiny of the Bill clause by clause will be done in the Committee of the Whole House.

**Mr. Muite:** On a point of order, Mr. Deputy Speaker, Sir. I am seeking your guidance on the position of the Assistant Minister not on Mr. M. Kariuki's contribution.

**Mr. Wetangula:** On a point of order, Mr. Deputy Speaker, Sir. Departmental Committees are Committees of this House. If a Bill is referred to them, and they make recommendations, one will expect that their recommendations will be circulated to all hon. Members because they are working for the House. When we debate a Bill here we should benefit from their expertise so that we do not get into irrelevances and veer off the Bill. We can be guided by what they have recommended. I believe that their recommendations are not binding to the House. It is what we shall do at the Committee Stage that will be binding to the House. But we need to see their reports from time to time on every Bill.

**Mr. Deputy Speaker:** Indeed, Mr. Wetangula, you are right. Hon. Members should have access to the reports of Departmental Committees. As I said, still there is time for hon. Members to scrutinise that Report. Whatever the Committee has recommended is not binding. We have to deal with the matter at the Committee Stage, bearing in mind what they have recommended.

**Mr. Wetangula:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! Mr. Wetangula, I believe we are now eating too much into Mr. M. Kariuki's time.

Continue, Mr. Kariuki!

**Mr. Wetangula:** On a point of order, Mr. Deputy Speaker, Sir. It is not enough for the Chair to say that hon. Members ought to have the Report. Rather, the Chair should have directed that the Report be made available to hon. Members.

**Mr. Deputy Speaker:** Order! Order! Mr. Wetangula, when I said that, the Clerk-at-the-Table was listening.

Could you continue, Mr. M. Kariuki?

**Mr. M. Kariuki:** Mr. Deputy Speaker, Sir, I hope that I will get back the time that lapsed as hon. Members raised points of order.

Mr. Deputy Speaker, Sir, I am not precluded from commenting on the contents of the Report of the Committee. I was rather emphasising that we are in an era of transparency, and that it would be important for information to be made public, so that members of the public can assist the Government by providing information to the contrary that they may be having.

Clause 11 of this Bill is very important. It enjoins public officers to make a declaration when they have an interest in a matter, so as to avoid bias. I believe that the persons who drafted this Bill had in mind the tendering boards in this country. Previously, public officers would sit on a tendering board to consider applications for award of tenders, some of which would have been submitted by companies or persons to whom the officers were related in terms of business. Those officers, however, would not disclose their interest in the tendering companies, and would proceed and award the tenders to those companies and persons with whom they were related. So, this particular clause is important in terms of curbing corruption in public tender boards.

The issue of *Harambee* has been mentioned in this Bill. We know what happens today. After a public officer serves you, he takes out a small receipt book and asks you to donate to an *Harambee* in his constituency. I believe that the passage of this Bill will bring this trend to an end. There will be no public officers who will be moving round public offices, soliciting for *Harambee* money. That is a very positive proposal. The upshot of this Bill is that, as a country, we have made a big step towards the eradication of corruption. Therefore, I do not expect any Kenyan who values this country, and who knows what we have gone through in the last 40 years, to shy away from supporting this Bill.

With those few words, I beg to support.

**Prof. Oniang'o:** Mr. Deputy Speaker, Sir, I thank you for giving me the opportunity to contribute to this debate. I would like to, first of all, commend the Eighth Parliament for having passed a Bill similar to this one, notwithstanding the fact that it was not assented to by the former President before the general election. I would, further, like to commend the National Rainbow Coalition (NARC) Government for bringing the Bill back to the House for debate and enactment. Yesterday, I prepared myself to contribute to the Constitution of Kenya (Amendment) Bill today, but I will proceed and contribute to the debate on this other Bill.

Mr. Deputy Speaker, Sir, the unfortunate thing about the Minister's presentation while initiating this debate is that he dwelt more on issues that are not part of this Bill. He made too much of off-the-cuff comments.

For instance, he made reference to public universities, and how their staff members conduct themselves and how academics sell eggs and engage in other businesses rather than concentrating on teaching. He went on to say that maybe, doubling the salaries of the staff members of that university would have been the right thing to do. However, I can assure this House that doubling the salaries of public officers will not necessarily restore moral integrity into society. So, I believe that we need to be serious about this Bill. I want to commend the Assistant Minister for making reference to issues of personal conduct, especially when it comes to sexual harassment. I believe that the passage of this Bill will help us to become good citizens who have mutual respect for one another regardless of age or religion or gender. So, I believe that this Bill is noble and quite in order.

However, there are certain areas of this Bill which probably need to be improved on. When we say that the public servant should ensure self-accountability, we should actually attend to the selection procedure of public servants. We have to identify the criteria we shall use when selecting public servants. You realise the new Government does not seem to have a definite plan of vetting the public servants it has been recruiting. Since the Government wanted to bring this Bill for enactment into law, it should have been practising some of the provisions contained in it, and finding out about the past of the public officers it has been employing before they were actually engaged. So, the selection procedure of public servants is important. Another important question we should ask ourselves is: "How do we restore self-integrity into the society if we do not start with our young people, especially through our school system? We want to implement this with people who are already in service, but we do not have a provision for doing the same for our youth.

Mr. Deputy Speaker, Sir, the Minister also made reference to cultural practices which are so crucial for any society. Surely, as Africans, we have had a value system. It is not as if we have been corrupt all along, or we have not had ethics, and now we are borrowing from elsewhere. In many of our cultures, we have had values, and there was a way of passing on those values to the youth from one generation to another. However, it appears that the African value system was not considered while this Bill was being prepared. I believe that introducing this aspect will enrich this Bill and ensure that we have a foundation we are building on. The burial laws that were referred to, for instance, were initially cultural but they have been polluted by modern practices. At the moment, we cannot say that they are actually part of our value system. So, I believe that this is an opportunity for us to restore what was good about Africans. It will be a shame for us to lose that opportunity in the course of looking into this Bill.

Another issue that has been alluded to is Harambee, which does not exist in Zambia, Uganda or Tanzania. The Harambee is really Kenyan. It comes from a Kenyan word. It has been ingrained in our value system. The concept and principle of the Harambee spirit is good, because it enforces and encourages self-reliance. We are now going back to a situation where the Government will be required to do everything for the people. For instance, if a well collapses, one will say: "No, we cannot fix it; the Government will repair it". That will be a very dangerous trend. We will be going back to a system that never worked for us. So, I believe, in principle, that the Harambee system is good. People are the ones who have abused and spoilt the system, and hence the need to pass this Bill, so that we can restore our value system and keep pace with the rest of the world.

Mr. Deputy Speaker, Sir, I do not see religion referred to in this Bill. Over 99 per cent of Kenyans are religious; they invoke the name of God. So, I believe that our value system is also entrenched in religion. There are still a few Kenyans who adhere to traditional religion. However, most of us are followers of modern religion. So, I would like us to have something to do with religion included in this Bill, because I believe that it can guide us in restoring our value system, the fact that our churches are extremely political notwithstanding. I would, therefore, like a situation where religion is engraved into our value system.

Mr. Deputy Speaker, Sir, I keep hearing of how things were so terrible ever since we got Independence and during the KANU regime. What our colleagues from the other side are not realising is that, when they say that, they are good, in essence, admitting that Africans cannot rule themselves. So, if we cannot have anything good to say about the KANU Government since Independence, what do we have to say about the Colonial Government? Was it a better government than the KANU Government? At the same time, they are contradictory. They talk of the achievements and the good things that we have had. I believe that, surely, when we have moral decadence in a society, it does not pay to remove the systems which have worked. It is the human being who ends up spoiling the system. It is like the computers that some of us use. We blame the computer for giving us bad information and yet, it is us who have put such information into the computer.

So, I believe that, in fact, the whole idea of the Public Officer Ethics Bill is a very important one. I believe the declaration of wealth is a very important matter. We should, all the same though, add in a caveat; that, as we declare the wealth, we also declare how such wealth was acquired. So, my question then is: What amendments can actually be added to this Bill? Personally, I have no objection to this Bill. I have not consulted my party. I am not really giving my party's stand. I believe the Leader of the Official Opposition will give the

party's stand and his views next week. But it is a good Bill. It does not infringe on the Constitution. The problem with yesterday's Bill was that there was some association with the Constitution, and many of us were having problems with it. But for this Bill, with a few amendments, I believe it can go forward. Indeed, it can take care of some of the issues that we were, in fact, trying to address in yesterday's Bill.

As I said earlier, such issues include: The issue of criteria of employment, the issue of instilling these values into our youth at the school and family levels, the issue of having a code of conduct that governs the way we treat each other, the way we behave across gender lines and the way we behave across age lines as well. One of the issues that I do not see here, and which could govern us in trying to restore how we treat each other and people of different categories in our society, is the way we treat our older generation. We are moving too far ahead to modernity and not giving due recognition to age. Every single stage of life needs to be recognised for what it is worth. We have the children whom we need to take care of. We have women who need to be respected, even as we stand here to participate in issues of national development with our fellow men. We have our parents that we need to respect. We have the older generation and people in positions of authority whom we need to respect. So, the issue here, really, is one of mutual respect. Once we have passed this Bill, what methods will be used to ensure its implementation? Bills and Motions are passed in this House, and then remain on office shelves gathering dust. I would like to recommend that we should have a monitoring unit to monitor the implementation of Bills, so that after they are enacted into laws, we can begin to see immediate changes. I believe we should be able to do so.

With those few remarks, I beg to support.

**Mr. Deputy Speaker:** Hon. Members, I want to inform you that the Report of the Departmental Committee is in Room 8. By the way, you can pick all documents that you may require from time to time from Room 8.

**Mr. Karaba:** Mr. Deputy Speaker, Sir, I want to support the Bill moved by the Minister for Justice and Constitutional Affairs.

I want to make a few submissions. First, the struggle towards the enactment of the Public Officer Ethics Bill is not a recent business. It started at Independence time. We have seen how some people in the country struggled as they reminded the then Government to establish some official ethics. I have in mind the late J.M. Kariuki, who was assassinated in mysterious circumstances when trying to advocate for official ethics. He was saying that some people had acquired a lot of wealth while the majority had nothing. This is exactly what the late J.M. Kariuki was trying to say in 1975. So, in a nutshell, we are trying to remind ourselves of the struggles of some of the leaders of Independence. It is, therefore, important that as we pass this Bill, we should remember the sayings of some great men, for example, the late J.M. Kariuki, the late Tom Mboya and the late Robert Ouko.

I have in mind people who were involved in the struggle to ensure that ethics and morality in the society were maintained. I have been a teacher for some time, and I know teachers have advocated for proper ethics and morals. I know that even in the syllabus of the Ministry of Education, Science and Technology, we have a subject called "Social Education and Ethics". This is a subject which is related to the Bill we are discussing today. This means that if we can improve the syllabus and reward teachers, we will mould a better society than the one we have been having so far.

Mr. Deputy Speaker, Sir, we are saying that we seem to be acting contrary to what we say and to our expectations. We have heard some of the most powerful gentlemen in this august House saying that the Bill has been published to threaten and belittle some people, societies and tribes. If this Bill is enacted into law, I am sure that statements such as "you lie low like an envelop" will not be made again. We have had cases where people from some tribes have been threatened and have even been forced to leave their homes. I am sure the enactment of this Bill into law will harmonise the co-existence of all the tribes in this country.

Mr. Deputy Speaker, Sir, let me also say something about what we see on our television sets and what we expose our young men to in the form of video shows. You will see an advert on the television set advertising beer, when at the same time you are talking about morality. So, this is a contrast of what we expect, particularly, when we have to teach our youth. Therefore, I would like to propose that as we make some few amendments, we censor some of the video shows and programmes we see on our television sets so that as the youth grow up, they do so in a mature manner.

I would also like to draw the attention of the Chair to the differences we have in salary awards. Some people amass a lot of wealth within a very short time because of the amount of money they earn. We have some people here who earn more money than a person who is employed on the same ground, in another institution. I heard the Minister talk about professors selling eggs when they should be carrying out research. It is not the wish of these professors to sell eggs. They do this in order to survive. It is true that teacher particularly, eke their living by doing things which are unethical. They do this so that they can also live like other people. How do you compare somebody who leaves a university to be a teachers for 20 to 30 years and by the time he gets his final

benefits or pension, he will get about Kshs500,000. He will get this money after working for 30 years! This is the case, and yet a person who is a director of a certain company earns the same amount of money within a week. This is what leads to inequality and I hope that this Bill will try to harmonise the salaries of various officers.

It is good that the Minister has talked about Canada. He said that public servants in Canada do the same examination, and I would advocate that the same should be done here in Kenya. This would ensure that a manager of a certain company earns the same amount of money with a manager of another private company. Somebody who has got, maybe, a degree in law earns the same amount of money with somebody else who has graduated from the same university and, of course, having done the same degree or equivalent. What I have demonstrated here is what we call inequality of opportunities and it can lead to inequality in standards of living. So, I would like to ask the Minister to look into the issue of salaries so that all those people who qualify from the same university can earn the same amount of money.

We have seen many cases where nepotism is practised when it comes to recruitment of officers to join various companies. We talked here about the Medical Training Colleges (MTCs), where somebody could not even be enrolled unless he paid a bribe to the tune of Kshs50,000. This is unethical. If this is done away with, it will ensure that all those people who apply to join those institutions will get a fair chance. That is how we should start off.

Mr. Deputy Speaker, Sir, let me also support this Bill by saying that we should think about the people who live in our rural homes and are suffering. This is because they have been conned of their land through the sale of the same by brokers. You will find a broker of a certain area conning people of their land. When those pieces of land are sold, some of those people become landless and eventually, lead a miserable life.

Mr. Deputy Speaker, Sir, we know of cases where DCs and DOs consent to the sale of land without even the knowledge of the owner. This practice is very common particularly in the area where I come from; Kerugoya-Kutus. I hope that the Minister concerned and the House will look into this matter so that the Bill covers the DOs, DCs, chiefs and so on.

Mr. Deputy Speaker, Sir, as I conclude, it is important to also note that we have had these cases of commissions being established elsewhere and I am happy that the Teachers Service Commission (TSC) has come up with a Code of Conduct and Ethics. Other institutions should also come up with their Codes of Conduct and Ethics. It is therefore, important that we endorse this Bill to be our torch bearer in the way we behave in this House. It should also help us to emulate those people who have served in similar commissions.

With those few remarks, I support the Bill.

**Mr. Kimeto:** Thank you very much, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill. Let me take this opportunity to thank the people of my constituency, Sotik, for re-electing me to come to this Parliament with their confidence. As I contribute to this Motion, I do not know how the NARC Government is formulating policies of this country.

Mr. Deputy Speaker, Sir, unemployment is a major crisis in this country. There are very few employment opportunities, but the people seeking employment are so many. How will this Government solve this problem? For example, in some cases, when we recruit, say teachers, only people from one section of the country benefit. The employment opportunities are not shared equally and the NARC Government should solve this problem.

Mr. Deputy Speaker, Sir, before the NARC Government abolishes Harambee, it should provide employment opportunities for our people. Furthermore, a legal framework should be formulated by the NARC Government on how to abolish these Harambee. For example, the NARC Government has said that they are going to abolish Harambee, but this is going to be very difficult because this culture is already ingrained in Kenyans. Does it mean that when chiefs and other public officers get sick we cannot assist them in paying their medical bills through Harambee? Are they satisfied with their jobs, as people are satisfied with their teeth because we have not heard people complaining that they have fewer teeth in their mouths than others? In our language we say all people have teeth and nobody complains. Does it mean that public officers do not have problems which we can solve through Harambee? I am suggesting that we should come up with a legal framework first before we abolish Harambee. We should have adequate money for school funds first before we abolish Harambee. Harambee should be cherished and not avoided because it is something which had spread all over; it was there even before it was put into this language of Harambee. Harambees have been there all through. First of all, can we look for ways and means of providing money in order to assist those who are not able; those who have had problems accidentally? What shall we do to prevent these things?

If we can pass a Bill that says there is no Harambee, even those people who could assist will be completely tied up and, therefore, they cannot assist. We want to have funds directed to funding certain activities which hon. Members can do, for example, repair of a broken road or bridge. Could we not go to such areas and immediately conduct Harambees and call public servants to assist, or should we say that public servants are not



allowed to contribute to Harambee? Some people mess up with Harambees funds and, therefore, the Government should deal with them individually. They should not make a blanket condemnation on everybody, and say that we should not conduct Harambees! That would be a straight forward way of denying us the job which we do of assisting the people. One way of assisting the people is through conducting Harambees. In doing so, we can assist schools, hospitals and many other things; I do not even know what I should say next. They are so many things!

**Hon. Members:** Even pre-weddings and burials!

**Mr. Kimeto:** Hon. Members have reminded me of others, like pre-weddings which are not even normal; the pre-wedding is not a normal thing that should need Harambee.

**Mr. Deputy Speaker:** Mr. Kimeto, address the Chair!

**Mr. Kimeto:** But with regard to burials, it is okay. Burials have become synonymous with the people of this country and they do conduct Harambee for burials. But anyway, there is a feeling that somebody who has been called to Heaven and those who attend such Harambees, do so not to be questioned why they do not attend such functions because their time will come. These people attend such functions because of spiritual purposes. They want to feel that they are spiritually assisting the bereaved because one time they will face the same death. So how can you deny that person a chance to assist another?

Therefore, I am asking the NARC Government to try and provide the finance which would enable us pass this Bill, and then project how the money should be spent in the constituencies.

Mr. Deputy Speaker, Sir, I have a lot of problems in my constituency, which I feel, if the KANU Government did not assist, the NARC Government has just come to assist people in this country. There are so many problems in my constituency and, I have laid down strategies for Harambees, for example, road construction strategies.

Mr. Deputy Speaker, Sir, the Kshs2 million provided by the last Government is not enough. We want to construct a number of roads in my constituency and, therefore, we want a lot of money from the Government.

Mr. Deputy Speaker, Sir, in Sotik Constituency, hospitals are very few while the population is high. How can we continue to live in a constituency where donors are not allowed to go and assist the people? If you go to Sotik Constituency right now, you will find that there is an outbreak of malaria, and the Government is not even able right now to provide medicine to curb such outbreaks.

*(Laughter)*

As I talk, Mr. Deputy Speaker, Sir, there is an outbreak of malaria in my constituency and the Government has not supplied medicine to the health facilities there and yet, it is denying hon. Members, including Mr. Kimeto, an opportunity to contribute towards the welfare of our people. This is not the time to stop people from holding Harambees. It is time to verify whether funds raised through Harambees have been properly used. If they were misappropriated, then the NARC Government should build more prisons to accommodate those people who misused these funds. This will act as a deterrent measure to such people so that those funds can be utilised for the intended purpose. We do not want the NARC Government to disrupt the continuity of the good services we have been enjoying. The Government should ensure that this money is properly used and if that is done, we shall support the Government.

On the question of secondary school education, Mr. Deputy Speaker, Sir, there are so many bright students who are out of school because of lack of school fees and yet the Government has banned Harambee. What are we going to do with these students? The Government has only offered free primary school education and left secondary school education. Where will the secondary school students go? Maybe, the Government should encourage the Harambee spirit so as to enable our children pursue secondary school education or else it should disburse money to secondary schools immediately to enable these students acquire education. Education will help these children in future to take positions of responsibility, for instance, being a Member of Parliament like us. But if we stop the Harambee spirit, we are killing the children. The NARC Government is planning from the bottom and then killing policies at the top so that they remain in power for a long time. They are worse than KANU! I am sure I will be proved right. If we kill secondary school education, then these children will not go anywhere in future. They will be like grown-ups who are naked because they will not excel academically as we did. The Nyayo Government helped students excel in their studies through Harambees.

*(Laughter)*

**Mr. Munya:** On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member not misleading the

House by telling us that there can be a worse government than KANU?

**Mr. Kimeto:** Mr. Deputy Speaker, Sir, it is upon the hon. Member to answer that question!

*(Laughter)*

The Nyayo Government achieved a lot in the field of education and this has made our country to be envied by many other people. We have so many lawyers, doctors and other professionals, who have gone to other countries. The Government should encourage these professionals to come back home and take up their jobs. Therefore, the Government should raise funds through Harambees to build medical facilities where these doctors can work. Hon. Members on the Government side should not pretend to know what they do not know, because they do not know these issues. They should also not pretend not to know what they should have known; that *Harambee* has been assisting Kenyans a lot. Those people who have been misusing *Harambee* funds must face the law. That is what they should do.

**An hon. Member:** Like Moi!

**Mr. Kimeto:** Mr. Speaker, Sir, Mr. Moi cannot be implicated in everything. If you implicate everybody, you may find yourself being implicated too. As the saying goes: "Take out the spec in your eyes before you take out the log in Moi's Government".

**Mr. Deputy Speaker:** Order, Mr. Kimeto! The problem is that I have been advising you to address the Chair, but you have chosen to address Mr. Munya. Could you stop it now and address the Chair?

**Mr. Kimeto:** Mr. Deputy Speaker, Sir, I will not address them because they are trying to chip in my debate with cheap politics. I am trying to teach them, and this House should assist me to do that. Please, save me from them!

Mr. Deputy Speaker, Sir, there are very many things which the NARC Government can do. They are claiming that no public officer should have in his possession a *Harambee* contribution book---

**Mr. Deputy Speaker:** Order, Mr. Kimeto! By the way you have been repeating yourself and you are out of order. Leave the *Harambee* issue and go to something else.

**Mr. Kimeto:** Mr. Speaker, Sir, I am only detailing how the NARC Government can succeed.

With regard to employment---

**An hon. Member:** Talk about Parliament!

**Mr. Kimeto:** Mr. Deputy Speaker, Sir, could you save me from this hon. Member who is chipping in my speech?

**Mr. Deputy Speaker:** Order, Mr. Kimeto! I will have to stop you unless you remain focused.

**Mr. Kimeto:** Mr. Deputy Speaker, Sir, with regard to recruitment in the army and the police force, we would like every constituency to be considered so that each constituency gets at least one person recruited. This should apply to recruitment into the administration police force, the army and the regular police force so that every constituency gets its right share. These are good ethics of employment.

Mr. Deputy Speaker, Sir, recruitment of nurses should start at the constituency or locational level, so that they can serve the locals in their areas. It is very difficult to get a nurse in some areas, because, in the first place, none are recruited in those areas.

**The Assistant Minister for Justice and Constitutional Affairs** (Mr. Githae): On a point of order, Mr. Deputy Speaker, Sir. Would I be in order to ask the hon. Member to restrict himself to the Bill which is being debated? He is now talking about nurses, recruitment into the police force *et cetera*?

**Mr. Deputy Speaker:** Mr. Kimeto is pursuing the aspect of merit which has been raised in the Bill. Is it not so? Proceed, Mr. Kimeto!

**Mr. Kimeto:** Thank you, Mr. Deputy Speaker, Sir for informing him. He is a new Member of Parliament and he will soon know the Standing Orders and the ethics of this House. He was just wasting my time for nothing. Anyway, I forgive him in advance. Sorry for the inconvenience involved. I said this because this is another Government which we want to assist to develop and to be loved by people in the whole of this country. I was pointing out some areas where the previous Government failed and I would urge this Government to avoid those pitfalls. The Government should employ people from every constituency in the country so that we can feel that we are part and parcel of this Government.

There are some areas where there are no nurses or doctors. You might only find about 6,000 doctors out of 30 million people. Are they enough? You will also find that we do not have enough dentists and eye specialists. This Government should look at areas where the other Government failed so that they can improve on them. If the Government fails to heed my warning, they will be voted out in 2007 and we will take over immediately. I am

trying to give them the right kind of advice. We want to develop agriculture.

**Mr. Deputy Speaker:** Order, Mr. Kimeto! I think you are now involved in irrelevancies. Could you stick to the Bill now? You are now moving to other areas. If you have no more to say, you should sit down.

**Mr. Kimeto:** Mr. Deputy Speaker, Sir, I was saying that if we want to develop agriculture in certain areas we should employ agricultural officers from that particular area. At the same time these agricultural officers should be aware of the time frame required for a particular project. Do you want to give me three minutes?

*(Laughter)*

Mr. Deputy Speaker, Sir, save me from this hon. Member. He was looking at the watch and calling me. I do not know whether---

**Mr. Deputy Speaker:** Order! I will discontinue your contribution if you continue diverting your attention to other people. Can you stick to the Bill?

**Mr. Kimeto:** Thank you, Mr. Deputy Speaker, Sir. I will stick to the Bill. We want the NARC Government to be open. They should do away with what is referred to as the "culture of Ministers". We do not want Ministers to isolate themselves from the people and only open their doors to receive important personnel from other countries. We want them to serve the people in the open. Their offices should be open to all so that we can see them work. We do not want them to work behind closed doors where some people are given *kitu kidogo*. In the previous Government you would find the door to a Minister's office open when he is out, but closed when he is in. We want this Government to do the opposite.

Public officers should also open the doors to their offices when they are present. We want to completely oppose the behaviour of Ministers in the previous regime. We would like to see a situation whereby a public officer leaves his door open so that we can see him serving the members of public. He should be given time to talk maybe in a better language somewhere and then---

**Mr. Deputy Speaker:** Order, Mr. Kimeto! You still have five minutes to continue when the debate resumes.

#### ADJOURNMENT

Hon. Members, it is now time for the interruption of business. The House is adjourned until Tuesday, March 18th, at 2.30 p.m.

The House rose at 6.30 p.m.