

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 12th June, 2007

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.044

COMPENSATION FOR CAMELS KILLED BY LIONS

Mr. Speaker: Mr. Lesrima, I wanted to inform you that I received a call from the office of the Minister for Tourism and Wildlife and I was informed that he and his two Assistant Ministers are out of the country and they would like to have the Question dealt with next week. What is your reaction, Mr. Lesrima?

Mr. Lesrima: Mr. Speaker, Sir, I have very little choice, but to accept.

Mr. Speaker: Exactly! I understand your predicament and mine too. So, would you prefer the Question to be dealt with on Tuesday or Wednesday?

Mr. Lesrima: Tuesday will be okay.

Mr. Speaker: Okay. The Question is deferred to next week. Thank you, Mr. Lesrima.

(Question deferred)

Question No.228

REHABILITATION OF KISUMU- KERICHO-TOTAL-NAKURU ROAD

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

(a) whether he is aware that the road between Kisumu-Kericho-Total and Nakuru is in a deplorable state; and,

(b) what the Minister's short-term and long-term plans for the above sections of the road are.

The Minister for Roads and Public Works (Mr. Nyachae): Mr. Speaker Sir, I beg to reply.

(a) I am aware that the sections of the road from Nakuru-Mau Summit (A104), Mau Summit-Kericho-Ahero (B1) and Ahero-Kisumu (A1) are in a state of disrepair.

(b) (i) In the short-term, my Ministry has issued Kshs70 million out of the 2006/2007 Fiscal Year's Budget to meet the cost of routine maintenance. The maintenance works are being

undertaken by the Provincial Maintenance Unit in the Rift Valley and Nyanza provinces.

(ii) In the long-term, my Ministry is seeking funding from the World Bank for rehabilitation of this road. The Ministry has, however, factored Kshs300 million for withholding maintenance of the road in the proposed Development Budget for the Financial Year 2007/2008, in the annual Road Works Programme of the Kenya Roads Board.

Mr. Bett: Mr. Speaker, Sir, I wish to thank the Minister for that answer. I am grateful because he is concerned and aware that the road is in a state of disrepair. As you are aware, that road extends from the one which at the moment is being done, from Naivasha through Gilgil to Nakuru. This road has become so bad, yet it is so crucial because it links us with Uganda.

I would like the Minister to be very specific. He has said that he is approaching the World Bank for funding. Is there a timeframe within which this road will have been done afresh?

Mr. Nyachae: Mr. Speaker, Sir, the hon. Member is talking about the Naivasha-Nakuru-Lanet Road. That is not part of the Northern Corridor Road which goes to Timboroa-Eldoret-Malaba. That is in a different programme and contracts have been awarded. The Mau Summit-Kericho-Kisumu Road is considered a highway. It is not part of the Northern Corridor. We are seeking separate funds from the World Bank for this road.

Mr. Speaker, Sir, I am not in a position to give an answer as to when the negotiations with the World Bank will end. However, I want to confirm that we have already approached the World Bank and negotiations are going on. In fact, we have already appointed a consultant and we have paid over Kshs18 million for consultancy on works on that road. We are aware that, that road was done to complete pavement in 1970.

Mr. Speaker, Sir, all that has been going on are minor repairs, which we can no longer rely on. That is why we have approached the World Bank for a complete overhaul of the road.

Capt. Nakitare: Mr. Speaker, Sir, this Ministry is maintaining roads on "a stitch in time that saves time" basis. Roads in this country are in a deplorable state. Either the Minister flies or he has no experience at all, on what happens to drivers in this country. Heavy commercial vehicles have wrecked our roads. The bypass between Nakuru, Koibatek and Eldoret was not meant for heavy commercial vehicles.

What steps is the Minister taking to ensure that this road will be a bypass for the main construction of the Nakuru-Eldoret Road?

Mr. Nyachae: Mr. Speaker, Sir, I know that everybody in this House can stand up and talk about roads which are in a poor state. I have repeatedly said in this House that only 46 per cent of our roads in this country are in good condition. This means that 54 per cent of our roads are in poor condition. This is not something that we can handle overnight.

Mr. Speaker, Sir, when I brought a Sessional Paper to this House, I stated that if we have to do all the roads that we are talking about here as being in deplorable condition, we need about Kshs160 billion. Even if you avail that money, I do not have enough engineers and contractors to handle that. So, we have to be patient. It is now very easy. I always enjoy to hear people complaining. Where were you all these years; over 20 years, when there were no repairs to roads?

Mr. Billow: Mr. Speaker, Sir, 20 years ago, some of us were not in this House. The Minister has said that we need over Kshs160 billion to construct our roads. For several years, the Government has also been talking about public/private partnership, where it would concession roads to private developers to save the Government all that expenditure.

Mr. Speaker, Sir, what action has the Ministry put in place to engage the private sector in the build-and-operate programmes of roads in this country? They should be involved in the construction of major roads like the ones he mentioned earlier on.

Mr. Nyachae: Mr. Speaker, Sir, the issue of public/private partnership was covered in the Sessional Paper that I brought to this House. What is remaining is for us to follow the necessary

legal stages. Right now, there is a Bill in this House on reforms. Once that has gone through, the next stage will be to get Parliament to agree with the legislation on the public/private sector partnership. This policy should be recognised by Parliament and the country at large. Then we will go ahead. We have already stated that we are ready for it.

Mr. Bett: Mr. Speaker, Sir, because of that bad road, vehicles are now diverting or using smaller roads. Most of the vehicles are now using the Sosiot-Sondu Road to Kisumu and, therefore, putting a lot of pressure on a road that is not meant for heavy traffic. I would like to ask the Minister to also consider availing funds for the repair of those smaller roads because they are now getting potholes.

Mr. Nyachae: Mr. Speaker, Sir, that is a very useful suggestion. However, the truth of the matter is that we have no way of telling a transporter which route to follow, as long he reaches his destination. We are coming up with a new gazette notice indicating the tare weight or the carrying capacity of vehicles which can use certain roads. That will then bar the heavy vehicles from using the smaller roads.

Question No.251

DELAY IN PAYMENT FOR COFFEE
SUPPLIED TO KPCU BY CENTRAL
PROVINCE FARMERS

Mr. Karaba asked the Minister for Agriculture when the Kenya Planters Co-operative Union (KPCU) will pay Kshs641 million accruing from the sale of coffee supplied by farmers from Central Province in 2002.

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

Kenya Planters Co-operative Union (KPCU) does not owe Kshs641 million accruing from the sale of coffee supplied by Central Province farmers in 2002.

The amount was held by a consortium of banks from the then marketer, the Coffee Board of Kenya. The Ministry is following up the matter with the Treasury to find ways of paying the farmers' arrears.

Mr. Karaba: Mr. Speaker, Sir, the Assistant Minister has told us that, even if it was not Kenya Planters Co-operative Union (KPCU) that was owed that money, certain banks held it. Could he give us the names of the banks and the amounts they owed?

Mr. Muiruri: Mr. Speaker, Sir, the consortium of banks that withdrew that amount are as follows:-

| | | |
|-------------------------|---|--------------------|
| ABN Bank Amro | - | US\$800 million |
| NIC Bank | - | US\$200 million |
| Standard Chartered Bank | - | US\$800 million |
| Standard Bank London | - | US\$600 million |
| Citi Bank | - | US\$600 million |
| Akiba | - | US\$200 million |
| Stanbic | - | US\$800 million |
| Total | - | US\$4,000 million. |

Mr. Gachagua: Mr. Speaker, Sir, the Assistant Minister has not told the House what is the problem with Kshs641 million. The amount of Kshs641 million emanated from coffee that was sold during Sale No.41 several years ago. But farmers were not paid that money. The Government

has bailed out coffee farmers to the tune of Kshs5.8 billion. What the farmers are saying is: "Before you come to pay debts for us, could you just pay us for the coffee that we have sold?" Could the Assistant Minister tell the House why the assets of Coffee Board of Kenya should not be disposed of to pay off the Kshs641 million? The Coffee Board of Kenya is now a regulator. It does not need all those assets that it actually using the deductions from the coffee sales. Could the Assistant Minister confirm why, four years down the line, the Government has not been able to settle the Kshs641 million issue?

Mr. Muiruri: Mr. Speaker, Sir, that money was as a result of coffee Sales Nos.30 and 34 of the year 2001/2002 crop. Before the change in the coffee registration, the Board had taken an overdraft from those banks against coffee stocks for onward lending to coffee growers. However, with the repeal of the Coffee Act, Cap. 333, and the subsequent enactment of the Coffee Act No.9 of 2001, the banks withdrew the overdrafts thereby trapping the coffee sales proceeds to growers. That is really a very serious matter. But as I said, my Ministry and the Treasury are holding discussions with a view to paying those arrears to farmers. Those discussions are at a very advanced stage. So, the farmers will inevitably be paid their money.

Mr. Wambora: Mr. Speaker, Sir, the Assistant Minister has not denied that Coffee Board of Kenya was responsible for incurring debts using the Kshs641 million belonging to the farmers.

Could he now confirm that he will follow up the case with Coffee Board of Kenya until it pays that money to farmers?

Mr. Muiruri: Mr. Speaker, Sir, that is exactly what I said. We are doing all we can to ensure that farmers are paid because it is not fair. They delivered the coffee, it was sold and the proceeds were received, but they were not paid. That is not fair to the farmers and they must be paid. But, as I said, that happened and it must be corrected.

Mr. Speaker: Last question, Mr. Karaba.

Mr. Karaba: Mr. Speaker, Sir, you realise that the same Assistant Minister, when he was on the Back Bench, was vocal about coffee issues. Today, it is like he is trying to evade the truth. It is very serious to hear about farmers who delivered coffee four to five years ago, and have not been paid to date. Could he produce the time-frame within which the first payment will be made, when the interest will be paid and when the final payment will be paid?

Mr. Muiruri: Mr. Speaker, Sir, the Coffee Board of Kenya, as we speak now, owes many institutions a lot of money. One notable institution is the Kenya Co-operative Creameries (KCC) and many others. The Coffee Board of Kenya cannot pay now because it has no money to pay. That is why we are coming in, as a Ministry, to discuss with the Treasury and ensure that, that money is paid. The Coffee Board of Kenya has serious financial problems!

Mr. Speaker: Next Question, Capt. Nakitare!

Question No.261

COMPENSATION FOR VICTIMS OF LAND CLASHES

Capt. Nakitare asked the Minister for Lands:-

(a) whether he is aware that most land clashes victims have not been compensated by the Government;

(b) whether he is further aware that, as a result of the above, the victims are squatters; and,

(c) how many cases have been filed against the Government and what steps he is taking to compensate all victims of land clashes.

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

(a) I am aware that many land clash victims have not been compensated by the Government.

(b) I am also aware that there are many squatters in various places.

(c) Many land claims were presented to the Government-appointed Task Force on Internally Displaced Persons that presented its report in the year 2006. The Government has already initiated a programme to resettle all genuine clash victims on land purchased for that purpose.

I thank you, Mr. Speaker, Sir.

Capt. Nakitare: Mr. Speaker, Sir, there has to be a distinction between land clash victims and squatters in this country. As we address the question of landlessness, this Ministry is not serious. The people who were displaced in 1992 were 10,000. But after ten years, the number has grown tremendously. How will the Assistant Minister identify genuine squatters or genuine land clash victims? Most of them are squatting on road reserves. Is the Government serious?

Mr. Kamama: Yes, Mr. Speaker, Sir! The Government is very serious! The Ministry has been able to distinguish land clash victims from normal and genuine squatters. We have both lists and we have drawn programmes for all of them.

Mr. Gachagua: Mr. Speaker, Sir, squatters and people living by the roadsides are all over the country. The Government has been setting aside money to settle squatters in the Budget year in, year out. Could the Assistant Minister tell the House how many people were settled last year? Could he also confirm that those particular squatters, and many others in the country, will be settled? The answer we have been receiving in this House day in, day out, is the same. But we are not seeing any action on the ground. Could he confirm?

Mr. Kamama: Mr. Speaker, Sir, the issue of squatters is a serious and sensitive issue in this country. I remember confirming to this House, three weeks ago, that the Government has spent Kshs339 million out of the Kshs400 million that was allocated in the fiscal year to buy farms to resettle those squatters. The squatters in Nyeri, especially those in Mathira, are going to be settled in one of these farms. So, we are serious about that matter. But the normal procurement procedures have actually slowed down the process. But we are on track.

Mr. Speaker: Last question, Capt. Nakitare!

Capt. Nakitare: Mr. Speaker, Sir, you can see from the Assistant Minister's reply that his Ministry is biased and has forgotten Trans Nzoia District, which was a white man's land. It has many squatters and land clash victims. Those squatters and land clash victims have been left behind.

Land was distributed in Coast Province and Molo. But nothing was done in Trans Nzoia and Saboti Constituency. What is the Assistant Minister doing? Is he saying that he will identify victims? Iyadi was a large-scale farmer. He is now a squatter. He was driven out of his 900 acres of land. Come off it, Mr. Assistant Minister!

Mr. Kamama: Mr. Speaker, Sir, the Member for Saboti is very well aware of the fact that I was personally in Trans Nzoia to listen to the problems of squatters and co-operative farms in that place. We are planning to assist the people of Trans Nzoia. We have identified land to assist them. The issue of saying that we are biased does not arise. These people will be assisted.

I have gone there with the Permanent Secretary, Ministry of Co-operative Development and Marketing and we are addressing his concerns.

Question No.267

SECURITY OF TENURE FOR THE
COMMISSIONER OF POLICE

Mr. Mwanicha asked the Minister of State for Administration and National

Security:-

(a) whether he is aware that one of the causes of insecurity in the country is lack of security of tenure for the Commissioner of Police,

(b) what he is doing to ensure that the Commissioner discharges his duties without fear or favour; and,

(c) what steps he will take to make the job more competitive than it is now.

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

(a) I am not aware that one of the causes of insecurity in the country is the lack of security of tenure for the Commissioner of Police who is in office under Section 108(1) of the Constitution of Kenya.

(b) The powers conferred on the Commissioner of Police under Section 5(1) of the Police Act Cap.84 are adequate. Section 5 of Cap.84 vests authority on the Commissioner of Police to issue administrative orders or regulations for the general control, direction and information in the police force. The Commissioner, therefore, has enough latitude under the law to discharge his duties without fear or favour.

(c) Power to appoint the Commissioner of police is vested on the President of the Republic of Kenya under Section 108 of the Constitution of Kenya.

Mr. Mwanicha: Mr. Speaker, Sir, this House is aware that, in many cases, whenever criminal acts are committed in this country, it is normal to hear the statement that police are investigating the matter. In many cases, some criminal acts may actually not be investigated because the Commissioner of Police does not have job security. Why is it that no reports have been written regarding the cases that are being investigated by police in this country?

Mr. Munya: Mr. Speaker, Sir, the question the hon. Member is asking is quite unclear. The security of the job of the Police Commissioner depends on how he discharges his duties. If he is able to discharge his duties adequately and do his work very well, then he has the confidence of the public and the appointing authority. I do not think that giving the Commissioner of Police constitutional protection or security of tenure will necessarily make him perform his duties better.

In any case, if you have a Commissioner of Police who has security of tenure, but he is not able to perform police work which is very important for the security of the country, we will enter into a lot of problems. This will bring more insecurity if we have one who has been given powers under the law to act as he wishes. Commissioners of Police have been doing their work very well.

Mr. Bahari: Mr. Speaker, Sir, the role of the Commissioner of Police is very critical in this country as we continue urbanising and with all the insecurity cases being reported in this country. How does the Assistant Minister expect the Commissioner of Police to perform his duties expeditiously when he is not even an AIE holder? In the past, the equipment that has been purchased for the police has been substandard because the Commissioner of Police has no control over it.

Mr. Munya: Mr. Speaker, Sir, I am not aware that any equipment purchased for the police is substandard. The hon. Member should table evidence of that allegation. That is a mere allegation that is not backed by any evidence and should not be made in this House.

Mr. Billow: Mr. Speaker, Sir, the Assistant Minister said that he is not aware of purchase of any substandard equipment. Is the Assistant Minister in order to mislead the House when, in fact, the Police Department does not have an Accounting Officer? The Police Department uses the Permanent Secretary, Office of the President, and therefore, the police are not really responsible for their purchases, procurement and everything.

Mr. Speaker: What about the Mahindra?

Mr. Billow: Exactly!

(Laughter)

Mr. Munya: Mr. Speaker, Sir, the Mahindra saga was a KANU affair. When this Government took over, we made sure that the police have vehicles that can move with speed.

Maj. Madoka: Mr. Speaker, Sir, the Assistant Minister has said that he does not know whether the lack of tenure of office of the Commissioner of Police is one of the causes of insecurity in the country. Could he now tell us what are the causes of the state of insecurity in this country?

Mr. Munya: Mr. Speaker, Sir, I said that lack of tenure of the office of the Commissioner of Police is not a cause of insecurity. I will need enough time to come and do that analysis.

Mr. Speaker: Mr. Assistant Minister, have you ever heard of the principle of exclusion? The main issue is insecurity. You have excluded the lack of tenure of the Commissioner of Police. What is, therefore, left?

Mr. Munya: Mr. Speaker, Sir, the causes of insecurity anywhere in the world are universal. There are socio-economic and psychological causes which have to do with the frame of mind of those who commit crimes. We need to bring a Sessional Paper in this House to analyze in depth the causes of insecurity.

Mr. Angwenyi: Mr. Speaker, Sir, the reasons for insecurity include the fact that there is no rapport between the Commissioner of Police and the general police force.

Mr. Munya: Mr. Speaker, Sir, the Commissioner of Police who provides leadership to the entire police force has a very good rapport with his officers. That is why they have been doing very well including the response they made when there was an explosion in town yesterday.

Mr. Mwanicha: Mr. Speaker, Sir, the reason I asked this Question is that this country relies heavily on tourism and as such we need security. Therefore, we should not have these travel advisories.

The Assistant Minister has said that we need to bring Sessional Papers to this House to tell us what we need to have a secure country. People are not sleeping in the countryside. The Assistant Minister sleeps at night because he has policemen guarding him in his house! When will this Sessional Paper come to the House?

Mr. Munya: Could the hon. Member repeat the question?

Mr. Mwanicha: Mr. Speaker, Sir, I said that I asked this Question because this country relies heavily on tourism. We have travel advisories on Kenya because of insecurity in the country. These travel advisories will be enhanced now that bombs are exploding in the town centre. People are not sleeping in the countryside. When will the Assistant Minister bring the Sessional Paper to tell the House what he will do to make this country secure?

Mr. Munya: Mr. Speaker, Sir, I think the hon. Member misunderstood me. I was explaining that a Question dealing with the general causes of insecurity would require some time to prepare to bring it to the Floor of the House. That does not mean that police are not working round the clock to stem the insecurity that has engulfed our country. We are doing everything in our power to make sure that this insecurity is dealt with.

Question No.284

INCREASE IN CASES OF
CERVICAL CANCER

Mr. Speaker: Is Prof. Mango not here? This is very unusual! Prof. Mango is normally in the House on time. I understand she is out of the country. I will defer her Question.

(Question deferred)

Question No.296

PAYMENT OF SALARIES TO NURSERY
SCHOOL TEACHERS BY MINISTRY

Mr. Omamba asked the Minister for Education:-

(a) whether he could consider paying nursery school teachers in the country;
and,

(b) whether he could further provide funds for the construction of classrooms for nursery schools.

The Assistant Minister for Education (Mrs. Mugo): Mr. Speaker, Sir, I beg to reply.

(a) The Ministry is in the process---

Mr. Omamba: On a point of order, Mr. Speaker, Sir. I do not have a written reply!

The Assistant Minister for Education (Mrs. Mugo): Mr. Speaker, Sir, I do apologise. I have a written reply here with me which has a signature. I believe it must have been delivered to the Clerk's office. If not, maybe it has not arrived. I apologise for this.

Mr. Speaker: Mr. Omamba, do you think you will be disadvantaged?

Mr. Omamba: Mr. Speaker, Sir, I needed to see that written reply.

Mr. Speaker: Then I will defer the Question to tomorrow. Madam Assistant Minister, ensure that you have a written reply.

The Assistant Minister for Education (Mrs. Mugo): Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well; the Question is deferred to tomorrow afternoon.

(Question deferred)

Question No. 349

OPERATIONALIZATION OF NDURU
PRIMARY SCHOOL BOREHOLE

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

(a) how much money was spent on the drilling of the borehole at Nduru Primary School in Nyamarambe Division of Gucha District,

(b) why the borehole is not operational and whether the contractor has been paid full value for work done; and,

(c) when the borehole will be operationalized.

The Assistant Minister for Water and Irrigation (Maj. Sugow): Mr. Speaker, Sir, I seek your indulgence regarding this Question. There are further details which I need to confirm personally after consultation with the hon. Member with regard to the answer to this Question and the situation on the ground regarding this project. I request indulgence and deferment of this Question to Tuesday next week.

Mr Speaker: Mr. Omingo, is that okay with you?

Mr. Omingo: Mr. Speaker, Sir, I have no objection up to Tuesday next week as per the request of the hon. Member.

Mr. Speaker: Very well; the Question is deferred to next week.

(Question deferred)

**COMMUNICATION FROM
THE CHAIR**

**MEASURES TO STRENGTHEN SECURITY ARRANGEMENTS
AROUND PARLIAMENT BUILDINGS**

Mr. Speaker: Hon. Members, I just want to give a little Communication although not in the usual manner that I do; of written Communications. However, I just want to share my thoughts with you as we continue with this very crucial and important Session of our House. Just a few minutes ago the Assistant Minister in the Office of the President, was addressing issues of insecurity and related matters.

I think this House is aware of the recent instances of insecurity around Nairobi and other parts of the country; more significantly what transpired yesterday in the City of Nairobi. Because of those reasons and others, the administration of Parliament will attempt, again, to strengthen its security arrangements in and around Parliament Buildings, and the environment of Parliament. This will of necessity entail intrusion into your lives, cars, bags, other things that you may be carrying and the people you introduce to Parliament. This is the most unpleasant thing we have to do, but it is necessary to do so, in the interest of security.

Hon. Members, this issue is not confined to Kenya or the Parliament of Kenya. It has become a global problem. We all travel and see how this issue of terrorism and related insecurity issues are dealt with around the world. Indeed, I think we have slackened a lot. So, hon. Members, please understand when the security arms of Parliament and of the State wish to carry out searches, that it is in your own interest, this institution and the nation of Kenya. We will attempt to do this with as much civility as possible. However, it is something that must be done.

I also wish to say that any actions and other steps that we will take, will apply to every Member of this House without discrimination. Whether you are in the Front Bench, Middle Bench or Back Bench, it will apply to everybody without discrimination. There will not be favouritism. There will not be any fear in discharging this duty. It is upon my shoulder that you have bestowed the responsibility to ensure the security of this institution and the occupants thereof.

I intend to carry out this duty to the best of my ability together with the officers entrusted with me.

Hon. Members will not be required to have any weapons within this Chamber or any other Rooms or parts of this Assembly. You know the rules; if you have any weapons, deposit them with the Serjeant-At-Arms. Your security details will have to remain in your cars or elsewhere. They will not be allowed to loiter around within the precincts of Parliament. Your strangers; ensure that they never come to this building with anything that is offensive or suspect.

That is my message, delivered as politely, but as firmly, as I can possibly muster.

Thank you.

(Applause)

The Assistant Minister for East African Community (Dr. Khalwale): On a point of order, Mr. Speaker, Sir. You have raised a very important issue of national importance and I must thank you---

Mr. Speaker: Dr. Khalwale, I cannot hear you well!

The Assistant Minister for East African Community (Dr. Khalwale): Mr. Speaker, Sir, I am saying that the matter you have just raised is so important that I would like to commend you. As

I do so, I am a worried man because we are hearing that some hon. Members could possibly be members or leaders of terror gangs in this country. I was just wondering whether through your own intervention or the Powers and Privileges Committee, is there anything the Chair can do, so that our "honourableness" can be restored?

(Applause)

Mr. Speaker: Order, hon. Members! First of all, let me put the record right; hon. Members of this House are not expected to belong to any terror gang or any gang at all! Indeed, your very title "honourable" should exclude you from behaving like, belonging or subscribing to the ideals of a terror gang. If you do so, you are reneging on your title of being an honourable Member. However, I do not have evidence that there are such Members. If availed to me, of course, there is the Powers and Privileges Committee that will deal with it. I think it is much more beyond the Committee of Parliament to deal with such matters. I think it is a State issue. If any hon. Member belongs or subscribe to a terror gang, it is the duty of the State to apprehend and charge him or her. If found guilty, he or she must go to prison! I think the only problem that we have these days is that we think a certain class of people can commit offences and get away with it.

The Minister here, must disabuse hon. Members of the fact that the Powers and Privileges Act gives them immunity from prosecutions for criminal activities. I have seen that in the past. You are not and will never be immune to any criminal activity. I certainly will not encourage it, or certainly allow anybody to commit any crime within Parliament and plead the immunity of Parliament. It does not give that immunity if you are a criminal of any nature; whether small or big.

Thank you! I think I have finished with that.

POINTS OF ORDER

DEMAND FOR GOVERNMENT STATEMENT ON ORIGINS OF *MUNGIKI*

Maj-Gen. Nkaisserry: Mr. Speaker, Sir, I rise to seek a Ministerial Statement on the issue of insecurity caused by the *Mungiki* menace.

In the Statement I intend to know from the Minister of State for Administration and National Security the root cause of the *Mungiki* menace. Who are the *Mungiki* leaders? Given that the Government has a National Security Intelligence Service (NSIS) to provide such intelligence information, what action is the Government taking to ensure that it stamps out this menace and any other insecurity menace in the country?

Mr. Speaker, Sir, why are hon. Members of Parliament from Central Kenya quiet about this menace given that one of their own implicated some of them as being members of *Mungiki*?

(Applause)

Mr. Speaker: Mr. Assistant Minister, when can we get this Statement?

The Assistant Minister, Office of the President (Mr. Munya): Mr. Speaker, Sir, I will be able to give the Statement on Thursday---

Mr. Speaker: This week? Sorry, I will not allow you entirely!

(Laughter)

Thursday is Budget day!

The Assistant Minister, Office of the President (Mr. Munya): Tuesday, next week, Mr. Speaker, Sir!

Mr. Speaker: Thank you!

Yes, Mr. Bahari!

MEASURES TO DEAL WITH HUMAN/WILDLIFE CONFLICT IN
ISIOLO SOUTH CONSTITUENCY

Mr. Bahari: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Tourism and Wildlife regarding the wildlife menace in my Isiolo South Constituency. It has gone beyond normal and, particularly, the hyenas that have been harassing pastoralists in my constituency and literally everywhere else. That has been my observation during our short break. Even in trading centres, people cannot sleep because of the hyenas.

Mr. Speaker, Sir, I would like to know the following from the Minister:-

How many livestock have been affected by the hyenas? How many have been killed or injured? What measures is his Ministry taking to ensure that, that menace is contained?

Mr. Speaker: Very well! I know that the Minister for Tourism and Wildlife is not around. You heard me tell hon. Lesrima earlier on. They are all out of the country. I believe that His Excellency, the Vice-President and Minister for Home Affairs will convey the message to the Minister.

The Vice-President and Minister for Home Affairs (Mr. Awori): Yes, Mr. Speaker, Sir. I will convey the message to the Minister so that a proper Statement, giving the correct information, will be given next week.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Thank you.

Next Order!

MOTION

ADOPTION OF REPORT ON SIXTH SESSION
OF PAN AFRICAN PARLIAMENT

Mr. Speaker: Who was the leader of the delegation? Is Mr. Oparanya not here?

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

I beg to move the following Motion:-

THAT, this House adopts the Report of the Sixth Ordinary Session of the Pan African Parliament held in Gallagher Estate, Midrand, South Africa, from 13th to 24th November, 2006, laid on the Table of the House on Wednesday, 18th April, 2007.

Mr. Speaker, Sir, for hon. Members to understand the operations of the Pan African Parliament (PAP), I would like to give a short historical perspective of the Parliament. The Constitutive Act was established by the African Union (AU) and its organs, and was signed in Lome, Togo on 11th July, 2000, by the 53 Independent countries of Africa. Article 17 of that Constitutive Act provided for the establishment of PAP in order to ensure full participation of the African people in the development and economic integration of the continent.

The Protocol to the Treaty establishing the PAP was finally ratified by 46 countries in Sirte, Libya, on 2nd March, 2004, which paved the way for the establishment and inauguration of the PAP in Addis Ababa on 18th March, 2004. The seat of the PAP is in Midrand, South Africa. For the first five years, the Parliament should have consultative and advisory powers only. During the interim period, the member states shall be represented by five Members nominated by their

national parliaments. I am happy to report that this Parliament is represented by hon. Wycliffe Oparanya, who is the leader of the delegation, hon. Njoki Ndung'u, hon. Nyiva Mwendwa, hon. Mwanicha Okioma and hon. Nicholas Salat.

Mr. Speaker, Sir, I will go through the objectives of PAP very quickly. They are as follows:-

1. Encourage international co-operation, taking into account the Charter of the United Nations and the Universal Declaration of Human Rights.
2. Promote peace, security and stability in the Continent.
3. Promote democratic principles and institutions and popular participation and good governance within the Continent of Africa.
4. Promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments.
5. Lastly, establish the necessary conditions which will enable the Continent to play its rightful role in global economy and international negotiations.

Mr. Speaker, Sir, at this juncture, I want to thank hon. Members of PAP from this Parliament for their active participation during parliamentary debates. I also want to thank our Government for having facilitated Members to attend both the Committee and the Ordinary Sessions proceedings.

Since PAP was established three years ago, it has made some achievements. It has been able to come up with its own rules or procedures. It has already established a strategic plan from 2006 to 2010 and, currently, it is actively involved in the conflict resolution on the Continent. It has sent missions to Darfur in Sudan, the Democratic Republic of Congo (DRC), Cote d'Ivoire, Togo and Somalia.

Mr. Speaker, Sir, during the Session that I am reporting on - the Sixth Ordinary Session - the following issues were discussed and adopted:-

The PAP launched its Trust Fund. It was important that a Trust Fund is established to supplement the meagre funds that come from the AU. As you know, the AU is comprised of the Independent states of Africa, which contribute to the AU kitty. But some of the countries are unable to contribute and, therefore, the flow of funds to the Parliament has been a problem. So, the Parliament decided, through a resolution in the House, to establish a Trust Fund, which will supplement the activities of the Committees and the Parliament as a whole. At that time, we were lucky that the retired President of the Republic of South Africa, His Excellency Nelson Mandela, officially launched the Trust Fund and, at the same time, accepted to be the patron of the Fund.

Mr. Speaker, Sir, the African Peer Review Mechanism (APRM) Country Reports on Rwanda, Ghana and Kenya were discussed at length. But I will confine myself to what was mentioned about our own country. There were five issues that were mentioned negatively about Kenya. There were also issues that were positively mentioned.

Mr. Speaker, Sir, the first positive issue that was mentioned about Kenya is that it has had a very impressive economic growth for the last three years and that the Government has reduced the foreign debt over the last three years. It was said that the country has made significant strides in the production and export of horticultural products; the country has established the Constituencies Development Fund (CDF), which has helped to develop rural areas; the country has facilitated peace in the neighbouring countries, especially in Somalia. There is also freedom of exercising political and civil rights and we have an efficient Electoral Commission. Kenya was also commended for introducing Free Primary Education (FPE). Lastly, Kenya was also commended for the reduction of the HIV/AIDS prevalence rates from 13 per cent to 7 per cent between 1999 and 2004.

Mr. Speaker, Sir, however, the African Peer Review Mechanism (APRM) Report was critical about Kenya regarding the following issues:

First, corruption in this country is still on and is much alive and kicking. The cases of

Anglo Leasing and the Goldenberg scandal were mentioned. The other issue that was mentioned in the APRM Report was that this country is unable to address the colonial legacy and set a political agenda for a real and strong united country. They also cited the historical imbalances in channelling of resources and development to certain regions of the country. The issue of the delayed new Constitution; marginalisation of certain groups within this country and ethnic-oriented political parties; high levels of poverty; lack of confidence and trust in public institutions; poor implementation of Government policies; and weak oversight role of this Parliament were mentioned.

Mr. Speaker, Sir, the Report, which was adopted by the House, recommended the following: First, Kenya should enact a new Constitution that will take care of the interests of all Kenyans. In fact, eminent people within the African Union (AU) were requested to help Kenya in making sure that we have a new Constitution. It was also recommended that this country should address the issue of creating an enabling environment for investment by developing infrastructure, reduce cost of doing business and combating insecurity, improving public service delivery, especially in areas of business registration and licensing, accelerate implementation of programmes aimed at poverty reduction such as slum upgrading projects. It was noted that there is need for the Executive to work with a reform-oriented Parliament and Judiciary, and transformation leadership at all levels.

Mr. Speaker, Sir, we were glad that the Assistant Minister for Planning and National Development, hon. Serut, was there to respond to some of these issues. He promised that the Government was going to address the weaknesses that were pointed out in the Report and make a progress report to the AU Summit, which was held in Addis Ababa, January, 2007.

Mr. Speaker, Sir, the issue of peace in Africa was discussed at length; and moreso, peace in Darfur in Sudan, Cote d'Ivoire, the Democratic Republic of Congo (DRC), Chad, Somalia and Western Sahara. Issues that cause instability were looked at. Some of the issues that were looked at and which contribute to insecurity in Africa were as follows:

Lack of socio-economic justice in some of the countries; divided societies on the basis of religion and ethnicity, scramble for scarce resources; lack of consistency in the administration of justice; lack of political tolerance in some countries; lack of strong and accountable democratic institutions; corruption; land issues; proliferation of small arms; disputes over election results; refusal by Heads of States to hand over power; interference by foreigners in African affairs; and colonial inheritance relating to the demarcation of boundaries and border conflicts.

Mr. Speaker, Sir, the other issue that we looked at, and which this Parliament should follow, is the audit report of the Parliament for the year 2004/2005 as audited by the AU External Board of Auditors. The Parliament adopted its only budget for 2007, which was approved at US\$51.1 million against the expenditure of US\$11.9 million for the year 2006. The issue of arrears of the AU member States as at 20th November, 2006 amounting to US\$59.4 million from the AU members was also discussed.

Mr. Speaker, Sir, the issue of finances has been addressed by five countries accepting to contribute 75 per cent of the budget. South Africa has accepted to contribute 25 per cent of the budget and so has Libya, Nigeria and Algeria.

Finally, the other issue that was discussed is migration in Africa. Migration was looked at within individual countries, within Africa and migration to the outside world. Factors that contribute to migration issues were also discussed and various governments were requested to deal with the issue of migration as a problem that affects this continent.

Mr. Speaker, Sir, there are a few issues that we learnt there as a Parliament and that we need to copy or adopt in this House. One of the issues that we undertook to look at is the issue of live coverage. We have been talking about live coverage in this Parliament for many years, but we still do not have it.

The other issue is that the Pan African Parliament is able to discuss its own budget. It is

also able to discuss its own audit report which does not happen here. We have to encourage that our own Budget and audit report must be debated and adopted here by this Parliament.

Mr. Speaker, Sir, lastly, the Committees of Parliament there play a very crucial role. All Committees discuss relevant issues under them and the Chairs of the various Committees report. So, most of the work is done in the Committees. They are well facilitated to ensure that they discuss issues exhaustively before they come to the Floor of the House. The Parliament there also decides on its own calendar, something which we have been fighting for here. I hope that soon we will get that so that we are able to decide on our own calendar.

Mr. Speaker, Sir, with those remarks, I beg to move and request hon. Okioma, if he is around, to second.

*(Messrs. Mwanicha and Salat
stood up in their places)*

No! I request hon. Salat, who is a Member of the Committee, to second the Motion!

Mr. Speaker: Order! Order, all of you!

Mr. Oparanya, you will have no right now to call upon anybody to second. That is my prerogative! Is there anybody willing to second?

All right, Mr. Salat!

Mr. Salat: Thank you, Mr. Speaker, Sir, for giving me the opportunity to second this Report on the Sixth Ordinary Session of the Pan African Parliament. First and foremost, I would like to thank Members who are our representatives in the Pan African Parliament, who are present here today, ready to contribute to this particular Report.

Mr. Speaker, Sir, I am sure that, as of now, most Members have gone through this Report and are ready to contribute because when we are there, we are told all the deliberations that we carry out at Pan African Parliament, we take them back home for further debate by member States. Today, the Leader of the Delegation has put the highlight of the Sixth Session as the launch of the Pan African Trust Fund, which I will also add, it was a great occasion for most of us, because the patron of the Trust Fund was none other than the great leader, His Excellency, retired President of South Africa, Nelson Mandela. For those of us who had never had a close contact with him, I have read about him, heard about him, we really treasured the occasion, and in seeing him speak to us, we realised that it was important that we look forward to having Africa pull together for a common cause.

The highlight of his speech focused on the problems that are bedeviling the Continent of Africa. He mentioned illiteracy, unemployment, lack of shelter, water and HIV/AIDS. He said that we, as Members of Parliament from the respective member States, should go back to our countries and find solutions, because without tackling these problems that have been there, for example in Kenya, these problems have been there since Independence, we are not going to make any progress in terms of our economic development. So, he challenged us, as Members, to go back to our respective Parliaments and come up with ways and policies through which we can, together, tackle these problems that still persist among our people.

Mr. Speaker, Sir, it was also important that we touch on a report that touched on our country, that is the report on the African Peer Review Mechanism, in which Kenya was among the first countries to be audited. Through the eyes of others, they came to Kenya to review it. That being the case, we were told to dwell on issues or to make the criticisms that were levelled against Kenya. As has been said, there is pervasive corruption and delay in constitution making. We may think that the constitutional process was a Kenyan affair. But it is known within the African Continent that Kenyans are still yearning for a new constitution. Through this particular peer review mechanism, they are urging Kenyans to move on and enact a new constitution.

So, when we bring the deliberations by this particular review group, we want our

Parliament to move, so that when we go back and Kenya is discussed, we will be seen to have brought it to the House and discussed the way forward on getting a new constitution.

Mr. Speaker, Sir, another one which I will not miss to touch on is the historical imbalances, and which we still believe is in the channelling and distribution of natural resources. Up to now, we want to believe this is our country and all the resources that are within our borders should be shared equally. But it has been found out that, historically, there have been continued imbalances in terms of the distribution of resources. So, we are being urged as a country to make sure that when we are distributing the wealth, the natural resources of this country, we do it equitably. That is what Africa is urging Kenya to do. So, it is upon us that, when we deliberate on the way forward, we make sure that what we do and how we share our resources, we do it equitably.

Mr. Speaker, Sir, another one was the marginalisation of certain groups. This is also one area that was mentioned in the APRM Report. The Minister who came to represent the country then said that by January this year, a report should be ready. We hope when we go back, we will table that report and say Kenya is doing something about the Report that was tabled by the APRM group.

Another one which is relevant to our country was the ethnic-based political parties. It is not only our problem, but is the problem of Africa, that we still have our parties which are ethnic-based. Africa is urging us whether we can have parties that are ideologically oriented, so that when we implement policies, we are not looking at who is who, but are looking at the nation at large. It is important that we do this when the Political Parties Bill is before this House, so that we can have parties that will drive this country without looking at who is from where and who is who. Mr. Speaker, Sir, another one which they mentioned was the lack of confidence in public institutions. We need to have Kenyans start having trust in our public institutions. It was found out by this particular group--- The APRM report states that in Kenya there is still a great lack of confidence and trust in our public institutions. Now, as Parliament, we need to enact laws so that Kenyans can start believing in institutions that should be rendering them services. The Pan African Parliament audits its own expenditure. We hope that soon, we will start auditing our Parliament, so that we are seen to be transparent in how we expend resources, and so that Kenyans can have trust in us.

Mr. Speaker, Sir, finally, is the high poverty level. I am a believer that the insecurity in this country has something to do with the poverty levels. We may claim that our economy has grown by 6.1 per cent. But does it translate down to the common man? We want it to go down to that common man, so that when we are talking about a certain percentage, 6.1 per cent, the *mwananchi* at home knows exactly what it means to have an improved economy. That is the only way we can start tackling insecurity. It is one way in which we can make the youth of this country start believing that they can also access the good life that some people are enjoying in this country.

We have the Youth Enterprise Development Fund. But the conditions to access the funds do not help the youth down there to access the funds. So, the only alternative for them is probably to rob. So, I urge that in order to reduce insecurity and keep the youth busy, doing some constructive, positive and tangible things for the country, we need to make sure that we implement policies. When we say we are forming the Youth Enterprise Development Fund, we make it also accessible to not only the urbanised youth but also to those in the villages.

Mr. Speaker, Sir, I would like to say that we have a chance to look at the Report and, therefore, most hon. Members should have a contribution to make because it is important. It is hoped that by 2030, the Pan African Parliament will be autonomous, where we will have Members elected from every corner of the continent to represent Africa. The way we deliberate here, we will one day want to deliberate about Africa and issues that are touching on Africa. I would like to talk about immigration. We need to have Africans accessing countries in Africa much easier than it is the case today. It is easier for me to go to Europe than to South Africa or just to a neighbouring country because our immigration laws are still so colonial. My suggestion is that we should move forward in integrating Africa by the proposed year 2030. We should start making it easier for

Africans to integrate.

With those few remarks, I beg to second.

(Question proposed)

Mr. Mwancha: Mr. Speaker, Sir, thank you for giving me a chance to contribute to this Motion. I am a Member of the Pan African Parliament and the theme and motto of the Pan African Parliament is for Africa to speak with one voice. Africa has been left behind because different countries speak in different voices. As it has already been mentioned by the speakers before me, despite the noble aspirations of the Pan African Parliament, it has its own problems. One of the problems is that of attendance. It is not legislative at the moment and Members come from different Parliaments. During elections, the turn-over of the Members of Parliament is high because some Members do not make it back and there are those Members who are appointed to the Cabinet. Members who are in the Cabinet do not attend the sessions.

Mr. Speaker, Sir, as can be seen in the Report, in the last Session held on 13th to 24th November, 2006 there were 15 new Members while 12 Members did not turn up. This is one of the problems that the Pan African Parliament is facing. We do hope that in the near future, the Pan African Parliament will have Members elected to stick there for five years so that there is continuity.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, the other problem is that of arrears. Many countries are not able to contribute to Pan African Parliament. They do not contribute because of the various financial problems they have in their respective countries. It is, therefore, common to find that in some countries, Members do not come at all. In some others, they come for only two or three days. In some cases, you will find that out of five Members, two come for two or five days and the other three come for the rest of the time. There are serious financial problems that the Pan African Parliament is facing. We urge the African countries - Kenya included because it is one of the countries which have not paid the arrears - to ensure that the arrears are paid on time so that the Parliament can run as expected.

Mr. Temporary Deputy Speaker, Sir, during this Session, the Parliament considered the Report of a ship that docked at the Port of Abidjan and off-loaded tonnes and tonnes of toxic waste which led to the death of 12 people and over 107,000 being hospitalised. Africa is telling the Western countries with one voice, that as we talk about globalization, the West should not think that Africa is a dumping ground of that kind of waste. The unfortunate thing is that it is the African countries which allow such toxic wastes to be deposited in their countries.

Unfortunately, the unscrupulous companies which deposit the waste in Africa target countries which are unstable. This is why we think that peace in Africa is extremely important because some of those vices would not be perpetrated in an African country that is stable. Because of that, the team leader, Mr. Oparanya, gave us various reports of the spots of instability in Africa which the Pan African Parliament has been able to send missions to, who have reported and the reports discussed in the Pan African Parliament. As he said, these include, key problems in Cote d'Ivoire, Chad, Sudan, Somalia, DRC and others.

Mr. Temporary Deputy Speaker, Sir, Africa is saying that we are no more a dark continent as it was said before. We are telling the West with one voice that there is no way Africa can be a dark continent when the equator passes through Africa and when the tropics pass through Africa. It

was resolved that all the African countries which have not signed the Bamako Convention against the disposal of toxic waste in Africa, the Basel Convention which bans the disposal of toxic waste in the African-Caribbean and Pacific Countries to sign those conventions immediately so that in future, Africans do not die like in Ivory Coast where 12 people died and over 107,000 others hospitalised.

The other problem that was highlighted by the Pan African Parliament is that of desertification and global warming. It is dawning on Africa that the problems that Africa is now having are not caused by Africa itself but the Western countries. As you may be aware, Lake Bogoria is drying up and the snow caps on Mt. Kenya and Mt. Kilimanjaro are depleting largely because of global warming. It was reported to the Pan African Parliament that it is the developed countries like Europe, Japan, United States of America, China and to some extent India that are causing global warming. There is no contribution from Africa or if it is there, then it is negligible.

The problems of diseases that have emanated in Africa--- My own district used to be very cold and we knew that malaria was a problem in the lake region because it was warmer. But due to global warming, we now have malaria in Kisii Highlands which was never there. These problems caused by global warming are real. They are now facing us and we need to tackle them. Africa is telling the West with one voice that it has to do something about the carbon imbalance that it is causing, which is the one depleting the ozone layer and, hence, causing the global warming.

Mr. Temporary Deputy Speaker, Sir, we also discussed desertification. The Pan African Parliament was informed that we are losing 10 million hectares of arable land to the desert. It was also informed that the sand dunes and hamatan winds in West Africa have increased in intensity because of the increasing desertification. Africa has to face this problem with one voice.

Mr. Temporary Deputy Speaker, Sir, poverty is an issue that is actually being caused by the Western countries. Global warming, increased diseases and reduction of rains due to increased desertification cause poverty in the African countries. The West is part and parcel of this problem. It has to do something about it. The Pan African Parliament has taken up this issue. This month, the Heads of states of African countries are meeting in West Africa to discuss the issue of the Union Government of Africa. We are looking forward to the time when the Head of the Union Government of Africa will be presenting the Budget of the Pan African Parliament, so that we can deal with health, global warming and communication issues. As hon. Salat said, many hon. Members travelling to North African countries including Algeria, Morocco and Tunisia, until this day, still have to go through France.

These are the issues that the African countries are looking into through the Pan African Parliament. Members of Parliament have sufficient time to look, in detail, at the various reports before they can make resolutions to be considered by the Heads of states.

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

Mrs. Mwendwa: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to support and comment on this Report.

We have heard a bit from the other Members of the Pan African Parliament. Therefore, I will avoid repeating what they have said. The Leader of the delegation did actually comment on the negative issues which were raised by the African Peer Review Mechanism Group when it came to Kenya. However, I would like to dwell on the positive issues.

The African Peer Review Mechanism Group leaders were invited to Kenya. In fact, they were invited by three countries. They included Kenya, Uganda and Burundi. They were impressed by our free primary education programme. Also, while they were here they did feel our democratic space which has been created in our country, of late. They did comment on the way our general elections had been conducted. They advised that, perhaps, Kenya should also advise other African countries on how general elections should be conducted. This is because elections are done very poorly in most African countries. I think Kenya was rated as one of the best.

Mr. Temporary Deputy Speaker, Sir, the only thing which they commented negatively about Kenya - and which has not been mentioned by other hon. Members - was the fact that although our economy has grown by over 6 per cent, we have not reached anywhere near half our potential. This is because Kenya has got the capacity to develop at the same rate as South Africa and Egypt. So, we still have a long way to go, but we have the potential to grow. They also observed that we are moving in the right direction.

Mr. Temporary Deputy Speaker, Sir, the issue which engages the Pan African Parliament everytime it meets is peace in Africa. This is because the African continent had got more strife than any other continent on earth. There is always war and a lot of insecurity in Africa. For example, the conflicts being experienced in Darfur, Ivory Coast, Somalia and many other countries in Africa have been of great concern. So, most of the time we send delegates to those countries to collect facts about the strife in different countries. As a result of this, you will find that the migration of people in Africa is more than anywhere else. We have more refugees in Africa than anywhere else in the world due to political conflicts. We also have immigrants who move from one country to the other in search of pasture and water. There are also those who move from one country to the other in search of job opportunities.

As a result of this, the Pan African Parliament is considering the opening up of boundaries, so that people can move more freely for whatever reason. But, of course, it is of great concern that we have many political refugees in our countries.

Mr. Temporary Deputy Speaker, Sir, at the moment, the highlight of the Pan African Parliament is the move to speak with one voice and establish a united states of Africa. The name "united states of Africa" is not very much liked because it is almost similar to the United States of America (USA). Therefore, the preferred name is the federation of African States. However the problem which is being foreseen if the African states unite, is that every state would like to retain its sovereignty. In every country, the head of state, wants to remain in power. None of them is ready to give up power. However, if we have a federation where the heads of states work together in the fields of co-operation and development, maybe it will work. However, as we have seen, there will be a lot of challenges in forming the Federal States of Africa. It is very good that we have the Pan African Parliament (PAP) where we share issues of importance in Africa.

With those few remarks, I beg to support.

Ms. Ndung'u: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to stand and support the adoption of this Report.

Mr. Temporary Deputy Speaker, Sir, when we were in Midrand during this session of the PAP, there were several reports that were adopted. One, of course, was the report on the African Peer Review Mechanism (APRM) on Kenya. It was adopted together with those of Ghana and Rwanda. The report on Kenya was full of very many positive things, including the recognition that Kenya is the third largest economy in Sub-Saharan Africa and moving along very fast. Our free primary education programme and the general freedom of political and civil rights were also recognised. However, it is important when looking at such a report we, as the national Parliament, address negative aspects in it.

Mr. Temporary Deputy Speaker, Sir, one of the things that was pointed out was the colonial legacy of tribalism and historical imbalances. The report noted that the Government or the country has not yet been able to address effectively that legacy of tribalism and historical imbalances. The other thing which was not mentioned neither in the reports of Rwanda, Ghana nor of those other countries were the issues relating to gender, particularly the representation of women in Government offices and other offices.

Mr. Temporary Deputy Speaker, Sir, I would like to quote the report verbatim. It says: "Although the current Government has appointed more women to the Cabinet and nominated more women to Parliament than previously done, the number are still dismal. Up until 2005, there were three women Cabinet Ministers out of 36, four

women Assistant Ministers out of 39, six women Permanent Secretaries out of 25, 18 women out of 222 Members of Parliament, no woman Provincial Commissioner, two women out of 71 District Commissioners and eight women out of 57 judges."

Mr. Temporary Deputy Speaker, Sir, the manner in which women are represented is not at the same level as the democracy at which Kenya should be. The report has recommended that this Parliament does debate and adopt the following Bills: The Affirmative Action Bill, The Equality Bill and the Domestic Violence (Family Protection) Bill. They have also talked about the need to change the Constitution to ensure that women's rights and their representation are well taken care of in the constitution. They did propose that this needs to be done through a new constitution. If not, through the proposals that we are making now through a minimum reform agenda.

Mr. Temporary Deputy Speaker, Sir, I would also like to point out that the African Union (AU) has recommended that they would like to send a team of eminent persons to facilitate the resolution with regard to the constitution if we are not able to work it out ourselves. I am presuming now that bipartisan committee has been meeting will be able to resolve the issue.

Mr. Temporary Deputy Speaker, Sir, another report that was adopted during this session was on the African Common Position on Migration and Development. Globally, there are about 150 million migrants, out of whom, 50 million are Africans. Out of this 50 million, at least, 3 million are Kenyans. It means that we need to begin to address the causes of migration; whether they are negative or positive causes. We need to manage migration. How are we going to protect the rights of Africans in the diaspora? How do we protect sufficiently the rights of Kenyans abroad? How do we balance the brain-drain? Currently, most of our nursing staff are moving to South Africa. This is because most of the nurses in South Africa have moved to Europe. What is happening is that we have a brain drain. At the same time, we have our human resources who are not exactly bringing back those resources in another way back onto the continent. This is something now that the PAP has taken a position. This national Parliament and our Government, perhaps can also address the issue of migration in a more formal way.

The PAP faces many challenges because it has no legislative role. This was put into the constitution that the PAP would not have a legislative role for the first five years. However, these five years are now coming to an end. There is need to propose amendment to the Constitutive Act to ensure that Members of Parliament who go to the PAP, one, are allowed to legislate. Secondly, so that they can be more effective, they do not actually have to be Members of this Parliament. It should operate in a manner in which the East African Legislative Assembly (EALA) is operating. We should be able to elect Members who go and report directly to the Parliament in Midrand.

I am hoping PAP will be a little bit more aggressive and less afraid. Since we come from different countries whose democracies are at different levels, sometimes it appears that some Members from other countries are afraid to talk about certain issues and accept certain criticisms. Most of all, I think the PAP should be a place where we need to discuss issues such as reparation. Africa has been the brain basket of the West for a long time. Why can we not aggressively start to ask for what they took back? For example, Britain should give reparations to Kenya and Zimbabwe. Namibia should be able to get reparations from Germany. Congo should get reparations from Belgium. I think it is time that we have a braver face. I hope in the next PAP, the Kenyan delegation will be able to articulate those issues and continue to give leadership that is unafraid *et cetera*.

Mr. Temporary Deputy Speaker, Sir, finally, just speaking on behalf of the rest of my colleagues in the PAP, there has been a Ministerial Statement that has been directed to the Ministry of Foreign Affairs. However, it has not yet been answered because the security of the Members of the PAP is something that needs to be addressed. During the negotiations for the seat of the PAP, South Africa was able to assure all member states that they will provide adequate security, so that the seat of the PAP could be there. Those of us from Kenya, did agree to it because we had that

assurance. Otherwise, Kenya itself would have offered our country as the seat of that Parliament. However, it has become very rough on us; not only to the Members from Kenya, but Members from the rest of the region as well. We have very many security issues. The insecurity in South Africa is compared to no other African country, which is not undergoing conflict. Therefore, I think that this is something that should be recognised. As we move on, the Kenya Government needs to know that this is a matter that needs to be seriously addressed.

With those few remarks, I beg to support.

Mr. Muite: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to add my voice to those hon. Members who are supporting this Motion. However, in doing so, I would also like to make the following comments. One, if we are truly going to succeed in having a Pan African Parliament which is practical and meaningful, we need to make it a reality to the ordinary African people; the people at the grassroots in the different countries of Africa. Unless that Pan African Parliament has some practical benefits to the people of the different African countries, it will remain a mirage and a dream. So, the challenge is: How do the people of the different countries in Africa see that there is practical benefit to them, as ordinary people, in having an institution like that one? This will ensure that it ceases to be an institution of the elite; hon. Members going to South Africa and other places---

An hon. Member: *Kujienjoy!*

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, they go there to discuss things that are esoteric and that have no practical meaning and which do not change the day to day lives of the African people. We can look even at the region; the East African Legislative Assembly (EALA). We should begin from the bottom and not from the top. This approach of top-to-bottom will not work. We have to come up with strategies that are going to enable us to begin from the bottom so that the people at the grassroots actually benefit. We must open up our boundaries. Even in this region, we must allow a woman from Kenya to go to Gikomba Market and buy second-hand clothes if she has discovered that there is market in Uganda, Rwanda, Tanzania, Zambia or the other places. She should buy those second-hand clothes, put them in a lorry and go without hinderance. She should go and sell them in Kampala, Entebbe and the other places and come back with a lorry full of bananas. We must open up those boundaries to the ordinary people.

If we can have economic co-operation, political co-operation will follow as a matter, of course. However, we cannot start with the political co-operation when the ordinary people do not see any economic benefit. We must open up the region and the continent to the free movement of goods, services, people and labour. It may be possible that people in the neighbouring countries do not like the job of sweeping the streets. You will find a country, like Kenya, where there are many people who do not mind sweeping the streets. Let them freely go and sell their labour in any country on the African continent. There should be free movement of labour, goods and services. Economic co-operation and collaboration is the key to political collaboration and union. These are not fresh ideas. They are ideas that were first discussed by the late Dr. Kwame Nkrumah. The challenge is how to bring that about.

Mr. Temporary Deputy Speaker, Sir, have you recently tried to go through the border crossing point in Taita Taveta? You will find a queue of lorries that spend days there before they can get cleared to go across to Tanzania or to come back. It is the same story in Malaba. If you want to travel to any country in Africa, it is easier for you, as an African, to travel to Europe, either to Paris and then travel down to an African country. What I am saying is that if we are going to realise this dream, which I support wholly; 100 per cent, let us be realistic. Let us take a reality check and start from the bottom.

Mr. Speaker, Sir, let us make this collaboration and union meaningful to the people. Let them be able to move freely. Let them be able to sell their services and goods freely. In other words, we can have this concept at the top because we must have a structured approach but, much more emphasis must be given to the strategies of getting to the grassroots and making this thing

work from there. If it works from the grassroots, it will work upwards and the political union will follow. If we do not do it that way, in my view, we will continue to discuss dreams which we are not going to realise any time soon.

We must, of course, have a structured approach. Strength is in numbers. If we have a structured approach, as the continent of Africa, even different regions--- Today, the United States of America is able to dictate to the whole world. We are being told that we must enact the Anti-Terrorism Bill. Of course, they have the numbers and the wealth. They are able to dictate to the rest of the world. If we come together, we will be able to stand up to the right wing policies of the Bush Administration, which is making the world unsafe for all of us. No one can support terrorism. No one wants innocent people to be killed. However, we must examine whether, indeed, the world is becoming safer or more unsafe because of those right-wing policies being pursued by the Bush Administration.

Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to truly send condolences to the innocent people who were injured and another one who lost his life in the bomb blast yesterday. When something like that happens, let us not try to talk about it as a small explosion. There is no such thing as a "small explosion". An explosion that is throwing people up into the sky is not a small explosion. We hope that when we have the Pan African Parliament working effectively, those are the sort of issues that the PAP will take up. When violence, like a bomb blast where innocent people are being injured and killed, happens in Kenya, it must be an issue of concern to the whole of the continent. It should not just be a concern to Kenya, as a country. So, I am supporting this Motion because it will give us muscle, as a continent, to take a common position on the best way to combat terrorism and stand up---

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. It looks like everybody is supporting the Motion. Could I be in order to call the Mover to reply?

The Temporary Deputy Speaker (Mr. Khamasi): No, give Mr. Muite time to finish his contribution!

Mr. Muite: Thank you, Mr. Temporary Deputy Speaker, Sir. I was saying that an issue like terrorism and the lose of innocent lives is an example of the sort of issues, genuinely, if we are left alone, as a country, to handle it, we are a midget in the world, as a country. If that issue is taken up by the PAP, our voice will have the weight and we shall be listened to. These are serious issues! I am saying that we wish the police in Kenya got speed in the investigations of that issue because it is a very serious issue. We want them to investigate every aspect of the matter without any cover-up. No one can support terrorism! However, they must also investigate whether some of those things are stage-managed; the timing worries some of us. We want them to investigate whether it is possible to have any stage-managing of those things. We do not have the resources. I am saying that we get the PAP to take up issues like those. We have lived peacefully with our muslim brothers and sisters for over 100 years. What has happened now? Those are issues we want thorough investigations.

In order to make the hon. Member for Kitutu-Chache happy, with those few remarks, I beg to support.

The Assistant Minister for Planning and National Development (Mr. Ethuro): Mr. Temporary Deputy Speaker, Sir, I want to thank you for the opportunity to contribute on this Motion. I want to say from the outset, that I equally support our participation in the PAP.

However, if you look at the Articles, the first term of reference of the PAP is to play an advisory role. I think this is where the efficacy and utility of this particular institution comes to question. We have a multiplicity of organisations: We have the East African Legislative Assembly (EALA) and the Common Market for Eastern and Southern Africa (COMESA). We are even saying that we need to fast-track the COMESA by December, 2008, so that we can have a customs union which will bring on board countries like Egypt. As a region, we are expected to compete when we have not even consolidated the East African Community.

Mr. Temporary Deputy Speaker, Sir, we, as Africans, are very good at setting up institutions. However, we are very lousy in ascertaining and maintaining them and making sure that they are productive. I was imagining that the Pan African Parliament (PAP) does not just become an executive branch of the African Union (AU). The PAP, which draws membership from partner African countries, should take up some of the issues which we think are of interest to our nation. It is not enough to bring this Report to the House. You have seen the interest of the House regarding the Report. This Report should not waste so much time of the House. It should be laid on the Table for the sake of being noted and we proceed to other business. However, since it has come before us, it is important.

One of the key issues I agree with completely, which I would like to bring to the attention of hon. Members, is that of the New Partnership for Africa's Development (NEPAD) under the African Peer Review Mechanism (APRM) process where Kenya, Ghana and Rwanda are playing an extremely important role in accomplishing the APRM process. This Parliament, as an institution, is not aligned to this process. This is a process where African Governments, institutions and citizenry, in general, should review themselves. We should not be waiting for conditional ties by the Western Governments in order for us to respond to democracy and accountability. We should take our own initiative as Africans.

Mr. Temporary Deputy Speaker, Sir, on the issue of the East African Cables which is to be set up from the United Arab Emirates all the way to the Southern Sudan is part of the initiative by NEPAD under the East Coast, which is mentioned here. This will revolutionise our information technology. I am not sure whether this Parliament knows the potential we are creating for this country. We need to give it the necessary support to ensure that this project comes to fruition sooner than later.

On the issue of the APRM, out of 26 countries that acceded, only three countries have done it. Out of the 26, we have 20 which are referred to as the Heads of States and Governments Implementation Committee. I am happy to report that Kenya is one of the active members and sometimes I represent the country in those committees. But what is our moral standing as a country when our neighbours cannot pass the test of accountability? I thought the whole purpose of changing from the OAU to AU was to ensure that the clause of non-interference was deleted from the statutes of the AU so that we can be able, at the very minimum, to condemn any other state that does not subscribe to good governance. When our representatives go to South Africa, they should talk about these issues. We are part of the African Caribbean and the Pacific Countries (ACP) that is supposed to be negotiating with the European Union (EU). We go there as Africans and we are in a very poor bargaining position. We are just bystanders and the European Ministers do not take us seriously. They do not even attend those meetings. They send their commissioners or civil servants. Then we should as well send our own civil servants. I do not disagree with the institutions. However, let us propose and formulate institutions that will serve the needs of the African people. Let us have institutions that we know, at the end of the day when our representatives come back from the PAP, they have issues bearing on the needs of this country. I will also ask my colleagues who are in this House to take this business very seriously.

Recently, while launching Vision 2030, as a Ministry, we invited hon. Members to come for briefing. Only one showed up. When you look at the contribution on this Motion, you will see that the first four contributors are Members of the PAP. It was proposed by Mr. Oparanya, seconded by Mr. Salat, and then Mrs. Mwendwa, Ms. Ndung'u and Mr. Mwanicha made their contributions. Those are all Members of the PAP. This Report must have the utility to some of us who do not go to the PAP. So, to what extent should we trust that we have a sense of belonging to the institution? These are issues I want us to take very seriously.

Mr. Temporary Deputy Speaker, Sir, under the NEPAD Programme, again, we have identified the Sudan-Kapenguria Road. As we speak now, the bridge that connects Kenya to Sudan has collapsed. The entire Turkana District has been cut off from the rest of the country. These are

issues that I expect our Ministry to provide leadership in ensuring that every partner country plays a role that will promote Pan Africanism. We have to start from our own neighbourhood. Let us connect ourselves to Sudan. That is a ready market we can exploit as a country. Let us ensure that we are connected to Uganda and Tanzania and to the new countries that are joining us; Burundi and Rwanda. We need to welcome them and consolidate our position even before we move on.

I know that hon. Angwenyi is always on my side and because I agree with him that we need to dispose of this matter, I support.

Mr. Angwenyi: Very good!

The Temporary Deputy Speaker (Mr. Khamasi): Order, Order! I am sure that Mr. Angwenyi does not want to visit this matter. I, will therefore, call upon the Mover to reply in lieu of the fact there is no more interest for anyone to contribute.

Mr. Oparanya: Mr. Temporary Deputy Speaker, Sir, I take this opportunity to thank all hon. Members who have contributed to this Motion, and more so hon. Salat, who seconded the Motion, hon. Mwendwa, hon. Mwancha, hon. Ndung'u, hon. Muite and hon. Ethuro.

Mr. Temporary Deputy Speaker, Sir, the PAP has given us an opportunity and experience to discuss African issues. I want to disagree with hon. Ethuro who said that maybe the Report should just be laid on the Table for the sake of noting. There are quite a number of issues that have been discussed at the PAP that this Parliament does not know. I will request that when a Report is laid on the Table in respect of the PAP, Members should take the opportunity to read it because the issues that we agree and the resolutions that come out from the debates of the PAP form the agenda for the summit of Heads of States. When they meet, they discuss those issues that affect us, as a country, because we are Members of the AU.

Mr. Temporary Deputy Speaker, Sir, there are important issues which were discussed, and which I want to highlight quickly. We are moving towards having a government of the African Union, which is planned to be in place by 2030. We want Africa to be one. Why is it that Europe has become one through the European Union? When we negotiate the EPAC, we do so with the European Union, and not with individual European countries. When it comes to Africa, we start negotiating with individual countries. The Republic of South Africa negotiates on its own. Egypt negotiates on its own. When it comes to Kenya, we negotiate under COMESA. We have the West African countries negotiating on their own. It is important that Africa becomes one in order for us to be as strong as the United States of America and the European Union.

Important issues like the global warming, which Mr. Mwancha mentioned, are being discussed. This issue was a very important agenda at the G8 Summit. Some hon. Members here do not understand what is involved in global warming. So, it is important---

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order, Mr. Oparanya. That is imputing improper motive on hon. Members. Hon. Members of this House are capable of understanding such issues.

Mr. Oparanya: Mr. Temporary Deputy Speaker, Sir, I withdraw that statement.

The Pan African Parliament (PAP) moved a Motion - which we adopted - which seeks the introduction of an African Union passport. The African Union (AU) Heads of States Summit has adopted that Motion. We will soon have an African Union passport, which will allow the citizens of Africa to move freely within Africa. At the moment, there is a *laissez faire*, whose use is only restricted to members of the institutions of the African Union and employees of those institutions. We are now going to have an African Union passport. As Mr. Muite said, because of the position taken by the Pan African Parliament, we are now going to have a visa covering all Members who want to travel freely within Africa.

Mr. Temporary Deputy Speaker, Sir, obviously, there are challenges. As a new institution, you would expect that it will face challenges. It is important, as an hon. Member said, that the Pan African Parliament becomes legislative, and that the Members of that House should be elected directly by the citizens of Africa, and not nominated by national parliaments of member states.

There is a very high turn over at the moment, and memory is lost.
With those few remarks, I beg to move.

(Question put and agreed to)

BILL

Second Reading

THE KENYA ROADS BILL

The Minister for Roads and Public Works (Mr. Nyachae): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Kenya Roads Bill be now read a Second Time.

Mr. Temporary Deputy Speaker, Sir, the objective of this Bill is to implement the comprehensive reform of the management of the roads sub-sector in Kenya in accordance with Sessional Paper No.5 of 2006 on Management of the Roads Sub-Sector for Sustainable Economic Growth. It is important to give the background to this Bill. Before I mention some of the features of the Bill, allow me to reveal the background to the roads sub-sector reform.

Mr. Temporary Deputy Speaker, Sir, we have made a frank and unflinching assessment of the state of our roads sub-sector. The challenges faced by the sub-sector include the following: There is a large backlog of road rehabilitation and maintenance operations that require urgent attention. These operations need large amounts of funding to be sustained over several years. There has been commendable improvement in funding in the last few financial years. However, available financing for road development, rehabilitation and maintenance is still inadequate.

Mr. Temporary Deputy Speaker, Sir, there is a severe vehicle congestion on roads within large towns, and lack of sufficient parking. There is heavy dependence on development partner assistance. Axle load enforcement and rules relating to configuration of heavy vehicles need to be improved. The current institutional framework for managing roads is too cumbersome to yield any further gains in efficiency and effectiveness. There is inadequate local contracting capacity. There is no mechanism for private sector investment in the funding of road development or maintenance. Laws applicable to the road sub-sector need to be consolidated. Road reserves are not adequately protected, and some have been encroached upon extensively. Stakeholder involvement and participation is insufficient.

Mr. Temporary Deputy Speaker, Sir, the above challenges are not unique to Kenya. In the 1990s, a World Bank programme known as "the Road Maintenance Initiative" studied the road problems of sub-Saharan African countries, and a broad consensus was formed by the participating countries, including Kenya, that the way forward was for each country to ensure that the following four basic building blocks were put in place.

First, there must be involvement of road users. Secondly, there must be clarified responsibility. Thirdly, there must be stable financing. Fourth and lastly, there must be an effective and business-like approach.

In 1993, the Roads Maintenance Levy Fund was set up to provide stable financing. In 1999, the Kenya Roads Board was set up and granted the mandate to efficiently manage the Roads Maintenance Levy Fund. It is necessary for us to put in place the other three building blocks without further delay. In the year 2005, the Government began the process of broad consultations so as to decide on the way forward for the road sub-sector. A steering committee was formed with a membership from various Ministries, along with representation and technical support from some of our key development partners. That Committee reviewed the previous studies in Kenya and the reform efforts of other countries, including our neighbours. The committee and the Ministry convened stakeholders conference in May last and keenly took note of the views of stakeholders

and road users. Last year, this House discussed and approved the resulting Sessional Paper No.5 of 2006, on the management of the road sub-sector for sustainable economic growth. The Sessional Paper spelt out consistent sustainable and co-ordinated policies for the roads sub-sector.

Mr. Temporary Deputy Speaker, Sir, this Bill puts those policies into action and carries out wide ranging institutional reforms which are mentioned in the Bill. At present, the roads sub-sector is managed in such a manner that various organisations that have overlapping responsibilities for different parts of the road network and co-ordination is not always good enough. The Roads Bill will allocate clear responsibility for any road to a specific organisation and separate roads policy and oversight from the implementation.

Mr. Temporary Deputy Speaker, Sir, I will now briefly describe the contents of the Bill. Part I of the Bill contains preliminary provisions. Part II of the Bill establishes the following autonomous organisations. One, Kenya National Highways Authority. Two, Kenya Rural Roads Authority. Three, Kenya Urban Roads Authority. Part II provides that each authority shall have a board with substantial representation from stakeholders, who are not members of the public service. Part III of the Bill provides for the administration of each authority. Part IV provides for the general powers of the authorities. Part V contains financial provisions, while Part VI contains miscellaneous provisions.

Mr. Temporary Deputy Speaker, Sir, the First Schedule sets out the classification of public roads, while the Second Schedule stipulates the organisations to nominate persons for appointment as members of the boards. The Third Schedule relates to the conduct of business of the boards, with the Fourth Schedule containing transitional provisions. The Fifth Schedule contains consequential amendments to other Acts.

Mr. Temporary Deputy Speaker, Sir, in recognition of the success of the District Road Committee concept, and in consultation with the responsible Parliamentary Committee, the Ministry strongly supports the increase of the amount of the Roads Fund allocated equally to all constituencies from 16 per cent to 20 per cent. The allocation to the districts is increased from 10 per cent to 12 per cent, while the allocation to the national roads is adjusted downwards from 46 per cent to 40 per cent. These changes will lay greater emphasis on rural roads and access roads which are closer to *wananchi*.

Mr. Temporary Deputy Speaker, Sir, the Road Bill proposes to take away the responsibility of day to day implementation of road works from staff within my Ministry, that of Local Government and local authorities, and assign that crucial role to the three autonomous statutory organisations. The Kenya Roads Bill before us today, which is the culmination of many studies and years of consultations--- I repeat with all sincerity and good faith that the time has now come to put into practice the long planned reforms of the road sub-sector in Kenya. Whereas some other developing countries have completed their road reforms and are already reaping the social and economic benefits of good roads, with this Roads Bill, the road sub-sector in Kenya is expected to quickly become a leading regional example of efficient and effective road management.

Mr. Temporary Deputy Speaker, I did not want to say much. This is an introduction. With those few remarks, I beg to move.

The Temporary Deputy Speaker (Mr. Khamasi): Who is seconding you, Mr. Minister?

The Minister for Roads and Public Works (Mr. Nyachae): Mr. Temporary Deputy Speaker, Sir, this afternoon--- You know we have always followed the tradition of me nominating the seconder. This afternoon, I heard the Speaker telling us: "You are not supposed to do it! It is the Speaker to do it". That is why I am waiting for you to do it. But if you want me to do it, I will ask Dr. Kibunguchy to second.

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Nyachae! That is the tradition. Mr. Oparanya was denied that opportunity because he did not have any particular person in mind. So, the Speaker took it up. So, if you nominate, Dr. Kibunguchy to second it, it is okay.

The Minister for Roads and Public Works (Mr. Nyachae): Mr. Temporary Deputy

Speaker, Sir, I concur.

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Speaker, Sir, I would like to thank Mr. Nyachae for giving me this chance to second this very important Bill.

Mr. Temporary Deputy Speaker, Sir, I do not think there is a day that goes-by in this Parliament, without an hon. Member talking about the state of roads in his or her area. As we travel, we see the once very good roads; specifically from Naivasha to Eldoret and beyond, are now a nightmare to use. In most constituencies, our rural roads are in what many hon. Members, describe as deplorable condition.

Mr. Temporary Deputy Speaker, Sir, this is an important Bill. It is my conviction that the setting up of the three authorities to manage the various roads will make matters easier. I know that the Bill has set up three authorities; one to look after our urban roads, another to look after rural roads and the third one to look after highways. I will spend a bit of time talking about the Rural Roads Authority because my constituency is in the rural areas.

Mr. Temporary Deputy Speaker, Sir, first of all, before I say anything, I would like to commend the Minister for what he has just told us. He said that the money from Road Maintenance Levy Fund (RMLF) that goes to various constituencies will increase from 16 per cent to 20 per cent. I would like to commend and congratulate him on that. What is of most concern to us, as hon. Members, is that we passed a very important Motion in this House that this money be channelled through the Constituencies Development Fund (CDF). In this way, all the monies going to roads in various constituencies will be in one basket and can be used in the most cost-effective and value-for-money manner.

Mr. Temporary Deputy Speaker, Sir, as I talk about rural roads, I would like to ask the Minister and the Ministry to look around and borrow a bit from what is going on with the Rural Electrification Programme (REP). This is a programme in which all the leaders from various constituencies are asked to put forward priority projects. Those projects are then worked upon. I would like to see a similar thing done for our rural roads. Each constituency or district should put forward priority projects. That is the only way that we can say we are truly devolving the construction of roads to all the corners of this country.

Mr. Temporary Deputy Speaker, Sir, the biggest problem, which is also addressed in the Bill, is that of road reserves. In very many parts of rural areas, there has been encroachment of road reserves. In some areas, roads have been reduced to bicycle paths. People have encroached on both sides of the roads. I would like to see the Rural Roads Authority given powers to address the issue of road reserves which are encroached on. Drainage is even a bigger problem in the rural areas. We know that water is, probably, the worst enemy of any road. Be it tarmacked or graded, so long as we cannot drain water, it is just a matter of time before the road breaks up. As a result of encroachment on road reserves, it becomes very difficult to open-up drainage. In most cases, they also pass through people's farms. This is an area, I hope this authority will be given power to address adequately and exhaustively. As we look after our roads in the rural areas, we should take care of the issue of drainage too.

Mr. Temporary Deputy Speaker, Sir, I will talk about two or three other things. I hope the Highways Authority, once functional, can open up roads to various areas that have been for a long time neglected. I am talking about areas of North Eastern Province. In my view, the province should be considered as a lifeline for this country. I am not even talking about the fact that, probably, one day we will strike some oil there. I am saying that it is a potential area for development, settlement and tourism. It can allow us to decongest some of the congested districts in other areas. The only way we can open-up the North Eastern Province properly is by providing roads. Over a period of time, we will find communities moving to settle there.

Mr. Temporary Deputy Speaker, Sir, I hope that the Urban Roads Authority can tackle the issue of traffic jams which is a big nightmare for many motorists in urban areas. We have to deal with snarl-ups every morning and evening.

Mr. Temporary Deputy Speaker, Sir, we all know the problem of roads in this country. I am not an engineer by profession, but a doctor. However, sometimes I wonder why contractors are never held responsible for the work they do. You will find a road which you are told has a lifespan of ten years, 20 years or whatever years, but getting spoilt after five years only. We know how expensive it is to upgrade a road to bitumen standard. It is an extremely expensive exercise. I would like to see contractors held responsible for the work they do. They should sign some agreement that if a road gets damaged before its lifespan, that contractor is held responsible. He should be asked to repair the road. I would like to see a situation where people are held responsible for the works they do.

Mr. Temporary Deputy Speaker, Sir, a classical example I have is a road from Nakuru to Eldama Ravine, it passes through retired President Moi's school; Kabarak High School. This road was re-done about two years ago. If you drive along it, it is now worse than it was before it was re-done two years ago. It is very disheartening! This is a contractor who has been paid yet we cannot hold him responsible for that work.

Mr. Temporary Deputy Speaker, Sir, if I had my way, I would give a contractor work to do and not interfere with him because he is an expert. As we ask our architects and other professionals, I will tell him: "After so many months, I will want you to give me the key to open up this road. I want you to give me a guarantee that this road will remain intact for the next 20 years." After that, if something happens to the road, the contractor is held responsible.

Mr. Temporary Deputy Speaker, Sir, I say that because very often, we see roads being done and, after a very short time, they are being re-done. If I can talk about my Lugari Constituency, there are areas which have never seen an inch of tarmac road. We tend to go back to roads that should have been done properly. If those roads were done properly, the little money that is left can be used in other areas. I am sure even you, Mr. Temporary Deputy Speaker, Sir, you would not mind to have one or two roads tarmacked in your area, and in many other areas.

Finally, Mr. Temporary Deputy Speaker, Sir, as I second this Bill, I would like to go back and say: Truly, when we set up the Rural Roads Authority, it should borrow heavily from the Rural Electrification Programme Model; that every constituency has a share, even if it is a small share of the cake in terms of tarmacked or properly done roads.

With those few remarks, I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Mr. Khamasi): We will now have the official response from the Opposition.

Proceed, Mr. Maore!

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, I beg to support the Minister's proposals on the Kenya Roads Bill, after putting in a few issues. This Bill is long overdue. The Departmental Committee on Energy, Communications and Public Works has gone through it and written a report. We could not lay it on the Table because it did not have the Chairman's signature. But we shall do it tomorrow morning or in the afternoon, just before the conclusion of the Committee on that Bill.

Mr. Temporary Deputy Speaker, Sir, we need to address the issue of roads in this country. It is a major component of infrastructure that is necessary for our development. There is a matter that is going to be critical, when the three authorities will be established. You will find that, since 1972, we have not had an updated classification of roads. For that reason, you will find that 35 years after, there are pockets of population that have cropped up. Where there used to be about 500 people, you will find more than 15,000 today. The pressure on roads is not commensurate with the classification of roads for the period that has lapsed. So, we need an urgent update of classification of roads to ensure that we do not go by the classification of roads in 1972 of Class "A", "B" and

"C". Some of the roads that used to belong to Class "B" should actually belong to Class "A". Most of the ones that now belong to Class "C" would actually belong to Class "B" as of now.

Mr. Temporary Deputy Speaker, Sir, on the issue of local authorities, the money that is meant for taking care of roads in the Local Authority Transfer Fund (LATF) has not been seen on the ground. Even if you ask any hon. Member whether he or she is aware of any road that has been repaired using the LATF funds, I have not heard of any. So, we want the money that is meant for roads to be scooped out of LATF and taken to those authorities.

Mr. Temporary Deputy Speaker, Sir, the other issue that is of interest to the Committee and even the House is the proposal by the Minister to increase the money meant for each constituency from 16 per cent to 20 per cent. It is at this point when we are discussing the Miscellaneous Amendment that we need to take into account the amendment which was brought forward by hon. Kimeto. When the money goes to the District Roads Committees (DRCs), the bureaucracy and mystery involved plus the conduct of the civil servants has made that money not benefit roads in the constituencies as anticipated in the original description.

Mr. Temporary Deputy Speaker, Sir, the other issue that needs to be addressed is: When we have the Integrated Transport Policy, the Ministry of Roads and Public Works will be able to include those authorities. We will be taking positions on what to do about the non-motorised objects. On the issue of speed limits, once a road has been constructed by the Ministry of Roads and Public Works, the ones who are left to enforce the road use do not have an idea of what a road is all about! Those of us who have been privileged to use a dual carriageway, whichever way you use it, whether it is towards Limuru or Thika, when you are on the dual carriageway, you have more problems with traffic than when you are on a single lane. The reason for that is: You will find people with speed governors - like *matatus*, lorries and buses - keeping right, when they should actually keep left, unless they are overtaking. So, we need a proper road use guideline on our Integrated National Policy on Transport that the Minister promised in ten weeks. I know now that six weeks are over! We have four more weeks to go and we will be asking him about it very soon.

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

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

Mr. Temporary Deputy Speaker, Sir, the other issue is about *mikokoteni* - the carts or the donkeys in Mwea. We have a problem with the construction of markets! There are markets that are developed by the roadsides. We have examples of Mwea and Karatina. I can mention several of them. When you have markets and towns developing by the roadsides, we are getting chaotic! We need to keep roads as safe as possible by keeping away the populations as much as possible. You cannot admire the civilisation of a road and then entertain the barbarism of insisting that *wananchi lazima waruke barabara ovyo ovyo!*

The Temporary Deputy Speaker (Mr. Poghisio): Order! You can use only one language!

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, you have to get some of these infusions so that the message can sink!

Mr. Temporary Deputy Speaker, Sir, in many countries, they take positions about how they want to develop. There are those who insist on urbanisation and those of us--- I think we are a bit confused. We are not sure whether we want to insist on rural--- Whether it is rural-urban and mix-up--- There are people who take positions. They want to do urbanisation. Therefore, they transfer their populations to urban centres and provide infrastructure to the population. But for us, we have not defined what we want. We are not there yet. It will be a matter for another day.

When the authorities come up, we need them to also integrate the idea and tradition of

construction of roads with the issue of environmental impact assessments. We need extra care when a road passes through a water catchment area. We need to take extra care when a road passes through a forest or a national park, so that we do not destabilize our eco-system. We should become environmental friendly and be involved in international conventions as a country.

The other issue that needs to be taken seriously, without sweeping it quietly under the carpet, is the policy of whether we need to insist on bitumen-based roads or not. We also need to come out clearly on the issue of the cement-based experiment that was being done on Mbagathi Road. It turned out to be a rip-off because it was costing the Government about Kshs90 million per kilometre of road. It was not viable to have spent that money in the first place. It was wrong and we need an explanation about what happened at that time. When they were doing experiments, they should have known how many bags of cement per kilometre the road would take and whether it was a proper experiment to have taken place or not. What actually happened? We are concerned.

Mr. Temporary Deputy Speaker, Sir, the other bit that we have been raising every time the Minister brings the budget on roads is the issue of Africanisation of the road construction sector. We need to ask our African contractors to pool their resources and equipment together and become big enough to compete with the Chinese, European or the *Wahindi* companies. This is because you cannot award a big road contract where the scope of equipment that the contract demands does not tally with what the contractor has because the contractor is an African. So, these things need to come out clearly to the contractors; that unless they have proper equipment and adequate resources, they cannot be given contracts or jobs just because they show up and say, "We are Africans and we need to be given priority." Priority will be given when they get their act together. On this one, the Minister for Trade and Industry and the Minister for Finance can organise, outside the Ministry of Roads and Public Works, and make sure that there are enough resources available to these contractors, whether it is credit facilities, loans, grants or whatever method that can be used. This is because we cannot just have all our money going to foreign contractors. Every year that we vote money for this Ministry, out of the Kshs30 billion, almost 70 per cent goes to foreign contractors and ends up in the wrong destination.

Lastly, Mr. Temporary Deputy Speaker, Sir, when we were discussing about the creation of these authorities, we agreed on their composition. We have also proposed a few amendments and we need to come out clearly on the issue of penalties or the figures involved and also the additional areas that we have proposed; we get the issue of individuals to be picked to serve in these authorities having, also discussed the issue with the Ministry and other interested groups.

The other issue, Mr. Temporary Deputy Speaker, Sir, is about the cost of a road per kilometre. We heard from the predecessor of the Minister explaining how they had brought down the cost of constructing one kilometre of road from Kshs40 million to Kshs15 million. But, today, the average is turning out to be about Kshs30 million. So, we do not know where the problem is. Of course, we know that the cost of oil and, maybe, the dollar has risen, but it is not commensurate with the kind of increase and ambiguity that is coming out in the cost of the construction of roads in this country.

Mr. Temporary Deputy Speaker, Sir, when the Kenya Roads Bill will be enacted, we will require a lot from these authorities. It is not just those authorities that you create for the sake of it. We will expect to see action and we will demand action and we will support, where necessary, any legislation that will be requested of us. For example, the issue of amendment to the Kenya National Highways Authority where they will have the Kenya Rural Roads Authority, Kenya Urban Roads Authority and so on. With regard to the issue of the Traffic Act, we have a problem whereby the Commissioner of Police might wake up one morning and put people on the road as police officers. Now, when you show up on the road, you do not know whether they are looking for road safety or they are looking for security issues. So, all these measures need to be addressed in a wider scope or in an inter-ministerial scope than just expecting the roads to exist and then you do not have the proper management or running of it.

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

Mr. M'Mukindia: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise also to strongly support this Bill and congratulate the Minister for bringing it to the Floor of this House. We are very aware that due to what we might call a "primitive organisation" as well as legal infrastructure for the management of our road system, this has led to our primitive road infrastructure.

The Temporary Deputy Speaker (Mr. Poghio): Are you sure about the word "primitive"?

Mr. M'Mukindia: Mr. Temporary Deputy Speaker, Sir, it is quite valid. I believe so, but if necessary, I will withdraw it and replace it with the word "outdated". Let me say, it is an "ancient" or "outdated" mode of managing our road system.

Mr. Temporary Deputy Speaker, Sir, as has been pointed out by hon. Maore, looking at classifications alone, they will tell you, quite clearly, that we have not changed for so many years as a result of which, as the Minister pointed out, we have actually been left behind even by some of our neighbours. Those of us who were privileged to travel to Uganda or Tanzania, sometimes cannot help being embarrassed when we come back home. This is because the quality of our work seems to lag behind compared to our neighbouring countries who only until the other day did not have any tarmac roads. You will wonder why this has happened, but I believe that if we have a system that is inherently inefficient and a system that does not allow for flexibility, training and so on, then, obviously, that leads to a very slow phase of change as result of which it has impacted negatively not only on social development, but economic development.

Mr. Temporary Deputy Speaker, Sir, we may laud the Government and the people of Kenya for an achievement of a 6.1 per cent increase in our economic growth in the past one year. If we do not change our physical infrastructure, it is going to be totally impossible for us to achieve the Government projected 10 per cent growth per year in order to ensure that we not only eliminate poverty in this country, but also make Kenyans prosper. In other words, there are some structural problems in our system that need to be adjusted both legally and organisationally to ensure that we achieve that target of 10 per cent growth per year. I, therefore, would like to congratulate the Minister because he has taken the first step to ensure that, at least, the road management structure is changed. This will give him more flexibility to ensure that he manages it more effectively in the future.

Mr. Temporary Deputy Speaker, Sir, the reason why I was saying that our system is currently outdated or ancient and very inflexible--- If you look at the kind of roads that have been built over the years, 44 years after Independence, you will realise that the allocation of funding to various projects has been rather haphazard and has led, in fact, to the Members of this House to feel that there is either partisanship or favouritism in the way that funds have been allocated to build roads in the past. Hon. Members cannot be blamed and *wananchi*, in general, cannot be blamed for having this kind of view because if you look at things on the ground, there are certain things you cannot explain.

Mr. Temporary Deputy Speaker, Sir, just cast your eye to three provinces in this country: Eastern Province, Coast Province and North Eastern Province. You can count the number of kilometres of tarmac in those provinces and yet they constitute almost half of the country!

If you come to a place like Meru, where two or three years ago, people were saying a lot of resources had been allocated there, I have one road that has been in the books for many years, a road that serves eight tea factories, from Maua to Chogoria, and numerous coffee factories, and yet, although it has been our number one priority for years for tarmacking, this has not been done. While we understand that there have been problems of funding, one cannot help but think that something is wrong. Why would you have eight coffee factories grounded, because it just rained one day; the same factories that bring in foreign exchange? I am talking about the Meru-Githongo-Chogoria Road and Meru-Mukinduri-Maua Road; just those. This is just one example. Why is it that a highway such as Isiolo-Moyale Road, 44 years after Independence, has not been tarmacked? I

am aware that the Minister is making major strides in his efforts to achieve this currently, and I congratulate the current Government for all the work they are doing. But in the past, one may wonder, how can you lock out a whole three provinces inland, when there are opportunities for economic development to open up for wananchi living in those areas and to enable them economically? What reason is there for locking up three provinces, such that when it rains, people cannot move?

Going further, just to give you one example, if you look at the Isiolo-Modogashe-Garissa-Garsen Road, and then access to the Coast, again, if you were in Isiolo, you need to come all the way to Nairobi in order to go to the Coast. Why do you need to do that? That road can open up markets not only for livestock exports, but also a lot of agricultural exports and a lot of tourism along the whole of Tana River. Why is it that in all these years, it was not felt necessary to open up these areas? I sympathise with those hon. Members who come from those areas who feel short-changed. I wish to tell the hon. Minister, for whom many of us have a lot respect, that in allocating funding in the near future, because we do not know whether we will be there next year, could he kindly look at these areas? These people really feel short-changed. If you look at the distribution of tarmac roads in this country, definitely, Eastern Province, Coast Province and North Eastern Province have been consistently short-changed for the last 44 years. Mr. Temporary Deputy Speaker, Sir, it also seems to me that, in terms of planning, past Governments have failed in planning in such a strategic way that you allocate funds to where you can get maximum economic benefits. This has not happened and, therefore, it leads to cries of favouritism and so on.

Mr. Temporary Deputy Speaker, Sir, I wish to point out to our technical staff in the Ministry that while the politicians, Ministers, and the Government do the best they can, at the end of the day, if the technical people do not do their jobs, and I am glad to see them here, honestly there is nothing that we, as politicians, can do. As a person who is trained in engineering myself, I am very embarrassed to see what our engineers do. It is not even engineering, but basic common sense. How do you build a road without drainage? Anybody from Standard Seven can tell you that if you build a road and you do not provide drainage, you are wasting your money. Why is it that our engineers consistently do this? I do not think it is because of political pressure. If I take the case of the district I come from, I know for sure that the current three Members from Meru Central District do not put any political pressure on the engineers there, yet the same things happen. What explanation can the technical people who are represented here, and I am glad they are here, give to Kenyans as to why they design roads that have no drainage? What excuse can they give?

The Temporary Deputy Speaker (Mr. Poghisio): I think the Minister can explain that. You do not need to refer to the people who are seated on that side.

Mr. M'Mukindia: Mr. Temporary Deputy Speaker, Sir, I am addressing the Minister. Why is that so, Mr. Minister? I really believe and wish to call upon the Minister, knowing that he has got a big stick, to wield this big stick to ensure that those who are technically trained and are working in his Ministry, do their job. I am sure he is doing that, but in the past, it has not been done.

Mr. Temporary Deputy Speaker, Sir, the separation of the roads section is in three areas, the National Highways Authority, the Urban Roads Authority and the Rural Roads Authority. I believe this will assist in making it easier to manage our roads. But I would also want to echo the call by hon. Maore that before that is done, perhaps, we should do a re-classification of all the roads, if it has not been done already. This is because it is important to ensure that the urban centres take their share of roads, the rural areas the same, to ensure that there is better management. At the end of the day, if we do not have absolutely qualified people to do these jobs, again, we will all have the same problems.

I would propose to the Minister that in looking for managers for these three roads authorities, he should try and do it in a competitive way to ensure that only the best can be the managers in those three authorities. We have a long backlog of roads that need to be done in order to speed up economic development to ensure that we go beyond the 6.1 per cent GDP growth rate.

We need to do roads very fast.

Mr. Temporary Deputy Speaker, Sir, on the issue of financing, this is an issue that has been talked about for a long time. I believe ten years ago, the Malaysians visited this country as part of an association team to see what roads they could do on a private-public partnership basis. Now, ten years down the line, and I again congratulate the Minister, this is when they are creating the necessary infrastructure to allow that to happen. If we had done this ten years ago, this country would be miles ahead in terms of our roads infrastructure. It is not the only one. If you look at our Ports Development Authority, it is exactly the same thing. We are caught in a time warp. So, while we appreciate what the Minister for Roads and Public Works is doing, we should also take this opportunity to ask other Ministries which are caught up in the past, which also have these ancient organisational structures, which also have these ancient practices and legal structures, to move quickly and bring in the necessary amendments or new Bills to this House to be debated and passed in order to ensure that they do not slow down our economic development.

It is also instructive that while we do not have sufficient capacity to undertake all the works that the Ministry is now putting out in tenders every year, perhaps, when the Minister comes to reply, he may wish to highlight what the Ministry is doing to ensure that they equip indigenous contractors with the necessary skills and financial ability, so that we keep some of this money in this country. While we appreciate that we must give the best people the biggest jobs, this cannot go on forever. For any development to take place, the Government has to set the pace. There is no excuse. There is nowhere in the world where you say that the private sector should take the lead. The private sector is a follower in any country. The Government has to lead. In this case, I would be very appreciative if the Minister could set an example to other Ministries involved in infrastructural development to ensure that in so far as the amount of money he spends in his Ministry every year, at least 40 per cent of it remains in this country. The necessary skills should be imparted to the indigenous people so that in the long-term we do not have to depend on foreigners to construct our roads.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghismo): Order! Order, hon. Members in the far corner; Mr. Angwenyi and others. Could hon. Members there consult in low tones?

M'Mukindia: Mr. Temporary Deputy Speaker, Sir, thank you for pointing that out. There were loud consultations going on at that corner. As I was saying, the country as a whole would appreciate that the Minister proposes certain policies to ensure that the locals also participate effectively in the development of roads and other infrastructure in this country, so that some of the money remains here. Also, he should point out the projects that he has planned to be undertaken in the next one or two years to decongest, not only Nairobi, but the entire country. I am sure that such plans are in the pipeline and it would be useful for Kenyans to know that those things are on the way and, therefore, they should have hope that things are going to improve. Let us pass this Bill for the Minister to be properly equipped to move forward with his usual vigour.

With those few remarks, I beg to support.

Mr. Raila: Mr. Temporary Deputy Speaker, Sir, thank you very much for this opportunity. I would like to say from the outset that I am supporting the Bill.

Mr. Rotino: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the Chair should be considerate to others.

The Temporary Deputy Speaker (Mr. Poghismo): Order, Mr. Rotino! You do not correct any disorder by being disorderly yourself.

Proceed, Mr. Raila!

Mr. Raila: Mr. Temporary Deputy Speaker, Sir, I was saying that this Bill is actually long overdue and as the memorandum says, the principal object is to establish three roads authorities;

the Kenya National Highways Authority, the Kenya Rural Roads Authority and the Kenya Urban Roads Authority and provides for their powers and functions. This is basically meant to provide an efficient way of managing the construction and maintenance of our roads in the country.

The roads are very important to an economy. The roads provide for mobility and communication in the country. Therefore, they are very important. Our national road network today is about 150,000 kilometres, out of which, about 10,000 kilometres are paved roads. By international standards, that is a very small portion of the roads which are paved. China constructs 10,000 kilometres of paved roads annually. Since the time that this nation of Kenya was created, we have only managed to pave what China paves each and every year. That is a very strong statement about our under-development. The status of our roads at the moment is very poor. As somebody who had the opportunity to be in the Ministry, I appreciate the reasons why.

Mr. Temporary Deputy Speaker, Sir, when we took over in 2003, of our total road network, only 27 per cent was in a motorable condition and 47 per cent had completely collapsed requiring a complete reconstruction. The reason is because of the neglect of maintenance. As a result of the disagreement between the Government and the donor community since the early 1990s, the Government was not able to access cheap capital on the international financial market and as a result, the Government resorted to using the funds which were meant for maintenance purposes, for reconstruction. Therefore, maintenance was neglected and a number of roads completely collapsed, requiring full reconstruction.

Construction and maintenance of Roads is a very capital-intensive activity and, therefore, requires a lot of capital. Therefore, it is necessary, and I am happy that the Government is moving towards trying to get the private sector capital investment in road construction. A study which was done established that concessioning is a viable undertaking in this country and that conventional tolling is only viable in the Northern Corridor which runs from the Port of Mombasa to the border with Uganda. I am happy to learn that the Ministry is moving towards this end of introducing concession and that we may have our first concession road soon. If that happens, the Government is going to be able to release the funding that is currently being used to maintain the Northern Corridor for construction of rural access roads.

Mr. Temporary Deputy Speaker, Sir, these authorities are necessary in the sense that they are going to provide for a very strategic approach in construction and maintenance of roads. We have a National Highways Authority and then we have an authority that deals purely with rural roads and another one that deals with urban roads. We must admit that our local authorities have completely failed. You will find that the only roads in the City of Nairobi which are motorable are the ones which are under the maintenance of the Ministry of Roads and Public Works. Hon. Members may not know. For example Uhuru Highway, Ngong Road, Lang'ata Road, Jogoo Road, Kangundo Road, Kiambu Road and Thika Road are under the Ministry of Roads and Public Works. Sometimes people give credit to the City Council when they do not deserve it. The credit actually should go to the Ministry of Roads and Public Works.

If we did not have the Ministry of Roads and Public Works working in Nairobi City, most of the roads that you see today would be in a very sorry state. The same thing can be said of the Mombasa and Kisumu cities and all the other major urban centres. Recently, when there was the world cross-country championship in Mombasa, the Government had to move in to beautify the City of Mombasa. You would find that a contractor is appointed in a way that does not conform with the established structures of the Ministry of Roads and Public Works. In the end, the Ministry is blamed. I sympathise with the Minister, because he is unfairly being criticized for a responsibility which is not his. Some Ministries have failed and, therefore, they are meddling in the affairs of other Ministries.

Mr. Temporary Deputy Speaker, Sir, I was surprised to see the Government Spokesman going to inspect a road. I wonder what was there to be spoken about the road in Mombasa City. That is not his responsibility. But, basically, because of the failure and meddling, we have this kind

of thing happening in our country today. Therefore, it is important that we have an authority that is fully responsible for the supervision of the construction of roads within our local authorities. The authority should ensure that we have common and consistent standards that must be met by all the local authorities. It should ensure that funding is also provided for the purposes of construction and maintenance of those roads.

Secondly, we need a similar authority for our rural access roads, which are very important for the rural economy. This is because it is those roads that enable our farmers to take their produce to the markets. In many parts of the country, roads have become impassable, particularly, during the rainy season. So, it is important that we have an authority that is fully responsible for the construction and maintenance of those roads. The National Highway Authority will deal only with national highways and trunk roads. So, I understand the importance of this structure. It is a structure that is already operating in many other countries. Therefore, I am happy that this Bill is now before this House. I would like to appeal to hon. Members to support it.

Mr. Temporary Deputy Speaker, Sir, there is a problem with regard to contracting of road works in our country. We still continue to use the old traditional method of contracting, which delays the construction of roads in the country. If we use the old traditional method of contracting, it takes a minimum of 48 months from the time that a decision is made that we want to construct a road, to the time that the contractor actually moves on site, in order to begin construction. First, we begin with the feasibility study. Then, we come up with detailed engineering drawings, prepare tender documents, advertise the contract, adjudicate and award the tenders. By the time we are through with these stages - because we allow, for example, for objections and so on - 48 months will have lapsed.

Mr. Temporary Deputy Speaker, Sir, the modern method of contracting is called design and build. This method was started in Japan, but it has now been adapted even by some countries in the West. For example, it is now being used even in Britain. Our neighbour, Tanzania, also uses it. Tanzania has made faster progress in terms of road construction than ourselves. When I went to Tanzania, I was surprised. I asked my Tanzanian counterparts to give me the experts to come and train our own officers here on this method of design-and-construct. Those officers came here and spent one week with our experts here. But, unfortunately, most of the officers that we have here are old "dogs." They say: "You cannot teach an old dog new tricks." They are much more comfortable with the methods that they are used to.

When the tender documents are prepared, there is what we call Bill No.1. That Bill No.1 is usually very heavy. It actually involves a very heavy payment to the contractor. There is a lot which is put in this Bill that the contractor does not need at all. Take, for example, the construction of Mbagathi Way using concrete, from the City Mortuary down to the roundabout near the Wilson Airport. That construction has taken over one year, which is longer than it was expected, yet that road is in the City. Why should somebody provide for a site office, when the contractor can be working from his office? Then, you will find four brand new pick-ups for supervision of the work on Mbagathi Way. You can even supervise the work on foot. Those are some of the things which are included in Bill No.1. They are completely ridiculous. Those are the things that actually inflate the cost of construction.

You will be amazed by the kind of things that you are told by the contractors, when you actually dare to go into details and ask them why the construction costs so much. For example, if you tell them to repair the highway from Mombasa Airport to Magongo, they will give you some outrageous quotations. But there is a system which is called design and construct. The Government or client only gives the specifications and says: "I want to construct a highway from point "A" to point "B", which is a distance of so many kilometres; to these specifications." Once the specifications have been given, then bids are invited. The contractors will come and carry out their own survey. Then, they will give you quotations by saying: "I will construct that highway at so much." Then, you negotiate with one of those contractors and award the contract.

The contractor is, then, the one who hires the design engineer. That is why it is called design and construct. The design engineer will come and maybe, design the first ten kilometres, so that the contractor can start work. He then continues designing as the contractor is working. So, the design is part of the contracting work. In that way, within six months from the time you decide to construct a road, the contractor will be on site. If we use this method, we will be able to construct so many highways in this country. I wish that this method could be properly institutionalised in our country.

Mr. Temporary Deputy Speaker, Sir, there is the issue of payment to contractors. When I joined the Ministry, I found that there were so many pending bills. They were accumulating, basically, because of the red tape and corruption in the system. You would find that from the time that the contractor submits his bill for payment, to the time that he is paid, it would go through 22 signatures. Each signature is a toll station. So, you would find that some contractors had even hired consultants who would move around the Ministry looking for signatures, so that they could be paid. Of course, I cancelled a number of those signatures and gave instructions, that the time that a contractor submits his bill for payment to the time that he is paid, should be a maximum of 21 days. That delay is what was causing the accumulation of pending bills. You would find that a contractor who submitted a bill last year, for example, has not been paid, whereas, the one who submitted his bill last month has already been paid, because he has been able to have his process hastened.

The Ministry needs to look into the issue of cowboy contractors, because some contractors act as a cartel among themselves. There is what is called pre-qualification of contractors. You would see an advertisement in the newspapers saying: "The Ministry is inviting pre-qualification---" That is aimed at eliminating serious competition. The serious competitors are eliminated at that level, so that only a small clique of contractors are left which act as a cartel. Then they agree among themselves on who will get this and that project. So, the others will be higher and then the other ones will get other projects and so forth.

Mr. Temporary Deputy Speaker, Sir, the thing was that it was then much more paying not to complete a project than to complete it because there were good commissions being paid around. That is the reason why we had so many projects started and not completed. I know that the hon. Minister is taking keen interest to ensure that the process that has started is continued.

There are very many engineer officers, not only in the Ministry of Roads and Public Works, but in other Ministries, who are doing business with the Government. They have their own companies. They are bidding for construction work because they have got their own construction companies. They are the ones who are advertising for contracts and adjudicating the tenders. They then award them to their companies. Then they are the ones who will go to supervise the works, issue certificates for payments and then go to the Ministry to chase for payments. If that is not a conflict of interest, then I do not know what conflict of interest is.

(Applause)

So, I gave instructions that if you are an official of the Ministry and you have a company, you should either resign and go and become a full-time contractor or you should wind up the company and become a full-time civil servant. I know that the Minister has given the same instructions.

Mr. Temporary Deputy Speaker, Sir, I want to conclude by saying something about the local contractors. It is shameful that many years since Independence we have not been able to develop sufficient local capacity in the construction industry. There are very few of our companies which can compete for some of these international contracts. Some of them are not through the fault of our own local contractors. It is basically because of the conditions that are put by the donors that make it impossible for local contractors to compete. Take for example the Northern

Corridor running from Mombasa all the way to Malaba, we find that it is funded by a consortium of donors; the World Bank (WB), the European Union (EU) and the Nordic countries. However, we find that not a single local company has won a contract to participate in any section of it. Once these other international companies have won the contract, they do sub-contract almost 100 per cent to the local contractors. We had Straberg Construction Company doing the Mtito-Andei-Sultan Hamud Road, but it was Mugoya Construction which is working there. Now you have got Sogea Construction Company working on this bit going towards Nakuru, but it is Asean that is doing the actual work. This has to do with the agreement signed with donor communities. However, we must insist that local capacity be utilised and that the financial conditions are such that they do not discriminate against local companies. That way, we will be able to develop local capacity here.

Mr. Temporary Deputy Speaker, Sir, secondly, we also want our own local companies to pull up their socks and do quality work. I know that some of them have been given contracts to do which actually are sub-standard and we feel ashamed that we are promoting a local contractor who is not living up to the expectations of the Government and the people of this country. However, this should be the responsibility of the Ministry to ensure that we develop local capacity that our local contractors are given priority where they are competitive, particularly those projects that are being funded by the Government of Kenya (GOK). This is the only way that we will eventually have companies that are truly Kenyan.

We now have Malaysian companies competing against international companies in the Middle East. We have got Indian and Korean companies competing against American, Italian and British companies elsewhere. Why should we not also develop the capacity that Kenyan companies can construct roads in South Africa, Yemen and some of these other countries? It can be done. I am sure that with the commitment that the Minister has, this Government will eventually move towards that direction.

With those remarks, I beg to support.

Capt. Nakitare: Thank you, Mr. Temporary Deputy Speaker, Sir. This Bill is very important, particularly to our country. I have watched our road transportation in this country and I ask myself: Are we growing or we are stagnating? It is a pity that from 1963, we are still depending on the colonial road design. I will quickly move to where we went wrong while the Minister is still here.

Mr. Temporary Deputy Speaker, Sir, I would like to see a vein of roads in our country. For example, roads leading to Mombasa, Nairobi, Nakuru, Malaba and Busia are supposed to be three-way with four lanes on each side. We need turnpikes and interstate roads introduced in this country. It is not a question of talking about constructors. So, the question comes back to us. The design of the roads against the population growth of the country which is equal to the trade economy. The design of the roads here in this country is pathetic. The number of trailers from Mombasa to Busia, Malaba or to Lokichoggio on these roads poses a deadly drive for both private and commercial vehicles.

Mr. Temporary Deputy Speaker, Sir, we talk about traffic accidents on our roads. Where did we go wrong? The road network which is actually supposed to be a trunk road, the highway, so to speak, is congested to the extent that drivers who are doing intercontinental trade suffer. Imagine a driver of a 40 feet trailer from Democratic Republic of Congo (DRC) going to Mombasa spends a month-and-a-half on Kenyan roads. The fuel consumption in our country is the biggest "chewer" of our economy. The congestion of the roads is not economical to this country.

Mr. Temporary Deputy Speaker, Sir, the Ministry of Roads and Public Works is in charge of the road network and design, which means that they are responsible for putting up road signs. A policeman is not a speed governor! The barriers on the road are not speed governors. Some of them are not even visible at night. Therefore, if we have good roads with road signs designed according to the Traffic Act--- A driver is trained on how to obey the road signs and move with the flow of

traffic. However, when he goes to the Kenyan roads, there are no signs at all. That is why Mr. Maore was talking about a dual-carriage and a single lane. The *matatu* drivers do not care about over-taking and over-speeding on concealed corners hence causing deaths on the roads.

Mr. Temporary Deputy Speaker, Sir, the bypass that we have been told about is a very simple issue. The Government could not even have spent money to relocate farmers for the bypasses. It was a question of constructing flyovers. If we established the road authorities and multiplied the roads to get whatever number we wanted, categorise them, create autonomy on road construction and maintenance of our roads, we will not achieve much. We should get rid of the roundabouts. Why do we not put up fly-overs? I have lived in San Francisco City where the town was built many years ago in 1776. It is a big city with 128 million people and you will find a road passing over - in fact, a bridge - a building like Parliament and going towards Thika. They do not disturb anybody there. So, if we can have this proper design in a modern way, we would be saving a lot of money. The bureaucracy of creating authorities would not have been there. The only thing that we would, probably, look at is the turnpikes. We need to probably privatise or have an inter-marriage between the Government and the private sector by creating a relationship in terms of road maintenance. In that case, when we allocate money, we pass funds here for the Ministry of Roads and Public Works. The Ministry is now going to be in three segments. We now have to share! However, the financial monitor should not be the financial constructor. He should be a financial monitor to see how that money is being spent. Therefore, when you look at road construction, we are branding this country as a cosmetic area. There is nothing difficult in creating four lanes between Mombasa, Malaba and Lokichoggio. There is no reason why we should have congestion in the city when we can create space. We can build high up in the air instead of expanding because of interfering with land owners.

When you look at what Mr. Raila was talking about, where did we go wrong? It takes about 48 months to get approval before a grader is put on the road. Time and tide wait for no man! I think this is a place where we have mischievously been denied the right to know why we have delays in road construction. We cannot blame the people who come from outside the country with their own equipment. We applaud the French company which is constructing the road between Maai Mahiu and Nakuru. The road is funded by the European Union (EU). I look at it and ask: "Why does the road have to cost so much and yet a lot of materials are locally available here?" All we get is bitumen which is manufactured here. Sand is available here and ballast is in the country. We have rocks. Why do we talk about it? We have nothing to import! Very little material is imported for road construction and maintenance. Roads engineers should not hide under the table by telling us that this is expensive. This is a recyclable material that should be used. The Ministry should also tell us how much material is locally available, obtained and utilised. They should also tell us how much material is imported into the country for the construction of a road which makes it Kshs90 million per kilometre. Those are some of the issues that we have to look into.

So, we have to broaden our minds. I thank the Minister for having brought this Bill here. It is a subject of discussion and we are talking because of the past failures. However, I do not think we have failed totally. My concerns are that we are losing a lot in terms of the economy. The movement of cargo on the highway is at a snail-speed. We are talking about the roads. We are talking about millions of shillings which is being spent on maintenance of those roads. However, we have not even talked about the railway line which was built in 1890 and passed Nairobi and went to Kisumu in 1901. How many times have you seen it under construction? How many people can tell us that there has been procurement to replace the steel rails between Sultan Hamud and Mtito Andei? Why do we not use that railway line? In fact, Kenya should have turned its tables and said: "Let us electrify our railway line so that we have passenger trains that go at a speed---"

The Temporary Deputy Speaker (Mr. Poghisio): Are you still addressing the same issue?

Capt. Nakitare: Mr. Temporary Deputy Speaker, Sir, I am still addressing the same issue.

So, those are the areas that we are saying; that it is a good thing to sub-divide the authorities

and create autonomy in the road network. We have alternatives. We have to use the rail line. Little is being used but how much money was spent to construct it? However, for all these years, if it was put to good use, I do not think we would be damaging our roads, notwithstanding the fact that the road network depends on the nature of the soil. Therefore, the creation of the three organs of road construction and maintenance is something to be applauded. However, there are constraints that we would also like to know. We can beat about the bush but we have to hit the nail on the head.

We have heard the flimsy ways in which the Ministry of Works has worked---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Capt. Nakitare! Actually, there is no Ministry of Works. You keep talking about a Ministry which is not existent. It is the Ministry of Roads and Public Works.

Capt. Nakitare: Mr. Temporary Deputy Speaker, Sir, I am talking about the Ministry Public Works under which the roads fall.

The Temporary Deputy Speaker (Mr. Poghisio): I have no problem with what you call it. However, it is not the Ministry of Works or the Ministry of Roads.

Capt. Nakitare: I apologise, Mr. Temporary Deputy Speaker, Sir. Kenyans are tired of patched roads. They are looking for better utilisation of their taxes. The question of patching roads is hurting the country and wasting a lot of money. For example, the by-pass between Nakuru, Eldama Ravine, Koibatek and Eldoret was not meant for commercial vehicles. However, all buses and trailers are going through there because the trunk road is being constructed. However, it has been damaged. Where else are we going to go? We cannot fly; we have to drive!

Secondly, the people who are supposed to receive their goods across the country end up waiting for long, yet we are not charged for waste of time in this country. If it were elsewhere, we would pay a lot of insurance claims for causing delays in transportation of cargo. There is an easy way of solving our problem. We need to create a freeway so that when you are driving from Nairobi to Mombasa you can do so using the middle lane, maintain a guaranteed speed and you do not have to stop. The road should have no bumps. The issue of bumps is pretty local. The Ministry of Roads and Public Works maintains that bumps are life saving because they reduce speed. However, they are not visible and they are also not marked. They are likely to cause accidents. A stranger who has no prior knowledge of where bumps are erected will hit them and his or her car will fly up in the air.

With those few remarks, I support the Bill.

Mr. Muturi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to say a few words in support of this Bill. I am glad to find that the contents of the Sessional Paper No.5, which we debated fully in this House, and which in great detail explained the rationale of moving into the direction proposed in this Bill, were considered at great length. It is important to appreciate that the three authorities which are sought to be established by the enactment of this Bill are, indeed, service institutions. Being service institutions, it is therefore, important that as proposed in the Bill, they be staffed with the highest calibre of people to run them. I say this because even without necessarily benefitting from the knowledge of the former Minister for Roads and Public Works, hon. Raila, it is an attrition that we have seen that the road sub-sector in this country suffered a great deal. I do not think it was due to lack of qualified staff. I think there has been a great disconnect between the work done by the professionals in the Ministry of Roads and Public Works and the policy-makers. I am very gratified that when you look through the Bill, you will see that in it there has been in-built the concept of performance contracting. The various authorities will be required to enter into contracts with the Minister and will give some five-year work plans which they must implement to the letter and in the event that certain shortcomings are discovered, the Minister will be at liberty to take any disciplinary measure including dismissal, as should be appropriate in each particular case. I want to commend the Minister for in-building this particular content in the Bill. I believe, as a result of putting the concept into the Bill, there will be, obvious, regular site inspections to find out whether we are

getting value for money which we invest in the road sub-sector.

Mr. Temporary Deputy Speaker, Sir, it is a pity that we say that you cannot teach an old dog new tricks. I have just been thinking loudly whether, if we cannot teach old dogs new tricks, we should not introduce goats and see whether they can do things differently. I am gratified that the share of what will go to the constituencies will increase from the enactment of this Bill. That is in keeping with the request that we have made to the Ministry. We have seen that for the last few years the District Roads Committees (DRCs) have been in existence, there has been noticeable improvement in the manner rural roads have been opened up. Now that each authority will be required to give a five-year work plan, we hope that Members of Parliament will be involved in drawing up those work plans, so that we do not have conflicts arising from, for instance, what those roads authorities will be submitting to the Ministry as their five-year plans. There will be need for a lot of those things to be synchronised. Going through the Bill, and looking at the design proposed, it is conceivable that what we are likely to see is an improvement of our road infrastructure in the rural areas as well as in our urban centres.

Mr. Temporary Deputy Speaker, Sir, I am aware that the relevant Departmental Committee had a meeting regarding this Bill only last week. I am aware that issues have been raised regarding the relationship between the proposed Urban Roads Authority and the local authorities at various levels. However, I would want us to be candid here. As we know, monies have gone to local authorities to either improve or repair or rehabilitate our roads. I am sorry to say that I cannot pinpoint, in my constituency, any single road that the local authority of the area I come from can claim to have opened or rehabilitated or repaired.

Therefore, I would want the Minister to stand his ground. This should not be seen as a tug-of-war. It is just to put reality and rationalism. Let us have one body that takes care of roads in urban areas. Let not the Ministry of Local Government feel that there is anything being taken away from it. I have been going through this Bill since morning. I know that it contains proposals to include the Ministry of Local Government in the various consultations that will go to inform what works programmes the relevant authorities, be they in the rural areas or in the urban areas, will be doing.

Mr. Temporary Deputy Speaker, Sir, all that needs to be appreciated is the fact that we are just putting our efforts together to ensure that what we come up with is something that will be appreciated by everybody. We have been told - and I believe it is true - that the concepts being used here may appear new, but we must appreciate that we must make progress. It is not possible for the Ministry to build all the roads in the country.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghiso): Mr. Muturi, you will continue for 20 minutes when debate on this Bill resumes next time.

Hon. Members, it is now time to interrupt our business. Therefore, the House stands adjourned until tomorrow, Wednesday, 13th June, 2007, at 9.00 a.m.

The House rose at 6.30 p.m.