

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 7th June, 2006

The House met at 9.00 a.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

### NOTICES OF MOTIONS

#### INTRODUCTION OF SESSIONAL PAPER ON NATIONAL WILDLIFE POLICY

**Mr. G.G. Kariuki:** Mr. Deputy Speaker, Sir, I beg to give notice of the following  
Motion:-

THAT, noting with concern that there is no national wildlife and land use policy in the country; this House urges the Government to introduce a Sessional Paper on National Wildlife Policy, outlining guidelines on wildlife conservation and management in order to develop and sustain the resources.

#### WAIVER OF VAT ON INSTALLATION OF ELECTRIC POWER

**Mr. Mukiri:** Mr. Deputy Speaker, Sir, I beg to give notice of the following  
Motion:-

THAT, in view of the important role electricity plays in the daily lives of ordinary Kenyans and considering that most citizens are unable to access electricity due to the fact that it is expensive; this House resolves that Value Added Tax (VAT) charged on those applying for installation of electric power be waived.

### QUESTIONS BY PRIVATE NOTICE

#### DESTRUCTION OF HOMES/SCHOOLS IN WINAM BY HEAVY STORMS

**Mr. Sungu:** Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Administration and National Security, the following Question by Private Notice.

(a) Is the Minister aware that heavy storms destroyed over 100 homes, four schools and several churches in East and Central Kolwa locations of Winam Division, Kisumu District, during the night of 18th and 19th March, 2006?

(b) What assistance is the Government giving to the victims in view of the fact that the cost of countering the damage to property is well over the emergency Constituencies Development Fund (CDF) allocation for the constituency?

**The Assistant Minister, Office of the President** (Mr. Kingi): Mr. Deputy Speaker, Sir, this Question will be handled by the Minister of State for Special Programmes. Maybe, if we give him a little more time, he should be able to join us.

**Mr. Deputy Speaker:** Mr. Kingi, when the Question came up yesterday afternoon, the same statement was made. You told the Chair that the Question was to be answered by the Minister of State for Special Programmes. Then someone told the Chair that the Minister was in Garissa. I think it was Mr. Wetangula. Is he still in Garissa?

**Hon. Members:** No!

**Mr. Deputy Speaker:** So, what is the problem? Can I get the intervention of the Leader of Government Business because we cannot be going round in circles like this?

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Deputy Speaker, Sir, I am sorry that once again, I must ask for your indulgence. This time round, I am really ambushed because I was not in the House yesterday afternoon. I was out of town. I did not realise that there was a commitment by the Assistant Minister, for the Minister to answer the Question this morning whereas he is not here. May I plead with you that we hold the Question until the end of Question Time? The Minister is likely to be here by that time. I am going to make efforts to call him.

**Mr. Deputy Speaker:** Mr. Awori, I hear that the Minister has been seen around. It is time we took the business of this House seriously. I will agree with you but I expect the Minister to turn up in a few minutes' time and answer the Question.

Next Question, Mr. Arungah!

#### FLOODING OF RIVER YALA

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

(a) Is the Minister aware that due to the current flooding of River Yala, residents in Mushinaka area are faced with health risks occasioned by overflow of waste from pit latrines and increased breeding of mosquitoes?

(b) What measures is she putting in place to ensure that the situation is brought under control?

**The Assistant Minister for Health** (Dr. Kibunguchy): Mr. Deputy Speaker, Sir, I would also like to apologise that we have not yet got some crucial information on this Question from the ground. I would, therefore, like to seek the indulgence of the House that we answer the Question today in the afternoon.

**Mr. Deputy Speaker:** What is your reaction, Mr. Arungah?

**Mr. Arungah:** Mr. Deputy Speaker, Sir, I have no objection to the request by the Assistant Minister.

**Mr. Deputy Speaker:** I will, therefore, defer the Question. Dr. Kibunguchy you should note that this is a Question by Private Notice. Therefore, I do not want to push it beyond tomorrow. Is that okay?

**The Assistant Minister for Health** (Dr. Kibunguchy): That is okay, Mr. Deputy Speaker, Sir. We could even answer it today afternoon.

**Mr. Deputy Speaker:** No, let us put it up for tomorrow.

**The Assistant Minister for Health** (Dr. Kibunguchy): Thank you, Mr. Deputy Speaker, Sir.

**Mr. Poghio:** On a point of order, Mr. Deputy Speaker, Sir. Looking at the Question,

although it has been put up for tomorrow, what crucial information does one need to talk about how to handle malaria? This is something that the Ministers do every day.

**Mr. Deputy Speaker:** It is, indeed, surprising that the Assistant Minister has sought time to gather more information on this Question. However, having already ruled on the matter, I will stick to that ruling. Dr. Kibunguchy, you should be prepared to answer the Question tomorrow.

*(Question deferred)*

#### WASHING AWAY OF KWALE DAM

**Mr. M. Maitha:** Mr. Speaker, Sir, I beg to ask the Minister for Water and Irrigation the following Question by Private Notice.

(a) Is the Minister aware that Kwale Dam in Komarock Location, which was constructed using CDF funds was washed away in May, 2006?

(b) Is he also aware that his officials drew the designs, supervised its construction and issued a certificate of completion to the contractors?

(c) What led to the washing away of the dam and what steps is the Minister taking to rebuild it?

**Mr. Deputy Speaker:** Is the Minister for Water and Irrigation not here? We do not seem to be doing well. Mr. Awori, I think we are drifting back to the old days.

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Deputy Speaker, Sir, again, all I can do is to apologise on behalf of my colleagues. I will do the best I can to instill some sense of responsibility in them.

#### NON-COMPLETION OF LAND ADJUDICATION IN MERU NORTH DISTRICT

**(Mr. Munya)** to ask the Minister for Lands:

(a) Is the Minister aware that the land adjudication process in Meru North District is grinding to a halt and the crash programme launched by the Minister in jeopardy due to corruption by a cartel led by the District Land Adjudication Officer and a Mr. Wachira, who are soliciting bribes from resident in exchange for service?

(b) Why has the Ministry persistently refused to remove these officers from the station despite numerous complaints from leaders in the district?

(c) Why was Mr. Wachira returned to Maua after being transferred from the district after the Minister ordered mass transfer of officers from the district?

**Mr. Deputy Speaker:** Is Mr. Munya here? He is absent and, therefore, his Question is dropped.

*(Question dropped)*

#### ORAL ANSWERS TO QUESTIONS

*Question No.118*

DISMISSAL OF POLICE CORPORAL  
DAVID AMAKANGA

**Mr. Mukiri** asked the Minister of State for Administration and National Security:

(a) whether he is aware that Police Corporal David Lujanji Amakanga, (P/No.39894/8006427) of P.O. Box 784, Njoro, was dismissed from the force on 5th January, 1999; and,

(b) what the grounds for his dismissal were.

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

(a) Yes, I am aware that the officer was dismissed from the service on 4th January, 1999, and not on 5th January, 1999, as stated.

(b) The ex-police officer, Corporal David Lujanji Amakanga, was dismissed for poor disciplinary record that had made him a liability to the Kenya Police.

**Mr. Mukiri:** Mr. Deputy Speaker, Sir, the Assistant Minister has said that the officer had a poor disciplinary record. He has not told us what offence that he committed against the Police Department.

**Mr. Deputy Speaker:** So, you are asking the Assistant Minister to give you the details of the offence the officer committed?

**Mr. Kingi:** Mr. Deputy Speaker, Sir, we have the details of the offences that were committed by the police officer. I also wish to state that before he was dismissed, he was served with two warning letters, namely, on 8th January, 1997 and on 18th September, 1997. The details are as follows:-

(i) On 16th January, 1983, the officer was found guilty of an act to the prejudice of good discipline and was fined Kshs50. (ii) On 1st January, 1994, he was found again guilty of being absent from duty and he was fined Kshs60.

(iii) On 13th September, 1987, he was disrespectful in words to a police officer senior in rank and he was fined Kshs120.

(iv) Then on 10th November, 1996, he used insubordinate language to a police officer, senior in rank, and he was fined Kshs1,000.

(v) On 13th April, 1997, he was found drunk while on duty and he was fined Kshs1,000.

(vi) On 13th April, 1997, again he used poor language to a police officer, senior in rank and he was fined another Kshs1,000.

(vii) On 13th April, 1997, he broke out of police lines without any lawful excuse. He was reprimanded and on the same day, he was again found guilty of being drunk while on duty. He was reprimanded and that is why on 4th January, 1999, he was suspended from the force.

**Mr. Sirma:** Mr. Deputy Speaker, Sir, the allegations that the Assistant Minister is making against the dismissed officer cannot be substantiated. There should be an independent disciplinary committee in the Kenya Police to deal with disciplinary cases. In most cases, senior officers who have grudges against junior officers or have extra-marital affairs with the wives of the junior officers, punish the junior officers in order to achieve their goals.

Mr. Deputy Speaker, Sir, are there plans in the Ministry to establish an independent disciplinary committee in the Police department?

**Mr. Kingi:** Mr. Deputy Speaker, Sir,

police reforms are on the way and we will take that into consideration.

**Mr. Poghio:** Mr. Deputy Speaker, Sir, you will notice that the dismissed officer had a problem with his money being deducted all the time. He was fined for every small thing. To me, that was the source of the problem.

Mr. Deputy Speaker, Sir, if this officer was fined for every small mistake that he did, would it not have been necessary for him to have been transferred to another station? This would have

revealed whether the problem was not in the station, where his seniors were just "eating" his money.

**Mr. Kingi:** Mr. Deputy Speaker, Sir, proper police procedures were followed. Even if the officer was transferred and he exhibited the same behaviour, he would still have been dismissed.

**Mr. Deputy Speaker:** I thought somebody was going to say that the police force was very lenient to this officer. He went through all those disciplinary measures and yet he remained in the force. I thought somebody was going to tell the Assistant Minister that the officer should have been dismissed a long time ago!

**Mr. Mukiri:** Mr. Deputy Speaker, Sir, that is very prejudicial. The Assistant Minister has talked of very minor offences that were committed in 1997. This officer was dismissed in 1999. The Assistant Minister has not told us why the officer was dismissed in 1999, two years after the last minor offence was recorded. Could the Assistant Minister tell the House what offence was committed by the officer? Was he given the right to be heard, so that he could respond to the allegations of indiscipline?

**Mr. Kingi:** Mr. Deputy Speaker, Sir, I have stated that on 4th January, 1999, the officer was found drunk while on duty. He was eventually sacked after having been given all those warnings from 1983 to 1999.

*Question No.320*

PENSION DUES FOR MR. EDWARD CHERUIYOT

**Mr. Sirma** asked the Minister for Finance:-

(a) whether he is aware that Mr. Edward Cheruiyot (Pension No.APN/PC.159766) has not been paid his pension since he retired on 30th, April, 2004;

(b) whether he is further aware that the above is in contravention of the Pensions (Amendment) Act, 2004; and,

(c) when Mr. Cheruiyot will be paid.

**The Assistant Minister for Finance** (Mr. Kenneth): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware. Mr. Edward Kipkoech Cheruiyot was paid his commuted pension gratuity amounting to Kshs942,109.35 vide cheque No.310370 of 10th May, 2005. The payment was channelled through his bank account with Baringo Teachers SACCO, Eldama Ravine. He was subsequently placed on the August, 2005, payroll for the Baringo Teachers SACCO and paid all the resultant monthly pension arrears with effect from May, 2004, amounting to Kshs188,421.60 through his bank account.

The pensioner has subsequently been retained on the payroll to date. The remittance of his payments has continued to be channelled to his bank account. In view of the above, parts "b" and "c" do not arise.

**Mr. Sirma:** Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for that answer. However this Question was filed a long time ago. Mr. Cheruiyot retired in April, 2004, and, therefore, the Ministry contravened the "Musila (Amendment) Act" by not paying the pensioner in time.

Could the Assistant Minister undertake to pay interest on the said pension dues since he has contravened the Pensions (Amendment) Act?

**Mr. Kenneth:** Mr. Deputy Speaker, Sir, I am not aware of a "Musila Amendment". However, I am aware of a Motion that was brought to this House by Mr. Musila. I am also aware that, that particular pensioner has been paid.

**Mr. Bifwoli:** Mr. Deputy Speaker, Sir, you have heard the Assistant Minister say that he is aware of a Motion that was brought here by Mr. Musila and passed. He is also aware that there are several people who have retired in this country and they have not been paid by the Government. Will that money be paid with interest or what is going to happen? The Assistant Minister is aware that the Motion was passed!

**Mr. Deputy Speaker:** It was not a Motion. It was a Bill!

**Mr. Kenneth:** Mr. Deputy Speaker, Sir, I would be very happy to assist Mr. Bifwoli if he has a specific case that has not been dealt with.

**Mr. Lesrima:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to say that he is not aware of an amendment that was introduced to the Pensions Act and he was here? If he is not aware, then who is?

**Mr. Kenneth:** Mr. Deputy Speaker, Sir, I do not know what the point of order is all about. I did not say what Mr. Lesrima is talking about. I said that I am not aware of a pensioner who has not been paid. I also said that, if Mr. Bifwoli has somebody in mind, I am ready to assist.

**Mr. J. Nyagah:** Mr. Deputy Speaker, Sir, is the Assistant Minister aware that unless you bribe or pay *kitu kidogo*, it is very difficult to be paid your pension these days?

**Mr. Kenneth:** Mr. Deputy Speaker, Sir, I am not aware that Mr. J. Nyaga has paid anybody any bribe to seek any pension payment. I would appreciate if he would be more than willing to substantiate. That is a very serious allegation. On top of that, as [Mr. Kenneth] you noticed from Mr. Sirma, he was not even aware that, that pensioner was paid his pension. He asked this Question long time ago. I am sure that if that pensioner was asked to pay a bribe, Mr. Sirma, would have been the first one to shoot up and ask why.

**Mr. Deputy Speaker:** Mr. Sirma, last question!

**Mr. Sirma:** Mr. Deputy Speaker, Sir, I thank the Assistant Minister for that good answer. I hope that, in future, we will not have to ask Questions in Parliament, when we have an Act of Parliament.

**Mr. Deputy Speaker:** Hon. Members, let us go back to Questions by Private Notice!

## QUESTIONS BY PRIVATE NOTICE

### DESTRUCTION OF HOMES/SCHOOLS IN WINAM BY HEAVY STORMS

**Mr. Sungu:** Mr. Deputy Speaker, Sir, I beg to ask the Minister of State, for Special Programmes the following Question by Private Notice.

(a) Is the Minister aware that heavy storms destroyed over 100 homes, four schools and several churches in East and Central Kolwa locations of Winam Division, Kisumu District, during the nights of 18th and 19th March, 2006?

(b) What assistance is the Government giving to the victims in view of the fact that, the cost of countering the damage to property is well over the emergency Constituency Development Fund (CDF) allocation for the constituency?

**The Minister of State for Special Programmes (Mr. Munyes):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that there was a heavy storm in East and Central Kolwa Location of Winam Division on the nights of 18th and 19th March, 2006. But, I am not aware that 100 homes, four schools and several churches were destroyed. I am only aware that 37 houses and two schools were physically destroyed during the storm.

(b) The Government has made arrangements to dispatch the following food quantities that will assist the affected families---

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

**Mr. Deputy Speaker:** What is it, Mr. Salat? Would it not be fair to let the Minister answer the Question first?

**Mr. Salat:** Mr. Deputy Speaker, Sir, to be fair to the Minister, who is a friend of mine--- Having come late, he should apologise to the Chair!

**Mr. Deputy Speaker:** You are absolutely right! Mr. Minister, you should have started with an apology!

**The Minister of State for Special Programmes (Mr. Munyes):** I apologise, Mr. Deputy Speaker, Sir.

(b) The Government has made arrangements to dispatch the following food quantities that will assist the affected families: 500 bags of maize, 2,250 bags of beans, 1,200 bags of rice and 2,750 cartons of cooking oil.

**Mr. Sungu:** Mr. Deputy Speaker, Sir, with such a good answer, may I take this opportunity to apologise to the Minister for yesterday's incident where I said that he was in the gym. I have established that he was actually in Garissa.

Having made that apology, I want to thank the Assistant Minister for offering food to the affected families. But there were schools that were destroyed. We have spent over Kshs250,000 of CDF money on emergency programmes and it is not enough. Could the Minister assist by obtaining iron sheets from some organisations?

**Mr. Munyes:** Mr. Deputy Speaker, Sir, in the short-term, we provided food, mosquito nets and tarpaulins. The hon. Member is aware of that. In the long-term, through the Kenya Red Cross, we hope to provide some iron sheets, cement and timber for reconstruction.

**Mr. Owino:** Mr. Deputy Speaker, Sir, does the Ministry have an emergency fund from where money can be withdrawn in case of such catastrophes, instead of waiting until they happen?

**Mr. Munyes:** Mr. Deputy Speaker, Sir, currently we do not have a fund on floods. I must be sincere about that. Under the Disaster Management Policy, which is under way, we hope to create a contingency fund to respond to those issues.

**Mr. Khamisi:** Mr. Deputy Speaker, Sir, it is not just about allocating some funds for those kind of disasters. It is a question of having permanent structures that will include vehicles, drugs and all other equipment that is needed. That is what we need! It is not just having money in your budget, Mr. Minister!

**Mr. Munyes:** Mr. Deputy Speaker, Sir, structures are very important. We have district steering groups and disaster management committees chaired by district commissioners in every district.

**Mr. Deputy Speaker:** Last question, Mr. Sungu!

**Mr. Sungu:** Mr. Deputy Speaker, Sir, I would just like to congratulate the hard-working Minister for a good answer and good work. He has been to Kisumu to help us on similar issues.

**Mr. Deputy Speaker:** Next Question by the hon. Member for Kangundo Constituency.

#### WASHING AWAY OF KWALE DAM

**Mr. M. Maitha:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Water and Irrigation the following Question by Private Notice.

(a) Is the Minister aware that Kwale Dam in Komarock Location constructed using CDF funds was washed away in May, 2006?

(b) Is he also aware that his officials drew the designs, supervised its construction and issued a certificate of completion to the contractor?

(c) What led to the washing away of the dam and what steps is the Minister taking to rebuild it?

**The Minister for Water and Irrigation** (Mr. Katuku): Mr. Deputy Speaker, Sir, I apologise for coming late.

I beg to reply.

(a) Yes, I am aware that Kwale Dam in Komarock Location was washed away on 16th, April, 2006.

(b) I am also aware that my Ministry officials did the work of design, supervised the works and issued a certificate of completion.

(c) According to the technical evaluation conducted after the dam was washed away, it was established that somebody might have cut the crest to let the water flow downstream in order to reclaim the land occupied by the dam. That is because after the dam was built, about 20 families downstream and upstream were claiming that the land area around the dam belonged to them.

In order to rebuild that dam, technical officers from my Ministry will visit the site and prepare a detailed report showing the extent of the repairs required, including cost estimates. After that, my Ministry will provide a budget for implementation in the coming financial year.

However, I would like to appeal to the hon. Member to sort out local issues in relation to the ownership of the land.

**Mr. M. Maitha:** Mr. Deputy Speaker, Sir, I thank the Minister for that answer. However, I would like to dispute one area where he has said that someone must have cut the crest. If the designs were properly done, why was it that the water could overflow the retaining wall, even before it went through the outlet?

**Mr. Katuku:** Mr. Deputy Speaker, Sir, the information I have from the ground is that there might have been foul-play by somebody to let the water flow. So, the issue of water overflowing does not arise.

**Mr. Mwandawiro:** Bw. Naibu Spika, ikichukuliwa kwamba maofisa wa Wizara ya Maji na Unyunyizaji Maji Mashambani, wahandisi na hata masorovea wanadai pesa nyingi sana wakati wanatoa huduma kwa pesa za maeneo Bunge, je, Waziri, maofisa wako wanafaa kulipwa shilingi ngapi ikiwa wanafikiri kwamba pesa za maeneo Bunge si mradi wa Serikali? Kuna taratibu gani ya kuwalipa maofisa hao wakati wanafanya miradi ya pesa za maeneo Bunge?

**Mr. Katuku:** Mr. Deputy Speaker, Sir, my Ministry has given guidelines on what is supposed to be given to officers going into the field, and that is only what is required with normal Government operations like night-outs in the field; but no special payments are supposed to be given to them. They are facilitated in terms of night-outs.

**Mr. Twaha:** Mr. Deputy Speaker, Sir, this is not the only dam in the country that has been shoddily done. In 2002, in Kulumbi and Gorani villages in Lamu West, millions were paid to a private contractor to destroy a perfectly built dam which needed no work. Later on, it fell upon us to spend our personal money to repair those dams and bring them back to order. The problem is at the provincial level. Is the Minister aware of these *kichinichini* things that are going on in Coast Province in the Water Department? Could he carry out investigations to find out?

**Mr. Katuku:** Mr. Deputy Speaker, Sir, I will investigate the *kichinichini* things which the hon. Member is talking about, although I did not understand them.

**Mr. M. Maitha:** Mr. Deputy Speaker, Sir, this is not the only dam which has been washed away in Machakos and Makueni regions, but many have suffered the same fate all over the country. What will the Minister do to make sure that the supervision and the designs are properly done to make sure that these dams are not washed away?



**Mr. Katuku:** Mr. Speaker, Sir, I want to agree that this is not the only dam which was washed away since others have been washed away elsewhere. However, I have given firm instructions to my officers that due diligence must be carried out to ensure that supervision and a thorough job is done, and any officer who does anything which is contrary to these instructions will face my wrath.

**Mr. Deputy Speaker:** I had dropped the Question by Private Notice by Mr. Munya, but due to the fact that I have allowed other Questions to be asked, I will be magnanimous and reinstate it.

*(Question reinstated)*

NON-COMPLETION OF LAND ADJUDICATION  
IN MERU NORTH DISTRICT

**Mr. Munya:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Lands the following Question by Private Notice.

(a) Is the Minister aware that the land adjudication process in Meru North District is grinding to a halt and the crash programme launched by the Minister is in jeopardy due to corruption by a cartel led by the District Land Adjudication Officer and a Mr. Wachira, who are soliciting bribes from residents in exchange for services?

(b) Why has the Ministry persistently refused to remove these officers from the station despite numerous complaints from leaders in the district?

(c) Why was Mr. Wachira returned to Maua after being transferred from the district after the Minister ordered mass transfer of officers from the district?

**Mr. Deputy Speaker:** It seems the Minister for Lands is not here. Could I have an explanation from the Leader of Government Business?

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Deputy Speaker, Sir, the acting Minister for Lands is unwell. He had an incident last night and he is recuperating in the house. So, may I, please, request that the Question appears on tomorrow's Order Paper?

**Mr. Deputy Speaker:** Okay. The Question is deferred to tomorrow. Mr. Munya, you will ask your Question tomorrow.

*(Question deferred)*

**Mr. Deputy Speaker:** Next Question by Mr. Korir!

ORAL ANSWERS TO QUESTIONS

*Question No.287*

SHODDY GRAVELLING OF OLKOKWE-  
WASEGES-MOCHONGOI ROAD

**Mr. Korir** asked the Minister for Roads and Public Works:-

(a) whether he is aware that Olkokwe-Waseges-Mochongoi Road is poorly designed and gravelling shoddily done; and,

(b) what action he is taking to rectify this anomaly.

*[Mr. Deputy Speaker left the Chair]*

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

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

(a) Yes, I am aware that 27 kilometres of the Olkokwe-Waseges-Mochongoi Road was poorly designed and the gravelling was shoddily done. I am also aware that no proper designs were carried out. The tender documents for this road were prepared using quantities estimated from topographic sheets which were inaccurate.

(b) The contractor has been instructed to blast the hilly sections of the road, install guard rails and gravel some sections of the road to make it passable.

**Mr. Korir:** Mr. Temporary Deputy Speaker, Sir, I would like to thank the Assistant Minister for accepting that there is an anomaly on this road. The issue at hand is not about the guard rails or the gravelling of the road but it is about the design. It is too steep such that even a four-wheel-drive vehicle cannot climb the hill. Could the Assistant Minister confirm to us that he is going to re-design the road so that it is passable because even if it is gravelled, it is impassable because it is too steep?

**Eng. Toro:** Mr. Temporary Deputy Speaker, that is what I said, that I am aware about the problem on this road. The problem started because there was no proper design. This road was conceived and hurriedly authorised by the then Minister for Roads and Public Works, hon. W. Morogo, without following the proper design procedures and the contractor was deployed to go on the ground. This is why everything went wrong. There are also many rocks on the steep section of the hill. The Ministry will involve a geologist so that he or she can be able to advise on the best way of blasting the hilly area, which is about 600 metres, so that the road can be made passable.

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, the poor work on roads in this country is a common practice, and yet millions of Kenya Shillings are being spent on maintenance and construction of roads. The engineers are not properly accountable for the work they are doing. What is the Assistant Minister doing to ensure that money meant for road maintenance in the districts is put in the Constituency Development Fund (CDF) kitty so that Kenyan leaders can ensure that the money meant for roads is properly spent?

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Members! Order, in that corner, Prof. Maathai and others! You do not realise it, but you are consulting in very high tones and the Assistant Minister is answering a Question. I would like to advise you that if you cannot keep your tones very low you can withdraw from the Chamber or go to the back since there are very many places where you can consult. Let us hear the Assistant Minister's answer.

**Eng. Toro:** Mr. Temporary Deputy Speaker, Sir, the policy issues are being addressed. For example, in the Statute Law (Miscellaneous Amendments) Bill, we want to amend the Kenya Roads Board Act so that the 16 per cent component of the Kenya Roads Board Fuel Levy (KRBFL) goes into the CDF kitty.

The other policy issue that has been agreed on is that we need to create three road authorities with the approval of Parliament. These are the Highways Authority, the Urban Authority for municipalities and cities, and the Rural Authority for rural areas. These authorities will take care of all issues in the road sector. So, hon. Members will have a chance to contribute on the policy issues when we bring the Bill to Parliament. Once we pass it, we will address all issues raised by Prof. Olweny.

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

**Mr. Korir:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister will agree with me that it serves no purpose for the Government to spend Kshs400 million of public funds on a project of this kind and, at the end of the day, does not benefit my people. Could the Assistant Minister undertake to re-design the road so that the people of Mogotio Constituency benefit from it?

**The Temporary Deputy Speaker** (Mr. Poghisio): Mr. Korir, how much money does the Government plan to spend on that road?

**Mr. Korir:** Mr. Temporary Deputy Speaker, Sir, I am not very sure, but it is about Kshs400 million. Maybe the Assistant Minister could confirm it?

**Eng. Toro:** Mr. Temporary Deputy Speaker, Sir, I would like to correct the hon. Member. The contract sum for this road is Kshs230 million. So far, only Kshs160 million has been paid. So, there is still a balance of about Kshs70 million that is supposed to be used by the contractor to cut through the hilly side, the 600 metres left and also improve some other sections of the road.

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

*Question No.038*

CURRENT FINANCIAL STATUS  
OF NZOIA SUGAR COMPANY

**Mr. Bifwoli**, on behalf of **Mr. Wamunyinyi**, asked the Minister for Agriculture:-

- (a) how much of Nzoia Sugar Company's debts have been written off;
- (b) how much of Government guaranteed loans have been converted into equity;
- (c) what the current financial status of the company is; and,
- (d) when the Government intends to start the expansion project of the factory since most of the equipment required is on site.

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

- (a) None of the Nzoia Sugar Company (NSC) debts have been written off.
- (b) None of the NSC Government guaranteed loans have been converted into equity.
- (c) The financial status of the company, though improving, remains heavily indebted.

(d) The Government intends to start an expansion project of the factory in the year 2007 in accordance with the company's strategic plan.

**Mr. Bifwoli:** Mr. Temporary Deputy Speaker, Sir, if the debts for NSC have not been written off and the Government is not converting the Government guaranteed loans into equity, what plans does the Government have to help NSC to benefit farmers?

**Mr. Kirwa:** Mr. Temporary Deputy Speaker, Sir, in the strategy for revitalising the sugar industry, NSC happens to be one of the companies we are well focused on in terms of trying to resuscitate and allow it to move into the hands of the private sector. In that particular strategy, we want to clean the balance sheet of the company, take away the debts and write them off in the process.

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

**Mr. Bifwoli:** Mr. Temporary Deputy Speaker, Sir, you will realise that in this country, under COMESA, importation of sugar will be open. What plans does the Government have to assist sugar-cane farmers reduce cost of production and compete with imported sugar?

**Mr. Kirwa:** Mr. Temporary Deputy Speaker, Sir, we have already addressed that particular problem. For the information of hon. Members, the sugar that is supposed to be imported from

COMESA has not in any way created competition to the local industry.

**The Temporary Deputy Speaker** (Mr. Poghisio): Next Question, Dr. Awiti!

*Question No.021*

RENOVATION OF WAGWE HEALTH  
CENTRE BUILDING

**Dr. Awiti** asked the Minister for Health:-

(a) if she is aware that Wagwe Health Centre building was condemned in early 2004;

(b) if she is further aware that the building could collapse any time from now, especially at the onset of the impending long rains; and,

(c) what remedial measures she is undertaking to renovate the building.

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

(a) Yes, I am aware.

(b) Yes, I am aware that the building is not in use at the moment.

(c) The services are being offered in another building. Meanwhile, the Ministry has allocated Kshs240,000 to renovate the building currently in use. In addition, I am aware that the CDF has allocated Kshs780,000 for construction of a new building.

**Dr. Awiti:** Mr. Temporary Deputy Speaker, Sir, I want to thank the Assistant Minister for the reply he has given on this Question. However, the renovation was estimated to cost Kshs3 million. The Ministry has only contributed Kshs240,000. Could he inform this House whether they will make available the balance so that the building is completed?

**Dr. Kibunguchy:** Mr. Temporary Deputy Speaker, Sir, at this particular health facility, I am aware that the building that is condemned is a storey block complex. On the same compound, there is another building that is currently in use. We feel that because this other building is condemned, no money should go to it. It should be brought down so that we put up another building.

**Mr. Karaba:** Mr. Temporary Deputy Speaker, Sir, it is also good to note that there are many dispensaries in the country which are almost collapsing. Is there a special fund to take care of re-construction in cases of buildings collapsing?

**Dr. Kibunguchy:** Mr. Temporary Deputy Speaker, Sir, one of the things my Ministry did this year was to allocate a flat rate of Kshs180,000 for every dispensary in the country, and Kshs240,000 for every health centre in the country. Some of that money could go towards renovating buildings that might not be in very good shape at the moment.

**Mr. Owino:** Mr. Temporary Deputy Speaker, Sir, health facilities are very important, especially in the rural areas. Using the CDF money, many constituencies have developed health centres and facilities. Does the Ministry have any plans to provide any staff for such facilities?

**Dr. Kibunguchy:** Mr. Temporary Deputy Speaker, Sir, we, as a Ministry, are very grateful to hon. Members who have set aside part of their CDF money for the construction of health facilities. We also estimate that about 1,000 new health facilities have been constructed using the CDF to date. I would like to inform the House that the Ministry of Health has currently put in place two mechanisms. One, we would like to register most of those facilities that have been constructed through the CDF. I would like to ask every hon. Member who has such facilities in their areas to make sure that they go through the normal mechanism of passing the facilities through the DDCs and then they come to us so that we register them.

Secondly, even before registration, so long as we are sure that those facilities have some manpower, we will get them drugs and equipment. I would like to say that the Ministry is currently interviewing health workers and we are comfortable that, by the end of this financial year, we will have employed 3,800 extra health workers who will go towards running some of those facilities.

**Mr. Salat:** Mr. Temporary Deputy Speaker, Sir, I have heard the Assistant Minister say that Kshs180,000 was allocated by the Ministry to dispensaries, while Kshs240,000 was allocated to health centres. In my constituency, there is a health centre that was given Kshs180,000, yet it should have received the required Kshs240,000. I want to ask the Assistant Minister what he is doing so as to assist the health centre which was allocated Kshs180,000 instead of the required Kshs240,000?

**Dr. Kibunguchy:** Mr. Temporary Deputy Speaker, Sir, I would like to ask my friend to forward that information to me. I will carry out investigations and if there are any anomalies, we shall correct them.

**Dr. Awiti:** Thank you, Mr. Temporary Deputy Speaker, Sir. Arising from the response of the Assistant Minister, the building is condemned and should be pulled down. How much is the Ministry willing to contribute towards the construction of a new building? The building being used currently is very small and cannot give good services as required.

**Dr. Kibunguchy:** Mr. Temporary Deputy Speaker, Sir, the Ministry will allocate some money towards that in the coming financial year. I cannot give the definite figure of allocation regarding that. In the spirit of being fair to everyone, the Ministry will give an equal amount of money to all the health facilities that are registered under the Ministry. I cannot give the exact figure but if the hon. Member visits me, we will know what to do about the health centre in question.

**The Temporary Deputy Speaker** (Mr. Poghisi): Is the Kshs180,000 to every dispensary?

**Dr. Kibunguchy:** Mr. Temporary Deputy Speaker, Sir, we allocated Kshs180,000 to every dispensary and Kshs240,000 to every health centre. The money was sent through the District Medical Officers of Health for onward transmission to every health facility in the country.

*Question No.078*

AMOUNT OF CESS COLLECTED  
FROM TEA/COFFEE/MILK

**Mr. Mwanicha** asked the Minister for Local Government:-

- (a) how much money was collected as cess from tea, coffee, milk and milk products for the last five years;
- (b) how much cess was dispersed to each of the milk, tea and coffee producing districts; and,
- (c) what projects benefited from those funds.

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

The councils managed to collect a sum of Kshs11,791,637.10 for the last five years.

(b) The distribution of the cess funds is as follows. The County Council of Nyamira, Kshs9,807,927; Ogembo Town Council, Kshs974,400, and Nyansiongo Town Council, Kshs999,312. The total is Kshs11,791,637.10.

(c) The upgrading of the following projects benefited from the cess funds collected: Rianyany-Maroba-Ikoba Road which is in Getare Ward; Ikoba-Egetukia-Etara Road which is in

Egetukia Ward; Nyamasenya which is in Sameta Ward; Ogembo Town Street roads which are in Central Ward; Mang'ara-Matiano Road which is in Tendere Ward; Nasari and Rianchaga and Kiojo Bridge. In Nyansiongo Town Council, Metamaywa and Riomaro-Keginga roads benefited.

**Mr. Mwanicha:** Thank you, Mr. Temporary Deputy Speaker, Sir. That answer does not, for instance, tell us how much cess was collected from milk. I would like an itemisation response of how much funds were collected from the specific products. Nevertheless, CDF committees identify which projects the funds should benefit. Therefore, what criteria is used to decide what projects the cess funds should benefit?

**Mr. Tarus:** Mr. Temporary Deputy Speaker, Sir, to answer the first part of the question by the hon. Member, cess is not charged on milk and milk products according to the Local Government by-laws adopted in 1988. The collection of coffee cess is done by KPCU, and the councils have been experiencing problems accessing the funds, and that is something we will look into. When it comes to distribution of the funds, each local authority is given the responsibility to prioritise the projects for development purposes, particularly in areas where the funds have been collected.

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, cess funds are supposed to be used for maintenance of roads for transportation of the various commodities from which they are collected. It is a common practice by many local authorities not to use cess funds as prescribed. I have one in mind; Muhoroni County Council, which is not maintaining any roads using the cess funds.

*(Loud consultations)*

Mr. Temporary Deputy Speaker, Sir, could you protect me? There is a lot of loud consultations.

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

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, what will the Assistant Minister do to ensure that local authorities use cess funds as prescribed, for the benefit of farmers from whom they collect money? **Mr. Tarus:** Mr. Temporary Deputy Speaker Sir, I know that some of the funds collected by local authorities form part of the revenue of local authorities. I concur with the hon. Member that for the purpose of productivity, it is important for local authorities to ensure that funds collected, particularly through cess, have to be ploughed back for the purpose of improvement of productivity. However, as the Ministry, we ask local authorities, annually, to prepare budgets and submit the same to the Ministry for the purpose of confirmation that they comply with the requirements. If some local authorities have not complied, we will do investigations and take the necessary measures to make them comply.

**Mr. Manoti:** Mr. Temporary Deputy Speaker, Sir, cess money belongs to *wananchi*. However, when it is received by councils, *wananchi* are not involved in deciding which projects should be given priority using the money. Could the Assistant Minister instruct the local authorities, through their councillors, to consult *wananchi* before any projects are carried out using the money? The money is being used as if it belongs to someone, just as it is in the case of using locational development committees?

**Mr. Tarus:** Mr. Temporary Deputy Speaker, Sir, I understand the situations some of the local authorities are operating in. However, we cannot go out of the law. We have given local authorities the responsibilities to raise revenue and utilise the same for the purpose of service delivery. If, for one reason or the other, serving local authorities are not performing, we then will carry out normal investigations and inspection, and ensure that they live up to the required standards.

**Mr. Mwanicha:** Mr. Temporary Deputy Speaker, Sir, local authorities have problems getting cess funds from the collector, which is the Kenya Planters Co-operative Union (KPCU). Being aware of this fact, what is the Assistant Minister doing to rectify this anomaly because these are funds which are collected from coffee farmers? These funds should be used to rehabilitate infrastructure in coffee-growing areas.

**Mr. Tarus:** Mr. Temporary Deputy Speaker, Sir, I am aware that the KPCU initially used to submit these funds to local authorities. They complained that certain local authorities were not channelling back the funds for maintenance of roads and revised some of their programmes to make sure that they utilized the same money. We have also since realized that farmers are experiencing problems because the same KPCU has not been able to do what is required of them. Nevertheless, we shall, as a Ministry, look at modalities of how to sort out the problems experienced by local authorities and the KPCU.

**The Temporary Deputy Speaker** (Mr. Poghisio): Next Question by hon. Wario!

*Question No. 072*

EFFORTS TO PROMOTE SOCCER  
IN BURA CONSTITUENCY

Mr. Wario not here? His Question is dropped.

*(Question dropped)*

**POINTS OF ORDER**

IMPLEMENTATION OF SALARY  
INCREMENTS FOR TEACHERS

**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, I rise on a point of order to seek a Ministerial Statement from the Minister for Education with regard to the implementation of salary increments for teachers, who actually play a critical role in nurturing our children. The Ministry should come out and state to the House and the nation that when they entered into the collective bargaining agreement in 2003, they promised, among other things, that upon the improvement of the economy, the teachers would be paid their salaries in full. Now that the economy grew at the rate of 5.8 per cent, I want the Minister to come out and tell the nation when the teachers, who are a critical mass in this country, are going to have their salary increment implemented in full.

Secondly, Mr. Temporary Deputy Speaker, Sir, we need to avert a crisis before it happens. I am aware that the Union is actually working to campaign to bring the education sector---

**The Temporary Deputy Speaker** (Mr. Poghisio): Mr. Omingo, are you arguing something here?

**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, I am explaining a point which the Minister needs to come to the House---

**The Temporary Deputy Speaker** (Mr. Poghisio): You are only seeking a Ministerial Statement, so why are you telling us all those things? What do you need from the Ministerial Statement?

**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, the Minister should actually come up and avert a crisis which is bound to happen at the end of the year. It is a looming crisis because teachers are going to go on strike and paralyse examinations at the end of the year. If that

Ministerial Statement will be brought to the Floor of the House, it will be in the interests of the nation.

**The Temporary Deputy Speaker** (Mr. Poghisio): Is there anyone from the Government taking note of that request?

**The Assistant Minister for Local Government** (Mr. Tarus): Mr. Temporary Deputy Speaker, Sir, this Ministerial Statement could easily be issued this afternoon, but may I ask that it be read on Tuesday next week.

#### COLLAPSE OF UCHUMI SUPERMARKETS

**Mr. Muite:** Mr. Temporary Deputy Speaker, Sir, I rise on a point of order to seek a Ministerial Statement on what the Government intends to do on the Uchumi Supermarkets issue and particularly on three issues. First, if the Uchumi Supermarkets is permitted to go under, chances are that Nakumatt Supermarkets, the only other big supermarket chain, will purchase Uchumi with the result that the public will be subjected to a major monopoly. Secondly, over 1,000 Kenyans have lost their jobs. Therefore, we want the Government to clarify on what positive steps they are going to take. Thirdly, the public was an investor through the ICDC investments. Can the Government issue a Ministerial Statement to tell this House and Kenyans at large what urgent steps they are going to take to salvage the situation and to bring to book those former crooks who have led to this situation, the same way that people are going to the coolers regarding the Enron issue in the United States of America (USA).

Thank you, Mr. Temporary Deputy Speaker

*(Applause)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Muite! Your language is unparliamentary. Do you think you are going to get away with that language?

**Mr. Muite:** I am sorry, Mr. Temporary Deputy Speaker, Sir, I got carried away. I withdraw that word and replace it with those "Kenyans" who do not think about other Kenyans and, therefore, who led to the collapse of this company.

**The Assistant Minister for Local Government** (Mr. Tarus): Mr. Temporary Deputy Speaker, Sir, in view of the gravity of that matter, may I promise the House that the Ministerial Statement will be issued on Thursday. We will contact the relevant Ministry and make sure that the Ministerial Statement is issued on Thursday.

**An hon. Member:** Tomorrow!

**The Assistant Minister for Local Government** (Mr. Tarus): Yes, tomorrow.

#### MOTIONS

##### INTRODUCTION OF SUPPLIES MANAGEMENT PRACTITIONERS BILL

THAT, being aware that supplies management practitioners have no law to regulate their practice, this House do grant leave to introduce a Bill entitled the Supplies Management Practitioners Bill in order to provide training, registration and licensing of supplies management professionals and for related purposes.

*(Dr. Ojiambo on 31.5.2006)*



*(Resumption of Debate interrupted  
on 31.5.2006)*

**Dr. Ojiambo:** Mr. Temporary Deputy Speaker, Sir, can I give 5 minutes to hon. Omingo?

**The Temporary Deputy Speaker** (Mr. Poghisio): Had you started? What happened because the Order Paper indicates that it is a resumption of debate? Dr. Ojiambo, had you finished giving away your minutes?

**Dr. Ojiambo:** I was going to reply.

**The Temporary Deputy Speaker** (Mr. Poghisio): All right. You are giving five minutes only to hon. Omingo?

**Dr. Ojiambo:** Yes, I have ten minutes remaining.

**The Temporary Deputy Speaker** (Mr. Poghisio): All right. Proceed, hon. Omingo!

**Mr. Omingo:** Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support this Motion on three major grounds. First, the Government is the single biggest consumer of goods and services in this nation. This has forced the Executive to borrow money for this purpose. As a result, this nation has perpetually been in debt to the tune of Kshs750 billion, which translates to about 70 per cent of our Gross Domestic Product (GDP). Since we have now passed The Public Procurement and Supplies Bill, which is now an Act, we require a body that is supposed to regulate it, the same way we have the Institute of Certified Public Accountants (ICPA), where professionalism must be instilled in the process of procurement.

Mr. Temporary Deputy Speaker, Sir, wastage is a major thing in this country. We have imaginary procurement, including the "Anglo Fleecing", which is a nightmare of this country and the nation at large. If professionalism is instilled through this Bill, it will save Kenyans billions of shillings which is going to wastage. I have always told people in this country and the Minister for Finance that we should not and we must never tailor our jackets to be bigger than our size, hoping that the big brother from the donor community would come and feed us in order to fit in those jackets.

Mr. Temporary Deputy Speaker, Sir, by introducing this Bill of professionalising procurement, we shall have benchmarks of controlling and eliminating the crooks and thugs who are being imported into this country to supply what is not available in this country. This country continuously pays dubious debts which have been procured through malicious procurement that actually goes into waste. If this was done, the savings as a result of doing this will ensure that we provide free medical cover. Statistics have shown that where professionalism has been instilled in public procurement, up to 30 per cent has been saved. These are savings that we can divert to our social services including provision of free medical care to all Kenyans and paying the teachers' salaries yesterday as we intended.

Mr. Temporary Deputy Speaker, Sir, our roads are in a pathetic state. We could do several roads with the savings that we will get from the wastage. Those who are fighting this Bill are the musketeers who have always wanted to ride on a smooth road of wastage and corruption without the risk of being caught. We would like to look at a situation where this country will go the e-procurement way so that we get value for our goods and professionally. Once you get an item, it will be for the purpose intended and we will get value for it.

Mr. Temporary Deputy Speaker, Sir, I would like to plead with the House and the Ministry concerned with this Motion to allow the hon. Member move it through and fast-track it whichever way they can. After all, we are here to complement each other in terms of achieving what we want to achieve.

With those few remarks, I beg to support.

**Dr. Ojiambo:** Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to recognise the contributions hon. Members have made to this Motion.

First, I have noted with appreciation hon. Members' concerns that a legal framework for a well structured procurement officers' profession needs to be put in place in this country. At the moment, we receive professionals trained from all over the world and we do not have a structured profession for ourselves.

Secondly, I have also noted hon. Members' desire to have an opportunity to say who should be a procurement practitioner in Kenya in terms of training, harmonization, work ethics and disciplinary measures for errant practitioners. It is through this lack of a code of conduct for officers that we have seen officers commit a felony in one office and then they are transferred to another, yet there has been no way of stopping such an officer from work because there was no framework for disciplining them.

Thirdly, I have further noted that there is urgent need for this Motion to be passed by this House. This House should, therefore, facilitate the creation of a law to provide for the training, registration and licensing of supplies management professionals. The urgency is underpinned by the fact that in The Public Procurement and Disposal Act, there is a loophole in that there are no professionals to practise.

Mr. Temporary Deputy Speaker, Sir, I wish to thank Mr. J. Nyagah for so ably seconding this Motion. I would also like to thank all hon. Members who contributed to this Motion for their factual and very supportive debate. If this country wishes to eradicate corruption at all levels and save the Kshs30 billion that is being wasted through poor procurement practises, it is important for this House to grant leave to enable urgent introduction of a Bill entitled The Supplies Management Practitioners Bill.

With those few remarks, I beg to move.

*(Question put and agreed to)*

AMENDMENT OF DISTRICTS AND  
PROVINCES ACT

**Mr. Ojaamong:** Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, in view of the fact that there are 74 districts in the country which are currently operational; aware that these districts are catered for in the National Budget through financial allocations, and cognizant of the fact that out of the said 74 districts, only 46 are officially gazetted, this House do grant leave for the introduction of a Bill for an Act of Parliament to amend the Districts and Provinces Act, 1992, to validate the 28 non-gazetted districts.

In the recent past, we have witnessed a mushrooming of the creation of districts in our country. In the Districts and Provinces Act, 1992, there is clear definition of a district. A district in that Act means:-

"One of the districts referred to in Section 2 of the Districts and Provinces Act."

Therefore, we have districts that have been named that are legal according to the Act. For the purpose of record, I want to mention those districts which are currently legal. They are:- Mombasa, Kwale, Kilifi, Tana River, Lamu, Taita-Taveta, Garissa, Wajir, Mandera, Marsabit, Isiolo, Meru, Tharaka Nithi and Embu. We also have Kitui,

Machakos, Makueni, Nyandarua, Nyeri, Kirinyaga, Murang'a, Kiambu, Turkana, West Pokot, Samburu, Trans Nzoia and Uasin Gishu. The others include Elgeyo Marakwet, Nandi, Baringo,

Laikipia, Nakuru, Narok, Kajiado, Kericho, Bomet, Kakamega, Vihiga, Bungoma, Busia, Siaya, Kisumu, HomaBay, Migori, Kisii and Nyamira. This is a total of 46 districts that are legally recognised in the Act.

Mr. Temporary Deputy Speaker, Sir, when former President Moi was in power, he created 28 other new districts which include Teso District, Mt. Elgon, Suba and others. These were created because the people in those areas agitated for them because they felt that they were oppressed by the communities that surrounded them, or the delivery of services to those people was wanting. They, therefore, needed more administrative units so that the people in those areas could receive better Government services. It was out of the agitation of the people in those areas that these districts were created.

Even though these districts were created, and the Act allows the President to create districts as he deems fit, it does not limit him, they were not legalised. It is against this background that we are introducing this Motion to amend the Act in an effort to legalise those 28 districts. These districts keep receiving budgetary allocations every year even though they are non-existent in law. They have personnel from various Ministries. We have District Commissioners, District Development Officers and District Works Officers. They get financial allocations from our Budget but unfortunately, they are not recognised in the Act.

Mr. Temporary Deputy Speaker, Sir, to be on safe ground, and protect civil servants who operate in these illegal districts, it is necessary to amend the Districts and Provinces Act, 1992. Since the NARC Government promised to uphold the rule of law when it took over power, it should operate within the legal framework. We have to legalise these districts so that officers who are there operate comfortably without fear of having their positions abolished. Some arguments have been brought up to suggest that some of these districts are too small, or are not viable. When we talk about districts, we are talking about having Government departments and officers very close to the people. That is the rationale of creating new districts. They are created so that people can receive better Government services.

The issue of viability applies only to business ventures. These districts are not business ventures to make profit or losses. We are only concerned about delivery of services to our people. We have district works officers, medical officers of health and district development officers to co-ordinate development programmes within districts. That is the essence of having them. They are not about doing business or making losses or profits. So, the issue of viability does not arise. What our people want is service delivery.

The Districts and Provinces Act, 1992 is very detailed. It gives the boundaries, bearings, beacons and other details pertaining to boundaries of the 46 districts I said are legal. This Act just requires a very small amendment, although the issue of boundaries always causes friction. I know we have specialists in the Ministry of Planning and National Development and other officers, who can review the boundaries that we have now. The issue of political boundaries does not arise unless people bring in politics. The Districts and Provinces Act, 1992, has detailed information regarding boundaries of various areas. I will appeal that when this Act is reviewed, the issue of boundaries is addressed conclusively.

Mr. Temporary Deputy Speaker, Sir, I want to refer specifically to district boundaries between Teso, Mount Elgon, Bungoma and Busia Districts. The Government spent Kshs3.5 million to send there a one-man commission to review their boundaries. It was led by a Mr. Joseph Mwangovya. This Commission went round Bungoma, Mount Elgon, Busia and Teso areas and gathered views. A report was then compiled, but to date it has not been made public, because the Government has entered into a conspiracy with some powerful politicians to mistreat minority tribes affected by the boundary review by sitting on the report. I would like to suggest that in order to resolve the issue of district boundaries between Teso, Mount Elgon, Busia and Bungoma

Districts the Mwangovya Report should be released. This Report spelt out the boundaries very clearly.

On the issue of Teso and Busia, title deed No.1 for Ang'oron-Teso shows clearly that the Teso/Busia border should be just next to Busia District Hospital. But just because initially we had put up good facilities on the Busia side, which we used to share, some powerful people do not want the area with good facilities to become part of Teso. But the title deed shows very clearly where the boundary goes through. The same goes for Mount Elgon and other areas. Their title deeds during the colonial era spell the boundary between Mount. Elgon, Bungoma and Busia Districts. So, if a boundary dispute arises over the boundaries between these districts, it will just be a dispute that will be masterminded by some people for selfish reasons.

Mr. Temporary Deputy Speaker, recently during the referendum on the proposed new Constitution, His Excellency the President created a total of 48 districts through a special Gazette Notice. In fact he declared an intention to create them. Let me hope that when this law comes into place there will be provisions to cater for even those districts which His Excellency the President intended to create prior to the referendum. So, as we talk now, we have 46 legally recognised districts by the Districts and Provinces Act. We also have 28 districts which are currently operational that were created by the former President, Daniel Toroitich arap Moi, but which are not legal. We also have 48 districts which President Kibaki intended to create prior to the referendum on the proposed new Constitution. So, if we pass the proposed Bill and all districts are validated, we will have a total of 122 districts.

So, what does this tell us when it comes to expenditure? This will be very costly to the Government. Taking care of 122 district commissioners and other associated staff will be very costly to the Government. This is why I would like to appeal to the Government that consideration should be given only to the 28 districts that were created by the former President, which are currently operational. We could also provide for a few districts from the ones His Excellency, President Mwai Kibaki, intended to create prior to the referendum.

Mr. Temporary Deputy Speaker, Sir, I will not take much time, because this a very straight forward Motion. I will leave it to the other hon. Members to contribute. With those few remarks, I beg to move and request hon. Syongo to second this Motion.

**Mr. Syongo:** Mr. Temporary Deputy Speaker, Sir, the importance of devolution cannot be over emphasized. All hon. Members of this august House will recall during the deliberations at Bomas, one of the extremely sensitive issues was that of devolution of power. The interest and anxiety that was expressed as we debated that particular issue is a reflection of the importance of devolution to the Kenyan people. I want to report to this House that since the districts that the hon. Ojaamong wished to regularise were created, there has been significant improvement of security in those areas. This is because of the presence of the District Security Committees (DSCs) and police officers. Service delivery in all sectors has improved tremendously in those districts, because of the presence of key departmental heads such as those for agriculture, livestock, water, roads and others. There has been regular budgetary allocation from the Treasury directly to those districts to ensure service delivery to the people. There has been a strong sense of belonging and patriotism in this country because the feeling of the people has been affected by the creation of new districts. At last, there is a sense of self-governance. People now have a devolved unit that they feel they belong to and *vice versa*.

Ultimately, there has been demonstrated equity and dispersal of the national cake to these areas which hitherto had been completely ignored and marginalised. For example, before the creation of Suba District, we did not have even a single police post in the whole of that area. Fortunately, we now have several of them. The road network was deplorable, in fact, non-existent. However, we now have some semblance of roads being constructed and maintained. We did not

have a single inch of electricity supply line, but now we can boast of the beginning of electrification in the rural areas of Suba District.

Mr. Temporary Deputy Speaker, Sir, the gazettment that this Motion urges to be done is simply to ratify what is already in the field. The administrative infrastructure is already in place and is operational as the Mover of this Motion has clearly stated. In the case of some of these districts, for example, Suba District, the corresponding county council has already been gazetted under the Local Authorities Act. In fact, we have one side of the law having recognised the existence of the district, but the other law, which is the Districts and Provinces Act, 1992, has not done what it is supposed to have done. So, in some of the districts it is the question of harmonising so that there is consistency and we are able to reduce the risk of uncertainty.

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

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

The issue of viability has been mentioned from time to time with respect to the creation of districts. I need to emphasise here that districts are not created for profit-making. They are not business enterprises. So, economic viability is not necessarily the primary consideration. There are other issues that need to be considered. Equitable distribution of resources, improved security, improved feeling of belonging to this nation which ultimately leads to improved security are some of the considerations that one cannot ignore. They are the primary reasons for the creation of districts. In that light, it was mentioned that some of the districts were created politically. For the record, I want to say that every single district in this country is a political district because districts are created for political expediency and administrative convenience in order to improve governance and to ensure that this country is governable.

Mr. Temporary Deputy Speaker, Sir, whereas it has been said that some of the districts, for example, Suba District may not be viable, since its creation, the economic activities of Suba District have grown tenfold to the extent that Suba County Council is one of the few councils that, this year, have a surplus of Kshs2 million of revenue collected. By creating these districts and enabling them, we can actually accelerate economic activities and improve the viability of these regions. It is true that some of these regions have enormous economic potential which has not been ignited into action. We have not realised the potential in these districts because of lack of the necessary investment in the social and physical infrastructure in those districts.

Finally, the possibility of reversing the decision to create new districts would be unimaginable. The consequences will be extremely advanced. There will be ill-will and despondency in these districts to the extent of there emerging serious insecurity in those districts. Some of the districts that border foreign countries could, in fact, cause a problem in terms of control and governance.

Mr. Temporary Deputy Speaker, Sir, I, therefore, wish to second this Motion and urge that quick action be taken in order to regularise the districts that have been created and are operational. Their administrative structures are already in place, only that they have not been gazetted as required under the Districts and Provinces Act, 1992.

*(Question proposed)*

**Mr. Rotino:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this

opportunity to support this very important Motion.

As the Mover and seconder have said, this Motion is long overdue because the 46 districts which were created during Independence were created when the population of this country was less than 20 million. It is now 43 years after Independence and the population has grown rapidly. We, therefore, do not expect the districts to remain the way they were. When the former President created 28 more districts, he was really right. This is because he knew that the population in this country had increased. I do not understand why the creation of districts was not formalised at that particular time. Whether people say that the districts were politically created, as the seconder put it, all these districts are politically created in order to serve a certain purpose, one of which is to be able to address the existing problems in the new districts.

During the referendum, one of the key issues in the Draft Constitution was devolution of power. This was important in that it would ensure that services are taken closer to the people even as the population increases. This Motion is, therefore, timely and we are ready to support it. Anybody opposing this Motion will be doing so against the wishes of Kenyans. He or she will also be against the new Constitution that we want to be passed. We want services to be brought closer to people as much as possible. People should feel that they own this country.

If, for example, you look at Baringo District there are communities within that district who have been given a district by the current President. I am talking about the Pokot in Baringo District. If you go to that district, there are no services!

Mr. Temporary Deputy Speaker, Sir, the distance between the districts is small and yet, there are no services. There is not even a kilowatt of electricity in the so-called sub-district. I want to commend the current President for giving East Pokot a district. That is because they were completely suppressed and "sat" on by the Tugens of Baringo District. There are many communities of that nature. Services only reach certain areas. There are minority communities who are deprived of services because the other communities are big and "sit" on them. Therefore, the creation of new districts is going to help them. I want to support that, so that our people can get services. The entire constituency, which is bigger than Baringo District, has no police station! Yet, there is a lot of insecurity in that area! The proximity between that area and district headquarters is very far. I am even supporting the creation of 48 more districts! All those districts should be formalised! We should have 122 districts so that people can get services and feel that they are Kenyans.

Mr. Temporary Deputy Speaker, Sir, the new districts will solve the problem of insecurity that is rampant in this country. Even West Pokot, itself, should be divided into two. We should have Sigor as a new district. The distance between Kapenguria and Sigor is about 200 kilometres. You spend about Kshs400 to go to the District Headquarters to be served. So, we need another district so that we can take services closer to the people. The essence of the Government is to take services closer to the people. So, the creation of another district in West Pokot will go a long way in serving the people of that district. That way, they will feel that they are really Kenyans enjoying the services of their Government.

Mr. Temporary Deputy Speaker, Sir, I want to support this Motion by saying that it is timely! A Bill should come to formalise all those districts and, if need be, more should be created. As we create those districts, more revenue will come to the Government. As the Seconder of the Motion said, the Suba community was sub-merged by the Luo Community. But now, they are recognised as a district. They are a unit by themselves and enjoy the services. If you go to Uganda--

**Prof. Olweny:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to bring in tribal politics to the Floor of the National Assembly?

**Mr. Rotino:** Mr. Temporary Deputy Speaker, Sir, that is not a point of order. I am not

being tribal. I am just being logical by saying that the Subas were completely sub-merged by the Luos! They were not recognised. But now that they have a district of their own, they can, at least, speak.

**Prof. Olweny:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to keep on talking about tribal politics and yet, he does not live in Nyanza? He does not know the politics of the day.

**The Temporary Deputy Speaker** (Mr. Omingo): While I appreciate your concerns--- It is important to appreciate the fact that we all come from different tribes, but we are Kenyans. He is citing Kenyan tribes, but not in a bad light. Allow him to proceed.

**Mr. Rotino:** Thank you very much, Mr. Temporary Deputy Speaker, Sir. I was just trying to bring up the point that there are certain small communities that have been marginalised by bigger communities. But now, by the creation of new districts--- Even the Shangilas living near Lake Turkana should get their own district! That is because they are now sub-merged by the Samburus and Turkanas. The Shangilas and Ndorobos should get their own districts, so that they can get services and feel like Kenyans. It is really important---

**Maj-Gen. Nkaisserry:** On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard the hon. Member say that the Shangilas are swallowed by the Samburus. The Shangilas are from Ethiopia! They are not Kenyans.

**The Temporary Deputy Speaker** (Mr. Omingo): I do not think we are going to draw this country into geographical issues. Could you allow the hon. Member to continue?

**Mr. Rotino:** Mr. Temporary Deputy Speaker, Sir, I do not think he knows Geography. He should go and look at his map. We have Shangilas in Kenya.

So, I was simply trying to say that we need services closer to our people. When we have a district--- First of all, if you want to fight the security problem in this country--- We should even divide Nairobi into districts! If there is one police station in our area, we can create more police stations, so that services could be closer to the people. For example, when they created East Baringo District--- When there is an Administration Police recruitment, you can recruit people from your own community.

If you look at the Police Force and other armed forces, some communities are not represented! That is because during the recruitment in district headquarters, they are marginalised. The communities that live around the district headquarters over-run them. For example, the Sengwer in Cherengany have been swallowed by other bigger communities. So, when there is a recruitment into the armed forces, they are not recognised. The recognition of those communities is very important. If you go to Australia, the Government has deliberately created a certain unit for some communities. This Motion is going to bring recognition to those communities so that, the Government could deliberately take services to those people. With those few remarks, I sully support this Motion.

**Mr. Munya:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to contribute to this Motion. I would like to oppose the Motion from the outset. I am opposing it on very solid legal grounds. I am even surprised that this Motion found its way to this House! That is because it is intended to violate the Constitution of this country. Our Constitution names the existing districts! Without amending the Constitution to increase the districts, you cannot validate any other districts. So, what the Mover of the Motion is asking this House to do is to legalise an illegality and violate the Constitution of this land.

Mr. Temporary Deputy Speaker, Sir, the proper procedure for creating new districts--- As far as I am concerned, the so-called new 28 districts do not exist! They were not created legally! The Constitution has never been amended to recognise them and, therefore, they do not exist as far as the laws of this country are concerned. So, even if we amend the District and Provinces Act

without amending the Constitution, we will be doing an exercise in futility. The supreme law of this land is the Constitution! It is only the Constitution that can be amended first, before we can amend the other legislation to legalise the existing districts. Therefore, the proper procedure should have been the following:-

The hon. Member should have brought a Bill to amend the Constitution. Once it is amended, it allows us to increase the districts. Then, we can amend the Act to create new districts. But he is trying to do it the other way round! That is, therefore, unacceptable!

**Mr. Ojaamong:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the hon. Member mention which section of the Constitution names the districts?

**Mr. Munya:** Mr. Temporary Deputy Speaker, Sir, I think the Member should have risen on a point of information. That is not a point of order.

Mr. Temporary Deputy Speaker, Sir, there is also an existing High Court ruling on this matter. The hon. Michuki went to court over the issue of districts and the High Court ruled that the so-called districts that the Member is trying to legalise in this House, were illegal because they were not created following the normal laid down procedure. The Constitution was never amended to recognise them. So, what we are being told here is to sanction an illegality.

**The Temporary Deputy Speaker** (Mr. Omingo): Order, hon. Munya! You are citing your opposition to the Motion on a fundamental issue of the Constitution. For us to be on the same wavelength, could you tell the House the section of the Constitution that you are quoting?

**Mr. Munya:** Mr. Temporary Deputy Speaker, Sir, I may not necessarily remember the particular section at this point, but it is there.

**The Temporary Deputy Speaker** (Mr. Omingo): Order, Mr. Munya! Unless you want us to excuse you on that, you better base your argument on another ground as opposed to what you are alluding to be the Constitution, because that is a fundamental statement you are making.

**Mr. Munya:** Mr. Temporary Deputy Speaker, Sir, I am opposing this Motion on the grounds I have raised. There are other important grounds---

**Mr. Bett:** On a point of order, Mr. Temporary Deputy Speaker. The Member is continuing to mislead this House. Could he specifically answer your question. Which section of the Constitution is he referring to? If he does not know or there is none, he should withdraw and apologise.

**The Temporary Deputy Speaker** (Mr. Omingo): I think it is the right thing to do because not everybody knows what you know. If you want the House to join your line of thinking, it is better you guide us. [**The Temporary Deputy Speaker**]  
Alternatively, you can withdraw and come with that information much later.

**Mr. Munya:** Mr. Temporary Deputy Speaker, Sir, there is no Standing Order that requires one to withdraw a fact that is in the Constitution just because I cannot remember the particular section. I have not misled the House. The Constitution names the 46 districts. I only require time to bring the Constitution and lay it on the Table of the House.

**The Temporary Deputy Speaker** (Mr. Omingo): Order, Members! I think he should move forward. If he is misleading the House, the HANSARD will confirm that. If, indeed, there is nothing like that, then the appropriate communication will come from the Chair.

**Mr. Munya:** Thank you, Mr. Temporary Deputy Speaker, Sir.

The other issues we need to look at are those of equitability. You will agree with me that many of these districts were created politically and in a lopsided manner, so that certain sections that were favouring the ruling party and people in power then were given an unproportionate share of districts. We know that once you are given a district, you are also given more resources than other places. So, if we were to legalise only the 28 new districts without allowing other deserving regions of the country to have districts, we would be doing injustice to those districts.



I can give you the example of Meru North District, which is one of the largest districts in the country with four constituencies. Even more constituencies are likely to be created there because of the size and the population. Now, if you leave that district the way it is, then you legalise a small district that has only 50,000 people like Ijara, then resources are channelled, you are telling the people of Meru North that they continue not receiving resources that they contribute through taxes. This House should not be used to occasion an injustice to the rest of the country that also require equitable distribution of resources through an equitable, fair and transparent manner in creating districts.

Mr. Temporary Deputy Speaker, Sir, we will also be contributing to tribalism. Most of those districts were created on the basis of tribe. One of the vices we have been fighting since Independence is tribalism. If every small community is given its own district, then we would be destroying this nation. That is why we need a more transparent and thorough system that is done through consultation and involvement of the Government and this House. Those districts were created without the approval of this House. Therefore, this House is being told to rubber stamp an illegality. Whoever was creating these districts ignored this House, which represents the people of this country. Now, we are being told by one of our Members to insult ourselves by rubber-stamping something that was done in violation and in total disregard of the privileges and powers of this House.

If we legalise those districts without looking properly at the boundaries---

**Archbishop Ondiek:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member is saying that all those districts were done illegally. Is he now telling us that even the recent ones by Hon. President Kibaki are all illegal?

**Mr. Munya:** Mr. Temporary Deputy Speaker, Sir, when the Minister was answering the Question, he clearly indicated that what this Government has done was to gazette an intention to create districts. They are now gathering information and coming up with a programme and all the proposals will be brought into this House before the districts are declared. So, no new district has been created. That is the system we are proposing so that when the Government brings those proposals, it does so together with the rest of the 28 districts so that we can follow the law.

Mr. Temporary Deputy Speaker, Sir, by creating new districts haphazardly, we are going to multiply conflicts. We have a district that was created recently which neighbours my constituency, called Tharaka District. That district has boundaries overlapping with Tigania and year in, year out, we have border conflicts because of the way the district was created very hurriedly. If you were to gazette that, you will be saying that the Tigania and the Tharaka should continue fighting.

**Mr. Kagwima:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to insinuate that Tharaka District was created to cause problems for Tigania yet the Tharaka people are happy and enjoying the fruits of that new district?

*(Applause)*

**The Temporary Deputy Speaker** (Mr. Omingo): I think we should not bring our differences to the Floor of the House. Allow him to contribute.

**Mr. Munya:** Mr. Temporary Deputy Speaker, Sir, with those remarks, I beg to oppose.

**The Temporary Deputy Speaker** (Mr. Omingo): Order! Mr. Munya, you raised a fundamental issue that touches on the Constitution. The Chair cannot make a communication now. But that is a very serious statement that you made touching on the supreme law of the land. The substantive Speaker will have to make a ruling.

**Mr. Twaha:** Mr. Temporary Deputy Speaker, Sir, I beg to support the Motion, if for nothing else, but because the districts are already in existence. I think we have to formalise them and undo the wrongs that were previously done. I think it is a responsible thing for us as legislators

to enact laws to legalise illegalities where no harm was intended and no harm has been done.

I would like to propose also that when the Government creates new districts, it should consider moving the town of Kipini which is presently in Tana River District to Lamu District. As it is now, the people of Kipini are originally from Lamu. They share a common cultural background with the Lamu people and they obtain all their services from Lamu District, because Lamu District Headquarters is just 60 kilometres away. On the other hand, the district headquarters for Tana River District is 200 kilometres away from Kipini. So, if somebody from Kipini wants an identification card, he has to travel 200 kilometres to Hola in order to obtain it. When he reaches there, he is told his name, culture or ethnic group is from Lamu District. He is told to go there and obtain his identification card. If he goes to Lamu, he is told his parents are from Tana River District and he has to go there. So, the people of Kipini are very frustrated and they would like to join forces with the people of Lamu, share the future and common goals together.

Mr. Temporary Deputy Speaker, Sir, likewise, when the people of Kipini want to report a matter to the police or access medical services and other services, they have to travel to Lamu District. So, we would like the Government to correct this matter and move Kipini to Lamu District.

Mr. Temporary Deputy Speaker, Sir, I beg to support.

**Mr. Kagwima:** Thank you, Mr. Temporary Deputy Speaker, Sir, for this opportunity. From the outset, I support this Motion.

The hon. Member who spoke earlier is new in the House. So, I would beg the House to forgive him and proceed in supporting this Motion.

Districts are the units of development in this country. In 1986 when the Focus for Rural Development was initiated, that formed the basis of using the districts as the units of development and, therefore, the foundation of the District Development Committees (DDCs). To date, that is the mechanism we have in place for developing this country.

Mr. Temporary Deputy Speaker, Sir, in 1988 when I was first elected to Parliament, we had Meru District. I attended the DDC meetings without failure. But I found it difficult to get even one project approved for Tharaka Constituency. Tharaka Constituency would be listed last in terms of priority. A financial year would go without any project being implemented. I realised after one year that I was wasting my time in that DDC. I then pleaded with the leadership of the Meru to split Meru District into two. It took the entire leadership and population four years of pleading to have it done. Then, in 1992, Meru District was divided into Meru and Tharaka-Nithi districts. It is then that we started seeing some change and development in the newly created district. We went to ask for further sub-division and we got Tharaka District. The little development that is in that region is out of that creation. People living there can now see the difference between the time they did not have a district and now that they have one.

I know the people in leadership today at one time felt uncomfortable with the creation of the districts. But I am happy to appreciate the fact that after taking over power, they learnt and realised that those districts were not created just politically. They were created out of the request by the people living in those marginalised areas. So, I would like to urge the House to support this Motion and quickly appeal to the Minister to bring in the mechanism that is required to ensure that all districts are properly entrenched in the Kenya laws.

Mr. Temporary Deputy Speaker, Sir, recently people in other areas, including those from Mr. Munya's constituency, appealed to the Government to allocate them districts. As I speak, we have Tigania East and Tigania West. I do not know whether that is not in conflict with the speech that the hon. Member made. So, Ijara, Tharaka, Suba and other districts are a necessity to the communities living there.

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

**The Assistant Minister for Transport** (Mr. Githae): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion. I must commend the hon. Member who came up with this Motion. But I would like to add that the Government is actually in the process of validating the districts. The districts he is talking about were actually gazetted during the referendum campaign. In fact, there has also been a further gazetted notice by the President giving his intention to create additional districts. Therefore, I am asking the Government to hasten this process.

Mr. Temporary Deputy Speaker, Sir, if people want a district, in my personal opinion, they should be given. It is for the inhabitants themselves to know whether they want a district or they do not.

**Mr. Ojaamong:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Assistant Minister to mislead the hon. Members and public at large that gazette notice legalised districts? Those districts were not legalized.

**The Assistant Minister for Transport** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, that is exactly what I have said; that the President gave an intention to create districts. So, what we now need to do is to ask the Government to hasten the process of validating all those districts.

Mr. Temporary Deputy Speaker, Sir, I would also like to disagree with my friend, Mr. Munya, when he said that there are political districts. There are no political districts. A district is a district; whether it is small or big. I think we need to make that very clear. Last week, I was in Malaba. If you ask the people of Teso to abolish the Teso District, they threaten to go to Uganda. Who are we to say that the people of Teso or Ijara should not have a district? In any case, these districts are already there. So, it is only good that we ask the Government to hasten the process of validating those districts, including the new ones. In fact, this will even give the Electoral Commission of Kenya (ECK) time to create more constituencies.

Mr. Temporary Deputy Speaker, Sir, the reason why people are now clamouring for districts is because they have seen that whenever a new district is created, the ECK gives it one or two more constituencies. With the introduction of the Constituencies Development Fund (CDF), people want more constituencies, but they cannot get them unless there is a district. The Government needs to finalise the process so that the new districts can be validated.

**Mr. Poghisio:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Assistant Minister to mislead the House by saying that you cannot get a constituency if there is no district? We know that constituencies have been created even without districts being there.

**The Assistant Minister for Transport** (Mr. Githae): It is self explanatory, Mr. Temporary Deputy Speaker, Sir. We have constituency districts. How did this arise? If you look at the history of the Electoral Commission of Kenya, you will note that whenever a district is created, it is given a constituency.

**An hon. Member:** Is that the law?

**The Assistant Minister for Transport** (Mr. Githae): It is not the law. We have got many one constituency districts---

**The Temporary Deputy Speaker** (Mr. Omingo): Is that by implication or by law?

**The Assistant Minister for Transport** (Mr. Githae): It is not by law, Mr. Temporary Deputy Speaker, Sir. I am making it very clear. It is not by law, but that appears to have been the practice for all these years. People are clamouring for districts because they want more constituencies. If we were to abolish districts and concentrate on constituencies, this issue of creation of more districts would not arise. In the US, a district is similar to a constituency here. It is referred to as congressional district. We probably need that, but we have not yet reached there. We should abolish the notion that there are political districts. There are no political districts. Districts

are created when people ask for them. They are created because there is need for them. In view of the fact that many hon. Members want to contribute, I am proposing that we ask the Government to hasten the process. I hope that somebody from the Office of the President will come with an amendment so that we ask the Government to hasten this process.

With those remarks, I beg to oppose.

**Mr. Poghiso:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion. It is good that the hon. Member who moved this Motion comes from a marginalised community. Mr. Ojaamong feels completely marginalised coming from his area, surrounded by people who have made Teso District almost difficult to live in. Even now he is asking where the boundaries of Teso District are, but nobody can tell him.

I hope that by bringing this Motion and by the ensuing amendments to the existing Act, these problems can be sorted out. We would like to know what should be done when the boundaries of a district cannot be defined. For example, West Pokot District is one of the original 46 districts, but we still cannot determine whether this place is in West Pokot or Turkana because there are no definite markings which show where the district boundaries are.

This is a very important Motion. I would like us to debate it, not because we all want to have districts, but because it is important that the 28 districts which were created by the last Government be legalised. Among them is a small district called Mt. Elgon. Much as they have existed all these years, they have existed out of illegality. They are legalised and yet they are not legalised. What I mean is that they get money from the Government, they have District Commissioners, they have vehicles and budgets and yet they are not legally gazetted. Let us get ourselves out of that illegality by recognising those districts first.

Mr. Temporary Deputy Speaker, Sir, I would like to say something about the new districts. Much as we would like to move fast and include the new districts, they are still in a stage where people have not agreed on the headquarters. I think the original ones which have already been facilitated need to be gazetted and properly legalised.

When this law is amended, I would like hon. Members to consider that there are certain places which do not seem to have many people but the land mass is so big that they need to be subdivided. The rationale that we must have these high populations has made it difficult for expansive areas. Turkana District has been proposed for the sub-division, but there are many other places in northern Kenya that have not been proposed. There should be more districts in those arid and semi-arid areas for purposes of administration.

There are places like Kacheliba where we must begin to create special districts. Kacheliba Constituency has come out of a different situation. This particular constituency was handed over to Uganda in 1931 for administrative purposes. It was in Uganda all that time until 1970. When it came back to Kenyan administration, it was completely forgotten by Kenya. Under that circumstance, the people sometimes do not know whether they were better off when they were in Egypt or now when they are in the land that they call their home. Some of those situations, for example, where people came from should now be considered. A special district needs to be created for purposes of Kenyanising the people, but this was never considered. Since we were put under a district that already existed, for purposes of services, the constituency was left behind.

Mr. Temporary Deputy Speaker, Sir, recently when the creation of districts for the politically correct were being proposed, nobody considered that kind of proposal. We should find a proper way of distributing districts. Recently, districts were being distributed on the basis of who is who. Districts were basically being handed to people. I would go there and pick my paper and say that is my district. Somebody else would also do the same. It should not be done that way. We must have a rationalised way of creating districts.

Even now after the referendum, it is difficult to tell why certain places were given districts.

There are certain places like where my friend, Mr. Wetangula, comes from, where every constituency will become a district. In fact, every location will soon become a district.

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is my learned friend--- Sorry, he is not learned. Is my good friend--

**An hon. Member:** Amesoma!

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): Hajasoma. Is my good friend in order---

**The Temporary Deputy Speaker** (Mr. Omingo): Order! You know the rules of the game.

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): Is he in order to mislead the House and the country that districts created in my former district do not merit that creation when he knows very well that population, land size and everything merits new districts?

**Hon. Members:** That is a point of information!

**Mr. Poghisio:** That is very good information, Mr. Temporary Deputy Speaker, Sir.

**Mr. Twaha:** Jambo la Nidhamu, Bw. Naibu Spika wa Muda. Ni nidhamu kwa Bw. Wetangula kusema kwamba mhe. Poghisio hajasoma, ilhali yeye kama mhe. Poghisio alisoma kwa miaka mitatu kwenye chuo kikuu kama wengine? Kwani masomo ya uwakili ndiyo yana maana zaidi ya masomo mengine?

**The Temporary Deputy Speaker** (Mr. Omingo): Let us give the hon. Member time to contribute.

**Mr. Poghisio:** Mr. Temporary Deputy Speaker, Sir, the unfair thing about the Provincial Administration is that when Mr. Wetangula gets a district, the DC will tour the whole district in six hours. The DCs for Turkana, Marsabit and West Pokot will take six days to go round their districts. Some of them will take a week. It is unfair because that will happen in the former Bungoma District. Let us not distribute these districts on the basis of who is who. Let us rationalise them. It is unfair if Kacheliba Constituency is not considered as a special district. One day when I will sit in the Government side, we may decide that the politically-created new districts are nullified. Rationally, why would you create a new district in a place that is already very small? Western Province is smaller than one district in---

Mr. Temporary Deputy Speaker, Sir, I am saying this on the basis of the law that is being amended. Such a law does not exist. We should come up with an Act that covers the creation of new districts. It should state that West Pokot District stretches from this to that place. I would like to see those beacons, so that we do not have conflicts. Right now, there is a conflict between the Pokot and the Turkana because in one place called "Lorogon", there is a chief from West Pokot District and another one from Turkana District. This is because nobody knows whose land it is. The Government pays those chiefs. That is how interesting the issue is. The Government does not know what is happening. The right hand does not know what the left does. So, those chiefs are being paid by the Government. There are places along that border which are in West Pokot District but are staffed by people from Turkana District. So, we would like the amendments to the Act to create a conducive environment so that we do not go to war with each other and know where we belong.

Finally, I would like to urge the hon. Member to find the appropriate law to amend so that we do not deal with things that have been removed. When I looked at the table of contents, I found that these

things were removed from the laws of Kenya. So, which law will we amend?

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

**The Temporary Deputy Speaker** (Mr. Omingo): Could I hear, Prof. Olweny?

**Prof. Olweny:** Thank you, Mr. Temporary Deputy Speaker, Sir. I want to make my

contribution in support of this Motion. It is in history that at Independence, we had very large and few districts in this country. At that time, the population of this country was about 9 million but today, we are almost 40 million. Since then, the population of this country has increased by, at least, four times. If districts are units that are supposed to help the Government in the delivery of services to its citizens, then we should have, at least, four times the number of districts we had at Independence.

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

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

The Government has seen the need to create new districts in this country. The only unfortunate thing is that the Government has not followed the law in the creation of the new districts. There is an Act of Parliament that should guide the Government on the creation of new districts. Some of the new districts that have been created are need-driven, while some have been politics-driven. This is because politicians have lobbied for their creation. The creation of some new districts has been power-driven. Some powerful people have influenced the creation of districts in their areas. The creation of some new districts is done without considering population in those areas. In

other words, the Government has created some districts haphazardly, without considering the law. The Government should have combined the need, politics and the Act of Parliament when creating the new districts. If the Government had done that, it could have facilitated the delivery of services to its citizens effectively. Mr. Temporary Deputy Speaker, Sir, I have said that some powerful people have influenced the creation of new districts after Independence. Those people have ignored wananchi who are supposed to be served by the creation of the new districts.

The boundaries of the new districts do not take into account the interests of the people at heart. Apart from an attempt that was made this year, in many cases, the people are not consulted when drawing the boundaries of new districts. This has led to a lot of bickering, squabbling and quarrels among wananchi. The haphazard drawing of the boundaries has made the communities fight each other.

Let us use the Act of Parliament to formalise the new districts that have been created, or let us amend the Constitution to give room for the creation of new districts in future. The creation of new districts should be based on the population and the size of the existing districts. Let us not use politics in the creation of new districts. Let us not use powerful people in the creation of new districts. That would create many problems for the citizens of this country.

### QUORUM

**Mr. Munya:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is there a quorum in the House?

**The Temporary Deputy Speaker (Mr. Poghisio):** No, we do not have a quorum. Ring the Division Bell.

*(The Division Bell was rung)*

**ADJOURNMENT**

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**The Temporary Deputy Speaker** (Mr. Poghisio): Hon. Members, the bell has rang for more than five minutes now but we have not got the requisite number to enable us continue with business. Therefore, due to lack of quorum, the House is adjourned until this afternoon at 2.30 p.m.

The House rose at 11.35 a.m.