

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 2nd May, 1996

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

The Annual Report and Accounts of Kenyatta National Hospital (KNH) for the year ended 30th June, 1995, and the Certificate thereon by the Auditor-General (Corporations)

(By the Minister for Health)

ORAL ANSWERS TO QUESTIONS

Question No 174

FUNDS FOR KANU YOUTH DEVELOPMENT PROJECT

Dr. Kituyi asked the Vice-President and Minister for Planning and National Development:-

- (a) whether he could confirm or deny that the Government intends to get money from the Exchequer to fund the KANU Youth Development Programme; and,
- (b) how this Youth Programme relate to mainstream Government management of development activities.

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Mr. Speaker, Sir, I beg to reply.

(a) The Youth Self-Help Groups Programme which is to be funded by the Government between 1996 and 1998, is a Government programme tailored in particular to help alleviate the unemployment problem among the youth. The programme will benefit Youth Self-Help Groups, which exist in both rural and urban areas without due regard as to which political party a particular group supports.

(b) Kenya faces a major challenge in reducing unemployment and poverty. The number of people unemployed is currently more than two million, and, at least, half a million people will enter the labour force each year over the next decade. It is, therefore, imperative that the Government places increased emphasis on adequate targeted intervention for generating employment and reducing poverty.

These Youth Programmes which the Government intends to finance are meant to create employment opportunities for the youth and hence engage them in productive activities instead of leaving them to engage in criminal activities. This is in line with the Government's efforts to reduce poverty and unemployment which is rampant in both rural and urban areas.

Dr. Kituyi: Mr. Speaker, Sir, one can notice that the answer given here does not say anything as to whether this Youth Programme is a KANU Youth Programme or not, which was central to my first Question considering that the first person to announce that this Programme was going to be funded in the next Budget, was the Executive Officer of KANU. Can the Vice-President and Minister for Planning and National Development tell this House why it has been found necessary to create a parallel mechanism of disbursing targeted support to existing Government Programmes? For example, why was it not, even put under the Social Dimensions of Development Programmes, but instead it has been found necessary to target the youth using a party based programme regardless of whether it is going to all parts of the country or not?

Prof. Saitoti: Mr. Speaker, Sir, I think I was explicit in the first part of my answer to the Question, namely the groups that would become beneficiaries of the resources do not have to belong to any specific political party. Two, the programmes that are going to be implemented are very much entrenched in a number of Government Policy Documents. The first one is the Sessional Paper Number 1 of 1994 on recovery and sustainable development of the economy passed by this august House in 1995. The second one is the Government Policy Paper on the Social Dimension Programmes which was presented to the Social Summit of the United Nations (UN) in Denmark in 1995. Another one, which is also a Government Paper, and not a party paper, is the recently launched Policy Framework Paper by the President. So this Programme is not a party programme as such, it is a Government Policy Paper targeted to all youths without prejudice.

Mr. Anyona: Mr. Speaker, Sir, I was not here on Tuesday, and I would like to join my colleagues in welcoming you back to the House and wish you very quick recovery. We missed you when you were away.

Mr. Speaker, Sir, this is a Parliamentary forum, it is not a party forum and we want to be absolutely certain of what we are talking about. Can the Vice-President and Minister for Planning and National Development, tell this House, and the nation, the legal and organizational structure and status of this organization? That Question is based on the fact that KANU branches have gone out to the country telling Kenyans that this is a KANU programme for KANU youth wingers, while others have gone to the extent of saying that it is meant for National Youth Service (NYS).

I would like to believe what the Vice-President and Minister for Planning and National Development and the Government want to say. Can we be absolutely certain what it is? It is not like we are told in Education that there are fees guidelines when there are no such guidelines. Parents are paying fees and we do not know what is happening. Can the Vice-President and Minister for Planning and National Development tell us the legal, organization, structure and status of this programme? In other words, are there youth programmes? Where are they? Have you identified them? How are they organized and what projects are they carrying out?

Prof. Saitoti: Mr. Speaker, Sir, I think I should be fairly clear here. The resources that will be made available in the Budget will go to the Self-Help Youth Organization, which will be organized within the district and the vehicle to vet out those organizations will be the DDCs. The DDC will be expected to implement and at the same time monitor them. All Members of Parliament are members of the DDC. I wish to state that the name of KANU has been brought in a manner as though KANU wants to hijack this Programme. On the contrary, every political party is free to participate in this programmes and KANU will, itself in its own ways, also make its contribution to the cause of the youth as this is the most fundamental problem that is facing the country today.

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

Mr. Speaker: I am sorry it is Question Time.

Mr. Muite: Mr. Speaker, Sir, is the Vice-President and Minister for Planning and National Development aware that there is great dichotomy divergence between what he has said to this House and what is happening on the ground at the grassroots in that already KANU, which operates in very close partnership with the Provincial Administration, has made it absolutely clear to the youth that they would only access these funds to them if they support the ruling party, KANU, in the next elections. Is he aware of that?

Prof. Saitoti: My response to that is that what I have stated here is the Government Policy.

Dr. Kituyi: Mr. Speaker, Sir, I had the privilege of attending the World Summit on Social Development in Copenhagen. I listened to and scrutinised the document presented by the Kenya Government through the hon. Kipkalia Kones. There is no mention anywhere in that document about intentions or practices in Kenya to launch a Youth Development Programme. Now, be that as it may, considering that youth self-help groups in this country fall under the Ministry of Culture and Social services, how come that up to the point when we were discussing this matter, nobody from the community worker to the Minister for Culture and social Services has ever mentioned the impending arrival of this programme and it has been left to a cabal of KANU Party functionaries who have already gone ahead to organise KANU youth into these groups? How can you say that this reflects Government preparation to create structures to run a public programme?

Prof. Saitoti: Mr. Speaker, Sir, let me first of all correct one misconception that the Government document that was presented to the summit on the Social Dimension in Copenhagen had no mention of the youth programme.

Mr. Speaker, Sir, I oversaw the preparation of that document and I want to inform this house, in deed, there is a section that deals with the issue of youth. I want to make that very clear and I am talking as somebody who was involved in the actual preparation of that document. Further, the thing I would like to say is that I am not in control of what one says. There is nothing for me to prevent my good friend hon. Kituyi who is a Whip of the Opposition from not going around in Bungoma and telling the youth programme is going to be for FORD(K)

followers. He is at liberty to do so and I have no reason to even tell the KANU people not to use it. They can do it. In fact I want to throw a challenge to the Opposition that KANU, on Friday, which is tomorrow at lunch time, is going to have a lunch to raise money which is going to supplement the funds which will be raised by His Excellency the President for the cause of the youth.

Question No. 219

RELEASE OF KENYANS PASSPORTS

Mr. Speaker: Prof. Mzee is not around. Let us hold on for that. Next Question, Mr. Ndicho.

Question No. 169

VANDALIZING OF POULTRY PROJECT

Mr. Ndicho asked the Minister of State, Office of the President:-

(a) whether he was aware that Munyu Poultry Project was vandalized and all the chicken, tables, chairs, filing cabinets, iron sheets and timber stolen; and,

(b) whether the Minister could institute investigations into this issue with a view to taking appropriate action against those implicated.

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

(a) I am aware that the stated items were vandalised from Munyu Poultry Project after the project committee had abandoned them following the outbreak of a disease that killed all the chickens.

(b) Seven people have been arrested and charged in connection with stealing of the project's property and their case is pending before the Principal Magistrates court in Thika.

Mr. Ndicho: Mr. Speaker, Sir, I am very happy that the Assistant Minister has agreed that this project has been vandalized and all the chicken stolen. According to what the Assistant Minister has said, there was no committee for this poultry project in Munyu. It is the Government in 1987, precisely when the President came to Munyu, which ordered that a committee be formed to investigate what was happening in this project. When this Committee came there, it ate all the eggs and all the chicken and so there was nothing left. So, is the disease which the Assistant Minister is referring to of eating the chicken the committee which was formed? This is a serious matter because the people of Munyu asked a person none other than the President to intervene. Can the Assistant Minister tell this House the names of the seven people who have been arrested because, according to what I know, no arrests have been made. The Assistant Chief of that area is involved and this thieves were arrested together with him, taken to the police station but the case never went to court.

Mr. Speaker: You are now making a speech. Ask your question.

Mr. Ndicho: Can the Assistant Minister tell us who the seven people are? I also want to know whether the sub-chief, Mr. Kimondo, is there because he is the one who led those thieves and this matter is not in court.

Mr. Awori: Mr. Speaker, Sir, if they had eaten all the chicken, it is very unlikely that we would have had anyone to arrest because the chicken died of a disease. I will give the names of the seven people who were arrested and found with various items of the property. The chicken had already died.

Mr. Speaker, Sir, the first five are Samuel Njoroge Chege, Julius Muthee Ngari, Joseph Mwangi Ngari, Peter Karongo Gachamba and Peter Njoroge Ngari. Mr. Kimondo is not one of them. The other two are Peter Njoroge Ngari and Hilda Wambui Tanu. They were charged with the offence of stealing vide Thika Police file No. 213/803/95 and court file No. 5408/95. Their case is coming in court for hearing on the 23rd of May this year.

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

Mr. Speaker: You can go on so long as you do not say anything that may prejudice what is going on in the court.

Mr. Ndicho: Mr. Speaker, Sir, I will not.

Mr. Speaker: Very well, I will listen to you.

Mr. Ndicho: Mr. Speaker, Sir, is the Assistant Minister aware that in this project there are shareholders among them Rift Valley Hatcheries who were getting their eggs from this project? Is he also aware that General Mahmoud Mohammed is a shareholder in this company?

Mr. Speaker: Of what relevance is he?

Mr. Ndicho: Mr. Speaker, Sir, I am asking a question whether he is aware of the facts.

Mr. Speaker: How relevant is that to the investigation?

Mr. Ndicho: Mr. Speaker, Sir, I am building my question.

Mr. Speaker: Order! Either you ask a direct question that is relevant or you don't.

Mr. Ndicho: Mr. Speaker, Sir, is the Assistant Minister aware that there is a plan by the Assistant-chief, Mr. Kimondo, and the Provincial Administration in Thika to call for a shareholders meeting of only the people who were there leaving out the other shareholders so that they dissolve this company and the case will come to an end? Are you aware that other shareholders like Rift Valley Hatcheries have been left out? Do you know who are the owners of that company and what it means?

Mr. Awori: Mr. Speaker, Sir, I am not aware.

Mr. Speaker: Next Question.

Question No. 181

PAYMENT OF TEACHER OMARI'S PENSION

Mr. Munyasia asked the Minister for Finance:-

(a) whether he is aware that Mr. John Wekesa Omari, TSC No. 31954, who retired from the teaching service in 1985 and whose pension number is APN/pc 34022, has not been paid his monthly pension since December, 1992; and,

(b) what steps he is taking to ensure that Mr. John Wekesa Omari is paid his dues immediately.

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

(a) Mr. John Wekesa Omari, a former teacher whose pension file number is APN/PC 34022 had his monthly cheque for December 1992, amounting to Kshs862.90 sent to him C/O Luuyia Primary School, P. O. Box 121, Bungoma as per Mr. Wekesa's instruction. Thereafter, there was a circular that was sent to all the pensioners which required that pensions be now paid through either the DOs office, the DCs office or through the bank. Since January 1993 to date, he is being paid through the DC Bungoma. I would like to add, unfortunately, that Mr. Omari has not been collecting his cheques

(b) Mr. Wekesa could in fact claim his cheques from the DC Bungoma. In addition to this, what we have done is to write to the DC Bungoma to confirm to us whether in fact, Mr. John Wekesa Omari is still alive or not. If this can be confirmed, I will certainly organize for the cheques that have since been returned by the DC Bungoma, for a cheque to be made payable to him and if necessary to be handed to the hon. Member if he can prove that he is alive.

Mr. Munyasia: Mr. Speaker, Sir, this particular pensioner is very well known to me having been my primary school teacher in the 1950s. He is also my villager, so he is alive and I was with him even last week. So, for the Assistant Minister to say that cheques have been sent to him through the DC Bungoma and that he should now claim those cheques from the DC, I think, is most unfortunate. The Assistant Minister knows that those cheques from January 1993, must now be stale.

Mr. Speaker, Sir, could the Assistant Minister - since I know this person personally - undertake to organize that for all those balances from January 1993 which he has not received, a cheque be written so that I collect it personally?

Mr. Keah: Mr. Speaker, I said precisely that, before handing over the cheque, whose amount has even been calculated to be Kshs15,332.20, for those past cheques which have been returned to the Pensions Department, I would like authentication that he is still alive and I leave it to the hon. Member to assist us to provide that authentication that he is still alive and thereafter we want to be informed whether he can collect his cheque through the DO, DC or the bank because this is just once and thereafter what do we do? So, it is up to the hon. Member to assist us.

Mr. Speaker: The very last question, Dr. Lwali-Oyondi!

Dr. Lwali-Oyondi: Mr. Speaker, Sir, is the Assistant Minister aware that not only this particular person has suffered thus, but many other teachers who have been coming to Nairobi since they retired, and I have been with three of them from Nakuru, since 1993, are being dodged here and there from the office which is supposed to give them their lumpsum first, and second their pension? Is he aware that such cases are very, very prevalent while other people who retired in 1994 have got their lumpsum money and are already getting their pension?

Mr. Keah: Mr. Speaker, Sir, I must confess, I am not aware but I am willing to deal with any case that is brought to my attention.

Mr. Speaker: Next Question, Bishop Murigu Njeru!

Question No.214

CONVERSION OF WAMUMU TO TEACHERS COLLEGE

Mr. Speaker: Mr. Njeru not here! Next Question!

Question No.100

RELEASE OF MR. AGAWO'S RESULTS

Mr. Ojode asked the Minister of Education:-

- (a) whether he is aware that Mr. Charles Odhiambo Agawo, Index No.704601027, who sat for his Kenya Certificate of Secondary Education (KCSE) at Mirogi Boys Secondary School in 1994, has not received his results; and,
- (b) if the answer to "a" above is in the affirmative, what action is the Ministry taking to ensure that Mr. Agawo receives his results.

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

I am aware that the Kenya Certificate of Secondary Education results in Biology in respect of candidate 704601027, Charles Odhiambo Agawo, were not released with the rest for the school in February 1995, because of an error the candidate made in his subject entry.

However, after the necessary clarification was made by the school, the Kenya National Examinations Council processed the candidate's results which are now with the DEO concerned. The Headmaster is advised to collect the results of the candidate from the DEO's office.

Mr. Ojode: Mr. Speaker, Sir, it is quite unfortunate for the Minister to mislead this House. I was at the DEO's office on Monday and I went over to check whether the results for this gentleman had already come. I was informed that there is nothing like that. It is an obvious case that Questions which we ask in this House are being answered just for the sake of it.

Mr. Speaker, Sir, could the Minister now tell me when exactly they sent these results so that I can call this guy? This is because the guy cannot even get a job. Could I know when exactly they sent the results to the DEO's office?

Mr. Kamotho: Mr. Speaker, Sir, as I said, the respective candidate should go to the Headmaster who should go and collect the results from the DEO's office. I did not say that the hon. Member should go to the DEO's office to collect the results of the respective candidate.

Mr. Ojode: On a point of order, Mr. Speaker, Sir. I am just asking the Minister to tell me when exactly they did post this result slip, because I was at the DEO's office on Monday and I know he is misleading the House? When you were not here the other time, you heard one of the Assistant Ministers apologised for having misled this House. That is exactly what the Minister is also doing. This Charles Odhiambo Agawo does not have an opportunity of getting any job because of non-availability of his results. The question of going to the Headmaster, I know does not arise because they do not have those results at the DEO's office. When exactly did they send these results?

Mr. Kamotho: Mr. Speaker, Sir, I maintain what I said and repeat that, the contract is between the student, the school and the Kenya National Examinations Council. Therefore, it is not the Minister who sends out the results. The respective candidate should go to the Headmaster who should ask for the results from the DEO's office of the respective area.

Mr. Speaker: Next Question, Mr. Kamuyu!

Question No.080

COLLECTION OF SERVICE CHARGE

Mr. Kamuyu asked the Minister for Local Government:-

- (a) how much service charge money has been collected by the Nairobi City Council since the

tax was introduced to date; and

(b) if he could explain how this money has been utilised by the City Council and how much has been channelled to Dagoretti Constituency in particular.

The Assistant Minister for Local Government (Dr. Wameyo): Mr. Speaker, Sir, I beg to reply.

The Services Charge started in January 1989 and a total of Kshs1,647,445,706 has been collected as at 31st March 1996. The money has been used to do the following:-

Purchase of Council vehicles for Road Works and refuse collection - Kshs115 million. Construction of roads - Kshs363.3 million.

Street lighting and rehabilitation - Kshs104 million, construction of primary schools Kshs49.4 million. Third Nairobi Water Project Kshs84 million. Office extensions, Dandora, Kshs5.1 million, City Hall Telephone Exchange, Kshs11.1 million, City Mortuary rehabilitation Kshs3.8 million, Umoja II Housing Scheme Kshs9.2 million, Traffic signals Kshs3.6 million, Kayole Ponds Kshs0.7 million, Kibera Hawkers Shades Kshs0.3 million, Purchase of mobile radios Kshs0.9 million, Waithaka Technical Centre Kshs5.3 million, Council House Kshs3.4 million.

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir. The Assistant Minister is giving us a litany of things that have been done. Would it not be in order for him to lay the document on the Table?

Mr. Speaker: Yes, it is better for it to be laid on the Table. How far are you?

Dr. Wameyo: Mr. Speaker, I am about to finish. I have got the message, let me proceed to (b) and say that Dagoretti Constituency has benefited from Service Charge in the following projects:- Kinyajui Road and Kabiria Roads are currently under construction at a cost of Kshs19 million.

Thiong'o Road in Kangemi and Muthiora Road in Kawangware are on the drawing Board and construction is estimated to cost Kshs15 million.

Mr. Kamuyu: Thank you, Mr. Speaker. I want to start by commending the *Nation* Newspapers for their lead story today and the editorial about service charge; where they gave interesting information. As you can follow from the list which the Minister submitted to this House, clearly, most of what he has just read out are faked figures because we have garbage in this City, water shortages and no street lights, name it! There is nothing functioning in this city at all and yet over Kshs1.6 billion has been collected. Now, can the Assistant Minister in his honesty, because I know he is a honest man, first of all tell us what the General Fund Expenditure enlisted here, of Kshs812 million a very vague account indeed, which I suspected has been misused or used by KANU for its activities and maybe even for buying defectors--- Can he give us the details of that figure of Kshs812, General Fund Expenditure, and tell us when he is going to give us an audited account of Services Charge since inception, for these is all lies.

Dr. Wameyo: Mr. Speaker, Sir, I am not aware of any money spent on the political party, KANU.

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

Mr. Speaker: It is Question Time, let us give a chance to other Members. Mr. Anyona!

Mr. Kamuyu: I am rising on a point of order!

Mr. Speaker: Order, Mr. Kamuyu!

Mr. Anyona: Mr. Speaker, the question of Services Charge---

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

Mr. Speaker: Order, Mr. Kamuyu! I have already given the Floor to Mr. Anyona.

Mr. Kamuyu: On a point of order, Mr. Speaker, Sir. I am rising on a point of order on this Question which was asked before---

Mr. Speaker: Order, Mr. Kamuyu!

Mr. Anyona: Mr. Speaker, Sir, the Question of Services Charge is---

Mr. Kamuyu: On a point of order, Mr. Speaker, Sir. My point of order is very important.

Mr. Speaker: Order, Mr. Kamuyu! Order, sit down first. Order hon. Anyona! I would like to ask hon. Members not to be unnecessarily agitated. I think when a Question comes to the House it becomes the property of the House and no single Member has a monopoly to it and it is open to the whole House. I would expect hon. Kamuyu to show respect when called to order. Mr. Anyona.

Mr. Anyona: Mr. Speaker. I was saying that the question of Services Charge is one that is shrouded in great secrecy not just in Nairobi, but throughout the country. Now, the Assistant Minister did mention various items of service. He mentioned water, schools, roads. We are interested in those three items. At the moment there is great shortage of water in Nairobi. So, can he tell us where that was spent specifically. Which schools are these that were put up with that money and which roads? There are so many potholes and garbage is not collected. Can he specifically tell us where that money was spent so that we can go and check because we do not believe what we

have been told?

Dr. Wameyo: Mr. Speaker, Sir, last time I was reading which projects on which this money has been spent, Hon. Lwali-Oyondi asked me to lay it on the Table because it is too long. Now, what hon. Anyona has asked for is in here and it will take hours to read. If it is acceptable that I read the whole of that, then I will, if it is acceptable I will lay it on the Table.

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

Mr. Speaker: Mr. Kamuyu, what was agitating you? Not on a point of order, put your supplementary question now.

Mr. Kamuyu: Mr. Speaker, you do not want me rise on a point of order?

Mr. Speaker: Order, Mr. Kamuyu! Put your question.

Mr. Kamuyu: Okay. Can the Assistant Minister tell this House how Kshs812 million which he categorized as General Expenditure Account--- Could he break that figure down, because it is a very vague account and present to this House audited accounts of the Services Charge from inception?

Dr. Wameyo: Mr. Speaker, Sir, I will find out when the audited accounts will be ready and advise the hon. Member when it will be presented to this House. Two, the Kshs812 million which is General Fund Expenditure--- Cap 265 of the Laws of Kenya Section 216 states specifically how that Fund was established and how the money will be spent. I do not have the exact figures to show how that particular amount of money has been spent. I will go and find out and then bring the answer next week on Tuesday.

Mr. Speaker: In the interest of the whole House, instead of just bringing that figure round the Table and the Members cannot participate in questioning it, we will partly defer that Question to Tuesday. Next Question, Dr. Lwali-Oyondi.

Question No.074

GENERATOR FOR DISTRICT HOSPITAL

Dr. Lwali-Oyondi asked the Minister for Health:-

- (a) whether he is aware that the Kapsabet Hospital lacks a stand-by generator which is crucial for emergency operations whenever there is power failure;
- (b) whether he is further aware that Mrs. Mary Cherotich Kemei of Meswo Village died of rupture uterus on 30th October, 1995, at Eldoret District Hospital following a delay in performance of a caesarian section at the Kapsabet District Hospital; and,
- (c) whether he could immediately instal a stand-by generator to supply electricity to this Hospital?

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

(a) Yes, I am aware that Kapsabet District Hospital lacks a stand-by generator, although it is also connected to the main power supply.

(b) I am aware that a Mrs. Mary Cherotich Kemei died but not on the said date, but on 31st of October, 1995. Mrs. Mary Cherotich Kemei was admitted into Kapsabet District Hospital Maternity Unity on 29th of October, 1995 at 5.00 p.m with labour pains. The patient was diagnosed as having cervical distoncia and was prepared for a caesarian section. But due to the power failure in Kapsabet Town, the patient was transferred to Eldoret District Hospital by Dr. Mulesh and was escorted by a Mr. Japhet Olouch, who was nursing officer covering the night duty. The patient was received in Eldoret District Hospital on 29th October, 1995, and the diagnosis of obstructed labour was ascertained.

The patient was then taken to theatre for a laborotomy at 11.30 p.m. The laborotomy revealed a ruptured uterus and a subtotal caesaroctomy was done. A macerated foetus was extracted and the patient left theatre in a very critical condition. She died at 10.00 a.m on the 30th October, 1995. The cause of the death was hypovalaemic shock due to ruptured uterus.

(c) Due to new information which has been made available to me, I would like to change my original answer to this Question which reads as follows:- My Ministry will look for funds to procure the stand-by generator and the same will be installed once funds are secured, and change it to read as follows:- However, I have made arrangements and funds will be made available to purchase the said generator in the 1996/97 financial budget.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, at least, that is a little bit of a positive answer. May I inform him that this woman is a relative of a member of staff of this Parliament. It is sad that this generator has not been installed. We have had cases in the Supplementary Estimates where money came out of nowhere and is given for

purposes which are not urgent. Could the Assistant Minister also assure this House that all district hospitals, not only Kapsabet, will at least have a stand-by generator because our power supply is not reliable at all?

Mr. Criticos: Mr. Speaker, Sir, I cannot give that surety, but from the recent IMF talks, I am sure that money will be made available one day for all our hospitals to have stand-by generators.

Mr. Icharia: Mr. Speaker, Sir, can the Assistant Minister accept that this lady died due to negligence on the part of the hospital authorities, and can he arrange for compensation to the members of the bereaved?

Mr. Criticos: Mr. Speaker, Sir, I strongly deny this allegation because the distance between Kapsabet Hospital and Eldoret Hospital is only 20 miles and we do not know how long the patient was sick and what distance she travelled to reach Kapsabet District Hospital. So we cannot give any guarantee because it is not our fault.

Question No. 217

ALLOCATION OF GOVERNMENT LAND

Mr. Mumba asked the Minister for Lands and Settlement:-

(a) whether he is aware that while there are many landless squatters in Kilifi District, many Government land portions within that District are being allocated to non-squatters from up country district; and,

(b) whether he will assure this House that in future those to be allocated land in Kilifi District will only be those who were registered as squatters in 1994.

The Minister for Lands and Settlement (Gen. Mulinge): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that there are many squatters in Kilifi District and the Ministry is doing its best to settle them on available Government land in the district.

(b) My Ministry gives priority to genuine squatters who were registered in 1994 through the District Task Force on identification and settlement of squatters. However, it is the policy of the Government that a Kenyan can be allocated land in any part of the country so long as the correct procedure is followed and appropriate authority is issued.

I would, however, like to assure the Hon. Member that land earmarked for squatters will not be allocated to anybody.

Mr. Mumba: Mr. Speaker, Sir, the question of land in the whole country is a very serious issue. From what the Minister has said, on the surface, I can say that he has given a good answer, but there is a contradiction on part "b" of his answer. The Minister says that his Ministry gives priority to genuine squatters who were registered in 1994 and then he goes ahead to say, "However, it is a policy of the Government that a Kenyan can be allocated land in any part of the country". Now, which is which? Are we going to give priority to genuine squatters who were registered in 1994 or follow the Government policy where a Kenyan can be given land anywhere in the country?

Gen. Mulinge: Mr. Speaker, Sir, we are going to give priority to the squatters who were registered in 1994 regardless of the districts they come from.

Mr. Badawy: Mr. Speaker, Sir, can the Minister confirm or deny that, in fact, non-squatter allottees in Kilifi District are greater in number than the squatters in spite of the fact that we have been assured that the list that is being followed is from the recommendations of the 1994 Task Force that squatters be settled? Can he confirm or deny this fact?

Gen. Mulinge: Mr. Speaker, Sir, we have a Task Force in Kilifi District and it has been there for more than an year. It's work is to register the names of those people who do not have any land to settle on. The list is there and we have so far settled more than 5,000 people from Kilifi District and surveyed more than 8,000 acres. Therefore, the exercise is still going on and it is for those people who were registered in 1994.

Mr. Kaptan: Mr. Speaker, Sir, the question of land is a very sensitive matter. We have thousands of squatters, for example, in Trans Nzoia who are registered and yet none of these people has been given any land. It is not that the Government does not allocate land. It does but it allocates land to only those people who already have large tracks of land. Can the Minister accept that, in fact, he has surrendered his powers as a Minister to his Commissioner of Lands and his settlement officers in the various districts? They are only giving KANU fellows land and leaving genuine squatters without any land.

Gen. Mulinge: Mr. Speaker, Sir, the Government policy is to settle every Kenyan who are landless regardless of the parties they belong to.

Question No. 166

PAYMENT OF MR. NG'ARU'S DUES

Mr. R.K. Mungai asked the Minister for Tourism and Wildlife when the Ministry will pay Mzee Mwangi Ng'aru, ID/No.1024228/64 of P.O. Box 45, Makuyu, Kshs4,000 due to him, since 1989, for trapping and catching four crocodiles that had been terrorising livestock and wananchi in different localities of Makuyu Constituency.

The Assistant Minister for Tourism and Wildlife (Mr. Kisiero): Mr. Speaker, Sir, I beg to reply. My Ministry cannot pay Mzee Mwangi Ng'aru Kshs4,000 as there is no provision for this type of payment under the Wildlife Conservation and Management Act, Cap 376 of the laws of Kenya.

Mr. R.K. Mungai: Mr. Speaker, Sir, arising from that very unfortunate and sad reply by the hon. Assistant Minister, I am aware that the Assistant Minister has in his possession volumes of correspondence between his Ministry, the local DO and Mzee Ng'aru. Some of that correspondence authorised Mzee Ng'aru to go and risk his life in tracking down crocodiles, which were threatening the lives of wananchi. I cannot understand why the Ministry cannot pay when it asked him to do the job! Did it ask him to become a charitable institution and do the work for nothing? I am saying that the Ministry approved this trapping of the crocodiles. The Ministry must be incapable of making---

Mr. Speaker: Can you ask the question now?

Mr. R.K. Mungai: Yes, Sir. Can the Assistant Minister tell the House whether Mzee Ng'aru just wantonly went to the river and trapped those crocodiles, without the permission of the Ministry? If so, why was he not arrested?

Mr. Kisiero: Mr. Speaker, Sir, the information we have is that when it was discovered that a serious problem was posed by crocodiles in that area, Mzee Mwangi Ng'aru volunteered to lead the local people in trapping the crocodiles. So, they sought permission from the Kenya Wildlife Service (KWS) to be allowed to track down these animals. When the KWS realised that the problem was really serious, they allowed Mzee Ng'aru to lead a number of other local people in trapping these animals. There was no agreement of any description, which bound the KWS or the Ministry to pay Mzee Ng'aru for the job he was going to do. It was to be a voluntary job.

Mr. Wamalwa: Mr. Speaker, Sir, given the dangers that this crocodile trapper faced, and the fact that he probably saved several lives of Kenyans, would the Ministry consider paying him this Kshs4,000 as a "thank you" gesture for saving the lives of so many Kenyans, who might have been eaten by the crocodiles?

Mr. Kisiero: Mr. Speaker, Sir, we would have gladly wanted to pay Mzee Ng'aru the Kshs4,000, but, as I said, there is no provision in our laws allowing the Ministry to make such a payment from Government coffers.

Mr. Anyona: Mr. Speaker, Sir, first of all it is not true that there are no provisions allowing for this type of payment. There are provisions for ex-gratia payment in the Government service. In any case, can the Assistant Minister tell the House why the Ministry itself was not able to handle and control these reptiles - they are not animals? It gave permission to Mzee Ng'aru and others to trap the crocodiles and still they failed to pay them. If the Ministry does not pay, then it must carry the responsibility. Why did it not trap the crocodiles?

Mr. Kisiero: Mr. Speaker, Sir, it was obvious that the local people understood the behaviour of these crocodiles better than we did. We thought it was much better that they handle the job of trapping the crocodiles.

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

Mr. Speaker: What is it, Mr. Ndicho? Say it very quickly because we are running out of time.

Mr. Ndicho: Mr. Speaker, Sir, the people of Makuyu border my people in Juja. The Assistant Minister has deliberately and immensely misled this House. What we know from Mzee Ng'aru and hon. R.K. Mungai is that there was a very concrete agreement between KWS, through the Ministry, and Mzee Ng'aru, to the effect that Mzee would trap these crocodiles. The number of crocodiles in the river was not known. So, Mzee Ng'aru trapped the first crocodile and then went to the DO and asked for money---

Mr. Speaker: Mr. Ndicho, you are now giving evidence instead of raising a point of order!

Mr. Ndicho: Mr. Speaker, Sir, the Assistant Minister has misled the House because there was a contract between the KWS and this old man. So, every time Mzee Ng'aru trapped a crocodile and asked for money he was told to go and trap another one. After trapping four crocodiles he refused to trap more, unless he was paid

Kshs1000. His agreement with the Government was for payment of Kshs1000 per each crocodile trapped. Why is the Assistant Minister misleading the House?

Mr. Kisiero: Mr. Speaker, Sir, I am not aware of any contract between our Ministry and the gentleman in question.

Question No. 219

RELEASE OF KENYAN PASSPORTS

Mr. Speaker: Hon. Prof. Mzee's Question is deferred.

(Question deferred)

Bishop Njeru's Question for the second time.

Question No. 214

CONVERSION OF WAMUMU TO TEACHERS COLLEGE

Mr. Speaker: Bishop Njeru is still not here? His Question is dropped.

(Question dropped)

We will move on to Questions by Private Notice.

QUESTIONS BY PRIVATE NOTICE

ASSAULT OF AN HON. MEMBER

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

(a) Is the Minister aware that an Hon. Member of this House was assaulted by the proprietor of Nairobi Safari Club on 20th April, 1996, in the premises of the said club?

(b) Is he also aware that a report was made and a P3 Form issued by Central Police Station, Nairobi, on 23rd April, 1996?

(c) If the answers to (a) and (b) above are in the affirmative, what action has the Minister taken to arrest the culprit and have him prosecuted in a court of law?

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

(a) Yes, I am aware of the allegation.

(b) Yes, I am aware.

(c) Investigations into this matter are still going on, and appropriate action will be taken after the police complete them.

Mr. Nyanja: Mr. Speaker, Sir, one of your hon. Members has been beaten, which is a very serious matter. The matter is being investigated, but we even know investigations into the death of the late Mr. Robert Ouko are still going on! This is a very serious matter because Members of Parliament are dignified people. When an hon. Member, whether he is from the Opposition or Government side, is beaten even you, Mr. Speaker, must intervene. Nonetheless, when we look at the character of this particular member of our society we find that he has been beating various dignitaries like Members of Parliament and even a former Vice-President of this Republic. This is a serious matter. He even snatched a girl friend of the former Vice-President! So, I am very serious as I talk on this matter! Mr. Githunguri beat the late Brigadier Matu a week before he died!

Mr. Speaker: Mr. Nyanja, can you now put a question?

Mr. Nyanja: Mr. Speaker, Sir, this particular member of our society is notorious because he has a lot of money from KANU. So, investigations into the matter will not lead us anywhere! Can this man first of all be put in custody? When members of the Opposition do something investigations are completed quickly! Because this man is so influential in the society, can he be apprehended and put in custody so that he does not interfere

with investigations?

Mr. Awori: Mr. Speaker, Sir, we subscribe to good governance, whereby a person is innocent until he is proved guilty. Where there has been a scuffle one does not know who started it. There is a very good possibility that, after the investigations are complete, the complainant may be the one to end up in a police cell.

Mr. Muite: On a point of order, Mr. Speaker, Sir. Could the Minister tell this House why it is taking so long for the police to complete their investigations when it is well known that Mr. Githunguri after the incident, went to Kikuyu Constituency and publicly bragged how he had beaten up the hon. Member for Githunguri? If it was an hon. Member for the Opposition, that matter would have been in court the following day. Why is it taking the police so long to investigate this matter and to charge, Mr. Githunguri in court?

Mr. Awori: Mr. Speaker, Sir, this is not a court of law. Mr. Githunguri has not been found guilty of any crime. We cannot go by hearsay that Mr. Githunguri has been boasting in Kikuyu.

Mr. Akumu: Mr. Speaker, Sir, in view of the fact that this particular businessman always picks on the dignitaries and hon. Members of Parliament, while the police are carrying on with the investigations, what is the Assistant Minister doing to restrain him so that he does not hurt other people again? What are you doing to contain him? Since you cannot put him in custody and in view of the fact that he picks on the dignitaries and hon. Members of Parliament, what are you going to do to protect people against this man, while police is continuing with their investigations?

Mr. Awori: Mr. Speaker, Sir, in the first place, the scene of the alleged crime was a private club. Secondly, ---

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. Can we continue sitting here and listen to the hon. Assistant Minister misleading this House? A crime committed in your house with your wife is a crime. It does not matter whether you are in a club or not. Is he in order to mislead this House that once you are in a private club you can do anything and nothing can happen? Also, the procedure is that once I beat you, and you complain to the police, the natural thing that they do, and they did it to one of our hon. Members who had beaten somebody, is to take you into custody straightaway before the P3 Form and everything else has been issued so that you can be convicted. Why is this man, after the other man had complained, not taken to the cells while the investigations were being carried on? We have seen hon. Members of Parliament going to the cells without investigations being carrying out.

Mr. Awori: Mr. Speaker, Sir, after the hon. Member complained that he had been assaulted and acquired a P3 Form, the person who was alleged to have been involved was requested to make a statement. Mr. Speaker, Sir, investigations are still going on.

Mr. Speaker: Order! Order, hon. Members! I understand the sentiments of the hon. Members but I would urge you to look at the clock. In ordinary circumstances, we should have stopped by now. But, I still have two Questions by Private Notice and I intend to give some little time too to hon. Anyona and to hon. Icharia. Let us now have hon. Anyona.

Mr. J.N. Mungai: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: I am sorry, hon. Mungai. Can we hear hon. Anyona first?

USE OF BANNED PESTICIDE

Mr. Anyona: Mr. Speaker, Sir, I beg to ask the Minister for Agriculture, Livestock Development and Marketing the following Question by Private Notice.

(a) Is the Minister aware that a banned pesticide chemical in the United States of America, which is not registered in Kenya, namely; Heptachlor, has been used at the Del Monte pineapple plantation at Thika?

(b) Would the Minister make a statement about the use of this chemical at the Del Monte pineapple plantation at Thika?

(c) What measures will the Minister take to protect Kenyans from the use of this, and similar dangerous chemicals, without adequate protective devices?

The Minister for Agriculture, Livestock Development and Marketing (Mr. Nyachae): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware.

(b) It is true that Heptachlor was imported with the authority of PCBP in 1994 for the sole use by Del Monte, for the control of ants and termites invasion, since there was no other effective pesticide. The product was used only in the perimeter of the plantation to control ants and termites and not crops in the plantation. It was administered under strict control and it was not available for distribution outside the plantation.

When a suitable alternative pesticide was identified, the importation and use of Heptachlor was stopped. The chemical imported was used within one year and it is no longer in use. Arrangements have been made for the destruction of whatever little chemical was left over under the supervision of the Pesticides Products Control Board.

Medical check-ups have been carried out on the Del Monte staff and these tests have not detected any Heptachlor residues. Tests on Del Monte products have also been confirmed that they have no Heptachlor residues in the products.

(c) Mr. Speaker, Sir, the Government has already taken steps and banned the use of Heptachlor in Kenya. As such, the Government has not sanctioned the importation of this pesticide since 1994.

In an effort to protect Kenyans from the use of dangerous chemicals, the Government has put a legislation under the Pesticides Control Act, Chapter 346 which established the Pesticides Products Control Board, to regulate importation and distribution of pesticides. The Ministry has also established an inspection programme which carries out regular checks on pesticides premises.

In addition, the Ministry, jointly with Kenya Safe Use Project, is conducting various training programmes throughout the country to educate farmers on the safe use and handling of all pesticides. It is a Government policy to make it mandatory to wear protective clothing when handling all pesticides.

Mr. Anyona: Mr. Speaker, Sir, while I would like to thank the Minister for that very deserving answer, honesty and frankness in admitting that, indeed, this chemical was imported and used, I would like him to explain to this House, what authority the Board had to import a chemical that was banned in its own country of origin, to our country. Could he also tell us why, when they identified the alternative, this other one was not destroyed immediately? What are the arrangements in place now? Right now, as we are sitting here, they have not destroyed this pesticide. With similar honesty, can the Minister tell us why that is so?

Mr. Nyachae: Mr. Speaker, Sir, the debate on the use of this chemical started from its country of origin, that is the United States of America, in 1988, and the continuation of use went on. At that time, even the Pesticide Control Board had not been established. When the safe use of other pesticide chemicals were established as a scheme in this country, we banned the item.

Mr. Speaker, Sir, if you check on the register of the pesticides that we use in this country, this item is not included and it is not allowed. At the time when we allowed this particular consignment to come, there was no alternative chemical to fight the invasion around the Del Monte fence, which was going to destroy all the pineapple crops. But it was never used to spray any crop including the pineapples.

Mr. Raila: Mr. Speaker, Sir, this was a very serious matter. The Minister is admitting to this House that the Government, knowingly, allowed importation of a chemical that was banned for use in other countries while it was well aware that this chemical had been banned because of its negative effect on human beings. Is the Minister aware that Mr. Stephen Githiori died in 1987 as a result of the effect of this particular chemical?

Mr. Nyachae: Mr. Speaker, Sir, perhaps I should answer the last question. I am not aware of this chemical having killed anybody. If there is any medical evidence, my Ministry is not aware that this particular chemical has ever killed anybody. I said that there is no evidence anywhere in this country, where it is said that this chemical had been banned. All that has happened is that there has been a debate world wide, on the use of chemicals, and that debate started in 1988. But, there has never been any official record anywhere, at least, in the East African region of the ban of this chemical. Because of the debate, the Government has refused to put it in its register. However, at the time when this particular consignment was allowed, there was no alternative but to allow it to be used to protect the crops.

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

Mr. Speaker: What is it hon. Ndicho? Let it be a point of order, we have already taken too much time on this one.

Mr. Ndicho: Mr. Speaker, Sir, thank you very much, in the first instance, for allowing my point of order. Is the Minister in order to claim irresponsibility by saying that he is not aware that a man died? I was working with this man in Del Monte and he died in 1987, and yet the Minister says that he is not aware. Is the in order to say that he is not aware when this man died and was buried and the company even refused to compensate his family?

Mr. Speaker: Are you suggesting the Minister was also working in Del Monte?

Mr. Ndicho: Mr. Speaker, Sir, as he is the Minister for Agriculture, Livestock Development and Marketing, he should know all these things.

Mr. Nyachae: Mr. Speaker, Sir, I simply would request my brother here---If he can table in this House, a medical report confirming that Mr. Githiori was killed by this chemical, then I would be aware. But unless he

tables that, I cannot respond to an allegation.

Mr. Speaker: Next Question!

SURVEYING OF KIRIGITI STADIUM

Mr. Icharia: Mr. Speaker, I beg to ask the Minister for Lands and Settlement the following Question by Private Notice.

(a) Is the Minister aware that for the last one week there has been survey activities going on at Kirigiti Jomo Kenyatta Stadium in Kiambu Town?

(b) If the answer to "a" above is in the affirmative, why is the stadium being surveyed?

(c) Could the Minister confirm that there are no plans to re-allocate the stadium land or any part of it to private developers?

The Minister for Lands and Settlement (Gen. Mulinge): Mr. Speaker, Sir, I beg to reply.

(a) I am aware.

(b) The survey activities were being carried out by Diploma Students from Kenya Polytechnic, who were doing their field work for their examination.

(Laughter)

(c) There are no plans to re-allocate the stadium land or any part of it to private developers due to historical significance of the site to the local people.

Mr. Icharia: Mr. Speaker, Sir, Kirigiti Jomo Kenyatta Stadium is a holy and historical ground. This is where the late President addressed his last meeting in August, 1952 before the outbreak of the Mau Mau war which drove the white man from this country. We are very suspicious, and this is why we went to uproot the beacons because---

Mr. Speaker: Can you put your question?

Mr. Icharia: Mr. Speaker, Sir, land grabbers are very strong people in this country and they are sick people who suffer from a disease known as "grabiosis". This is a very serious condition of excessive greed for land and money and they are big people. I have a list containing names of Government Ministers: The Ministers are: Mr. Kones, Mrs. Nyiva Mwendwa, Permanent Secretary---

Mr. Speaker: Order! Order!

Mr. Icharia: Mr. Speaker, I want to lay this list on the Table.

(Applause)

Mr. Speaker: Order! Order now. I think we have gone over that game many times before. That shuffling of papers is no longer new. I think you better be serious. You asked a Question about Kirigiti Jomo Kenyatta Stadium. Can you do that?

Mr. Icharia: Mr. Speaker, Sir, can I lay this list on the Table?

Mr. Speaker: Is it relevant to the Question?

Hon. Members: Yes!

Mr. Speaker: Mr. Icharia, be careful about the rule of relevance. Are you suggesting that the list you purport to have contains names of hon. Members who have been allocated that Stadium?

An hon. Member: Yes!

Mr. Speaker: Order, hon. Members. I am addressing a person who has a name and his name is hon. Icharia. I have just pointed out to him the rule of relevance.

(Mr. Icharia stood up)

Order! The Question before this House is the surveying activities at Kirigiti Jomo Kenyatta Stadium in Kiambu Town. To be relevant to that question, you can, indeed, and you are entitled to lay a list of any person who has been allocated any plot in Kirigiti Stadium. Are you going to lay on the Table a document to prove that persons have been allocated Kirigiti Jomo Kenyatta Stadium? Are you?

An hon. Member: Say yes.

Mr. Speaker: I am addressing one person and that is Mr. Icharia.

Mr. Icharia: Mr. Speaker, Sir, I want to demonstrate to this House how serious land grabbing is nationally in this country, and Kirigiti Stadium is---

Mr. Speaker: Order, Mr. Icharia. As I have said, there is a rule of relevance. We have a particular issue now. Can you address that issue? If at an appropriate time, there comes a relevant Motion that you think you can use whatever material you have to lay on the Table, you will no doubt be at liberty to do that. All I am advising you now is that you have got to be absolutely relevant to this Question.

Mr. Icharia: Mr. Speaker, Sir, I have said that this list contains names of people who have participated in land grabbing in this country, and I think it would be to the best interest of this country if---

Mr. Speaker: Order, Mr. Icharia! The country may be interested, but what I am interested in now is whether you are interested any further with your Question about Kirigiti Stadium or not. Are you interested or not?

Mr. Icharia: I am, Sir.

Mr. Speaker: So, can you ask about Kirigiti Stadium?

Mr. Icharia: Mr. Speaker, Sir, can the Minister tell this House why the survey has been going on secretly on Saturdays, which is not a working day and late evenings? That is why we went and uprooted the beacons because this was being done secretly. Nobody knew anything about it, including the Mayor of Kiambu Municipality. After the hon. Minister has answered my Question I would like to lay this list on the Table.

Mr. Speaker: It is irrelevant to this Question. Gen. Mulinge, will you please answer?

Gen. Mulinge: Mr. Speaker, Sir, I am not the Principal of the Kenya Polytechnic. I do not know what the programme is, but what I know is that, that survey work was being carried out by students who were on training.

Hon. Members: On a point of order, Mr. Speaker, Sir.

Dr. Oburu: On a point of order, Mr. Speaker, Sir. In this country there is a lot of unsurveyed land and some people who want title deeds cannot acquire them because of lack of sufficient surveyors. Can the Minister tell us why they are sending these students to survey Kirigiti Stadium instead of utilising them elsewhere where wananchi require the surveyors?

Gen. Mulinge: Mr. Speaker, Sir, I know these students and their names are here if the House require them. They are all from Kiambu District and that is the place---

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Minister to continue misleading this House about surveys by students when he knows very well that a similar portion of the forest nearby, a similar job was done by these so-called students and then allocated to June Moi and Pelican Construction?

(Applause)

Gen. Mulinge: Mr. Speaker, Sir, I can assure this House that in that particular area we are talking about, nothing is going to be allocated.

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

POINTS OF ORDER

ADDITIONAL INFORMATION QUESTION No.007: COMMISSION TO REVIEW SALARIES

The Assistant Minister, Office of the President (Mr. Manga): On a point of order, Mr. Speaker, Sir. I provided an answer to Question No.007 on Tuesday, 30th November, 1996. But arising from the supplementary questions, I undertook to provide the following information to the House.

The minimum salaries for civil servants is Kshs1,050 per month and the minimum housing allowance is Kshs240 per month for privately accommodated persons and privately rented accommodation. Owner-occupier house allowance is Kshs840 per month. The maximum house allowance for privately-rented accommodation is Kshs5,220 per month and owner-occupier house allowance is Kshs10,320 per month. The minimum salary for a police officer is Ksh1947 per annum.

CHIEFS IN MOLO

Mr. J.N. Mungai: On a point of order, Mr. Speaker, Sir. When the hon. Assistant Minister in the Office of the President was answering my Question in which I had asked to know the number of chiefs and assistant chiefs in my constituency, as well as how many of them have been recruited, appointed and dismissed since 1992, the hon. Assistant Minister gave this House an answer that left a lot to be desired. The number of chiefs he gave this House and which are here, and I am sure the hon. Members had a chance to look through them, 95 per cent are from one tribe, Kalenjin, while 5 per cent are from other tribes. If we look at the population distribution in Molo Constituency, we find that the estimated population of Kikuyus, Kisiis, Luhyas and Luos put together is about 90 per cent of the total population in Molo constituency---

Mr. Speaker: Order! Are you debating on a point of order?

Mr. J.N. Mungai: No, Mr. Speaker, Sir.

Mr. Speaker: What is it that you want?

Mr. J.N. Mungai: Mr. Speaker, Sir, what I want to deduce from the list that was given here is that the recruitment and appointment which I had claimed and the Assistant Minister tried to disapprove me on a point of order is that the recruitment and appointment is on tribal basis!

Mr. Speaker: Order, hon. Mungai. Can I guide the House? I said when a paper is laid on the Table of the House it becomes a record of this House and each hon. Member is entitled to peruse it and one can make his opinions out of that, one can draw his conclusions and judgements out of that paper. It does not become the subject to a further point of order for discussions, unless, there is something that is ambiguous which one wants the person who laid it on the Table to clarify to the House and not to you personally. But, as to what judgement one can draw out of it, it becomes an individual hon. Member's affair. Next order!

Mr. J.N. Mungai: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! It is not for you to rule whether it is right or wrong. I have said---

Mr. J.N. Mungai: Mr. Speaker, I have honest intentions---

Mr. Speaker: Hon. Mungai, whatever your honest intentions are, quite, frankly, when you rise on a point of order in this House, ultimately, you blow it out unnecessarily by taking on the Chair and the Chair, has nothing to do with it. The Chair's primary duty in this House is to ensure that rules are followed. I have just told you that the purpose of laying a document on the Table is for the House as whole or any Member interested in the House to peruse it, and the Press can do it and the public can do it; whatever judgements you get out of that, it is now your own affairs. I do not think it is something that we must now take on on a point of order. Indeed, you may refer it later at an appropriate time if you are on the Floor of the House on a relevant topic. You can refer to that document on the Table to prove your case, but I do not think you should make it a point of order.

Mr. J.N. Mungai: Mr. Speaker, Sir, my point of order was very simple. The hon. Assistant Minister misled the House because when he was also giving the list of the chiefs that have been sacked and those who have been employed, he left out a long list of chiefs who the Government had dismissed and he did not give the same list to the House when he laid it on the Table. I have a list here of Mr. Benjamin Ndegwa of Molo South who was sacked, Mr. Josphat Mbugua of Elburgon was also sacked, Mr. Kimani---- May read it, Mr. Speaker?

Mr. Speaker: Order! Can you also lay it on the Table?

Mr. J.N. Mungai: About ten chiefs from one tribe have been sacked!

Mr. Speaker: Order, hon. Mungai! I think one thing you have to learn is to respect and obey when you are ordered to. If you want that to be a public document and you think it is relevant, lay it on the Table, and everybody else will peruse it and draw their own conclusions out of it.

Mr. J.N. Mungai: Mr. Speaker, Sir, I have nothing here to hide, I will lay the whole list next week on the Table, that the Assistant Minister has recruited these people on tribal basis, and my concern is that tribalism, cattle rustling will never end in that area.

Mr. Speaker: Order, hon. Mungai! Next time you want to address an issue put down a Motion, you do not stand on a point of order to debate.

CLARIFICATION OF STATEMENT ON PEARL OMEGA

The Minister for Health (Mr. Angatia): On a point of order, Mr. Speaker, Sir. I read in the newspaper that the Minister for Health was being asked to clarify the issue on *Pearl Omega*. I have not got the statement because I did give a statement here last week. So, I do not know whether I can give a statement which is not written?

Mr. Speaker: I am sure that you are referring to the issue which the hon. Member for Kikuyu raised last time in respect of what your Assistant Minister said and what you said and what doctors said and he was anxious. I believe he said, like other Kenyans, he wanted to know what is the proper position and you are the Minister for Health. If you think that you can convince the House and the country by giving a statement at the moment you are at liberty to do so. If you think you require to take time and put it down on paper and present to the House, I am sure the House is agreeable to that and you can revisit this issue next week on Tuesday. Which one do you prefer? It is up to you to decide.

The Minister for Health (Mr. Angatia): All answers which we have been giving to the Press have been consistent. So, I do not see any reason for another written answer---

Mr. Speaker: You have the Floor now. If you want to make a statement, you can do so.

The Minister for Health (Mr. Angatia): I have completed my statement that there is no need to make any clarification because there is no contradiction. Prof. Obel has claimed that he has discovered a cure for AIDS and we are all looking for a cure for AIDS. We would be very happy if somebody discovered a cure for AIDS. He says he has tried it on some people, we would be very happy to see those people and confirm that he has actually cured some people.

On the other hand, it is a requirement that any drug which is to be used in this country should be taken through the proper scientific procedures to confirm whether it works or it does not work, whether it is poisonous or not and so on. This is a Professor at the university and he knows those procedures. So, all that we are saying is that while we would be very happy to find a drug that can cure AIDS, we are also saying, while Prof. Obel may have used the rules governing herbal medicine to try this drug on human beings before it was tested through the scientific protocol, we now want him to take it again through the scientific protocol so that it can be confirmed whether it works or not.

Out of those two positions, I do not see any contradiction. We are still waiting for Prof. Obel to go through the scientific procedures of proving what he has discovered and then making it available to Kenyans because many Kenyans are waiting for it.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: I will give hon. Muite, who raised this issue just one chance to seek any clarification. Various statements shall never form the basis of our debate.

Mr. Muite: Thank you, Mr. Speaker, Sir. In fact, I will confine myself to what the Speaker has said, namely to seek clarification. It is good that I seek a clarification from the Minister. When he says that there is no contradiction and yet his Ministry through an Assistant Minister told this House that the drug is effective before the procedures that Minister is now alluding to have been carried out with regard to this drug. In fact, is there not an apparent contradiction from what the Minister is now telling this House and what the Assistant Minister told this House sometime last week? Of course, the Minister has said that Prof. Obel "has claimed XYZ" and that the Ministry is still waiting for him to take his drug through the laid down scientific procedures to test the drug to find out whether it is effective. He has also said that when the procedures have been followed, they will be very happy if it is proved that the procedures have been complied with? Is that not a contradiction?

The Minister for Health (Mr. Angatia): Mr. Speaker, Sir, there is no contradiction. In this country, we accept herbal medicine and we all say that it is effective although we have never tested it. So, if Prof. Obel is using a herb from this country and he claims to be effective along traditional medicine lines, he is quite free and it may very well be effective. There is no contradiction here. On the other hand, we want to take it through the scientific protocols and we are waiting for that. There is no contradiction there.

BILL

Second Reading

PHYSICAL PLANNING BILL

*(The Assistant Minister for Lands and Settlement
(Mr. Kaino) on 30.4.96)*

(Resumption of Debate interrupted on 30.4.96)

Mr. Speaker: Hon. Orenge was on the Floor.

Mr. Orengo: Thank you, very much Mr. Speaker, Sir. I will try to be as brief as possible in order to give other Members a chance to contribute to this Bill.

Clause 52 of this Bill, if this Bill becomes law, seeks to repeal the Town Planning Act and the Land Planning Act. I fully support the repealing of the two Statutes because under them, the Commissioner of Lands was playing a very decisive role in matters relating to planning. This was in addition to his other responsibility in the alienation of public land. It was wrong for the Commissioner of Lands to be the central authority for purposes of planning as stated in the Land Planning Act and the Town Planning Act. So, this is a welcome move and these statutes have their history from the old colonial days where power was centralised and I think by removing them from the Office of the Commissioner of Lands to the Office of the Director of Physical Planning is a welcome move.

Clause 4 of the Bill, which provides the manner under which the Minister will appoint the Director of Physical Planning which states that:

"The Minister shall appoint the Director of Physical Planning".

I would invite the Government to reconsider this particular clause and make the Office of the Director of Physical Planning fall under Public Service Commission Act so that it will be up to the Public Service Commission to appoint the Director of Physical Planning. The reason why I am saying so is that there are some areas which have something to do with the duties of the Director of Physical Planning which may require him to make decisions as a professional and not as an appointee of the Minister. If the Director of Physical Planning is an appointee of the Minister, this may be a basis for conflict. I do not see much under the Act, other than the general provisions in the Public Service Commission which gives protection to the Director of Physical Planning. I hope the Minister will give consideration to this.

Clause 5 deals with the functions of the Director. Clause 5 (1)(d) states as follows: "It shall be the responsibility of the Director to advise the Commissioner of Lands on matters concerning alienation of lands."

I think the word "advise" is not good enough. We have encountered situations where the Commissioner of Lands has alienated public land or other lands without due consideration to public interest. There needs to be a clause or some provision in this Bill to ensure that the Commissioner of Lands will not just be advised, but will be expected to comply with the physical plans made by the Director in the discharge of his responsibilities, so that the Commissioner of Lands cannot alienate land other than in full compliance with the requirements of the Director of Physical Planning.

Mr. Speaker, Sir, I believe that in this country, and even, this afternoon there have been questions raised about grabbing of public land. I think the only way to ensure that the Commissioner of Lands and the Provincial Administration and other people in the Public Service do not have a cart-blanc so to speak, in the alienation of public land, is to ensure that a letter of allotment given by the Commissioner of Lands shall have no effect in law unless there is a certificate from the Director of Physical Planning giving his consent or authority to the alienation of any public land, and his approval of the use of that public land, be it for residential, domestic or industrial purposes. I hope that this can receive due consideration by the Minister and if possible, we need to reword this Clause, so that it will require the Commissioner of Lands not just to act without due cognisance of the physical plans made by the Director of Physical Planning.

In Clause 5 (1) (f), I was also of the opinion that there is nothing, either in this Clause or in the Statutes, which requires in specific terms, that the Director of Physical Planning should give due consideration to the environment and environmental protection. We need to have something in this Bill to ensure that in the process of planning or undertaking physical planning, that due regard is given to the environment. If we look at the Schedules, there are considerations which the Department or the Director of Physical Planning, is required to take into cognisance. This is contained in the First and Second Schedules. It is important that the question of the environment is addressed here properly, although in the Schedule 2(6), there is a provision there that consideration be given to conservation of natural beauty of the area including the lakes and other inland waters. This is not something which should be in the Schedule. It should be something which should form part and parcel of the Statute itself because under the Bill, the Minister can revoke this Schedule and they are of no consequence if the Minister decides to revoke the Schedules and put other matters in place. The Minister, who is here, I hope he will think or take seriously the issue of the environment.

Some years ago when Prof. Wangari Maathai took a matter to court to restrain the Government from building a KANU structure on Uhuru Park, there was so much hue and cry. The whole Government machinery landed on Prof. Wangari Maathai. Very big functionaries of the Government went to break the ground. Even, when the matter went to court, unfortunately, it went before a notorious judge at that time such that the matters which were raised by Prof. Wangari Maathai in her application did not receive any due consideration. With the wisdom of hindsight, we can now see that the matters which were being advocated by Prof. Wangari Maathai

relating to the environment, space and parks in this City were justified. I hope that at an appropriate time, when good sense prevails in this Government, they should recognise the role played by people like Prof. Wangari Maathai. Without her, that Uhuru Park now would have had a monstrosity structure of sorts, which will have destroyed the beauty and the scenery of this City and denied us the space and grounds from which to have recreation. I hope that the KANU Government, and the Secretary-General of KANU is here, shall not try again to bring that structure and if it dares try, it will face the consequences. These are the things we are trying to fight. Let us think about the environment and open space in this City.

In Clause 5(2), it talks about the delegation of powers of the Director of Physical Planning to other officers serving under him. It says:-

"Provided that no such delegation shall be deemed to have divested the Director of all or any of his functions, and he may, if he thinks fit, perform such functions notwithstanding that he had delegated those functions."

Mr. Speaker, Sir, this raises points which the Minister, again should look at carefully. Once powers have been delegated and exercised, that should be the end of the matter and the Director should not sit on appeals on matters which have been decided upon subsequent to delegation of authority. Once that authority, which comes from delegated power is exercised, both the Director and his officers become functional officially in law and really this is a matter which can create a lot of complaints. It is looks innocuous in a Bill of this kind, but I know in the future it maybe a basis for controversy, disputes and complaints. After you have gone to an officer, who has made a decision and he has made a decision in your favour, if somebody who is of the contrary opinion goes to the Director to alter that opinion or that decision, we have a complaint, and there is no basis upon which that anomaly can be corrected in accordance with the provisions of this Bill. I call upon again on the Minister to look at this rather important anomaly in the Clause and seek to rectify to it.

Mr. Speaker, Sir, I have a lot to say about this establishment of the Liaison Committees. You can see that right from Clause 8, apart from the Nairobi Liaison Committee, in which, again the Provincial Commissioner sits and the Permanent Secretary of the Ministry is the Chairman of the Nairobi Liaison Committee, the liaison committees in the districts, the District Commissioner is the chairman. First, my objection is that the DCs are already wielding too much power. Every committee which is set under many of the Statutes or laws of this country, you will find that in most cases, the DC is the chairman or the PC, if it is a province or a District Officer for a division or a chief, it is a location. I just wanted to mention a few things that the DCs preside over arising out of many Statutes which we have enacted as a Parliament. There is the Land Control Act, which governs the alienation and use of agricultural land, and the Board set up under the Land Control Act, the Liquor Licensing Board is chaired by the District Commissioner. The Boards set under the Traditional Liquor Act; are again presided over by the DCs. The duties of giving consent to public meetings and collections under the Public Orders Act and the Public Collections Act respectively again are managed by DCs.

Under the Chief's Authority Act again it is the chiefs or the administrative officers who have a lot of powers. And then under the Local Government Act again the District Commissioners and the District Officers are automatic counsellors in accordance with the provisions of the Local Government Act and not to mention the District Development Committee, the District Security Committee which was a matter of controversy in this House. All these are chaired by DCs or administrative officers. Now again we want to make the DC the chairman of liaison committees which is a judicial body. If you disagree with any of the decisions of either the Director of Physical Planning or the officers serving under him, you have a complaint process through the District Liaison Committees. It is unfortunate that this judicial body is presided over by a DC and I am convinced that this should not be the case. One, because the question of physical planning, either for the use of public land in the rural areas or in towns, is a technical matter and we should have a professional either within that department or from a professional organisation which takes into interest all matters and not just Government interests in consideration of such complaints. Such a person should be the chairman of the liaison committee. We have examples in Land Adjudication Act where there is a process of complaints up to the Minister. Those are not necessarily presided over by DCs. I believe if one looks at the role which the DCs have played in the past in grabbing land or misuse of public land, they are the wrong people to preside over these committees especially when you are bringing a new Bill like this which is going to replace other former statutes which I mentioned like the Land Planning Act and the Town Planning Act. Having had the DC in this Bill, if you look at the members of the committee under Clause 8 (2,) there is no representation from elected leaders who can take into consideration the interests of the local people. You have consideration given to the Town Clerk or to the Clerk to the County Council, the Land Officers, the District Education officers and all manner of officers but there is no consideration for the people who actually use this land or have an interest in the manner in which these lands are used or planned or alienated. The only way they can be effectively represented is by having elected representatives, either at the level of councillors

or at the level of Members of Parliament or at the level of Chairmen of County Councils or Mayors of towns. I think this is a very important omission and it must be put into consideration. It would also ensure that the conduct of the Executive is in check because there will be elected representatives at the district level and even at lower levels and when decision making is democratised at lower echelons of society or of Government, then we can talk about true democracy. It is not just having a Parliament or a local authority. It is in decision making and the function of councillors, Members of Parliament and others in this regard is very important. I would urge the Minister to consider removing DCs from these committees because this is a quasi-judicial body which considers, receives complaints and hears evidence and arguments and then arrives at a decision and if you have a DC who is busy organising Harambees and other things, and they are more interested in harambee and where there is money generally, they will not have time for this very vital function which has not been given due consideration in the past. By the same argument, I would say that even the Permanent Secretary of the Ministry should not be the chairman of the Nairobi Liaison Committee. This is because it is part of the activity that will take place in this Ministry and part of the activity of the Director of Physical Planning which will involve, at some level, participation of the Minister or the Permanent Secretary and both of them should not be involved in the appeal process or complaints handling process whatsoever under this Bill.

[Mr. Speaker left the chair]

*[The Temporary Deputy Speaker
(Mr. Ndotto) took the chair]*

Mr. Temporary Deputy Speaker, Sir, then the other Clause which I have a little problem with is Clause 12 which says:-

"The records of proceedings of a liaison committee shall be kept and filed in the office of the secretary to the committee and may be inspected and copies thereof obtained upon payment of such fees as the Minister may from time to time prescribe".

I think we need to come out more clearly on this clause and say that members of the public will have a right of inspection. The way the Clause is worded or drafted is not clear. It may be assumed like in **[Mr. Orengo]** other Statutes which give the public a right to inspect public documents, it should be stated clearly that member of the public will have a right of access to this documents on payment of fees prescribed by the Minister. So that is really all I have to say about that.

Clause 15, I again I am not satisfied that the Minister should sit on appeal on matters which arise from the liaison committee. He is the organ grinder. He is the one in charge of the Ministry. The director is his appointee and I feel that after the complaints have gone through various liaison committees which have a certain category of membership and at least there are more than ten members, to expect a single Minister to sit on appeal on a matter which has been decided by the membership which includes some experts, I think it will be wrong. Under the Land Adjudication Act there were a lot of problems with the appeals which under that Act were handled by the Minister for Lands and Settlement. First, the Minister was not available and most of the time the issues which would arise on the appeal, some of them were beyond the comprehension of the Minister and he required assistance from lawyers or officers from his Ministry and really it just became cynical. Other people were actually effectively carrying out those details. The Minister would just append his signature but the decisions were basically coming from offices in his Ministry. So I think the highest appeal organ which is the Minister before one can go to the high court should actually be a board consisting of certain professionals, certain experts and probably some people from within his Ministry. But a lot of times you will find that it is the actions of his own officers which are being put into question and for the Minister again to sit on appeal on matters which are arising out of misconduct or misdirection on the part of his officers, I think that will be an element of trying to be both jury, prosecutor and executor all in one. I think the Minister should think seriously about rectifying this. I know he will be jealous to remove some of these powers. In this Government when the Ministers has little powers they would rather jealously guard them because at times things are done without their knowledge. But I would ask in this particular regard to be of good counsel and agree that we should have a better appeals process consisting of more than four or five persons but not with the Minister as Chairman or in any capacity.

Mr. Temporary Deputy Speaker, Sir, then I want to look at clause 21. This is something that I raised earlier, particularly clause 21, sub-clause 2, says that:-

"An approved regional physical development plan published under sub-section 1 shall have full force and effect in the area to which it relates and every person shall comply with the requirements of the approved plan."

Every person; and I hope that includes the Commissioner of Lands. But that is not good enough because this is the officer whom we want to control. There is a lot of abuse in the use of land and abuses in plans and alienation of lands for specific purposes is normally interfered with by the Commissioner of Lands and particularly if you look at sub-clause 3, where it says:-

"An approved regional physical development plan shall not change the character of the title of any land or the disposal of any land by its registered owners."

Fair enough, but, the Commissioner of Lands can use that clause easily to frustrate the functions and work of the Director of Physical Planning.

There is also something about the drafting of this document which needs to be looked into. These days, as we read a lot of these statutes, there is a marked change. I think the draughtsman at the Attorney-General's Chambers have changed since the sad demise of Buluma who was the only - I would say - experienced legal draughtsman in the Attorney-General's Chambers. But I think, new people have been brought in and a lot of these statutes these days if you look at them - and hon. Osogo mentioned this to me - the format, the language, the theme and the character of legislation that appears before this House, is rather wanting. If you were to hire even retired people like Justice Lutta who used to be one of the first people who was trained in Parliamentary draughtsmanship, it may be a good idea so that a lot of details which get lost in Bills like this, would not escape us if we had a proper draughtsman or draughtswoman to ensure that our Bills are properly drafted.

Mr. Temporary Deputy Speaker, Sir, then I had something to say about Clause 45, on page 47, and it relates service of notice of any order made under this Bill and it reads as follows:-

"Any notice or order under this Act shall be made in writing and any notice or order shall be served or given to any person or his agent or shall sufficiently be served, if it is left at the last known postal residential or business address of the person to be served, or if it is so sent by a registered post addressed to the person and in the latter case, the notice or order shall be deemed to have been received by the person in the ordinary course of post, whether or not it has actually been received by him."

Mr. Temporary Deputy Speaker, Sir, we are talking about an order and in this clause, notice is deemed to have been given once a letter is sent to the last known address and whether or not he has received it, so the clause stipulates, - it does not matter, it shall be deemed to have been served. This is not due process, this is not defensible in justice. I think in a situation where it is clear, that an order needs to be served, then it is not just a question of the last known postal address, I think, it should be served on the specific postal address or there should be physical service on the person in the manner in which other court processes are normally served. Because if it was an ordinary letter without legal consequence and is not an order of any sort, then, this clause can be justified. But I believe that the nature, if one reads the Bill as a whole, of the orders which are made under this Bill, if the person to which that order applied, does not physically receive the order, I think, the consequences are grave and that should not be left to stand and I think, hon. Osogo would know that notices are so vital even in election petitions. Notices can bring dire consequences; receipts or otherwise of notices. I think if there is a process of appeal even to the High Court, where these matters will require determination, a clause of that nature is in my opinion, rather wanting and the Minister should take opportunity at a later stage to try and look at it again.

Mr. Temporary Deputy Speaker, Sir, generally from what I have said, I do support this Bill, but I am inviting the Minister to look at those sections and others which other colleagues may bring out in their contributions. But the question of land, itself and planning of the use of land, is so important; it is so vital and it is not a matter which is just on our hands, it was in the hands of our fore-fathers, it is in our hands and is in the hands of future generations.

Mr. Temporary Deputy Speaker, Sir, if you look at many of the development that is going on in most of our towns, you just see the crucial need to plan development in our cities, in our towns and even in the rural areas.

There was a time when it was not so easy just to build a structure anyhow, but now, people get away with all sorts of structures everywhere in the town and the orderly location of vital services within the town has been disrupted. I am also concerned that open space in our towns or in the countryside is going to be grossly interfered with at the rate at which public servants or those with the appropriate connections, continue to grab public land. I am saying this to hon. Wameyo, because when it comes to Mumias Sugar Factory, every year he always makes a speech about Mumias Sugar Factory and I thank him for it because that factory serves my Constituency. He criticises, in very scathing language, what happens at that factory and other factories and even calls names which the Government side is normally worried over. But I would ask him also that in the same spirit, if land is grabbed in Mumias, in Kakamega or in Nairobi I would invite you to make such speeches and control the affairs of public offices or those who are in high offices to ensure that public land is not misused. It should be used in the manner in which it has been planned by the appropriate Ministries and particularly by the Director of Physical Planning.

Nairobi was known as the Green City in the Sun because of the open space. But right now I do not think that we can proudly talk of this City as being a "green City" because even the greenery of the cemetery is not respected, people grab cemeteries, mortuaries, parks and playing fields. In another 10 years, I do not know whether there will be any greenery in this City; it will just be one concrete block from end to end and it will be a tragedy to the future generations of this country. That goes for every city, along the Coast, in Kisumu, in Nyeri and everywhere. Our towns should offer a pleasant environment in which every citizen of this country can fully enjoy the fruits of nature which were given freely, space, air and all that goes with it.

Mr. Temporary Deputy Speaker, Sir, with these remarks, I beg to support. Thank you.

Mr. Badawy: Bw. Naibu Spika wa Muda, nakushukuru kwa kunipatia nafasi hii, ili niunge mkono Mswada huu ambao ni muhimu sana. Hii ni kwa sababu kumekuwa na ulalamishi wa aina nyingi sana na mpango huu wa kupanga miji, ni mpango ambao umekuwa katika mwongozo wa Serikali kwa miaka mingi. Ninakumbuka---

QUORUM

Mr. Mwaura: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not think we have a Quorum. There are only three people on the other side.

Mr. Temporary Deputy Speaker (Mr. Ndotto): There is no Quorum. Ring the Division Bell.

(The Division Bell was rung)

Mr. Temporary Deputy Speaker (Mr. Ndotto): Order! Okay, we have a Quorum now. Continue hon. Badawy!

Mr. Badawy: Asante, Bw. Naibu Spika wa Muda. Nilikuwa nikipongeza fikira hii ya kuleta Mswada huu hapa kwa sababu utumiaji wa ardhi ni kitu muhimu sana. Upangaji wa ardhi ni kitu muhimu sana kwa sababu hata kule ulalamishi ambao tunaousikia mara kwa mara, juu ya ardhi kunyakuliwa hapa na pale, ni kwa sababu hata pale pahali ambapo kuna mipango ya miji, physical development plans au short term physical development plans za mji fulani--- Kinachosababisha ufiada, ni kule kutoheshimiwa kwa ile mipango ambayo imewekwa. Kwa sababu hiyo, Mswada huu ambao umeletwa sasa, ambao utakuwa ni sheria, atakayekivunja kifungu chochote katika Mswada huu ambao utapitishwa hapa, basi atakuwa amefanya uhalifu. Basi, ni matumaini yetu kwamba labda sheria hii itasaidia kukomesha kunyakuliwa ile ardhi hasa ambayo imetengwa kwa matumizi ya umma. Nasema "labda" kwa sababu nimeona kuna loopholes. Kwa mfano, District Liason Committee itakaa ipitishie ile Local Development Plan na ikitaraji kwamba local authority fulani itafanya approval ya ujenzi wa aina yoyote kuambatana na ile development plan, basi ni lazima kuweco na kifungu fulani hapa ambacho kitaonyesha ni hatua gani local authority ile au ofisa yoyote wa manispaa ambaye atafanya approval ya jengo lolote kinyume na ile Local Development Plan, ambayo itachukuliwa dhidi yake. Haikutajwa ni hatua gani ambayo itachukuliwa. Nimesema kuna local authorities nyingine kama Malindi, ambazo zimekuwa na physical development plans kwa miaka mingi sana. Nikiambuka, Malindi ilifanyiwa mipango hiyo na aliyekuwa Mkurugenzi wa Physical Planning, Mhe. Ligale. Kama mpango huo ulifuatwa kikamilivu, na watu kutambua umuhimu wa upangaji wa miji, umuhimu wa ardhi za matumizi ya umma, kusingekuwa na matatizo ambayo tunayaona ambayo singependa kuyakariri hapa kwa sababu kila Mbunge anayepata nafasi kuzungumza atayazungumzia. Juzi tulikuwa tukichangia Mswada fulani, na Wabunge wote walizungumza juu ya ufiada ambao uko katika mambo ya ardhi. Na tukiwa tutaanza tena kuhesabu zile ardhi za umma ambazo zilinyakuliwa, utaona kwamba chanzo cha ufiada huo, na watu ambao wanatoa nafasi zaidi ya kufanyika ufiada kama huo ni wale ambao wanasemekana ndio trustees kwa niaba ya Kamishena wa Ardhi nao ni local authorities. Ndio wale ambao wanatarajiwa kutoa idhini ya upangaji wa miji. Hawa ndio wanaotoa nafasi. Kulingana na mipango iliyoko, mtu anayeomba ardhi ni lazima maombi yake yapitie katika ofisi ya County Clerk au Town Clerk, kwa Mkuu wa Wilaya halafu kwa Kamishena wa Ardhi. Lakini utaona kwamba sababu ya maombi kama hayo kupitia kwa Town Clerk au Konseli kwa jumla, ni kuwezesha mapendekezo yanayofaa yafanywe kuhusiana na ombi kama lile. Hivi ninavyozungumza, maofisa wa Barasa la mji wa Malindi, na baadhi ya madiwani wameamua kwamba wanataka kutenga sehemu ya Show Ground na kumuuzia mtu binafsi. Hivi ninavyoongea, kuna mpango wa kukata ekari fulani za uwanja huo ambao ni public utility na kutolewa kwa mfanya biashara mmoja ili ajenge banda lake la kutumika wakati wa maonyesho.

Hivi ninavyozungumza, maofisa wa Baraza la Malindi na baadhi ya madiwani wameshaamua kwamba wanataka kutenga sehemu ya uwanja wa maonyesho wa Malindi na wamuuzie mtu binafsi kwa sababu wamepata hati ya kumiliki kwa jina la Baraza la Malindi. Hata hivi ninavyoongea mipango inaendelea ya kukata ekari fulani

ambayo ni mali ya umma kupatiwa mfanyabiashara fulani ambaye alipatiwa nafasi hapo kujenga banda lake siku ya maonyesho. Sasa amebadilisha na imekuwa hoteli. Hata kuna nyumba za malazi na anasa za aina yoyote zinafanyiwa hapo. Sasa Baraza linataka kutenga hiyo public utility ili kumpatia ekari fulani mfanyabiashara fulani. Pahali kama hapo tayari katika michoro ya Malindi, physical development plan ilifanywa kitambo sana lakini Baraza la Malindi limeamua kwamba pahali kama hapo wana uwezo wao wa kufanya watakavyo. Hata leo hati ya kumiliki ni kwa jina lao. Kwa njia hiyo hiyo, wamefanya recommendation ya kupeana ardhi za umma nyingi kama vile mashule, makaburi ya wakristo na kadhalika. Juzi ploti ya CPK ilikuwa imenyakuliwa halafu maofisa wa manispaa walipoona watu wanapiga kelele wakawarudishia wakristo ardhi yao. Ni maofisa wa manispaa ndiyo walichukuwa hiyo ardhi; ni wao walifanya recommendations. Swali langu ni hili; mbona hakuna kifungu cha kuwafanya hawa watu---

Mr. Shikuku: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Sipendi kumkatiza rafiki yangu anapozungumza lakini nilikuwa nimesikia kama amesema kwamba kulikuwa na ardhi ya kanisa la CPK ambayo ilinyakuliwa na kupatiwa mtu binafsi. Sijui kama nilisikia sawa. Kama ni kweli, anaweza kudhibitisha kwamba jambo hili lilifanyika na linaendelea kufanywa?

Mr. Badawy: Bw. Naibu Spika wa Muda, hiyo ni kweli na ajabu ni kwamba wale wasimamizi wa hiyo ardhi ya umma, Katibu wa Malindi na naibu wake ndiyo walikuwa wanufaika na hiyo ploti lakini kufuatia yale maneno yaliyozungumzwa wiki iliyopita, wametishika na kuita watu wa CPK na kuwarudishia ploti yao. Kuna zingine nyingi ambazo hazijarudishwa. Swali langu ni hili; hata tukipitisha Mswada huu na tuwe na michoro ya sawasawa, mbona hakuna kifungu cha kulikataza baraza lolote kupitisha plan kinyume na mwongozo ambao utakuwa katika zile local development plans? Kama jambo hili halitaangaliwa, basi hakuna haja ya kupitisha Mswada huu kwa sababu wanaopitisha michoro ni manispaa na kama hakuna kifungu cha kuwazuia na kuwatia adabu watu binafsi au baraza kwa jumla, itakuwa Mswada huu hauna maana. Naona Waziri wa Serikali za Wilaya hakushirikishwa katika mipango kama hii iliyotajwa hapa. Nafikiri angeshirikishwa kadri fulani kiasi cha kuweza kuwazuilia hawa watu wake wa mabaraza kuona kwamba hawatafanya ule ufisadi wao ambao wamezoea sana kuufanya.

Katika zile kamati zilizotajwa, hasa zile kamati za wilaya na za manispaa, muundo ni sawa lakini ikiwa katika sehemu nyingine ya Mswada huu tumeona kwamba assessment ni kitu muhimu, basi ilikuwa ni dharura sana District Environment Officer awe mwanachama wa kudumu katika kamati kama hii badala ya kuwa mwanachama ambaye anaweza kuitwa ikiwa anahitajika. Nafikiri ofisa wa mazingira ni ofisa ambaye anahitajika leo kwa kamati za kila aina hata kama ni za utalii. Kwa hivyo, ningependekeza kwamba ofisa huyu awe mwanakamati wa kudumu katika mipango kama hii. Katika kamati hizi zinazoundwa, nimeona kwamba mkurugenzi, wale maofisa wengine na wanachama wako indemnified kwa makosa yoyote ambayo itatokea. Bila nia mbaya ningependa kusema kwamba watu wengine ni wazuri lakini kesho atakuja mtu mmoja ambaye atakuwa anaangalia maslahi yake binafsi na hivi ndiyo unaona kwamba kunafanywa approval ya majenzi kinyume na eno ambalo linastahili kujengwa. Hii ni kwa sababu hata baraza lenyewe, wanakamati wote na hata madiwani wanaweza kupewa "chai" na ukishtuka unaona kwamba pahali ambapo hapastahili kujengwa panajengwa. Sasa tutazuilia mambo kama hayo namna gani, kuhakikisha kwamba wanakamati watakuwa ni watu waaminifu, watu ambao hata wakikaa kuichunga ile local development plan ya kwanza kabisa hawatakuwa na tamaa? Hivi ni kusema kwamba tungempa uwezo zaidi mkurugenzi badala ya hizi kamati ili aweze kupeleka mapendekezo yake ya local development plan kwa Waziri na waweze kushauriana. Nikisema hivi, tunaona mambo mengi sana. Hivi nikizungumza zile sehemu fulani ambazo ni za ukulima huko Malindi ndizo zenye mashamba ya fahari kabisa ya kutoa maembe hata sijui watu wanapata kibali cha "change of user" namna gani kwa sababu utapata kwamba hizi sehemu zinabadilishwa na kuwa residential areas. Tunaona cottages nyingi sana zinajengwa katika sehemu kama hizo. Tunataka majenzi lakini bado kuna sehemu nyingi katika sehemu za ufuo wa bahari ambazo hazijaendelezwa ijapokuwa ardhi zenyewe zimenyakuliwa. Bado ziko sehemu ambazo zingeweza kufanywa mahoteli, cottages na kadhalika badala ya watu kuruhusiwa kuingia katika mashamba yale ambayo yanatoa mazao ya kutosha kuweza kuendeleza uchumi wa sehemu fulani. Uchumi kama wa utalii hauwezi kutabirika. Kwa hivyo, kamati hizi zinapokaa kufanya mipangilio ya development plan za kila sehemu lazima tuhakikishe kwamba kuna uaminifu, ukweli na kamati hizi zisiwachiwe madaraka na mamlaka yote. Basi kwa njia hiyo tutampa uwezo mkurugenzi kumshauri Waziri akishuku tu kwamba hapa kidogo kuna kasoro ya aina fulani ambayo haiwezi kuambatana na mahitaji ya kimazingira, upanuwaji wa miji na kadhalika.

Tukiwa tunazungumza tunaona wazi katika Mswada huu kuwa, baada ya kupitishwa ndiyo kutatolewa idhini na kibali cha kuunda zile kamati tofauti tofauti za kuweza kuanza kufanya hizi development plans. Ombi langu ni kwamba katika yale maeneo ya miji nchini ambapo tayari kuna development plan tuhakikishe kwamba zinafuatwa. Katika muda huu ambao bado kutafanywa commissioning ya hizo kamati hii kwamba waanze kufanya hizi kazi ndipo wafanye mipango ya development plan, basi zile development plans

ambazo zipo tuhakikishe kwamba zinafuatwa kwa sababu sasa tunatoa nafasi kubwa sana. Kama ilivyo desturi ya binadamu, akijua kwamba kunakuja sheria fulani sasa kumzuilia asifanye mambo fulani basi yeye anajaribu kuitangulia sheria ile. Ni kama vile watu wanavyoficha bidhaa wakijua kwamba labda kutapadishwa bei ya bidhaa fulani. Hivi sasa watu wanaanza speculation wakijua kwamba kuna Mswada huu ambao unajadiliwa na utapitishwa. Wanajitayarisha kuangalia ni sehemu gani zilizobaki sasa waanze kuzinyakuwa. Nikichukua nafasi hii ningemwoba Waziri kuendelea kuhakikisha kwamba tunazuilia ule ufisadi hasa kwa upande wa mabarasa, mtindo ulioko wa kupatiwa tittle ya zile public utilities, yaani ardhi za umma na kufajiriwa kwa jina la manisipaa, ni mtindo ambao una hatari. Heri ardhi zile zibaki chini ya Wizara ya Ardhi na Makao, na zitolewe kwa sababu ya matumizi ya umma.

Ikiwa mamlaka hayo yatatolewa kutoka kwa Wizara ya Aridhi na Makao na kupewa serikali za wilaya kutakuwa na mifano kama ule wa Malindi ambao nimeutaja. Serikali ya mtaa itajua kwamba ardhi fulani ni yake na itaanza kuisajili. Inafaa Wizara ya Serikali za Mitaa iyaamrishe mabaraza ya wilaya na miji kuitangaza ardhi ambayo imeandikishwa kwa majina ya mabaraza hayo kuwa ardhi ya umma. Inafaa mabaraza hayo yitangaze ardhi hiyo kwa ajili ya kuwawezesha watu kuomba kuipewa. Viongozi wa makanisa na misikiti wanaweza kuomba ardhi ya kujengea makanisa na misikiti. Pia viongozi wa mashirika yasiyo ya Serikali wanaweza kuomba ardhi kwa matumizi yao. Mtindo wa mabaraza kuendelea kuishikilia ardhi haufai. Inafaa mabaraza haya yawape watu nafasi ya kuigeuza ardhi ya mabaraza hayo kutoka kwa matumizi ya umma na kuwa ya matumizi ya watu binafsi.

Bw Naibu Spika wa Muda, najua wenzangu watataja mifano mingi ya ufisadi ambao umetokea kwa sababu ya kutokuwa na sheria ambayo Mswada huu utaweka. Nafikiri tumezungumza sana juu ya ufisadi. Malindi ni pahali pamoja, ambapo ufisadi unaendelea hata sasa. Kwa hivyo, ni nia yangu kwamba tutauunga mkono Mswada huu---

Mr. Shikuku: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Mhe Badawy amesema kwamba ufisadi umetokea kwa sababu hakuna sheria! Si amelipotisha Bunge hili? Kuna sheria ya kufuatwa katika utoaji wa ardhi, na ukipata ardhi bila ya kuifuata utakuwa unavunja sheria! Ni haki kwake kusema kwamba hakuna sheria juu ya utoaji wa ardhi? Kuna sheria lakini watu wafisadi hawafuati! Serikali haiwafuati watu wafisadi kwa sababu inaunga mkono ufisadi! Kwa hivyo, hawezi kusema kwamba hakuna sheria juu ya utoaji wa ardhi.

Mr. Badawy: Mr. Naibu Spika wa Muda, nafikiri labda naweza kuyasahihisha maoni yangu na kusema kwamba kuna sheria lakini hakuna mwongozo katika utoaji wa ardhi. Hata miaka miwili iliyopita tulipiga kelele sana juu ya jambo hili, na Waziri wa Ardhi na Makao alitoa circular juu ya utaritibu wa kufuatwa wakati wa kuomba na kutoa ardhi. Alisema kwamba kabla ya mtu kuomba ardhi ni lazima utoaji wa ardhi hiyo uwe umetangazwa. Lakini hadi leo hatujaona utoaji wa ardhi ukitangazwa ili tuiombe. Sisi tunashukia kuona ardhi imenyakuliwa. Kwa hivyo, ingawa kuna sheria hakuna mpango na nidhamu katika utoaji wa ardhi. Ukweli ni kwamba unapomona mtu na barua ambayo imempa ardhi huwezi kujua utaratibu aliotumia kuipata ardhi hiyo. Mtu anayetoa ardhi ana uwezo wa kukupatia ardhi anapotaka. Akijua kwamba kipande fulani cha ardhi ni kitupu anaweza kuitoa ardhi hiyo kwako papo hapo. Utaritibu wa kutoa ardhi umewekwa ili kufanya utoaji wa ardhi kuwa mgumu kwa watu fulani na kuwa rahisi kwa watu wengine.

Kwa hivyo, Mswada huu ni muhimu. Kwa sababu tumezungumzia ufisadi sana, ningependa kumalizia kwa kuunga mkono. Ingawa naona Waziri anayehusika hayuko hapa nafikiri kwamba maafisa wake walio hapa wameyasikia maoni yetu. Naamini kwamba watayatilia maanani maoni yetu. Inafaa yale ambayo tumesema yawekwe katika Mswada huu.

Ahsante sana, Bw. Naibu wa Spika wa Muda.

Mr. Muite: I thank you, Mr. Temporary Deputy Speaker, Sir. I may start by pointing out a typographical error, which is obvious. It is on page 50 of the Bill. Other hon. Members have pointed out the rather casual manner in which Bills are being drafted and even printed. In the second Schedule we have "matters which may be death with" instead of "matters which may be dealt with". This is a typographical error. There is another error that I had picked up, but I have forgotten what page it was in.

Mr. Temporary Deputy Speaker, Sir, the second point that I would like to raise is that on page 48, Clause 47 there appears to be an overlap in jurisdiction. This is because under the Antiquities and Monuments Act a different person is authorised under that Act, which is Cap 215 of the laws of Kenya, to declare buildings and monuments to be of historical importance and, therefore, preserve them under that Act. Although the provision, in subsection (2) says that "the Director shall not make an order under subsection (1) in respect of any building under the Antiquities and Monuments Act to be a monument" one wonders why it is necessary to give two different people power to declare buildings to be monuments. There is a conflict here. What is going to happen if there is a difference of opinion as to whether a particular building should be declared a monument by the Director or by the Attorney-General who, I think, exercises the powers under the Antiquities and Monuments

Act? I do not follow the logic in giving identical jurisdiction to two different individuals to achieve the same purpose. I would appeal to the Government to rethink whether this jurisdiction should not actually remain vested in one individual. If on the other hand it is intended to remove the jurisdiction all together from the Attorney-General under Cap 215, then that should be done by amending the Antiquities and Monuments Act, so as to consolidate the powers in one individual, who is the Director here. An election should be made by the Government as to what it is that it wants to do. This is because both powers are intended to make a particular building a monument for the purposes of preservation. It does not look logical at all that that should be done by two different individuals under two different and separate Acts of Parliament.

The third point that I would like to make is that the liaison committees, for the purposes of local authorities, are to be chaired by District Commissioners (DCs). I am looking at clause 8 on page 32 on Nairobi and also at page 33 in respect of the districts. Each district liaison committee shall include the DC, who shall be the chairman. Now, I really would like to appeal to the Government to reconsider whether it truly wants the very extensive powers, which are given in Clause 10--- Functions of liaison committees include: to inquire into and determine complaints; to determine development applications for change of user or sub-division and to determine development applications. These are very wide powers. They are given in Clause 10. Do we really want to overload the already overloaded DCs? Today a DC is a chairman of the district security committee and the Accounting Officer in the district. A DC today is effectively a little king in the district! All the Ministries are subservient to the district commissioners (DC) by virtue of them being the accounting officers in the districts. All the Ministries including the Ministry of Agriculture, Livestock Development and Marketing [Mr. Muite] and Education report to the DCs. Today, there is no powerful individual in this country than the DC. Besides his official functions, being the accounting officer in the district and therefore, subduing every other Ministry, they are also the Chairmen of District Security Committee and, therefore, makes the police and the Special Branch in the district subservient to them.

An hon. Member: He is also the Chairman of the DDC!

Mr. Muite: They are the Chairmen of DDCs and Liquor Licensing Committees and everything else. Above all, they help to run the ruling party KANU in the districts. He supervises their elections. Without the DCs, there is no KANU as a party in the countryside. He has got so many functions to do for the party.

Mr. Shikuku: On a point of information, Mr. Temporary Deputy Speaker, Sir. I must thank the hon. Member for giving me this opportunity to offer him some information. What he is saying is nothing, but the truth, the whole truth, so God help him. It is true that in Kakamega, the PC, who has now moved to Nakuru does nothing else than getting round the county and municipal councillors trying to tell them to defect from the Opposition to KANU. That is their preoccupation in all their barazas. All the DOs and chiefs are KANU youthwingers.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the hon. Member for Butere is, in fact, saying what all of us have observed on the ground. That is exactly what is happening.

This party KANU looks with a lot of pleasure what is happening with the parties on this side of the House. If we remove the DCs, Uhh--- At the moment in Kiambu District, we are now a little happier in having a DC who has started of differently from his predecessor. We hope that he is going to remain that way. His predecessor made it his preoccupation to be land grabbing in conjunction with the Clerk to the County Council.

If this Bill is intended to bring an end land grabbing, then if this Government is serious that it intends to control land grabbing, let us not be over-ambitious by saying that it is going to come to an end, but to be contained somehow. If they are serious, they must remove the DCs as the intended Chairmen of the District Liaison Committees. If they are not removed, it is going to be business as usual. Their main preoccupation will continue to be land grabbing and ruining the entire environment. If the DCs are not removed, there is no hope whatsoever that this Bill, even if it is passed, is going to contribute in any manner towards the land grabbing, not to mention, that they are overloaded and they are simply the wrong people to ask to chair these important committees.

The other point that I would like to make is that when one looks at Clause 52, the two Acts that are intended to be repealed are the Town Planning Act and the Land Planning Act. I have had an occasion to go through these two pieces of legislations. The point that I would like to make here is that the Land Planning Act read together with the Town Planning Act which are being repealed, contain provisions which now this Bill consolidates. One of them is quite old and, in fact, it appears in the Volumes of 1948 and, therefore, it is a good thing that these laws are being updated and consolidated. I have no quarrel with that.

However, the point that I would like to make is that even in their existing provisions, the Land Planning Act and the Town Planning Act has got very adequate and very tight provisions of controlling development both

in the towns and in the countryside. They are master plans for the whole country. So, the question arises: How is it that we have been unable to preserve our environment? How is it that this Government has been able to ignore the existing provisions in the Land Planning Act and in the Town Planning Act whatsoever, and to push through land grabbing, unplanned development and to ignore the existing provisions that, for example, map out certain areas?

There are such things like zoning regulations that prescribe how certain areas of a particular city are going to be developed. Some areas are sub-divided into industrial areas, farming areas and residential areas. There are already existing provisions to cater that. For example, Lang'ata or Karen due to inadequacy of water including borehole water, and that the roads cannot serve high density areas, the area is designated in terms of planning as a residential area. Previously, the plots there should not have been less than five acres. Water and roads are inadequate. How is it that all this has been ignored? Sub-divisions are now allowed and those plans are taken to the City Council and they are pushed through and they ignore the existing Town Planning Act and Land Planning Act?

If you go to Westlands, you will find the same sort of situation. There was time when a building that was intended to be constructed and it did not conform with the planning regulations, those plans would not be approved. Today, the existing regulations are not worth the paper in which they are written.

How is it that when you go to Karen today you find that there are several flower farms contrary to the planning regulations? They are not grown on the land that is supposed to be a farm. Also, there is no water. So, the water that is being used is being siphoned with very powerful sucking pumps. The water that was intended to serve the whole of Karen, Lang'ata and Nairobi West is wasted on unplanned flower farms. This water was brought with public money, storage water tanks were constructed in Kikuyu and the piping came up to the City. This is the water that individuals, in breach of the planning regulations and zoning regulations, are able to suck and to use for agriculture in areas where such activities are not allowed.

What guarantee do we have from this Government, that when we pass this Bill consolidating the two, there is going to be any fidelity, integrity and commitment to respect the law? The problems of this Government is that it has no respect for the law they have passed. The laws that are on the Statutes are passed and tomorrow, the same Government proceed to breach those regulations. How is it that all the forests are gone? This country is going to be a desert in another 10 to 15 years. Unfortunately, the extent of the destruction and devastation is so much. This is why I always make this point, and I will make it again and again that this Government does not behave as if this country belongs to it or belongs to us.

They are behaving like an occupation force. If we attacked another country and conquered it, the way we would go destroying that country is exactly what this Government is doing with our country today. Ngong' Forest is all gone, it has been sub-divided. This forest behind the Race Course and the War Memorial from the road that leads to Lenana High School; that forest behind Langata Cemetery from Langata Road to Ngong' Road. The whole of that forest is gone. That was one of the few remaining forest areas in this country, and now it has been given to individuals. What justification can there be for this Government to give very valuable land to an individual who has not done anything? This individual, with that letter of allotment is immediately able to sell such land for Kshs10 or Kshs20 million. This is happening at a time when we are going out of this country to beg for money. Apart from the planning regulations, and I do submit that forests and green areas are essential if we are going to develop our country in any civilised manner. But apart from all that, if at any one time this Government decides that it has no need of a particular piece of land or a particular building that is vested in the Government, I would like to say that the correct procedure ought to be that piece of land or that building or that forest that has been excised--- If it is decided for planning purposes that we can take a part of a forest, an open space or a public building; if for any reason, it is decided that the Government should dispose of this sort of property, why should these properties not be advertised and sold at commercial rates? Let those who have got the ability to buy them do so. You go towards Nairobi Club; there used to be many buildings there. In the old days, Judges used to be accommodated in those houses. They were very good wooden houses in the 1970s. I remember visiting several Judges there and they were good houses with very large areas, either one acre or one and a half acres. These were very valuable plots whose commercial value is very high. Going up Ngong Road and Hill area, all those Government properties have been given to individuals. One individual is given all these properties. What moral authority can there be to enrich one individual with public property? Could we not as a nation have raised a lot of money for the Exchequer or the Consolidated Fund if these very valuable plots were advertised? If those Asians or Members on that side of the House who have made money, are interested in buying, they can buy them at commercial rates so that, that money then goes to the public coffers. If the Attorney-General is serious about achieving what he is seeking to achieve with this Bill, he should go much further than he has done here. He should look to the whole issue of land in this country.

The problem we have been having in Kenya is partly historical. The land holding in this country suffers from the historical fiction we borrowed from England. This was instituted back in 1066, during the days when England was conquered by William Duke of Normandy. In order to appropriate land, they created this fiction that all the land belongs to the King, and the King can actually dish it out to whoever he wants to dish it to. So, when we were enacting our own laws, we borrowed this fiction. It is highly dangerous to assume that the person for the time being, who occupies the position of the President of the country can dish out all the public land to whoever he wants to dish it to. Land in Kenya is held on trust for the Kenyan people, and it is immoral for any one individual to be given public land and to sell it. Some of them are selling it for even Kshs50 million. You leave an individual in the morning when he or she is an ordinary Kenyan, and, in the evening, he or she is Kshs 50 million richer and you have nothing. A lot of Kenyans do not even have money to buy a packet of *Jogoo*. Is this the sort of country that we want? How is it that, that land is not sold publicly? We must ask the Attorney-General to close this loophole before even this sort of Bills can have any meaning, whatsoever. If that is not done, we are not going to rectify anything, whatsoever. Karura Forest is gone.

I went to see one of the Ambassadors the other day and the road just before you come to Gigiri is one of the most beautiful remaining green areas in this country, opposite the little river there. The Belgian Embassy is on this side, facing this little forest. An Indian goes to the Belgian Ambassador to say, "I know you enjoy this scenery very much which is very beautiful". When you are in the office of the Belgian Ambassador, which is built on this side of the town, just before you come to the river and you go up towards Gigiri, UNEP, on the left, there is a beautiful forest there. When you are in his office, you look down to one of the original remaining areas of forests. An Indian goes up to him and says: "Mr. Ambassador, I know how you value this environment, but I have come to tell you that I am now the proud owner of this piece of forest. If you want to continue enjoying this view, you have to buy it at my price, otherwise you will be facing and looking at very ugly maisonettes, which I am going to put up here". We have got zoning regulations and yet this blackmail is going on. All this is because that part of the forest was given to a politically well connected individual, who then went and offered it at a price to this Asian, who has probably made billions and billions of Kenya Shillings by importing sugar into this country without paying duty. So, he is in a position to buy this piece of land and to blackmail people. This is how we have ruined our safety.

I would like to take this opportunity also to commend Prof. Wangari Maathai. If it was not for her effort, Uhuru Park would not have been there today. That line had gone and buildings were going to be put up there. I would also wish to make this point: That even when we pass this Bill, we must correct the mistakes that have been made in this country. We cannot allow the mess to remain there. I would like to state here for the hearing, particularly, of those Asians who are buying these plots and putting up blocks of flats and buildings, that a time will come when we shall demolish them. There is no question about that.

(Applause)

Mr. Temporary Deputy Speaker, Sir, we will appoint a truth commission in this country. Fortunately, land is not like bananas that one buys in the market and one cannot discover the garden from which those bananas came. Land has got history that cannot be distorted for every inch of land, we can go back to 1890 to 1900, and look at its history, and we are going to do exactly that. Since 1963, anybody who has been ever been given free public land, will have to pay for that public land. When one goes to Uhuru Highway next to the University, there are buildings that are constructed on what should be roads. Those buildings will have to come down. We will investigate upon establishing a truth commission which will objectively without fear or favour go into the acquisition of land in this country because we cannot have reconciliation without justice. We have to repossess this, even in law, a thief gets three years and the receiver of the stolen property get seven years. So, these individuals who are buying land that has been fraudulently stolen from the public, fraudulently allocated to favoured individuals who make millions and millions of shillings out of it, are themselves even worse than those to who the lands are being allocated to.

So, this truth commission will be expected to go into the history and it does not matter how many times the piece of land has changed hands. The original allottee and the original buyer will have to pay back to the public coffers and some of these buildings will, definitely, have to be demolished so that we can reconstruct our cities not just Nairobi, but all the others. So, all those people who are happy thinking that there will never be any change in this country, who thinks that they can enrich themselves at the expense of the public, let them be aware that times will change and they will have to pay back what they are illegally are acquiring.

Mr. Ndicho: On a point of information, Mr. Temporary Deputy Speaker, Sir. I want to inform hon. Muite, for the sake of KANU, that the civilian Government of Nigeria under Shehu Shagari was overthrown by

the military Government of Gen. Buhari because of nothing, but grabbing of public land in Nigeria. The first thing the military Government of Gen. Buhari did was to repossess all the grabbed land in Nigeria and demolish all buildings that were constructed on stolen land. This is exactly what we shall do in this country! I wish I will be the Minister in charge of doing that!

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I see hon. Makau looking very worried.

If he has the cause to be worried---

(Laughter)

The Minister for Information and Broadcasting (Mr. Makau): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Muite to say that I am getting worried? What I am worried about is the way they are threatening people and what they are actually saying has never been done anywhere in the world and the truth commission he is talking about is for those who torture people and not for anything else. I am not worried, but I am worried by the way they have been described by Mr. Njonjo.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I had a look at hon. Makau and, indeed, his facial expression showed some worries, but I am pleased to hear that he is not worried. We are not threatening, but this is a statement of what will happen. There is no question about that, this cannot be allowed to go on.

Mr. Temporary Deputy Speaker, Sir, because I know that other hon. Members want to contribute I do not want to take longer than I should. I would like to throw a challenge to hon. Attorney-General. He did say the other day that if this goes on, we will not have any public land remaining in a few years time. This is all very good talk, but as they say, "actions speak louder than words." We do not want to continue hearing words from the chief legal officer. I would like to challenge the Attorney-General to tell this country and this House how many people he has prosecuted under the existing legislation, the Town Planning Act, Land Planning Act and so on? What steps has he taken to enforce the existing provisions that have been blatantly violated by the people he would know? I would say that those hon. Ministers, hon. Members of Parliament whose names we know are amongst the beneficiaries of public lands. It is not the individuals. Hon. Member for Juja even had his name being very fraudulently inserted as a beneficiary of the land while the land was going to somebody else. He refused to take my advice to, first of all, get the Kshs20 million that piece of land would have fetched.

Mr. Ndicho: On a point of information, Mr. Temporary Deputy Speaker, Sir.

Mr. Temporary Deputy Speaker (Mr. Ndotto): Hon. Ndicho, it has to be information relevant to what hon. Muite is saying.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I want to inform hon. Muite who is my lawyer and who he gave me legal advice that I went to the Town Clerk, Nairobi, and took the letter which had my name. It was hon. Col. Kiluta and myself whose names were printed on the letter heads of Nairobi City Council that we had been allocated land at Kilimani west of two acres. When we investigated with my lawyer, we found out that the plot was sold at Kshs50 million. Now, what I am demanding from Nairobi City Council is compensation for damages done on my name at a cost of Kshs50 million; exactly the same amount of money that this plot was sold. Thank you very much for your advice.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, this is a very serious matter. The land grabbing in this country---

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Muite, I think you are affording hon. Ndicho an opportunity to debate when he is not supposed to be debating. Next time, I am not going to allow the point of information.

Mr. Muite: Mr. Temporary Deputy Speaker, I am just about to finish. I was emphasising the information the hon. Member for Juja gave which demonstrates how blatant this land grabbing is and the amount of money that is changing hands. This is not fiction, I saw the letter of allotment. And it is true that the real beneficiary, who actually got that land and sold it, pocketed Kshs50 million and Kshs50 million is a lot of money.

Land grabbing, the degradation of environment are serious matters. I would like to say that it is a shame that the United Nations Environmental Programmes (UNEP) is actually headquartered in Nairobi. What moral authority does that UNEP body have to advise anybody, anywhere in the world about the environment when they are turning a blind eye and deaf ear to the environmental degradation that is going on here in Kenya? So, since they are headquartered in this country, they must take an interest because, otherwise, if you go to Aberdares, Mt. Kenya, Uplands, Kinare and so on, you will see that all the water catchment areas, forests, have been degazetted. What are we doing to the future of this nation and yet we sit here in august Assembly to debate about the Physical Planning Bill? How is it that this Government is not respecting the existing professions? Let me express the

hope that, at least, when this Bill is passed or in order to demonstrate their commitment in respecting the law.

The trouble in this country is not with the law, but with the observance of that law. The person who can help the public in enforcing the existing regulations is the Attorney-General. Let me express the hope that this Government will start respecting the existing laws before this Bill is enacted and becomes law, with regard to the present requirements on the Town Planning and Land Planning. If they were respecting those existing provisions, there would be no need to bring this Bill to the House. There would be no urgency to be beaten. Even when we pass it, there is no guarantee that they will not carry on in the same manner in which they are carrying it. So, the greater burden is actually on the Attorney-General to enforce the laws. Let us not hear about these biased statements from him that in a few years time, we may not have any public land. In fact, the situation is much more serious because in the next 10 to 15 years time this country will be a desert and a lot of towns will not be having any water.

The Ewaso Nyiro River used to flow throughout the year, but today, that river flows only for eight months within a year and the animals further down are migrating due to lack of water. So, we are talking about a very serious situation. If you want to run this nation, as a civilised nation, if we have got the interest of this nation at heart and if this Government cares at all about the future of this nation and our children, it must start respecting the law; and it must start respecting the environment and the existing provisions of the law and above all, it must stop now, any further grabbing of public land and any further de-gazetting of the forests which they are giving to individuals.

With those few remarks, I beg to support.

The Minister for Research, Technical Training and Technology (Dr. Onyonka): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this very, very important Bill.

A great deal has, of course, been said by hon. Members who have spoken before me. When one looks through this Bill, it is fairly comprehensive. It has some very interesting things that ought to be repeated many times over because this is definitely one area today, where we have a problem. If anyone wants to pretend that we do not have a problem, then it is too bad. We have a problem. Although a lot of what has been said relates to the situation obtaining in the urban centres in particular, we have an equally pressing problems in the rural areas which are now dotted with small and medium-size towns where haphazard development appear to be taking place. I think it is important that the Bill endeavour to provide an arrangement whereby we will be able to register and recognize professionals that could help us to tackle the problems that we are facing. It is my hope and expectation that with amendments, we shall be able to define the sort of individual who could be generally recognized as being competent to render the sort of services that will enable us, as a country, to plan for orderly development.

I represent a rural constituency as is the case with the majority of the hon. Members in this House. Although there are these pressing problems in the urban centres, we have an emerging situation in the rural areas which in another 10 to 15 years, will assume a monumental crisis. If one were to look at market centres today or trading centres, what we see in all these centres is a very disorderly development. In fact, it is true that within the books, and this is the point that has been made by several hon. Members, we have certain provisions which could assist us to some extent to implement more orderly or systematic development.

But, by and large, when one looks at what is provided for under the Bill with respect to local authorities and towns, just the opposite appears to be happening today, where, what should be the controlling bodies, appear to be actually messing up the situation. It is my hope and expectation that with this improved Bill--- I admit that there are provisions in this Bill, which, perhaps, require amendment. Otherwise, their implementation--- And at this juncture, I should point out that, in fact, for this Bill to be fully implemented fairly, it needs to be understood by as many Kenyans as possible. There are lots of provisions under the various sections and it means that in addition to simply

being willing to implement the law, I think there is a tremendous amount of education that needs to be provided for the people to understand properly what needs to be done.

I often hear people complaint about the existence of a lot of garbage in Nairobi and the other larger cities.

Of course, this garbage, can practically be found in all towns. Even if the Government was willing to implement some of these policies, I still believe that tremendous amount of education needs to be provided to our people. The garbage that we see does not just grow on those sides over night. It is accumulated by people. This morning, I passed through Hurlingham and I was very disappointed. Just before you reach the shops, everyone around was trying to remove the heaps of garbage that we used to have there. But, there is one particular building which has a new heap of garbage that has filed up. Do these ladies and gentlemen appreciate the elementary fact this garbage becomes the fertile breeding grounds for flies and other verminous which eventually are bound to transmit very serious diseases to their food and other consumable?

There is a problem here, but it is not going to work if we all turned a blind eye and say the problem of garbage is the problem of the local authorities. It is a sad reflection on our attitudes to garbage and dirt generally.

So, I wanted to emphasise the fact that the rural centres, just like the larger urban units, require proper planning for their current and future development because what is going to happen is that we may have to embark on something like urban renewal programme in some of these units because their further extension of growth is virtually impossible. I come from a place called Kisii with a town called Kisii municipality and another one called Keroka which is the second largest town in that district. I am at a loss today, as to which way they are going to develop.

The development is rather disorderly and maintenance is non-existent, and I must state here that I agree with some of the workers, who are complaining about this business of Service Charge. It is a misnomer. If it is a service charge, then, there ought to be a service rendered. But it cannot be a Service Charge for no service rendered, then, it is meaningless. A lot of the Government agencies that claim or are entitled to service charge, are not prepared or in a position to provide any service at all; they should go out of existence. As entities, "Yes", they exist, but the sad thing is they virtually provide no service and that in my view, is a serious problem.

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

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

Likewise, I would like to say that there are important provisions. Even, if they were limited in number, which must be accepted as being standard in the development and evolution of our communities, be they rural or urban, but at the moment, we have really people who just seem to do what they please. Yet, if this is allowed to continue for many years, the long-term consequences will be very serious. There is no pretence about this. We have a set up that is rather chaotic and the cost of trying to rectify some of these things could be extremely high. I think this Bill has come up at the right time. As I have pointed out, there are provisions, perhaps, which needs to be amended to make it more appropriate to the problems we are trying to address. But that there is a problem, is something that cannot be denied. It is important the Ministry has seen it fit to bring this Bill forward for consideration by this august House.

A point has been made by an hon. Members that to a large extent we have some of the laws in the books and what really needs to be done is to make sure that they are implemented.

Mr. Temporary Deputy Speaker, Sir, I want to make one point. If we are going to make a jump or a leap into a Newly Industrialising Country (NIC), then there are certain pre-requisites that we have to fulfil. One of them is more appropriate land use in terms of orderly planning, maintenance of physical assets, among many other things. It is not going to be easy to make headway if we have too many constraints on the way, and proper land use is an important pre-requisite. It is not limited. The amount of usable land we have in urban centres and rural areas. In fact, we know fully well that some of our rural communities now live in areas, which for all practical purposes, are actually urban centres. This implies that they require a certain amount of planning to avoid serious future problems.

Mr. Temporary Deputy Speaker, Sir, there are issues on which we are likely to disagree depending what political party you belong to. But when we have a problem such as this one, we have to be honest with ourselves that there is a problem that needs to be addressed and there is a need for proper planning. In the long-term, we cannot allow chaos to reign because at the end of it there are beneficiaries and there are also losers, and in many instances, where we do not have orderly development, the ordinary citizen is the loser and they are the majority by far. They may not be in a situation where they are able to make a lot of noise, but I think we are morally and duty bound to point out that some of these problems have to be arrested now, so that when we look ahead, we can say we have a vision of where we are going in terms of our policy with respect to both urban and rural land use.

Mr. Temporary Deputy Speaker, Sir, I think I should say one or two things about the role of local authorities. The Director of Physical Planning and his colleagues are being given a mandate to assist in the production of physical development plans. We have talked about this issue for quite some time and frankly time has come when both physical planners and surveyors must move into a very large number of developing centres in this country that have been left to evolve in a rather disorderly fashion. There are many and there are to be found practically all over the country. Even the owners of these buildings and parcels of land have a right to the titles to this land. After all if you look at the rural centres we have all over the country today, look at how many title deeds one could actually obtain by carrying the necessary surveys and issuing these people their titles which they can

they use as security to borrow even limited sums of money to develop or to trade. This is an issue I would like to put to the Ministry that something urgent needs to be done with respect to these rural growth centres. We are trying to develop *jua kali* units in some of these centres where, in fact, some of these services have not been provided. I come from a small area called Mosocho and I have requested the Ministry and the department concerned to help us finish drawing the physical development plan for the area, but the local people have an idea what to expect. It is four to five years and I have not succeeded. I am always promised that something is being done, the plan is forthcoming. I do not know whether it is walking or running, but I have not seen it.

When I look at the number of those centres that we now have in the whole Republic, it is an enormous task. But it is the task we have to undertake because after all these are the people we would like to serve. These are the people we would like to see benefit from urban development and evolution, but more orderly development. It would minimise future grounds for disputes over plots, buildings and so on. But at the moment attention is focused on the main urban centres. Please let us bear in mind that although we are about 15 to 20 per cent urbanised, 80 per cent of our people are still in the rural areas. But they also need these services. We need to assist them to make the transition and for those who are abreast of what is happening in urbanisation, we know that in Africa, Asia and Latin America, over the next fifty years, the bulk of our population would be residing in the urban centres. So, the question for us is what is at our urban centres? Disorderly chaotic centres. They will create their own problems, legal disputes and a myriad other issues which could be forestalled if action was taken right now and I believe that the purpose of presenting this sort of Bill to this august House is to enable us to create the sort of environment that will make this orderly development feasible. Let chaos reign and then try to correct what would prove to be extremely expensive. It becomes a daunting task to try and rectify the situation.

Mr. Temporary Deputy Speaker, Sir, I also hope that once we create a liaison committees which we are talking about at the local and regional levels, they would be in a position to render services to wananchi fairly because the tragedy is, that in most instances and that has nothing to do with Kenya, that is the phenomenon, that whenever there are avenues for control, then some people turn them, of course, to exploitation and then engage in exhortation to collect money illicitly from mwananchi who are seeking those services and advise as to what needs to be done. Because, looking at this Bill, then unless we educate our people, they could run into a lot of problems.

We have liberalised, which naturally has tended to limit the opportunities for that sort of exploitation. But I would like at least the Ministry to ensure that once these arrangements are put in place, officers entrusted with the responsibility of servicing the communities involved, are treated fairly and that really seeking approval does not mean you have to pay a bribe to be able to get services I think, if that were to happen, then our people may be wondering what is happening. Legislation which the hon. Members might have passed with a clear mind that it is going to render a positive service in improving the welfare of the people then becomes a source of frustration. These are small things, but we know that to the ordinary person upcountry, it is sometimes a matter of life and death. And so the urban centres; the larger urban centres have their problems, but I would like to reiterate what I have said that, the growth centres in the rural areas of this country are today - in fact, to tell you the truth - a silent majority that is terribly frustrated over the fact that they do not have the titles to their properties, both the lands and the buildings and they cannot use them as security to borrow funds for personal improvement. It looks a small issue, but if they were to speak out, you would be surprised. So, it is my view, therefore that, together with providing the legal framework, we will need to undertake an exercise in education. And this, of course, could be done through the administration and through other avenues because, even activities by some of the voluntary organizations could play a role here. The important thing is that, we have focused so much on just politics from Monday to Sunday. I agree, politics is important, but there are lots of other things that we could do together to help mwananchi enjoy a better life. So, I speak on behalf of the countless rural residents in the trading centres who definitely require the services of the bodies or organizations that are being proposed in this Bill. There are areas where we all feel, for instance when it comes to defining who would qualify as a practising Physical Planner--- I have a feeling that this issue needs to be looked into again more microscopically to ensure that, for instance, we have to provide for the future. The people qualifying do not have to come just from the University of Nairobi and other institutions. The thing needs to be reframed so that it is much more broadly based and I would like to be specific here.

Years back, people coming from overseas with degrees often asked to tell or to explain whether they were from Russia or from America. And you recall that, even those who came from some of the leading American universities at one time were being told, "your BAs from America do not amount to anything" and it took time for the leaders to convince the system that some of these people were equally good and that they should be allowed to practise or make a contribution. I think, that particular section needs to be looked at again so that we have a much more broadly sort of defined framework that could take care of people - especially given the present situation whereby, Kenyans are attending institutions of very diverse backgrounds - but simply because we do not know

enough about some of them, we might think they are not qualified and that may not be the case. However---

The Temporary Deputy Speaker (Mr. Wetangula): Dr. Onyonka, is that not the previous Bill you are contributing to?

The Minister for Research, Technical Training and Technology (Dr. Onyonka): Mr. Temporary Deputy Speaker, Sir, that is true, I do not dispute that fact, but they are inter-related. They are inter-related and the truth of the matter is that if these two Bills are implemented with a clear understanding that they overlap, we are likely to make a headway. But they should not be seen as belonging to two separate compartments.

With these remarks, Mr. Temporary Deputy Speaker, Sir, I beg to support the Bill.

Mrs. Asiyo: Thank you, very much, Mr. Temporary Deputy Speaker, Sir, for giving me the Floor to make some contributions to this very important and long overdue Bill.

Mr. Temporary Deputy Speaker, Sir, the importance of physical planning in both urban and rural areas cannot be overemphasised. Like for example, in the issue of Kendu Bay Urban Council where plots are being advertised now in the Official Gazette before any planning is made. Way back in 1993, we did make a special request to the Ministry to send a physical planner to Kendu Bay Urban Council to help us carry out physical planning before plots could be issued. Right now, there are buildings mushrooming everywhere in that town and it is going to be very expensive and very difficult to plan anything in that Council and that, I think, goes for many, many urban centres in the rural areas throughout this country.

The planning impact, unusually felt at the local level, must be subjected to local professional and political scrutiny. This is because if these planning processes are left in the hands of somebody in a central office in the capital, you might never know the abuses that can occur. There is the local Government Act, Chapter 265, which I do feel is in conflict with the present Bill. This is because the Bill takes away powers from the local authorities to undertake planning in their own jurisdictional areas. This would seem to put in place the top-down approach in our planning which can be disastrous. I am hoping that the Minister will consider possible amendments to the Bill so that the city and the municipal councils are given full planning powers by the new Act.

The Bill seems to centralise the planning process by giving all powers to the Director of Physical Planning, as I have said before, and this is a very bad mistake that the Bill is making. I know that our friend, hon. Muite, dwelt a great deal on disputes being heard by the provincial administrators. I think you know that all these disputes should be heard by somebody who has the knowledge of planning as the arbitrator and that the composition of the liaison committee should not be as proposed in the Bill because there have been enough mistakes already made about land allocation, as has been expressed by many hon. Members in this House. Today there are many areas even in the rural areas---

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is really a very important Bill that the House is debating and I do not see the Minister for Lands and Settlement or his assistants, present in the House. Is it in order for those Ministers who are directly involved in this matter to be absent when Members are contributing to this Bill?

An hon. Member: Who is taking notes?

The Assistant Minister for Health (Dr. Wameyo): Mr. Temporary Deputy Speaker, Sir, the Minister for Lands and Settlement had some urgent business and he asked me to take notes for him and I have taken the notes.

Mr. Nyanja: On a point of order, Mr. Temporary Deputy Speaker, Sir. My point of order is with regard to the view being advanced by hon. Muite, Member for Kikuyu. You find that the word "Minister" in this particular Bill is featuring everywhere and he is so powerful yet he is not here. Some of us are professionals, and he would have to take the advice from us. Hon. Dr. Z. Onyonka has been talking to "stones". So, we are requesting the Chair - Yes, all I am trying to say is; he will not be made a Minister---

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order! Hon. Nyanja, this House constitutes only hon. Members and no stones are in this House. You must withdraw that statement.

Mr. Nyanja: Mr. Temporary Deputy Speaker, Sir, I want to withdraw that immediately and substitute the word "stones" with hon. Members who will never be in that Ministry. That is what I am trying to say. When the implementation of this Bill comes to take place, none of us will be there and the House loses its dignity. Where are the Assistant Ministers? This is what I am asking. We are talking to ourselves.

The Temporary Deputy Speaker (Mr. Wetangula): I do know that it is desirable to have the responsible Ministers here, but Dr. Wameyo has just told us that he was detailed to take notes for the Ministers. I share your sentiments that the Minister should be here to listen to you, but under the circumstances, I think we should be satisfied that Dr. Wameyo is standing in for him.

Mrs. Asiyo: Mr. Temporary Deputy Speaker, Sir, right now as we are discussing this very important

issue, somebody is making arrangements to advertise plots in Kendu Bay Urban Council even before the physical planning is done. The people in Kendu Bay do not receive or read the Official Gazette where these advertisements are going to be made. I want to suggest to the Minister that, in the case of rural areas such as Kendu Bay, such advertisements should not even appear in the Official Gazette because now we know that there are very many people who have specialized in land grabbing and they will be the first people to see these advertisements and, therefore, have them allocated to themselves and not the local people in Kendu Bay. Therefore, I sincerely hope that the Minister will stop any advertisements of any plot in Kendu Bay Urban Council in the Official Gazette, but have them in the local media, in Luo language and only do so after the physical planner has completed planning Kendu Bay Urban Council.

With these few remarks, I beg to support.

Mr. Shikuku: Ahsante sana, Bw. Naibu Spika wa Muda. Nakushukuru sana. Jambo la kwanza, huu Mswada umechelewa. Lazima kuweco na kifungu katika huu Mswada ambacho kitakuwa retrospective. Ninasema hivi kwa sababu kuna mpango wa wakubwa kunyakua ardhi na nyumba za Serikali na wamefanya hivyo. Kwa hivyo, tutakapopitisha Mswada huu mpaka upate idhini ya Rais hatutakuwa na ardhi tena. Kwa hivyo, kuna maana gani kupitisha Mswada ambao hautakuwa na maana? Ardhi itakuwa imechukuliwa. Mfano ni ule msemu wa Wazungu unaosema, "You close the door after the horse has been stolen". Ninafikiri walikuwa wamenyakua ardhi ya kutosha ndipo wakaleta huu Mswada. Wameshiba na sasa wanaleta Mswada lakini tunataka kifungu katika Mswada huu ambacho kitahusika na mambo yaliyotendeka ili tuweze kuwanyang'anya wale wezi wametumia madaraka yao kuchukua ardhi ya maskini.

Bw. Naibu Spika wa Muda, namuunga mkono mhe Onyonka kwamba wengi wetu ni wawakilishi wa watu wa shambani, ambako makosa yanayohusiana na ardhi ni mengi sana. Masikini wananyang'anywa ardhi yao na watu wakubwa. Kufuatana na sheria ya sasa mkuu wa tarafa ndiye anayeshughulikia mizozo kuhusu mashamba. Ufisadi uliopo hapa Kenya ni mwingi hivi kwamba hata ibilisi Lucifer atastaajabu akiambiwa juu yake. Watu wakubwa wananyakua ardhi kama wanaihama nchi hii.

Kwa hivyo, ni kama wananyakua ardhi ili waondoke. Ajabu ni kwamba wananyakua na kuendelea kukaa humu nchini. Wananyakua arhi na kuiuza kwa matajiri wengine. Inafaa ifahamike kwamba tuna rekodi, na hata Controller and Auditor-General analikagua jambo hili. Tunajua kila kipande cha ardhi kilikuwa cha nani, aliyeichukua na aliyeuziwa ardhi hiyo. Kwa hivyo, baadaye tutawafuata watu hawa. Inafaa wale walio katika Serikali na katika Upinzani ambao wamenyakua ardhi kinyume cha sheria wajue kwamba tutawafuata. Wakati huu ninapozungumza hapa ardhi ya watu masikini imenyakuliwa. Hii ni kwa sababu masikini hana pesa za kumlipa wakili ili kuipigania ardhi yake. Masikini anashitukia kuona ardhi yake imezungushwa ua, na anapouliza ua hiyo ni ya nini anaambiwa: "Wewe huna hati ya kumiliki ardhi". Wakati mwingine watu masikini huwa wanafikiri wana ardhi na hali ardhi yao huwa imenyakuliwa kwa njia za mkato. Wakati mwingine unapata kwamba kipande kimoja cha ardhi kina hati mbili za kumiliki shamba.

Ni lini sisi Wabunge tutakapokaa chini na kuchunguza vile mtu mdogo anavyonyanyaswa na watu wakubwa? Mimi nawashukuru Wakenya kwa sababu wanapenda amani. Watu wasiopenda amani katika nchi hii ni viongozi. Hata hivyo, uvumilifu wa mtu una kipimo. Kipimo hicho kikipitwa, hata paka huwa mkali. Ukimsukuma hadi kwenye kona ambako hawezi kutoka, atatoa macho na makucha, na kuurukia uso wako badala ya miguu yako. Wakenya wamekuwa wakinyanyaswa na utafika wakati watakaposema: "Either you get me or I get you". Hapo kutakuwa na taabu. Kwa hivyo, ni wajibu wetu kueleza Serikali hii tukufu kwamba wananchi hawana lao. Hata watu wengine wanachukua ploti tano au 10 katika miji, ha hali watu wengine hawana hata ploti moja. Tuna instant millionaires!

Mr. Moiben: Jambo la kufahamisho, Bw. Naibu Spika wa Muda. Mhe. Mbunge mwenzangu anazungumzia juu ya unyakuaji wa ardhi. Ningetaka kumuuliza kutokana na anavyosema kwamba sheria itapelekwa nyuma, kama angetaka ipelekwe nyuma kabla ya ukoloni ama wakati gani?

An hon. Member: Huo ni ufahamisho kweli?

The Temporary Deputy Speaker (Mr. Wetangula): Order! Hon. Moiben, I believe you know the difference between Question Time and point of information?

Mr. Shikuku: Bw. Naibu Spika wa Muda, nimempa nafasi aonyeshe kutokufahamu kwake kwa sheria za Bunge hili. Sasa amekuwa hata afadhali ng'ombe!

Mr. Chebelyon: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Shikuku in order to call hon. Moiben "ng'ombe"? Is he in order?

The Temporary Deputy speaker (Mr. Wetangula): Hon. Shikuku, did you do that?

Mr. Shikuku: Bw. Naibu Spika wa Muda, mimi ni mhe. Mbunge na siwezi kukana yale niliyosema. Nilisema kwamba nimempa nafasi kuonyesha kutokujua kwake kwa sheria za Jumba hili, na afadhali ng'ombe.

The Temporary Deputy Speaker (Mr. Wetangula): Ikiwa ni hivyo, hukumwita ng'ombe.

Mr. Shikuku: Sikumwita ng'ombe, Bw. Naibu Spika Muda.

Mr. Moiben: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Mhe. Mbunge mwenzangu amekuwa na mazoea ya kutisha Wabunge hapa. Bw. Naibu Spika wa Muda, akisema hivyo, hata mimi naweza kusema kwamba yeye ni "mchawi" kwa sababu watu wote ambao walikuwa wanapingana na yeye wamekufa. Nataka aondoe matamshi kwamba mimi ni ng'ombe.

Mr. Shikuku: Bw. Naibu Spika wa Muda, mhe. Moiben hafahamu Kiswahili. Isitoshe, yeye kama Mbunge, ndiye alianza taabu hii. Nilimpa nafasi na badala ya kutumia nafasi hiyo, kufuatana na sheria za Bunge hili, akafanya visivyo. Hata wewe, Bw. Naibu Spika wa Muda, ulimwambia hivyo.

Mr. Moiben: Mimi namwambia kuwa hata yeye---

The Temporary Deputy Speaker (Mr. Wetangula): Order!

Mr. Moiben: But I am on a point of order?

The Temporary Deputy Speaker (Mr. Wetangula): Order!

Mr. Moiben: But I am responding?

The Temporary Deputy Speaker (Mr. Wetangula): Order! Yes, hon. Shikuku?

Mr. Shikuku: Bw. Naibu Spika wa Muda, nitaendelea kwa sababu Waswahili wanasema---

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Shikuku! There is a point of order here.

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. My point of order is to seek clarification from the Chair. If the hon. Member for Butere says "afadhali ng'ombe", does that mean that, in fact, hon. Moiben is worse than a cow?

(Laughter)

Mr. Nyanja: It is true!

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order! Order, hon. Nyanja! Order! The complaint that was raised by hon. Chebelyon was that hon. Shikuku called hon. Moiben a cow. I said that from the context of what he said, he did not call him a cow. Whatever else he called him has not been brought to my attention and I cannot rule on that.

Mr. Shikuku: Mimi nasema Waswahili wanasema kumwashia kipofu taa---

Mr. Moiben: Jambo la nidhamu, Bw. Naibu Spika wa Muda. The insinuation by hon. Shikuku is that I am worse off than a cow.

Mr. Chebelyon: And you are an hon. Member of Parliament!

Mr. Moiben: We have only hon. Members of Parliament here. I did not mean to insult him, Mr. Temporary Deputy Speaker, Sir. All I meant was to inform him that if there are any land grabbers, we should go back up to the colonial period. There is no cow which can explain such a thing. No cow can grab a farm. Mr. Temporary Deputy Speaker, Sir, hon. Shikuku owns land in Trans-Nzoia. He should tell us more about that. I did not mean to impute improper motives against him, but he should understand that I am an hon. Member of this House. So, I want him to withdraw that remark and apologise. I am not a cow!

Mr. Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Members! Hon. Moiben, if you want the Chair to help you, you should demand either a substantiation or a retraction. But if you simply stand up and make a speech and sit down, the Chair cannot rule on that.

Order! Order! I will have no more of that. Carry on, hon. Shikuku.

(Laughter)

An hon. Member: Bado tunataka kujua kama yeye ni ng'ombe!

Mr. Shikuku: Ahsante sana, Bw. Naibu Spika wa Muda. Mimi nilisema, sisi wawakilishi wa wananchi---

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Shikuku! Do not go back to that point.

Mr. Shikuku: Hapana. Mimi nilisema sisi ni wawakilishi wa wananchi walio mashambani. Tunawakilisha asilimia 80 ya wananchi wote wa Kenya.

Mr. G.G. Kariuki: Pamoja na ng'ombe!
Sasa Bw. Naibu Spika wa Muda, unasikia maneno yale yanayotokea huku? Sisi tunawakilisha zaidi ya asilimia

80---

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. You heard hon. G.G. Kariuki very clearly say that since hon. Shikuku says that we represent 80 per cent of people from the rural areas, then he also represents cows? Is he in order to say that he represents cows? Is there a seat for a representative of cows here? Can he withdraw that statement?

Mr. Shikuku: Bw. Naibu Spika wa Muda, mimi sioni ubaya wowote. Mimi ni Mbunge wa Butere, ninawakilisha watu wa Butere, ngombe, nyoka, nyani, mawe, maji na kila kitu kilichoko Butere. Kwa hivyo, sisi sote waheshimiwa ni kazi yetu kuwakilisha hivyo vitu vyote. Hata wale wanaoabudu shetani tunawaakilisha pia. Nilikuwa ninataka kusema kwamba wananchi walio katika mashambani ndio wana taabu zaidi kushinda watu wengine. Sisi Wabunge wa mashambani lazima tusimame imara katika Bunge hili kuambia Serikali hii tukufu kwamba wananchi wananyang'anywa mashamba hata na sub-chiefs, chiefs na district officers (DOs).

Mr. Moiben: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Ninauliza kama ulitoshika kwamba mwenzangu hakunitusi? Unaweza kunisaidia hapo? Ninaudhika sana.

An hon. Member: Hiyo ilikwisha!

Mr. Moiben: Haijakwisha.

The Temporary Deputy Speaker, (Mr. Wetangula): Hon. Moiben, we have been here for four years now, and I am sure you know the rules of the House. You know when to ask for a retraction, a substantiation, a point of order, information and so on. What you have just said puts me in a dilemma. I do not know how to help you.

Mr. Moiben: Mr. Temporary Deputy Speaker, Sir, can he substantiate that I am worse than a cow?

(Laughter)

The Temporary Deputy Speaker (Mr. Wetangula): Continue, Mr. Shikuku!

Mr. Shikuku: Bw. Naibu Spika wa Muda, ninafikiri umeshatoa uamuzi juu ya hili jambo.

The Temporary Deputy Speaker: (Mr. Wetangula): Carry on, Mr. Shikuku.

Mr. Shikuku: Bw. Naibu Spika wa Muda, mimi sikumuuta ng'ombe. Ninaendelea. Ninakubaliana na mhe. Dr. Onyonka kwamba wale watu ambao tumewapa madaraka ya kuangalia habari ya mashamba, hao hao ndio wanaharibu hayo mashamba. Kwa mfano, katika sheria za Kenya saa hii zinasema kwamba ni district office peke yake ndiyo ina haki ya kuangalia district na mashamba. Hata saa hii tunaambiwa kwamba district commissioner ashirikishwe katika halmashauri ya mashamba ya wilaya. Saa hii ninavyozungumza, hawa DCs wameshaanza kukaa katika halmashauri hizi, na wana---

Mr. Ojode: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Wetangula): Order! Hon. Ojode, if it is not a point of order, you know the consequences.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, this is a point of order.

The Temporary Deputy Speaker (Mr. Wetangula): I hope you are not going back to the Moiben-Shikuku issue?

Mr. Ojode: No, Mr. Temporary Deputy Speaker, Sir---

The Temporary Deputy Speaker (Mr. Wetangula): Are you or are you not?

An hon. Member: He is!

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I am not. But you heard Mr. Moiben clearly saying that he is not a cow---

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order! Hon. Ojode, you are very lucky---

(Laughter)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Wetangula): Order! Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 7th May, 1996 at 2.30 p.m.