

NATIONAL ASSEMBLY

OFFICIAL REPORT

Ninth Parliament - Third Session

*(Ninth Parliament established by Proclamation -
Legal Notice No.8 of 24th January, 2003)*

Tuesday, 30th March, 2004

STATE OPENING OF PARLIAMENT

*The National Assembly met at thirty minutes past
Two o'clock at Parliament Buildings on Tuesday,
30th March, 2004, it being the first
day of the Third Session.*

ARRIVAL OF HIS EXCELLENCY THE PRESIDENT

*[His Excellency the President (Mr. Mwai Kibaki) escorted
by the Speaker and accompanied by the Mace of
the National Assembly entered the Chamber
at ten minutes past Three o'clock]*

*[His Excellency the President
(Mr. Mwai Kibaki) took the Chair]*

*(The Mace of the National Assembly was
placed on the Table)*

PRAYERS

Mr. Speaker: Hon. Members, I think instead of us sitting down, I will call upon the Religious Leaders to lead us in prayer.

*(Prayers were then said by the following:
The Rt. Rev. Archbishop Benjamin Nzimbi;
The Archbishop Raphael Ndingi
Mwana a'Nzeki; The Rt. Rev. Dr. David*

M. Githii; The Chief Kadhi Sheikh Hammad Kassim, and Mr. Siopin Lekoolool)

COMMUNICATION FROM THE CHAIR

TRANSLATION OF PRAYER BY
TRADITIONAL SPIRITUAL LEADER

Mr. Speaker: Order, hon. Members! Maybe, for the first time, you will be able to get a translation of that prayer by that elder. I am assured by one of the reporters from *The East African Standard* that they will attempt to do so. So, maybe, then you will know what we have been listening to. However, you all know that the Almighty God understands all languages. So, let us

now begin, honourable Members.

WELCOME TO HIS EXCELLENCY
THE PRESIDENT

Your Excellency the President, I wish on behalf of all honourable Members, to welcome you during this auspicious occasion of the State Opening of the Third Session of the Ninth Parliament. Today's inauguration of the new Session not only gives the honourable Members an opportunity to assess the performance of the Government in the past year, but also to learn of the anticipated legislative programme for the Session ahead. Apart from being a constitutional duty, it gives the Government an opportunity to appraise Members of the state of affairs of the nation.

Your Excellency, during the past one year, a number of developments have taken place within Parliament. In a determined and deliberate effort by the Parliamentary Service Commission to improve services and facilities at the disposal of Members and the House Committees, each Member has been allocated an office, a computer and other facilities. Library services are being improved to make Members better informed. To this end, the National Assembly has entered into an agreement with both the Department for International Development of the United Kingdom and the European Union, to re-equip and modernise the library for which we have leased additional space at the nearby Harambee Plaza. The partitioning work for the offices is about to start. An ICT project to connect each individual Member of Parliament to the internet which has been sponsored by the Italian Parliament is also at an advanced stage. We thank our development partners for this great support.

(Applause)

In addition, research and other support staff have been recruited and attached to all committees in a conscious endeavour to promote and sustain the cardinal duty of Parliament to act not only as an effective oversight organ but also as a deliberative institution, performing its role of positive criticism of the Executive. At the constituency level, the Parliamentary Service Commission has commenced plans to establish constituency offices to enable honourable Members to effectively serve their constituents. Plans are also advanced in the establishment of the Constituency Development Fund. On behalf of the Commission and all honourable Members and on my own behalf, I wish to thank your Government and particularly the Minister for Finance for his continued support.

(Applause)

Your Excellency, Kenyans are progressively expecting quality, well researched and informed debate from this Floor. I have no doubt in my mind that with these facilities being put at their disposal, honourable Members will rise to the occasion. Within the next two or three months, Parliament will embark on the rehabilitation and remodelling of this very Chamber to create more space in view of the inadequate sitting capacity for the entire membership of the House. The delay in implementing this project is regrettable. It was occasioned by the intricate identification process which involved a competition. However, I can now reveal that the firm whose proposal offers the best model has been identified by a jury which comprised of eminent professionals in that field and some Members of this House. The winning model will soon be displayed for both Members and the general public to view.

I wish to add here that we intend to carry out that exercise this coming Thursday. The sitting arrangement will be modified to a horseshoe format, to make it less adversarial as is the perception now where political sides appear to believe that they are permanently dead-set against each other.

(Laughter)

It is my hope that honourable Members will embrace this change and encourage positive dialogue for the good of the House, and more importantly, that of our country. During the reconstruction, sittings of the House will be relocated to the Old Chamber where the sitting capacity is even more constricted. I will request hon. Members to bear with the situation.

Nevertheless, I do hope that this enforced physical closeness will enhance the cultivation of friendliness and accommodation of the divergent political views in the spirit of give and take. The renovated Chamber will introduce live TV coverage and an electronic voting system as well as individualised sitting. The work will take about one year to complete and I hope, it will be shorter. You cannot blame me since I am not an architect.

(Laughter)

Your Excellency, our country has been going through major changes since your Government took over power during the elections of December 2002. It is noteworthy that the Government recognises that the challenges facing us as a country are monumental and has initiated intervention measures to address the myriad problems facing our people. As expected, not everyone will agree with the Government's scope or speed of implementing these measures. However, as we grapple with the major challenges such as those posed by HIV/AIDS as well as constitutional, social, economic and political reforms, Parliament must provide guidance and leadership to the people of Kenya.

(Applause)

It is a responsibility that this Parliament will only ignore at its peril. May I, therefore, implore the entire membership of this House that we should endeavour to perform our pyramidal role as the embodiment of our national aspiration and spirit in providing guidance and leadership. This may only be achieved through reasoned debate, tempered with ventilation of all matters in order to promote the desired growth in the various spheres of this great republic, in an atmosphere of tolerance and accommodation of our divergent views. These attributes are not merely necessary; they are indeed, desirable virtues of a democratic system.

Your Excellency, as stated by the founding father of this nation, the late Mzee Jomo Kenyatta and reaffirmed by the retired President, hon. Daniel arap Moi, this Parliament is the heart of this nation and Kenyans have entrusted us with an enviable responsibility to work for the welfare of the society and the just government of men and women. This is a challenge to all hon. Members to provide that vital link and the appropriate guidance for the national unity of our people. In this respect, I must repeat my exhortation to the Ministers of the Government, as I have said in the past, please, use the Floor of this House to explain the programmes of your Ministries. Likewise, hon. Members must learn to use this avenue to push their parliamentary agenda. The Chair will go out of its way to support this. The House is certainly a much better forum than other outside known venues which I have in the past explained include funerals, Harambees, the roadside and such undignified places.

With these few remarks, Your Excellency, hon. Members, it is now my pleasure to invite His Excellency the President to address the House.

(Applause)

His Excellency the President (Mr. Kibaki): Thank you, Mr. Speaker, Sir.

Mr. Speaker, Sir, ladies and gentlemen, it is with all due honour that I welcome all the hon. Members to the Third Session of the Ninth Parliament. It is my hope that the recess provided hon. Members with an ideal opportunity to reflect on the challenges ahead of the Ninth Parliament.

Mr. Speaker, Sir, during the recess we had the misfortune of losing hon. Joab Omino, a distinguished Kenyan and an able Member of Parliament and Assistant Minister who served this country with honesty and dedication. In his honour and remembrance, I request hon. Members to rise and observe a minute of silence.

*(Hon. Members stood for one
minute in silence)*

Thank you.

Mr. Speaker, Sir, when I addressed the House last year, I outlined the policy direction of the NARC Government. I articulated the policy measures that the Government would take to improve the lives of Kenyans.

I am glad to note that we have made good progress in implementing a number of these policies. In that regard, I note with appreciation, that in the last Session the House passed over ten Bills, all of which I signed into law.

(Applause)

My Government's vision is the realisation of high economic growth rate of six to seven per cent that Kenyans once enjoyed. We did it in the past, we can do it again. Indeed, we should strive to achieve high growth rate in the shortest time possible if we are to make a serious impact on poverty which is a heavy burden on our people.

As a result of the reform measures we implemented last year, the prospects for growth are now much brighter. A number of sectors recorded positive growth last year. Manufacturing rose by 1.2 per cent while agriculture growth improved by 2.0 per cent. Indeed, real growth rate rose by 1.8 per cent up from 1.1 in the year 2002.

Mr. Speaker, Sir, during the past 15 months, we have made important gains in improving the lives of Kenyans. Over eight million pupils are currently enjoying the benefits of free primary education policy. The parents of these children can now focus their energies on other productive activities. We have brought order on our roads. Kenyans are now safer when travelling in public service vehicles.

(Applause)

We have put in place the legal and institutional framework to fight corruption that impoverished our people. We have streamlined the financial sector. Kenyans who have had to bear the brunt of the high cost of credit are now beginning to see the gains of low interest rates.

We have seen a significant improvement in agriculture and the related co-operative sector. The Agricultural Finance Corporation has been revitalised with a funding of almost Kshs1 billion which is available to farmers for credit. Maize and wheat farmers are now enjoying better prices for their produce. The Kenya Co-operative Creameries is also back in business and is now paying farmers promptly at double what they were being paid before the Government took over the organisation.

(Applause)

We look forward to substantial growth of the dairy sector.

We have also began an ambitious programme to rehabilitate the factories in the sugar belt. As a first step, the Government waived debts owed by sugar factories and farmers. As a result, sugar companies are now in a position to pay farmers. I have no doubt that these achievements are having a positive impact on the poverty reduction in the country.

Furthermore, the Government is supporting the rehabilitation of Kenya Farmers Association and the Agricultural Development Corporation so that farmers have back-up support from these important institutions. We are, also, encouraging the National Cereals and Produce Board (NCPB) and the Kenya Planters Co-operative Union (KPCU) to participate in the importation of fertilizers and other agricultural inputs to increase competition in this critical sector of our economy.

During my last speech, I informed the House that the Government was working on a special development programme for the Arid and Semi-Arid Lands (ASALs) covering all the 22 ASAL Districts. The programme is spelt out in the Economic Recovery Strategy and I am happy to inform the House that in addition to the regular Government Budget, we have received Kshs4.5 billion from the World Bank for financing of the Arid Lands Resource Management project.

(Applause)

Another Kshs2.2 billion from the African Development Bank (ADB) and Kshs1 billion from the European Union (EU) will go towards financing the development of water projects. I call on Members of Parliament in the beneficiary districts to facilitate utilization of these resources sufficiently so as to achieve the intended objectives.

With regard to HIV/AIDS, the Government has intensified the campaign against AIDS as demonstrated in the re-organization of the strategy for the National AIDS Control Council (NACC). The main activities and funding for AIDS are being carried out at the constituency level, and in that regard, I call on Members of Parliament to lead the campaign in the constituencies. Voluntary Counselling and Testing (VCT) centres are now available in most hospitals. Affordable drugs are also available to those who are infected.

Mr. Speaker, Sir, the Government is responding to security concerns expressed in this august House and by the general public. The salaries for the police have been increased. The force is now better equipped and is being re-trained to deal more effectively with crime in the country. I am glad to mention that banditry and cattle rustling have been reduced significantly. Furthermore, urban organized crime groups and the youth are no longer a nuisance to the public. I wish to assure hon. Members that law and order will be fully maintained in all towns and villages throughout the country.

(Applause)

Mr. Speaker, Sir, we held a very successful consultative meeting with development partners. I am happy to report to the House that we got a strong endorsement for the policies of this Government by receiving financial support commitments amounting to well over Kshs300 billion over a period of three years.

(Applause)

We are, now, receiving donor funding for all our sectors requiring public expenditure. Furthermore, we have held two investment conferences and a third one is scheduled for this May. These are good indicators of the strong interests investors have in our new Kenya. Obviously, the results of these efforts will soon be realized in increased job opportunities and higher incomes for our people.

The recovery and eventual sustainable growth of our economy, therefore, remains the biggest challenge before us. As the supreme organ of the State, Kenyans are looking upon Parliament to provide solutions to the challenges facing this country. Indeed, the business laid out for the House this Session will go a long way in facilitating the process of economic recovery.

One area that requires our urgent attention is the streamlining of the management of financial resources, if our efforts to re-build the economy are to succeed. I urge hon. Members to deliberate on the Financial Management and Public Procurement and Disposal of Assets Bill which the Government will be tabling before the House. The Bill is intended to provide a legal framework for ensuring the efficient and accountable management of public resources.

To further improve the management of public resources, we must continue with our war against corruption. I commend hon. Members for passing the Anti-Corruption and Economic Crimes Act, the Public Officer Ethics Act, and the Public Audit Act. These laws have paved the way for a systematic campaign against corruption. The Kenya Anti-Corruption Board has nominated possible candidates for the post of the Director and four Assistant Directors. I urge the House to urgently set, vet and approve the names of the suitable candidates so that the Anti-Corruption Commission can begin its work.

Mr. Speaker, Sir, as hon. Members will appreciate, increased investments will create employment, reduce poverty and accelerate economic growth. This country is competing with the rest of the world for international investments. We, therefore, need legislation which provides an enabling environment for local investors and is attractive to the international investors. The Government will, therefore, be tabling an Investment Bill to achieve these objectives. In addition, the Privatisation Bill will be re-published and tabled before the House to enable the Government to streamline non-performing parastatals that have been a drain on our Treasury. The two Bills will also encourage more investors and commercialization of this important sector of our economy.

Mr. Speaker, Sir, there is a lot of business expertise among our people. There are over 1.3 million micro and small-scale enterprises, employing over 2.3 million people. Unfortunately, these enterprises are unable to expand and graduate to the formal sector because of lack of credit. Today, the formal banking sector directs credit mainly to low risk borrowers, while other borrowers, who include farmers and manufacturing enterprises, find it difficult to access credit. It is for this reason that the Government will be tabling the relevant micro-finance legislation. The legislation will assist in improving credit accessibility by small businesses.

In addition, the Government will streamline the co-operative movement to further improve credit accessibility. Today, there are over 10,000 registered co-operative societies with a membership of 5.7 million in the country. The Government will be tabling the Co-operative Societies (Amendment) Bill in Parliament. The Bill aims at strengthening the co-operative movement for the benefit of its members and the economy. But legislation alone is not enough. Hon. Members should mobilise their constituents who are members of co-operative societies to demand better management and stamp out corruption from these institutions, which are key to empowering our people.

Mr. Speaker, Sir, our youth and women possess enormous potential for our national development. We must act together to address the challenges facing these groups by providing them with opportunities and access to affordable credit. As leaders, you are best placed to offer tangible solutions. Let us replace political activism with reconstruction and development activism for the

good of our country.

(Applause)

Mr. Speaker, Sir, agriculture is the mainstay of our economy, employing over 80 per cent of Kenyans. Growth of our the agricultural sector has been hampered by a variety of constraints, some of which are legislative in nature. Currently, we have over 60 statutes governing the agricultural sector. These will be harmonised through new legislation which will reflect the current development needs for the sector and liberalise the marketing environment. Our aim is to make farming commercially viable, expand employment in the sector and promote production of high quality products for the local and international market. The environment, land and water management are also critical considerations in the development of agriculture. It is, therefore, necessary for the House to deliberate on all outstanding legislative matters in these areas. The Government has approved the Forests Bill which will be tabled in Parliament. This Bill is intended to set in motion the process of conserving, developing and protecting the country's forests which are currently far below the internationally recommended forest cover of 10 per cent of the total land mass. We should bring in more actors, including communities, in the development of forests, plantations and conservation programmes.

Protection of forests will be further enhanced through expansion of rural electrification and increased usage of cooking gas in the country. The Government will soon be inviting tendering for the construction of a liquefied petroleum gas (LPG) reception facility in Mombasa. The Government is also instituting measures to standardise gas cylinders and valves. These measures will bring down the prices of cooking gas and expand its use throughout the country. Furthermore, the Rural Electrification Fund has been established and funds will be mobilised from donors to build the capacity of the Fund. Increased use of electricity will create industrial activities and power supported services in the rural areas. This year alone, the Government has mobilised Kshs14 billion from development partners to support the power sector. This is not a small measure.

(Applause)

Mr. Speaker, Sir, land is the most important economic resource for the majority of our people. There are, however, too many laws regulating the administration of land. This is cumbersome. The Government will consolidate and modernise these laws to overcome these problems. Moreover, the Commission of Inquiry into the Illegal Allocation of Public Land is expected to recommend legal and administrative measures to deal with the illegal and irregular allocations of public land. I appeal to the hon. Members to support the Commission in its work.

(Applause)

Mr. Speaker, Sir, adequate provision of health services remains a critical challenge to the Government. As part of our commitment to providing quality and affordable health care to all Kenyans, a Bill proposing the conversion of the National Health Insurance Fund (NHIF) into a National Health Insurance Scheme (NHIS) will be tabled in Parliament. The Government will also table the HIV/AIDS Prevention and Control Bill to provide a legal framework for dealing with the pandemic.

I urge hon. Members to redouble their efforts in co-ordinating the fight against the disease at

the grassroots level. We have a responsibility as leaders to continuously inform the people of the danger posed by HIV/AIDS and how to protect ourselves from the HIV/AIDS virus and stay alive.

The administration of justice is another area of concern to Kenyans. The Government is committed to ensuring timely dispensation of justice. This commitment is the basis of the reforms currently under way in our judicial system. To further improve delivery of justice to our people, the Government will develop legislation on the establishment of small claims courts.

I appeal to the Members to positively deliberate on this legislation once it is tabled in this House. This will facilitate the establishment of small claims courts at the village level throughout the country.

Mr. Speaker, Sir, one of the key pledges of my Government is to make Kenyans masters of their destiny. It is for this reason that my Government has remained committed to the enlargement of the democratic spirit and the making of a new Constitution. In the true democratic spirit, Kenyans today express their views freely, whether in the media or in the streets on any subject of their choice.

As Government, we do recognise the importance of this expansion of the frontiers of freedom. However, as leaders, the responsibility of choosing words which build rather than destroy falls on us. Let us avoid portraying our country as a quarrelling nation because of personalisation of issues and shortsightedness. The media is also part and parcel of our country and must also be judged by the same standards that they daily demand of the country's leaders.

My Government remains totally committed to facilitating the completion of the Constitution Review Process.

(Applause)

The conclusion of the National Constitutional Conference marked the end of an important chapter in the review process. This Session has a unique and historic opportunity to facilitate the successful completion of the process.

The Constitution of Kenya Review Act requires the Government and all the organs of the review process, including this august House and the people of Kenya, to recognise the importance of the national consensus in the constitution-making process. In the last few weeks, I have personally initiated a consultative process with the leaders of political parties and Members of Parliament. Parliament, and in particular this Session, has an extremely important role to play in consensus building.

Mr. Speaker, Sir, it is the wish of the Government and the people of Kenya that this process be completed in the shortest time possible. Towards this end, it will be necessary to build consensus at two levels. First, it is important for this Session of Parliament to chart a clear way forward and to reach consensus on the remaining phases of the process. I want to assure hon. Members that the Government will introduce legislation necessary to implement consensus reached by this Session of Parliament.

Secondly, although there was consensus on most of the issues in the Draft Constitution adopted by the Conference, there are some key issues on which there is still divided opinion. It will be the greatest test of the patriotism of Members of this Ninth Parliament to achieve consensus on these issues. I will be proud to be a Member of this House that will be remembered by posterity as having made it possible for Kenyans to have a new Constitution that will be a pillar of national unity, peace, liberty and posterity.

Closely related to the Constitution is the Kenya Law Reform Commission, which will shoulder the enormous task of reviewing and updating the statutes to conform to the new

Constitution.

As pertains to this Commission, hon. Members are expected to debate the Kenya Law Reform Commission Bill to give the Commission independence in its mandate.

Last month, together with my brothers, Presidents Yoweri Museveni and Benjamin Mkapa, we signed the Protocol establishing the East African Customs Union. This protocol will be domesticated into our laws through a Bill. I urge Members of Parliament to give the Customs Union the necessary support. There will be short-term gains and losses. However, in the long-run, the Union will bring benefits to our country and to the entire region. Let us position our country to reap benefits from the enlarged market of goods and services.

Kenya has also ratified the protocol on the Pan African Parliament, which came into force on the 14th December, 2003. The establishment of the Pan-African Parliament is intended to ensure the full participation of the African people in the economic development and integration of the continent. I am happy to note that five of our hon. Members drawn from this august House have now become Members of the Pan-African Parliament.

(Applause)

I take this opportunity to congratulate them and to urge them to give our country the best representation possible.

In conclusion, it is my hope that hon. Members will take time to study Bills closely in order to contribute effectively to debate in this House. As the elected leaders of the people, hon. Members will be called upon to provide leadership in areas other than legislation. I trust that you will be able to put aside party differences and work together for the good of our people.

With those remarks, it is my pleasure to declare the Third Session of the Ninth Parliament officially open. I thank you very much, indeed.

(Applause)

Mr. Speaker: Leader of Government Business!

NOTICE OF MOTION

THANKS FOR THE PRESIDENTIAL ADDRESS

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Speaker, Sir, I beg to give notice of the following Motion.

THAT, the thanks of this House be recorded for the exposition of public policy contained in His Excellency's Presidential Address from the Chair on Tuesday, 30th of March, 2004.

DEPARTURE OF HIS EXCELLENCY THE PRESIDENT

Mr. Speaker: Order, hon. Members! I think it would have been a nice thing to think that we are in 2003, because then we would still have four years to go. Unfortunately, we are in 2004.

Hon. Members, this concludes today's Sitting. As soon as I finish this, I will escort His Excellency the President in the same State procession as we came in. Meanwhile, I will require all hon. Members to remain standing as His Excellency the President, I and the State procession leave

the Chamber, and to continue standing until their Lordships the Judges, led by the Chief Justice, will have walked through the door, together with our spiritual leaders. It will only be after them that hon. Members will be able to leave this Chamber. This is our day; let us give them all the dignity they deserve.

ADJOURNMENT

Mr. Speaker: Hon. Members, that concludes our business. It is now the pleasure of His Excellency the President to take his leave, and the House now stands adjourned until tomorrow, Wednesday, 31st March, 2004, at "9.30 a.m."

(Laughter)

Order, hon. Members! We have been away from Parliament for so long that we have even forgotten the time when we sit here on Wednesdays. So, we will, indeed, meet at 9.00 a.m., tomorrow morning.

*(Hon. Members rose in their places
while His Excellency the President
left the Chamber)*

The House rose at 4.05 p.m.