

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 6th December, 1995

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS NOTICE OF MOTION

LOAN SCHEME FOR UNIVERSITY STUDENTS

Mr. Mwaure: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-
GIVEN the fact that at present Kenya has five universities with about 40,000 students out of which about eight to twelve thousand graduates each year with various degrees, and considering that employment opportunities for graduates is decreasing, this House urges the Government to introduce a loan for university graduates who wish to start small-scale business in the informal sector with a view of reducing unemployment among the graduates.

ORAL ANSWERS TO QUESTIONS

Question No. 884

DEATH OF MR. OSEWE

Mr. Deputy Speaker: Prof. Anyang'-Nyong'o is not here? We will leave the Question for the moment.
Question No.970

RECRUITMENT IN POLICE FORCE

Mr. Deputy Speaker: Mr. Ojode also not here? We will leave the Question for the moment.

Question No.976

PAYMENT OF INSURANCE DUES

Mr. Sifuna asked the Minister for Finance:-

(a) whether he is aware that

Mrs. Anna Luchu took life insurance policy No. 32636 on 1st September, 1995 with M/s Jubilee Insurance Company Limited, Nairobi, through their underwriters under Ref. No. K/NM34621;

(b) whether he is aware that the policy matured in 1990 and Mrs Luchu has not been paid her surrender value; and

(c) when will M/s Jubilee Insurance Company Limited pay her dues.

Mr. Deputy Speaker: Anybody here from the Ministry of Finance? We will leave the Question for the moment.

Question No. 1068

RUNNING OF KANGUNDO SCHOOL

Mr. Deputy Speaker: Mr. Mulusya not here? We will leave this question for the moment.

Question No.743

BONDO TOWNSHIP WATER SUPPLY

Mr. Mwaura, on behalf of **Dr. Oburu**, asked the Minister for Land Reclamation, Regional and Water Development

(a) whether he is aware that one of the two high lift pumps at Bondo Township water supply which was installed recently is not functioning; and

(b) if the answer to "a" above is in the affirmative, whether he could deny or accept that the pump was second-hand and that it was replaced by a new one which was diverted elsewhere.

The Assistant Minister for Land Reclamation, Regional and Water Development: (Mr. Mokku): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that one of the two high lift pumps installed at the Bondo Water Supply is not functional. What I am aware of that one pump and the motor were not aligned properly during the installation in February 1995, but this was technically rectified immediately and pumping began with effect from March 1995 to date.

(b) In view of "a" above, part "b" does not arise.

Mr. Mwaura: Mr. Speaker, Sir, could the Assistant Minister tell the House whether the pump in Question which has been placed in Bondo is a new pump or an old pump?

Mr. Mokku: Mr. Speaker, Sir, it is a new pump.

Mr. Mwaura: Mr. Speaker, Sir, can the Assistant Minister deny or confirm whether this pump was not actually removed from the Yala River and sent to Bondo because it was old and currently it is not working?

Mr. Mokku: Mr. Speaker, Sir, I totally deny.

Mr. Mwaura: Mr. Speaker, Sir, the Bondo people are having problems because they cannot get water because allocation had been given for buying of a new pump, but instead the Ministry, the DC and the engineer there colluded and removed an old pump from another area and brought it to Bondo. Can the Assistant Minister confirm to the House that he will ensure that a new pump is bought and installed in Bondo to solve the problem of water for these people?

Mr. Mokku: Mr. Speaker, Sir, I have told the hon. Member that there was a technical problem which I had explained earlier that it had been rectified. When that pump was installed, there was an alignment problem. That one has been rectified. The shortage of water, as alleged by the hon. Member, was due to that technical problem. But as of now that problem has been rectified and there is enough water for the people of Bondo.

Mr. J.N. Mungai: Mr. Speaker, Sir, I think the Question in front of the House was forwarded to the Ministry seven months ago. The Assistant Minister says in February a new pump was installed and wrongly aligned and that is why it was not supplying water. I think the hon. Member has asked this Question because the people there do not have water. Can the Assistant Minister tell this House what he will do? If the hon. Questioner or Mr. Mwaura goes back to Bondo today to check on that pump, and finds that it is not working, what action is he intending to take?

Mr. Mokku: Mr. Speaker, Sir, as far as I am concerned and the Ministry is concerned, the pump is functional. If there is anything wrong on the ground as of now of, which I am not aware of, we will actually rectify the situation.

Question No.1063

WATER SHORTAGE IN LAMU.

Mr. Deputy Speaker: Mr. Abu Mohammed not here? We will leave the Question for the moment.

Question No.1057

EVICTION OF FOREST WORKERS

Mr. J.N. Mungai asked the Minister for Environment and Natural Resources:-

(a) whether he could explain the reasons behind the eviction of forest workers and summary dismissals of those employees in the years 1985 and 1986; and

(b) what future plans does the timber industry have in this country as the forests continue to diminish through private allocations of forest areas.

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

(a) No forest workers were evicted or dismissed in the years 1985 and 1986.

(b) At present the forest area covers 2.0 million hectares. A proportion of this land is exclusively an industrial forest plantation before the timber industry. These plantations currently provide approximately 98 per cent of the logs used by the timber industry. In addition, several hectares have been gazetted as new forests and the Ministry has continued to encourage agro-forestry. These measures will ensure that the timber industry has got enough materials in the future.

Mr. J. N. Mungai: Mr. Speaker, Sir, it is unfortunate that the hon. Minister gives such a misleading answer. The whole country knows very well that back in the years 1985/86/87/88 all forest workers were evicted and the very houses they lived in were demolished because the Government decided that it was going to have no workers there; it was going to protect the catchment areas and they also said that it was the new policy of the Government to protect the forests. The Assistant Minister says here that was not done. Can the Assistant Minister tell this house what he is going to do if we bring letters of dismissal from the employees which were working in the forest then to prove our case that many forest workers around the country were evicted from the forests and dismissed from their jobs?

Mr. Abdi: Mr. Deputy Speaker, Sir, the Government must conserve the forestry to avoid depletion of natural resources and biological diversity in the country. However, I am not aware of workers who were evicted and dismissed in 1985/86. However, if the hon. Member has got proper information, let him bring it to me then we shall try to solve the matter.

Mr. J.N. Mungai: Mr. Deputy Speaker, Sir, can the Assistant Minister tell this House whether the Government has changed the policy of preserving the forest, in view of the fact that today, in Molo areas, in Kapkagat and in the area around Burnt Forest, those forests are already being allocated for resettlement by some landless people, as claimed? Can the Minister tell this House whether the Government has now changed the policy, and decided to settle landless people in the Government forest, because that is what is happening?

Mr. Abdi: Mr. Deputy Speaker, Sir, the policy has not been changed, but my Ministry remains committed to supply logs to the local timber industry and has been trying to plant more trees in the forest in the whole Republic. In 1992, we planted 2,236 hectares, in 1993, we planted 2,947 hectares, in 1994, we planted 5,660 hectares--

Mr. J.N. Mungai: On a point of order, Mr. Deputy Speaker. I think the Assistant Minister is not answering my question. What I have asked is whether the Government has changed the policy of preserving the forests in view of the fact that, now we can see Sululu Forest, Rikia Forest, Nessuit Forest where Dorobos are being evicted to allow for new settlements to be put in. Ainabokoi Forest and Kaptagat Forest in Uasin Gishu District, we are seeing settlements being created there. Is the Government changing its policy and beginning to settle landless people in its forest instead of preserving the forests?

Mr. Abdi: Mr. Deputy Speaker, Sir, the Government has not changed the policy.

Mr. J.N. Mungai: Mr. Deputy Speaker, Sir, I think the Assistant Minister is still misleading the House. All I know is either the Government is ignoring its policies or the Government has a hidden agenda, in view of the fact that, we can now see, and we have seen in our local dailies, when Dorobos demonstrated at State House for being evicted from their homes, that did not stop them from being evicted. They are now being evicted and new allottees or new landless people are being brought in. My question is: Can the Assistant Minister confirm, deny or confirm that the new landless allottees, who are now being allocated land in those forests that I have just mentioned, are the warriors who fought during the tribal clashes and now are being prepared to attack innocent Kenyans and disrupt the next coming General Elections?

Mr. Abdi: Mr. Deputy Speaker, Sir, I am not aware of people who are given land because of political motives.

Question No. 815

SUB-DIVISION OF LAND

Dr. Lwali-Oyondi asked the Minister for Co-operative Development:-

(a) whether he is aware that the piece of land in Nakuru Municipality, Block 15/278, belonging

to Nakuru Transport Co-operative Society Limited (NATCO), has been subdivided into 90 plots which are being transferred to a Mr. John Mwangi without the consent of 132 members of the aforesaid co-operative society; and

(b) if the answer to "a" above is in the affirmative, what steps is he taking to revoke this order.

The Assistant Minister for Co-operative Development (Mr. Titi): Mr. Deputy Speaker, Sir, it is my humble duty to give the following reply.

(a) I am aware that the piece of land in Nakuru Municipality, Block 15/278, which belong to Nakuru Transport Co-operative Society (NATCO) was sold by the Societies creditors, to Mr. John Mwangi in 1989, following the court order.

(b) The land no long belongs to the co-operative society and as such, we cannot interfere with private property.

Dr. Lwali-Oyondi: Mr. Deputy Speaker, can the Assistant Minister tell this House whether this land was actually advertised in the public media, and whether the members were ever given a chance to purchase it?

Mr. Titi: Mr. Deputy Speaker, Sir, the information I have is that, following a court order, the plot in question was auctioned. So, I think it was done though public advertisement.

Dr. Lwali-Oyondi: Could the Assistant Minister then tell us for how much it was auctioned, and what was the debt owed by the NATCO Company?

Mr. Titi: Mr. Deputy Speaker, Sir, the plot was sold at Kshs1.5 million, and the debtors who the society owes were Kenya Commercial Bank, Kshs578,000, Kenya Shell, Kshs701,000, Samcon, Kshs603,000, Kenya Finance and Continental

[**Mr. Titi**]

Finance, Kshs60,500. So, it becomes total Kshs 8,382,000 that is the total amount.

Mr. Ndicho: Mr. Deputy Speaker, Sir, I think there is confusion here. According to this Question, the Questioner has said that the said plot has been subdivided into 90 plots which have been transferred to Mr. John Mwangi. The Assistant Minister has said that the said John Mwangi, bought this plot in an auction. Now which is which? Could the Assistant Minister tell us whether this plot was transferred to Mr. John Mwangi or he bought it in an auction, because we know of the notoriety there is between grabbing of plots in local authority, where Kikuyus have been used. I said here that two tribes; that is, the Kikuyus and the Kalenjins, are very notorious in grabbing plots. Can he now tell us whether this is the situation, a Mr. John Mwangi is fronted there and some people are at the back?

Mr. Titi: Mr. Deputy Speaker, Sir, I am not aware of what he is saying. But, what I know is that the plot was sold through public auction and was bought by Mr. John Mwangi at Kshs1.5 million.

Mr. Deputy Speaker: Next Question. We go back to Question No. 884 by Prof. Anyang' Nyong'o, for the second time.

Prof. Anyang' Nyong'o: Mr. Deputy Speaker, Sir, I apologise for coming late, and I beg to ask Question No. 884.

Question No. 884

DEATH OF MR. OSWERE

Prof. Anyang'-Nyong'o asked a Minister of State, Office of the President:-

(a) if he could explain to the House the circumstances which led to the sudden death of the late Mr. Otieno Oswere of South Alunga Sub-Location in South West Seme Location, since the matter was reported to Kombewa Police Post and Kisumu Police Station on 5th July, 1995;

(b) what happened to those responsible for the death; and

(c) what the Government has done about the negligence of the Assistant Chief of South Alungo on the matter.

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

(a) The death of the late Mr. Otieno Oswere, was not reported to any police station. Hence, the circumstances which led to his death are not known.

(b) Since the circumstances of Mr. Otieno Oswere's death are not known, there is really no action that I can take.

(c) I am afraid I do not understand the connection of the Assistant Chief of South Alungo in the death of

Mr. Otieno Oswere.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, arising from the answer that the Minister has given which, I think, is unfortunate because, the necessary offices in the Location are not informing the Office of the President correctly on this matter. I do not think the Assistant Minister would deny that Mr. Otieno Oswere died. The only problem is that the Office of the President has not been properly informed of the circumstances surrounding Mr. Oswere's death.

Mr. Deputy Speaker, Sir, this incident caused a lot of problems in the Sub-Location between the Assistant Chief and the people. I am asking this Question so that the Office of the President can take appropriate action to avoid further antagonism between the Assistant Chief and the people.

Mr. Deputy Speaker, Sir, arising from the answer, could the Assistant Minister undertake to do more inquiry into this issue so as to establish, under what circumstances Mr. Oswere died and so as to establish why the Assistant Chief did not take the action that he should have? This led to the ordinary wananchi going to report the matter both to the Kombewa Police Station and Kisumu Police Station. I am disturbed that those matters or those facts are not known to the Assistant Minister. But could the Assistant Minister take further steps to do further inquiries so that we can avoid unnecessary crisis in Maseno Division?

Mr. Awori: Mr. Deputy Speaker, Sir, after receiving this Question on the 24th of November this year, the OCS Maseno Police Station visited the home of the deceased at South Alungo Sub-Location where he met the deceased's brother, Peter Juma Oswere, and the deceased's wife, Mariesa Atieno, who confirmed that the deceased died on the 14th of July 1995 and was buried three days later according to Luo customary law. Prior to the deceased's death, he was suffering from malaria, diarrhoea and vomiting for three weeks. He attended Rodi dispensary for some days before he died. No report was made to any police station about the death of the deceased. That is the information the family of the deceased gave the officer in charge of the nearest police station.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I would not like to doubt the seriousness of the OCS Maseno Police Station. But, I would be grateful, if the Assistant Minister could [**Prof. Anyang'-Nyong'o**] ascertain whether or not the family was giving this information voluntarily or under duress?

Mr. Awori: Mr. Deputy Speaker, Sir, I really cannot understand why the brother of the deceased and the widow should give wrong information. But, most certainly with due respect, I will make inquiries to see the reason why wrong information has been given, if the information that I have got is the wrong one.

Mr. Deputy Speaker: Next Question, Question No. 970, hon. Orwa Ojode.

Mr. Ojode: Mr. Deputy Speaker, I apologise for having come late, however, I wish to ask Question No. 970.

Question No. 970

RECRUITMENT IN POLICE FORCE

Mr. Ojode asked a Minister of State, Office of the President, how many people were recruited, trained and posted in the Police Force and the Administration Police in 1992, 1993, 1994 and 1995, in Ndhiwa Constituency.

The Assistant Minister, Office of the President (Mr. Awori): Mr. Deputy Speaker, Sir, I beg to reply. There is no recruitment centre in Ndhiwa Constituency. However, five people from Ndhiwa Constituency were recruited in the Kenya Police Force while four others from the same constituency were recruited in the Administration Police during the years in question.

Mr. Ojode: Mr. Deputy Speaker, Sir, I did apologise here that I was late. I still apologise for having not attended yesterday's Session simply because the Provincial Administration ordered policemen to mount a roadblock and about two to three vehicles were impounded, my vehicle inclusive and all the occupants were arrested on Monday at 7.30 p.m.

Mr. Deputy Speaker, Sir, I am saying this when I am an annoyed person, because I am a hon. Member of Parliament and I was made to trek 10 kilometres at night from Rongo towards Homa Bay. When I called the P.C., he declined to talk to me, that means, the P.C. must have ordered this Constable Mbugua--

Mr. Deputy Speaker: I take it that you have no serious question to ask, so we go to the next Question.

Mr. Ojode: Mr. Deputy Speaker, Sir, it is a pity for me to get an answer like this. For the last four years, I am being given an answer of five people having been recruited in the Police Force, for the last five years. What happens is that the recruitment officers come in with people from Kalenjin side and Kuria side to Homa Bay

and when they come, there is no way they will ever recruit Ndhiwa people. Could the Minister tell the House why Luos are being marginalised and why there is tribalism and why this Government cannot recruit my people?

Mr. Awori: Mr. Deputy Speaker, Sir, in the first instance, I think the hon. Questioner must bring proof that, those recruitment officers went to Ndhiwa with a list of Kalenjins and other tribes. In fact, I insist that he has got to prove it here before I go anywhere.

Mr. Ojode: Mr. Deputy Speaker, Sir, if the Assistant Minister was wise, he would have even tabled the list of the names of those who have been recruited from there. The Assistant Minister cannot stand here and tell me to prove yet he knows very well that he is one of those people who orders for the recruitment of people from those tribes who are favoured.

Mr. Deputy Speaker, Sir, could he please give me the names of those who have been recruited since 1992 and the locations where they come from?

Mr. Awori: Mr. Deputy Speaker, Sir, he has not done what I asked him to do. He has made it even worse. He must prove what he has said that recruitment officers went to Ndhiwa with a list of Kalenjins.

Mr. Deputy Speaker: Why do you not confirm or deny it?

Dr. Kituyi: Notwithstanding the Assistant Minister's inability to answer questions by pretending that he can give orders to this side of the House, could he deny that it is a well known fact, that it is not just Ndhiwa alone, but places, including the Assistant Minister's own home district where the charade of recruitment members of the disciplined forces is just a mirage through which pre-recruited people from certain areas of this country are officially recruited from places where they do not come from? If the Assistant Minister does not know that, he cannot pretend that he knows what goes on in his Ministry.

Mr. Awori: Mr. Deputy Speaker, Sir, I deny completely.

Mr. Ojode: Mr. Deputy Speaker, Sir, I did ask the Assistant Minister to give me the names of the people who were recruited from Ndhiwa and the locations where they come from.

Mr. Awori: Mr. Deputy Speaker, Sir, those recruited into the Kenya Police in 1992, were as follows:- Mr. John Ogutu Ochieng, ID. No.12597389/75 who comes from Kabocho Location and 1993,---

Mr. Deputy Speaker: Order! Order! Mr. Awori, we do not have the whole morning to listen to that. Just give the names. Read the names

[Mr. Deputy Speaker]

only, forget about the ID numbers and other things or lay the list on the Table if you want.

Mr. Awori: The names are: Mr. John Ogutu Ochieng, Mr. Philip Aluoch Osondo, Mr. Jeliu Oduor Omuoka, Mr. David Ochieng Oyier, Mr. Zecharia Ochieng Nyawach, Mr. Tom Otieno Ndege, Mr. Alela Mitoka, Mr. Frederick O. Owiti and Mr. Japheth O. Oyuga.

Mr. Ojode: Mr. Deputy Speaker, Sir, if you heard the names the Assistant Minister read out, most of them are Kurias and Kisiis.

Mr. Deputy Speaker (Dr. Godana): I do not know. Order! Order!

Mr. Ojode: Mr. Deputy Speaker, Sir, if you do not know, I am telling you. Could the Assistant Minister consider taking purely people from Ndhiwa Constituency next year? He should not bring the names of Kurias and Kisiis to this House and claim that they come from Ndhiwa.

An hon. Member: Some Kisiis live in Ndhiwa!

Mr. Awori: Mr. Deputy Speaker, Sir, considering that the hon. Member's education in the United States was paid for by someone who was not a Luo from Ndhiwa, he should understand that there is no tribal consideration in this country. A person can stay anywhere, and if at the time of recruitment we find that there is a Samia in Ndhiwa who is fit to be a police officer, he will be recruited from Ndhiwa.

Mr. Ojode: Mr. Deputy Speaker, Sir, Alela Mitoka is from Kisii and he knows that very well. If you could see the names which have been given by the Assistant Minister, they are only six although according to his answer, he said that they were nine. Since 1992, how many people are supposed to be taken within a given division?

Mr. Awori: Mr. Deputy Speaker, Sir, during the recruitment, we do not consider constituencies. The recruitment is done at the district level and, therefore, he should be asking; how many people were recruited from Homa Bay District and he will find that there is no difference between Homa Bay and other districts. In other words, we try to balance according to the districts.

Mr. Deputy Speaker: Mr. Sifuna's Question for the second time.

Question No.976

PAYMENT OF INSURANCE DUES

Mr. Sifuna asked the Minister for Finance:-

(a) whether he is aware that a Mrs. Anna Luchu took life Insurance Policy No. 32636 on 1st September, 1965 with M/S Jubilee Insurance Company Limited, Nairobi, through their (Jubilee) underwriters, M/S Umoja Insurance underwriters under Ref. No. K/NM 346721.

(b) whether he is aware that the policy matured in 1990 and Mrs. Luchu has not been paid her surrender value; and,

(c) when M/S Jubilee Insurance Company Limited will pay Mrs. Luchu her dues.

The Assistant Minister for Finance (Mr. Keah): I am sorry that I was not here when the Question was first asked. I, therefore, apologise to the House.

Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Mrs. Anna Luchu took life Insurance Policy No. 32636 on the 1st of September, 1965 with Messrs Jubilee Insurance Company Limited Nairobi, through the underwriters for Jubilee, Messrs Umoja Insurance underwriters under Ref. No. C/NM 34621.

(b) The policy matured on the 1st of September, 1989, with a maturity value of Kshs4,265. Mrs. Luchu has, however, not been paid her surrender value due to the unreliability of her contact address and the lack of execution of necessary documentation.

(c) Messrs Jubilee Insurance Limited Company will issue a cheque immediately Mrs. Luchu returns back to the insurer, a duly signed discharge voucher together with the policy document.

Mr. Sifuna: Arising from the Assistant Minister's reply, is he satisfied that the Kshs4,265 was all the surrender value for the 25 years she was contributing towards her life insurance? If so, what was her monthly contribution?

Mr. Keah: Mr. Deputy Speaker, Sir, that is, indeed, a different question. I would ask the hon. Member to ask for details of that policy, the premiums which must be available. I do not have the details of her monthly contribution. He must be having knowledge of that.

Mr. Sifuna: Arising from the Assistant Minister's reply, could he tell this House whether when paying Mrs. Luchu her surrender value, they will take into consideration the amount of interest for the last five years? Will they pay her plus interest or not?

Mr. Keah: I do not have the terms of the policy documents with me. It is not possible for me to say whether the terms of the insurance policy covers the eventuality that the hon. Member is now [Mr. Keah] alluding to. The reason why she has not been paid is primarily because she has not returned the discharge voucher as well as the insurance policy. So, she is at fault and I am unable to assure this House whether or not the interest will be paid.

Question No. 1068

RUNNING OF KANGUNDO SCHOOL

Mr. Mulusya asked the Minister for Education:-

(a) whether he is aware that the smooth operation of the Board of Governors for Kangundo High School has been interfered with by the former Chairman, who continues to claim that he is the *bona fide* chairman;

(b) whether he is further aware that the Parents Teachers Association is also unable to operate smoothly due to interference from the same person; and,

(c) what action will he take to make sure that this school is run without outside interference.

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

(a) Yes, I am aware.

(b) Yes, I am further aware.

(c) My Ministry took the following steps to streamline the operation of the school:

(i) Appointed the Board of Governors to run the affairs of the school with effect from 1st November, 1994.

(ii) Dispatched a team of school inspectors on the 13th of March, 1995 to assess various aspects of the

school management. Their recommendations have been effected by my Ministry.

(iii) My Ministry wrote to the immediate former Chairman of the Board of Governors, cautioning him against interference with the internal management of the school, and the response so far has been good.

(iv) I have directed the DEO, Machakos, to convene a meeting, whose major objective is to replace the current Board Chairman and two members who have resigned.

(v) The Teachers Service Commission appointed a new headmaster, Mr. James N. Nduda in May, 1995 who according to reports, is doing very well.

Mr. Mulusya: Mr. Deputy Speaker, Sir, this is the first time in my short stay in this House to see an Assistant Minister being serious and taking the correct action.

Mr. Komora: Thank you very much for your compliments.

Mr. Mulusya: Mr. Deputy Speaker, Sir, the fact of the matter is that the former chairman of the Board of Governors, is none other than the former Attorney-General and retired Judge of the Court of Appeal, Justice Matthew Guy Muli. The Assistant Minister says he wrote to Justice Matthew Guy Muli, telling him not to intervene. What the former Chairman has done is to walk around with the letter claiming that, that letter did not emanate from His Excellency the President and that he has already spoken to the President who has confirmed that he is still the *bona fide* Chairman of the Board of Governors. What action is the Ministry taking in view of the fact that there is always strikes initiated and instigated by some teachers who are pro-Matthew Guy Muli?

Mr. Komora: Mr. Deputy Speaker, Sir, in accordance with Education Act, the Minister for Education has the powers to appoint the Chairman of the Board of Governors and, indeed, the Board of Governor. This has been done, and further, the Chairman who was appointed to replace the former Chairman has also resigned, and I have taken action to get the Board to recommend a new Chairman whom I will appoint as soon as he is recommended.

Mr. Mulusya: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that the Chairman and two members resigned from the Board due to the interference and frustrations they get from the former Attorney-General in conjunction with some teachers who the Ministry has refused to take action against for inciting students to go on strike? The Ministry should take action against those teacher, because they are part and parcel of the clique interfering with discipline in that school?

Mr. Komora: Mr. Deputy Speaker, Sir, I think the hon. Member is aware of what I have said. We have taken measures to streamline the administration of the school and we have no doubt that things will run accordingly.

Mr. Mulusya: Mr. Deputy Speaker, Sir, the Assistant Minister should answer my Question. What action is he taking against those particular teachers who have been identified by the Committee appointed by the Ministry to investigate? What action is he taking against those teachers because they are the ones who are interfering with the standards of the school? Although the head teacher is doing a very good job, there are some teachers who work for nobody else other than the former Chairman.

Mr. Komora: Mr. Deputy Speaker, Sir, under the new administration, any teacher who will not play his part will be dealt with. It is as simple as that.

Question No. 1063

WATER SHORTAGE IN LAMU

Mr. Deputy Speaker: Is Mr. Mohamed still not here? So, the Question is dropped.

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

Mr. Kofa: Mr. Deputy Speaker, Sir, I do not have the written answer for Private Question No. 1. However, I beg to ask the Question.

SALE OF FAMINE RELIEF MAIZE

Mr. Kofa asked the Minister of State, Office of the President the following Question by Private Notice.

(a) Can the Minister explain why the maize meant for famine relief in Tana River District is being sold by the Provincial Administration?

(b) Could the Minister confirm or deny that on the following dates, the said maize was sold and privately transported from Bura Town and Hola Town to Changamwe Maize Millers and Kitui Millers in a lorry registration No. KWY 445 on the following dates: 31st October, 1995 - 500 bags in Bura Town; 6th November, 1995 - 160 bags in Bura Town; 15th November, 1995 - 200 bags in Hola Town; 16th November, 1995 - 200 in Hola Town; 20th November, 1995 - 400 bags in Hola Town?

(c) What action has the Minister taken to assist drought victims in Tana River District?

The Assistant Minister of State, Office of the President (Mr. Awori): Mr. Deputy Speaker, Sir, this is a very serious Question and it requires time for investigation so that I can give a substantive answer. I have discussed this issue with hon. Kofa and he has agreed to give me time to get the correct information.

Mr. Deputy Speaker: Did you discuss with him, Mr. Tola, and you reached at an understanding?

Mr. Kofa: Yes, Mr. Deputy Speaker, Sir. I only wish to ask the Assistant Minister to tell us when he will bring the written answer?

Mr. Deputy Speaker: In view of certain facts which are within your knowledge what do you mean when you say "later" unless you want to answer Mr. Kofa's Question by Private Notice in the next few minutes?

Mr. Awori: Mr. Deputy Speaker, Sir, first of all, it is not on the Order Paper of this afternoon, but above all, it is not possible for me to give the answer within one week.

Mr. Nthenge: On a point of order, Mr. Deputy Speaker, Sir. We will adjourn tomorrow.

An hon. Member: Today!

Mr. Nthenge: It is not today. I happen to be a Member of the Sessional Committee and we plan to have an adjournment tomorrow. So, Mr. Deputy Speaker, Sir, if there is no business, we could even adjourn today. What is the Assistant Minister contemplating to do so that the problem is solved once and for all?

Mr. Deputy Speaker: Order! Order! Mr. Awori, you will appreciate that this is a Private Members Question and according to our Standing Orders should be answered within 48 hours, unless there are extremely special circumstances which cannot allow you to beat the deadline. I also feel that the Question is quite detailed in terms of the serious allegations the hon. Questioner is making. Obviously, you are not serious when you tell us that you will come back with an answer in a week time. So, I think you know that the House will not be here in a week time. So, will it be acceptable to you to try to come up with an answer tomorrow?

Mr. Awori: Mr Deputy Speaker, Sir, I will do my very level best.

Mr. Deputy Speaker: Make sure you come with something tomorrow. Next Question!

Prof. Mzee: On a point of order, Mr Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! Order! Order, Prof Mzee. I have made my final ruling on that Question that the Assistant Minister will come back to us with an answer. I have given my final ruling on that, hon. Awori, is expected to come back to the House tomorrow with an answer. I call on hon. Obwocha to ask Question 2 by Private Notice.

CLOSURE OF COUNCIL OFFICES

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

(a) What reason led to the closure of Nyamira County Council Offices on 22nd November, 1995, by the Nyamira District Commissioner?

(b) Is the Minister aware that the said offices remain closed to-date?

(c) What action does the Government intend to take to rectify the anomaly and also re-open the said offices?

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

(a) Nyamira County Council Offices were not closed by the District Commissioner, Nyamira, but by a group of unknown councillors of Nyamira County Council between 17th and 21st November, 1995.

(b) The District Commissioner took action and re-opened the Council Offices of the Clerk to Council, and the Chairman of the Council on 23rd November, 1995.

(c) Under Police Inquiry File No.CID, Nyamira/4/95, the Government is carrying out intensive investigations with a view to charging all those councillors who were involved in the closure.

Mr. Obwocha: Mr Deputy Speaker, Sir, this is a situation where the Government turns around, they do a wrong and they say, it is done by this other side. The District Commissioner, Nyamira, closed these offices because there was a probe committee that had been appointed by the Council itself to find out what led to the loss of Kshs.7 million of the Council, where the DC is involved, and this is the basic reason why the DC closed these

offices because the councillors wanted the probe committee to go on, including probing the plots in Nyansiongo Township Centre. Can the Assistant Minister tell this House what action he is going to take to make sure the probe committee takes-off and to instruct the DC not to interfere with that probe committee?

Mr. Awori: Mr Deputy Speaker, Sir, I wish the Questioner had given me more information, because I have no information about a probe committee. As far as I know, the closure of the offices was as a result of councillors having a very fierce fight within the Council Offices, and that was the reason why the offices were closed. An inquiry file has been opened, and, indeed, if there is a probe, it will come out during that investigation.

Mr. Anyona: Mr Deputy Speaker, Sir, the Assistant Minister cannot mix up the facts of this case. As far as I know, there is Kshs.7 million which has gone missing in Nyamira County Council. Consequently, councillors decided to set up a probe committee to find out where the money is and decided to close the offices to bar access of the Clerk's Town Council to the offices, so, that he does not interfere with the probe. Then, after that the DC, and I am sorry, if my information is at variance with hon. Obwocha's, the DC, then, ordered a large number of Administration Policemen (APs) from all over Nyamira District, from every post to come and force the offices open and posted them there to stop elected councillors, from coming to the Council, to transact official Council business. Those are my facts.

Mr. Deputy Speaker, Sir, jcan the Minister now, explain under what authority the DC opened the offices which have been closed by councillors, who are in charge of the Council, then bars access of the elected councillors to the County Council Hall? Can he explain that?

Mr. Awori: Mr Deputy Speaker, Sir, you can see that there is a contradiction and the information from the Questioner and the supplementary question from his colleague are not the same. The Question here is: Why did the DC close Council Offices? Hon. Anyona is saying, it is not the DC, who closed the offices, but that it is the councillors who closed the offices. It is hon. Obwocha, who is the substantive Questioner and I answered him.

Mr. Obwocha: Mr Deputy Speaker, Sir, in view of the information that hon. Anyona has given this House, can the Assistant Minister, then, go ahead and tell this House under what authority did the DC have to open, then, the offices, if, indeed, they were closed by the councillors?

Mr. Awori: Mr Deputy Speaker, Sir, having got the new information, I will most certainly go and investigate and bring back the correct information.

Mr. Obwocha: Mr Deputy Speaker, Sir, you heard the Assistant Minister in his reply say that the councillors were fighting in the Council themselves. Could the Assistant Minister tell this House why they were fighting, if it was not because of this probe that had been instituted by them and the DC, as a nominated councillor, was interfering with the affairs of the Council?

Mr. Awori: Mr Deputy Speaker, Sir, I have no information as to the reason why they were fighting, but it is becoming a custom now for councillors all over to fight.

Mr. Anyona: Mr Deputy Speaker, Sir, it does not matter where offices of an elected County Council are opened, but the councillors are not allowed to come in. The DC has posted security men there and the Assistant Minister comes here and pleads ignorance of the fact of the matter. Are you satisfied that this Assistant Minister is serious with serious questions like this? Can he go back then and find out why they were fighting? They are not madmen!

Mr. Deputy Speaker: I thought he promised that!

Mr. Awori: Mr Deputy Speaker, Sir, that is indeed, what I promised to find out and bring back the correct information.

Mr. Deputy Speaker: Next Question, Dr. Kituyi!

SALE OF GOVERNMENT HOUSES

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

[**Dr. Kituyi**]

(a) Is the Minister aware that Government houses at Mihuti Court are about to be sold at a price below their value?

(b) What urgent action is the Minister taking to stop the sale?

(c) At what price did the Government buy the houses and what is the current value of these houses?

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

- (a) My office is not aware of the sale of Government houses at Mihuti Court.
- (b) Arising from the reply in (a), part (b) does not arise.
- (c) The houses were bought by the Government at a price of Kshs.29 million. There is no current valuation report of the houses as this is not warranted at the present time.

Dr. Kituyi: Mr. Deputy Speaker, Sir, while I appreciate and hope that the Assistant Minister will keep his word and like in the recent undertaking that no such sale will take place actually means public policy. Recently, the Government asked senior civil servants who occupy these houses next to State House to get loans to purchase them under a tenant purchase scheme from Government; but then soon after that they were stopped because a top civil servant at State House was buying all these houses. Can the Assistant Minister give an assurance to this House that there are no such plans by a top civil servant at State House to buy these houses? Could he explain also why the Government is not willing to sell these houses to civil servants who are currently residing in them?

Mr. Awori: Mr. Deputy Speaker, Sir, as I stand up now, there are no plans whatsoever to sell these houses to an individual. As to part "b" of the question, I have no knowledge that there has been an arrangement to sell these houses to individual civil servants that are living in the houses. If the policy will change in the future and we decide to sell the houses to individual occupants, I cannot give an undertaking as of now as to when that will be done.

Mr. Shikuku: I am glad, Mr. Deputy Speaker, Sir, the Assistant Minister has given this House an undertaking that these houses will not be sold. But in his last reply, he talked of future plans. We want civil servants to stay there. Could he assure us that there will be no question of ever selling Government properties to a group of people or an individual because those houses belong to the tax-payers and if he has got to change the policy, that policy should be brought to this House?

Mr. Awori: Mr. Deputy Speaker, Sir, I can only speak of the position as of now and as far as I know, there are no plans to sell these particular houses to anybody.

Dr. Kituyi: Mr. Deputy Speaker, Sir, the House will require guidance from the Chair on another matter. In the course of the current Session, the Assistant Minister who has just been speaking now, made an undertaking before this House about Government policy that no alteration can be done to identity cards before this matter is brought to the House. He said that was Government policy at the time. A week later it was not Government policy and exactly the opposite happened. To what extent can we accept that Government policy? When Parliament goes into recess, like the case of the Mihuti Court, we will read that Abraham Kiptanui has bought all the houses. When does a policy change so rapidly?

Mr. Awori: Mr. Deputy Speaker, Sir, I do not think, I can add any more to what I have replied.

AUCTIONING OF SUGAR FARMS

Mr. Rai: Mr. Deputy 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 many sugar cane farmers in Ramisi are unable to repay the Agricultural Finance Corporation loans acquired for sugar cane production?

(b) Is he further aware that the said loanees' properties, which were lodged as security for the acquisition of these loans, are about to be auctioned?

(c) Since the loanees cannot pay due to the collapse of the Associated Sugar Company Limited, could the Minister direct the Agricultural Finance Corporation, Ukunda Branch, to stop auctioning the "shambas" until the AFC Board's decision is received?

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. Maundu): Mr. Deputy Speaker, Sir, I would like to apologise. This Question came up yesterday and it was not answered; it was deferred until today. But I will seek your indulgence to have this Question deferred because my officers have not yet prepared the answer in a manner which is acceptable to me and possibly to the House. We should be given time to bring an appropriate answer to this House by tomorrow, in the afternoon Session.

Mr. Rai: Mr. Deputy Speaker, Sir, considering the plight of the farmers at Ramisi, that some of these houses are already on sale, could the Assistant Minister give an undertaking to answer this afternoon so that at least something can be done before Saturday when some of the selling is going to take place?

Mr. Maundu: Mr. Deputy Speaker, Sir, I cannot confirm that this answer will be available today, but my officers categorically said that this answer will be available tomorrow afternoon. I want an appropriate answer because this is an on going problem throughout the country and we want to put the record straight.

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister wants to take us for a ride. This Question was deferred yesterday by the Speaker because of time. Is it in order for the hon. Assistant Minister to say that he does not have a satisfactory answer when it is a Private Notice Question? The Questioner is saying that if it is not done by tomorrow, these houses will be sold on Saturday? Is this not a very serious thing?

The Deputy Speaker: I think, it is serious. Yes Mr. Assistant Minister!

Mr. Maundu: Mr. Deputy Speaker, Sir, I do not want to mislead the House in any way by promising an answer this afternoon. I would like to be sure that there is an appropriate answer. Could you give your indulgence perhaps until tomorrow afternoon?

The Deputy Speaker: We take your assurance that you will definitely give an answer tomorrow afternoon.

(Question deferred)

PROCUREMENT OF MEDICAL SUPPLIES

Mr. Anyona: I beg to ask the Minister for Health the following Question by Private Notice.

In view of the serious problems in the Ministry regarding procurement and supply of drugs, medical supplies and equipment, would the Minister tell the House:

(a) Why the entire budget for the procurement of drugs and medical equipment for 1995/96 was given to the Crown Agents as procurement agent of the Ministry?

(b) Why the Ministry released over Kshs300 million to Crown Agents as part-payment before any tenders for international competitive bidding (ICB) were advertised and evaluated?

The Deputy Speaker: Anybody from the Ministry of Health? Nobody from the Ministry of Health is in here.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. I think this House must feel very much concerned about the manner in which the Ministry of Health is being run. Here I have very crucial Questions on the welfare of Kenyans, and every time we have a Question, the Ministers are not there, or give answers that are not correct. What are we going to do?

The Deputy Speaker: Well, for the moment I can only say the Question is deferred until tomorrow.

(Question deferred)

Next Order!

MISREPORTING BY THE PRESS

The Assistant Minister of State, Office of the President (Mr. Awori): On a point of order, Mr. Deputy Speaker, Sir. I am holding here the *Daily Nation* of today. I know that the *Daily Nation* has never been a friend of mine and every time they must look for a negative side of whatever. They have reputed themselves to be advocates of the truth. They were here yesterday afternoon when I was answering a Question from a very close friend of mine. They are portraying me as a coward, as a person who runs away from things. I do not mind the cartoon, in fact it is a nice cartoon. It is what they have written which is wrong because a part from anything else, they say "later Mr. Awori beat a hasty retreat to the Front Bench after Mr. Leshore told the Speaker he could punch the Assistant Minister because he his answer was wrong". The time I moved---

The Deputy Speaker: Mr. Awori! Mr. Awori! Is there a misreporting?

The Assistant Minister of State, Office of the President (Mr. Awori): Very much, so Mr. Deputy Speaker, Sir. It is a misreporting---

The Deputy Speaker: Order! Order! You have no right to stand up on a point of order unless you are claiming you were misreported.

The Assistant Minister of State, Office of the President (Mr. Awori): This is what I am saying, Mr. Deputy Speaker, Sir. That they have just---

The Deputy Speaker: Finish that one unless and go to the next one.

The Assistant Minister of State, Office of the President (Mr. Awori): Mr. Deputy Speaker, Sir, what happened was very simple because when I was answering the Question, the Speaker asked me to come and answer it on the Front Bench. After I had come to the Front Bench, my colleague murmured that he may want to punch me. I did not run away from anybody. I am not afraid of anybody, not a devil or anyone, not even the *Daily Nation*.

MOTION

ESTABLISHMENT OF LAND COMMISSION

Dr. Kituyi: Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, considering the increasing incidences of land tenure related conflicts in our country, in the light of major contradictions in the plurality of land tenure regimes operational in Kenya today; aware that the result of the Carter Land Commission have become obsolete after over 60 years of social and economic transformation; and conscious of our collective responsibility to find a lasting solution to our country's property rights problems, this House calls upon the Government to urgently establish a Land Tenure Commission to enquire into, receive opinions on, and report upon all aspects of the current land tenure and land use problems with a view to developing new comprehensive land law to deal with identified challenges.

Mr. Deputy Speaker, Sir, it is a well known fact in this country today that we have a major crisis on how to appropriate land, who shall appropriate land and for what purposes land can be appropriated. In other words, Kenya is having a major crisis of access on land use.

In my presentation, I wish to split it into three different components. First, to separate the problem of land tenure, the problem of land use and then deal with the crisis of uncontrolled abuse of high office on the distribution or grabbing of public land.

Mr. Deputy Speaker, Sir, the only time that the officialdom in Kenya has sat down and asked itself a question about what shall be our approach to the optimum use of land in our country was in the year 1933. In 1933, the Kenya Land Commission, also known the Carter Commission, did produce the only report up to date which represents Government policy on what to do with land. This is as a point of departure does offer some strengths and weakness which have been reproduced into the crisis that exists today on the land policy in Kenya.

First, Mr. Deputy Speaker, Sir, it is very impressive to see a Committee working for a colonial Government having a fairly clear vision about, the need to solve the crucial problem of ownership and appropriation of land. Way back, there was major crisis on the land use and in many parts of this country. Indeed, one of the most rewarding things to read from the Carter Commission is how much father will stand against a son in Kikuyu community over ownership or inheritance of land already in the 1920s.

Today, over 60 years later and after the loss of 13,500 Kikuyu, Meru and Embu lives in the Mau Mau war over land rights, we still see the ugly hand of the absence of a clear land policy rearing its head in most different parts of this country. Today, you see desperate Dorobos demonstrating because they have been flashed out of the forests that are being sub-divided by some individuals. Today, you see persons still killing each other particularly in Kisii and Nyamira, and increasingly in parts of the Western Province. The crisis of a clear policy on land is continuing to be a major crisis on the livelihood of citizens of this country.

If we start with the Carter Land Commission, there were two clear lines about the Commission. (i) It was set out clearly to find the most optimal way to maximize the use of the available land in the country or in their words on page 369,

They were driven by the desire to ensure that the land is properly and efficiently utilised. Today, we need the Government to define a way in which land is most properly and efficient utilised. The formation of the Commission was triggered by the perception of the European settlers' interest and interest of natives staying in the native reserves. This Government inherited a major problem and legacy of the Carter Land Commission. The Carter Land Commission defined certain territories as boundaries of tribal lands. This Government inherited at Independence those boundaries of the tribal lands and attempted to create federal states along those boundaries as defined in 1933. It did put in place the mechanisms through which you could define a boundary or a conflict in the ethnic clashes.

Mr. Deputy Speaker, Sir, the Carter Land Commission was reluctant to talk about the boundaries of tribal lands. You will see that way back in 1933, colonial leaders were greater visionaries than public leaders of 1995. This is because these leaders were aware that Kenya was dynamic and a changing society and that if you established rigid boundaries around ethnic territories, you would create problems in the future and Kenyans may stop needing to live in tribal territories and want to find other basis of settlement anywhere in their country. On page 518 of the Kenya Land Commission it is stated, and I quote:-

"We cannot look forward into the future to the extent of saying that this or that tribe will be most in need of land or even say how long natives will wish to hold land tribally. The greatest disservice we could do to the country would be to compromise future development by locking up rigidly in tribal compartments land not yet required by the tribes because we apprehend that at some

uncertain date in future it might be required."

Mr. Deputy Speaker, Sir, a part of the crisis of land today in Kenya is that the boundaries created to protect and encourage settler settlement have been refined by the subsequent leaders who have blindly followed the trucks without understanding why those boundaries were put there and for how long those boundaries were perceived to be necessary. But if I may depart from that initial step, a number of steps have taken us through the deepening of the land crisis in Kenya. The Swynnerton Plan of the 1950s and the deliberate attempt by the colonial establishment to manufacture a category of African yeomen and auxiliary bourgeoisie which would be having interest in land that will protect the settled vested lands of the white settlers created the first category of the massive land beneficiaries in Kenyan policy.

What we have today is a structure of land ownership in the former White Highlands which was more dictated by the desire to protect the property interest of the White capitalists than the land problems of Kenya has continued to transform the land crisis from a racial problem to a problem of class in Kenya and nobody is addressing this class problem. Now, in one way we can say that to the extent that the rich have utilised that land to their material and national interest that the problem has been disguised, but then the biggest problem that has been manufactured is the problem where the rich and the powerful continue to hold on large tracks of land for speculative purpose without optimum utilisation. This is happening at a time when a lot of other citizens in the country are going without a source of livelihood and could actually utilise that land much more efficiently. This is not a problem unknown to the Government of this country because already way back in 1986, this Government was already complaining in Sessional Paper No.1 of 1986 about the problem of land which is under-utilised and I may want to quote from that. In the Sessional Paper No.1 of 1986 page 88, the Kenya Government said:-

"Kenya cannot feed itself and produce sufficient exports if the land is allowed to lie idle or under-utilised in large holdings. Steps must be taken to induce land owners to put under-utilised land to more productive use"

Mr. Deputy Speaker, Sir, Government was aware that a lot of land was lying idle and it should have moved as it had said to induce better use of that land. It has moved in to award more public land to persons who are under utilising it or just holding for speculative purposes. If you look at the most significant distribution of public land over the past ten years, what comes out most is not the distribution of land for more efficient utilisation, but it is more the reward of the politically correct by sub-division of public land and distribution as political largesse. We have come to a time when, as a nation, we must address the question of how to correct the mistakes of the recent past and the mistakes of the longer past. There have been shown very clear ways of how to deal with the question of idle land and there is no reason why this country should not move to a regime of compulsory acquisition of idle land for re-distribution among peasants.

Mr. Deputy Speaker, Sir, a very detailed study by Diana Hunt in 1984 established that if you re-distributed high potential land with a ceiling of 3 hectares per holding, you could yield 3.1 million farms and in addition to the families, generate employment for 1.5 man years of employment. If we are serious that we want to deal with unemployment problem, we cannot only look to jua kali to continue absorbing those who cannot get into the formal sector. We have to start looking to the massive quantities of public land which have been distributed to rich individuals which are lying idle, when there are many small scale farmers who could more optimally utilise that land. Similarly, this is the time when we, as a country, have to start addressing the second question of land holding. To what extent is Kenya going to allow small land holdings to be further sub-divided into virtually residential plots in the guise of inter-generation inheritance of land? We have come to a point where, like in other societies which have addressed this question, we should start setting the bottom line of land holding in high potential areas which cannot sub-divided further.

There is a crisis of land use in this country which has been misunderstood to be a tribal problem. This is the problem of range lands. First, if you look at the Carter Commission Report of 1933, the weakest component of the Carter Commission Report is its understanding of the problem of land use among the nomadic and pastoral communities in this country. For them, they looked at the pastoral problem as the problem of overcrowding and the only solution they prescribed was a solution of de-stocking, culling livestock, increasing taxes to force people to sell animals, compulsory raids and acquisition of animals like they were doing among the Maasais around the Second World War. But how much better have we performed as a country? Today, you find on both sides of this House, very senior politicians who think that the solution to Kenya's land problem is to move more people into the range lands which they see as an empty land and which they think should be irrigated and be used to settle peasants on easy land. We are continuing in the folly that we inherited from the colonial regime which was obsessed with a narrow perception of land ownership rights. This country must now start addressing how it will recognise communal traditional tenure rights, rights of exclusion which do not entail possession of an individual title deed. We have come to a point where we must appreciate that unless the traditional rights of the northern pastoralists, for example, the rights associated with ownership of deep wells among the Borana, as a mechanism for controlling overgrazing in the neighbourhoods of the given permanent water sources, the rights of ownership

of dry season pastures as are exercised among all the pastoral societies of this country, the rights of the communities to hold property in land in perpetuity for future generations has been exercised along time among the pastoralists of this country. Unless we come to a time when we give legal instruments of recognition to those rights, we will continue pretending that lands that are not owned by an individual carrying a little piece of paper, called "a title deed", are empty lands and we are going to continue manufacturing the reasons for some individuals to rally their supporters around ethnic, chauvinist goals as a defence of land rights.

Mr. Deputy Speaker, Sir, when we talk about ownership of land, it is important that as a nation, we should also start thinking about the use of land. It is wrong for this country to be obsessed with cultivation as a sole rational use of land in this country. Today we are having a crisis and we are having a crisis because we think that the production of cereal is the most rational use of land; at a time when cereal is leading the massive depletion of bio-diversity in the range lands. At the time when the role of livestock production in the range lands and its sustainable accommodation of human populations over a long period is being undermined because of our naivety and our fixation with agriculture. It becomes a time when we have to ask ourselves; "where are we going as a nation?" Even away from the range lands, there is a big crisis. Over the past three years, since this Government appointed a saw miller the Minister in charge of Government forests, there has been more de-gazetting of public forests than in the entire period since Independence. It is a shame, when you come to Parliament and you hear that a natural forest with hardwood for 300 years has been de-gazetted because a Government Minister says the land is to be used for production of seed maize. This country overproduces seed maize which is exported to Uganda. How can you proceed to de-gazette a Government forest, like they did for Kitale Forest in Trans Nzoia under the excuse, that they want more territory to grow seed maize? There are farmers who could produce seed maize; why have they then not been asked to produce seed maize? It is a reality that when there is personal interest of hardwood and the parochial interest of increasing the populations that are Government friendly in a constituency that is opposition controlled, blind us to our national responsibilities, you end up with situations where you are destroying our collective heritage for the purposes of satisfying short-term political or personal material goals. Mr. Deputy Speaker, Sir, those of us who live in the neighbourhood of Trans Nzoia have been witnessing steadily a very crazy thing happening. Government land being distributed among the political eminences. Chepchoina Farm sub-divided and given to Pokots; Hillbrook Farm sub-divided and given to a people who are predominantly from a neighbouring country, not even citizens of Kenya. We have even been saying if you wanted to give land to some Kalenjins, why did you not collect Kalenjin from Uasin Gishu and Nandi and give them instead of bringing Sebeis from Uganda to give them land in Kenya, when there are landless Kenyans who are yearning for land in their own country? We have seen Mwisho Farm and ADC farms divided. Farms that were supposed to be used for the improvement of production methods and demonstration are divided and given to persons very haphazardly without clear policy. Most glaring, we have seen the sub-division of the Research Station in Trans Nzoia which has been given to senior politicians in this Government and a Prisons farm---

Mr. Cheserek: On a point of order, Mr. Deputy Speaker, Sir. Can the hon. Member substantiate the allegation that some parcels of land were given to people from neighbouring country?

Dr. Kituyi: Mr. Deputy Speaker, Sir, I will invite hon. Cheserek to try to acquaint himself with the fact that the Steel Brooke Settlement Fund Trustee Farm in Trans Nzoia District, Kwana Constituency has been sub-divided and three quarters of the new owners are Sebeis from Uganda. They are not Kenyans. Be that as it may, it is particularly painful when you see public land like prison farm in Kitale sub-divided and much of it given to Mr. Nathaniel arap Tum, the Managing Director of Kenya Seed Company and the Chairman of Kenya Agricultural Research Institute. Land for research on the future crop development has been sub-divided and distributed to Assistant Ministers in this Government and other politically eminent persons. The point is this; we have come to a point when the national interest must drive our thinking and our practise and the national interest are not going to do that unless we have a specialized commission to investigate what is happening and recommend what needs to be done. That commission was already asked for by this Government. In Sessional Paper No.1 of 1986, page 88, the Government even drew up draft terms of reference for a land commission. The time has now come when we have to move expeditiously and put this commission in place and stop the open day robbery of the Kenyan citizens by the greedy who think that their tenure in power today will protect them from being prosecuted for these thefts in the future.

With these few remarks, I beg to move and request my colleague and friend the hon. Prof Anyang'-Nyong'o to second.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I beg to second this Motion which is very timely and very ably moved by my colleague and hon. Member for Parliament from Kimilili, Dr. Mukhisa Kituyi.

In the past, several debates and Questions about land have been raised in this House. We in the Opposition have constantly called for the creation of a commission to re-evaluate and look into land issues knowing fully well that when the Carter Land Commission did its work in the 1930's, it was at a different

historical context and the social economic and political issues obtaining then were not necessarily the same as today. Sixty or so years later, land tenure problems and land ownerships land transactions have become major issues in Kenya and I am glad that the Government had realised and proposed in a Sessional Paper that a commission could be set up. So, this comes in the wake of the Government's concern about such problems. I will only highlight a few important points which I think such a commission could address and some of the points that hon. Dr. Kituyi might not have had time to elaborate on.

I will begin with the issue of public land. Public land has become a major issue. Take for example, the Agricultural Development Corporation farms (ADC). When they were established the idea was that these farms would be experimental farms from which the agricultural community in Kenya could benefit in terms of seed, cattle and so on. Several years ago one grade cow could sell for Kshs 2,000. Now, if you buy a grade cow from a farmer it will cost you Kshs 60,000. I was just talking to the Lord Hue Delamere a few days ago and he told me that he has grade cows which he exports to Ethiopia, Tanzania and so on and if a Kenyan wants one cow, he can sell it to him for Kshs 60,000 whereas if the ADC farms were rearing these grade cows they could be sold to farmers at much lesser prices and we could support our agricultural sector much better but the ADC farms have been sub-divide and handed over to you know who. Now, this is a great drawback to the agricultural development in this country.

The other thing I wanted to talk about is the issue of urban land. We in this House know that urban land has one of the largest sector of public land proportionally. The Kenya Railways Corporation, for example, is one of the biggest land owners in this country from Colonial times to the present, but we know that the policy regarding the use and ownership of urban land has changed not so much in law, but in practice in that, Government land can be sold for a farthing to an individual and that individual will see this Government land again to the Government in terms of a parastatal buying it for a fortune. So, ordinary plebeians become billionaires overnight by getting Government land and selling it back to the Government. We have evidence of this in terms of how much the National Social Security Fund (NSSF) has bought Government land from those to whom it has been allocated. This is gross injustice. This is gross abuse of public property. It may not result in a crisis or conflict today, but it will definitely lead to a crisis or conflict in a few years because memories do not die.

Another issue regarding public land relates to public housing. A house cannot be built in mid air. It has to be built on land and a lot of Government houses have been built on public land in urban areas yet these houses are also being allocated for a farthing to individuals who then sell them back to the open market for a fortune and overnight a plebian becomes a millionaire. This is also another source of injustice in this country. So, we need a Commission to look at all these things and, indeed, come out with a sound policy. If it is a question of privatization, to what extent is a parastatal justified to sell public property to do whatever without some kind of policy passed by this House? I can understand the Kenya Railways Corporation getting rid of some of its land at Kshs 20 million per acre it is so that they can meet some of their liquidity problems. From the point of view of the Corporation it is sound but from the point of view of the taxpayers as Dr. Mukhisa Kituyi has just been saying it is not right because they are the owners of this land and have not been properly consulted in these transactions, there is some kind of injustice in this and this House needs to make a law or a policy well informed by the work of a commission which addresses some of these issues so that we hand over to posterity what is well thought out and what is both just and fair.

I want to now touch on another issue that Dr. Mukhisa Kituyi has touched on and which forms the first part of his Motion which is land ownership related to conflicts in our country. We do know that we had what was called ethnic conflicts in several places. Enoosupukia is, perhaps, one of the best known, but we had these conflicts in Burnt Forest, Thessalia, Mt. Elgon, Bungoma, Sondu and so on and we had very unfortunate incidences of what is called ethnic conflicts, but conflicts which were related nonetheless to Land issues. I understand from the Press that the Attorney-General is intending to take action regarding land conflict and conflicts that were related to it in Enoosupukia. This is just the tip of the iceberg. I would think that to be fair it is not only Enoosupukia which should be targeted. We should look at the whole issue as it happened in Burnt Forest and those other places and, indeed, it will not be adequate simply to take a court proceeding. It is important that we have a Truth Commission to look into these issues. Now, the work of that Truth Commission will be very much related to the work of the land Commission we are talking about because these conflicts were land related and I would think that the Government should think a little bit wider so that in this year of our Lord, 1995, and in the next year of our Lord 1996 before we come to the year of our Lord in 1997 when we hope to have the Elections. We shall have done a lot of groundwork to remove elements of conflicts in our society which we are capable of removing.

Finally, I would like to talk about land policy with regard to environmental issues. I recently visited Meru and I was in Meru Town. My dear friend, Mr. Gitobu Manyara, drove me around the area. I was surprised that when you are on the road, you will see healthy trees, but beyond those trees, a desert is encroaching.

Why? Because the famous Meru Oak has been hunted by the so-called timber merchants and mowed to the ground. The Government has no policy, whatsoever, on afforestation. If you cut down a hard wood and you

want to prevent de-forestation, then you should plant a quick growing soft wood to contain and help the environment. This deforestation of our land by the hungry mouths of timber merchants is ruining our environment and we need to have a land policy which will address itself to environmental issues and which will prevent our land from being deforested and eroded and turned into a desert. It is not only in Meru that this is happening. This is happening in several places.

As long as individuals feel that they have a right to go and acquisition a certain part of the forest and cut it down for commercial purposes, if there is no law or policy mitigating against this, our 13 per cent land surface which is currently arable will be reduced to two or three per cent. We would then need much more expensive technology to carry out productive agriculture in this country.

I beg to second.

(Question proposed)

The Minister for Local Government (Mr. ole Ntimama): Mr. Deputy Speaker, Sir, to me, this is a very important Motion and I hope that my colleague, the Minister for Lands and Settlement, will probably decide whether to support or amend it. My position right now is only to say a few words about land policy as it affects the people of this country. Land is a very important resource in the Third World because it is the basis of sustaining the economies of the Third World countries. But, much more so, it is also a basis for survival for most of the African communities. Before we become an industrial nation and before we even move to the agricultural industries, it is important to know that land is the basis for survival. I know that this one is accepted by everybody, probably, on both sides of this House.

Mr. Deputy Speaker, Sir, I would like to talk about some statements that have been made recently, not only in the media, but also among other people, that unity is very important, that one nation is very important and that co-operation and living together harmoniously is very important for the future nationhood of this country. I agree entirely. When, probably, some of us made some observations which we think is, definitely, for free speech and freedom of expression, people do not even look around to find out whether that is the truth or not. They go along and start making direct attacks which are sometimes unfounded and not researched.

[Mr. Deputy Speaker left the Chair]

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

I want to say here and, to go on record that; the Maasai community have accommodated almost all other communities in this country. It is the only community that lives together with other people, does business with them and recognises them as brothers and sisters. We have shared our land and even our business. Some people are interpreting this as a license to oppress, marginalize and to rob the Maasai of their; a license to use the fact that the British suppressed them, put them into human zoos and never gave them education. The general ignorance of our people is being used for suppression, marginalization and cheating. So, in a way, I, personally, would support some investigative system to find out what has been happening, especially, in Masailand in the issue of allocation of land. I have said so openly. In some sort of way, I think the Government has already got the machinery, I hear, which is on-going and which can be used as an investigative procedure to find out what is happening. This is because we know that people have lost their land deceitfully and we need some authoritative organization to try and right the wrongs that have been committed over land in the area that I come from.

Now, Mr. Temporary Deputy Speaker, Sir, I would like to talk about rights. For some communities, particularly the pastoralists communities, their land rights are human rights because, without land, they cannot survive. Without land, they would not be there. This is important. I want to refer briefly to the human rights organizations in this country like the Law Society of Kenya (LSK) and the Commission for Human Rights. I think these people should actually address these problems of representing the real human rights violation all over the country. They should also represent pastoralists communities and even the Ndorobos whom I am going to talk about in a few moments. They should also represent other people who are oppressed. People who, for no fault of their own, have found themselves in some corner with other people who are helpless, hopeless and, generally, homeless. These human rights organisations are only looking after the interests and rights of their mega communities and tribes. If they want to be credible, they should spread their wings to other human rights violations. A lot of people in this country have got their rights trampled down upon by the Africans themselves. I have said many times that we had white colonialists, but black colonialists could be worse. These are the people who must be saved from black colonialists. These human rights organisations are more or less elitist and are representing their own people. These are actually, more than anything else, political activists. They alternate

between political parties and Commissions for human rights. These people literally come from one or two ethnic groups. This is why we want them to be expanded and look national and more representative. If this is not done these people will not be proper representatives as far as human rights are concerned.

Mr. Temporary Deputy Speaker, Sir, I also want to say very clearly that we as a community are not after any confrontation with anybody. We are not interested in taking on anybody or any ethnic group at all. What we are asking for is the right to survive. Struggle for survival cannot be stopped because every person must survive. I think that point should be very clearly understood. When we talk about these things we are engaged in a quest for survival and are not interested in a confrontation with anybody.

If I may talk a little bit about the Ndorobo Community, the Member of Parliament for Molo - I say he is my friend because he is not my enemy - has really hijacked the Ndorobo issue and successfully used it to look like he is the defender and protector of the Ndorobo interests. But the Ndorobo got their first punch in 1967 when they were invaded, dispersed into the forest, their livestock taken and sold. The Ndorobo were at that time told by some people that they did not own their land. Since that time they have never resumed normal life. These are people who have been hopeless, and who have, probably, been almost forgotten. But I am sure that something is soon going to be done for them by the Government. The procedure that was followed the other day was meant to give them back their land. I was only going to say that the debilitating punch came from elsewhere else, but the Ndorobo must now be saved.

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. In reference to hon. J.N. Mungai, hon. Ntimama has said that the Ndorobo received their first punch in 1967. Is the hon. Member not imputing improper motives on hon. J.N. Mungai? Is he not implying that Hon. J.N. Mungai was the one who hit the Ndorobo in 1967?

The Minister for Local Government (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I am not doing that, indeed. The Hon. Member has used up some of my minutes and I hope you will give me an additional minute. I want to say that I have attended many conferences in the world and know that the Aborigines and Red Indians have go their land back.

Mr. Farah: Mr. Temporary Deputy Speaker, Sir, land is a very big problem in this country. The Carter Land Commission (CLM) Report right from the beginning was based on injustice to a section of the Kenyan community. The European, basically by his own philosophy, considered Kenyans in two different ways: Either you accepted that he was the master and you were a slave, or you refused to accept that and you were regarded as a barbarian who had to perish. That is why he was able to cart away many Africans to work in plantations in the Caribbean Region and the United States of America (USA) as slaves. If the African at that had totally refused to accept the European and decided to fight for his freedom he would have perished in the same way the red Indians perished in those days. The red Indians, who were the indigenous owners of the USA land in the early days, refused to be enslaved and consequently they were supposed to be exterminated, and up to today they live in small reserves. So, when the white men came to Africa they dealt with two groups. Those who refused to be colonised and enslaved were supposed to be exterminated in the same way as the Red Indians. Those who accepted to be colonised and enslaved - I do not blame them for having done this because if they had not done so they would have been exterminated like the red Indians - were given an opportunity to survive and enjoy minimal dignity.

Mr. Temporary Deputy Speaker, Sir, the aim of the CLM Report was to give the natives certain rights over their land. But when you look at the pastoral communities like the Somali, the Maasai, the Turkana and the Samburu you will find that they were not supposed to have any land rights in this country. Unfortunately, that policy has been carried on by subsequent independent African Governments. In respect to the Turkana the Report says:-

"While it is clearly our duty to propose means for the protection of the natives insecure occupation of the land we are averse to recommending that any native reserves should at this time be declared as either Turkana or Northern Frontier Province".

The Report clearly says that no land rights should be given to the Turkana and other people of Northern Kenya like the Samburu, the Somali and the Boran. Further down the Report says:-

"In the first place, the areas are so vast in proportion to their population that it would amount to an unjustifiable locking up of the land. The land is so arid and inhospitable that it is difficult to see what better use it can be put into than to afford a home for nomadic pastoralists. But there maybe undiscovered resources of wealth in the land and developments of such possibilities as the land may possess minerals or otherwise.... While it is clearly

necessary that native rights must be safeguarded elaborate safeguards which we shall propose in form of an Ordinance would be unworkable in such a region and quite inappropriate".

This means that even though the land was inhospitable, arid and could serve no other purpose for the Government at that time, the colonialists did not want to give the land to its owners because they felt that in the course of the

history of this country some resources of benefit to them might be found there. The Report goes on and talks about areas in Turkana land which were very fertile.

"While the whole of Turkana district is a desolate area, these areas are worthy of much better use than nomadic tribes can give them".

At present any attempts to cultivate are frustrated by the game which destroys most of the crops and the natives are quite unable to cope with the situation either by destroying the game or fencing the land. Even for that area where these people have co-existed with the game for centuries and they have kept their own ecological balance, now when the white man comes he says " They should not be allowed to have land rights on that area too because the game is more important than them". The wildlife is more important than them so they should not be given that right. It goes further and talks about the Mkogodo, and the Samburus and it says, for example, "The question of a reserve for Somalis has been mooted and they should not be given. They are basically saying that Somalis have no rights in this country to have a reserve of their own even in those desolate arid areas when they apply for that they are not supposed to get that.

Mr. Speaker, Sir, it is unfortunate. This is what has kept us for all these years. They talk about the Mkogodo and they say that the Mkogodo and some of the Maasais in those areas should be moved from the land and taken to Northern Kenya because the land is too fertile for them to live in. This is the injustice we have lived with for all this time. We need to do something about that and it has to be now. If the Maasais are not in a position to cultivate the land or put it to a proper use, it is the duty of the Government to be able to educate them in order to enable them to put that land to the use the way Government deems fit. By trying now to move out entire communities and entire clans or tribes of this area and to replace them with other Africans from the country who are supposed to put that land to a better use, is an injustice; it is not going to be allowed.

Mr. Speaker, Sir, I support this Motion. You look at Tana river for example right now. The Pokomos of Tana river have been farmers throughout history. Instead of the Government helping them develop that, they put a settlement scheme and they take people from Central Province and other parts of the country to be settled in that area. They are not nomads; the Malakotes and Malachinis are not nomads.

I also support very much what the previous speaker said, that the problem with land have arisen because powerful people are allocating themselves big tracts of land and then looking for a means to appease their people and occupy the land belonging to others. At the time we got Independence, I do not see how somebody should have a coffee estate of 20,000, 10,000 and 5,000 acres in Central province. This is all land that was grabbed by people who were in power from their own brothers; kith and kin. Why should they want to go and settle landless Kikuyus in other areas to appease them when they have grabbed their own land in Central Province? And that should go everywhere. In Coast Province we have a problem now regarding the Mazrui Land. It is only 3,000 acres for people who have lived in that area for thousands of years and at least 1,000 years. People of the extraction of the Mazruis lived there for 1,000 years and they could have been the same. Why do you take 3,000 acres from them? At the same time Vipingo Estate which is 60,000 acres and belongs to a white man, cannot be taken away from him and distributed to the Mijikenda there. But you are going to take 3,000 acres which is a trust from natives; These are as indigenous to the area as much as anybody else can be. You take it away from them and you give it to other people to be able to create a clash between these two communities. At the same time, there is a Mzungu who has 60,000 acres next door which is all full of sisal and you cannot take that one away and redistribute it again.

Mr. Speaker, Sir, a Commission like this, I would propose in the first place, should have more than one commissioner because commissioners for arid areas or semi-arid areas or pastoral nomadic people should be people basically from that kind of a community and background. When it comes to the Coast, it has to be people from the coastal background to be able to determine those priorities and to see how justice can be done. But if you put up somebody from Central, Nyanza or North Eastern Provinces to go and distribute land in Nyanza in Nyanza Province, he will do it the best way he can and he will benefit himself and his people.

Mr. Speaker, Sir, I would say the problem we have in this country is primarily only on land. Every problem like clashes, ethnic problems and pastoralists fighting one another is because of land. If we are not able to come up with a very comprehensive, detailed, fair, and justifiable policy on that then we will never be able to solve the problems of this country.

Mr. Speaker, Sir, the Government has had a tradition of taking land either as ADC farms research farms or as veterinary farms and when it comes to the sub-division of those farms, they should sub-divide it among the people who are there; the indigenous people. Do not look for powerful big wigs to go and give them land in a place which does not belong to them. And the policy should be that people who are disadvantaged because of education and colonial conspiracy should not be allowed to dispose of their land. There has to be something to restrict them because if I have to go to a poor Maasai who does not speak any language and I buy him some booze and take his land, that is not fair; you cannot say "It is willing buyer and willing seller". It is not acceptable. The same thing applies to us in Northern Kenya. We have our land, it might be arid, it might be of no use to anybody,

but it is good to us and we want to have those land rights; there has to be land rights for Northern Kenya.

Mr. Temporary Deputy Speaker, Sir, with those I support the Motion.

The Assistant Minister for Lands and Settlement: (Mr. Khaniri): Mr. Speaker, Sir, I would like to acknowledge the Mover's concern as to the land tenurial system in the country and the need to put in place the appropriate machinery to oversee, co-ordinate and formulate appropriate land practices and policies to ensure optimum land use. I would also like to thank the hon. Members who have contributed to this Motion. Whereas my Ministry appreciates the hon. Members initiative to bring this Motion to the House, I would like to assure the hon. Members that the Government is already working to establish a National Land Use Commission as has been clearly spelt out in the current National Development Plan.

Mr. Speaker, Sir, the proposed Commission will look into problems related to the land use and tenure and advise on the optimal land use patterns for the present and future generations in various agro-ecological zones including ASAL areas. The necessary consultations are going on and after which the commission will be established. I have taken note of the comments made by the hon. Members on this Motion during their debate and my Ministry will incorporate all this in the relevant policy documents on the establishment of the commission. At the moment there are three main land tenure systems in the country namely: public land tenure where land belongs to the State; private land tenure where land is privately owned and the last being the Communal land tenure where land is owned by the community as a trust land areas. I would like to propose a small amendment on this Motion as follows. Delete all the words appearing in the seventh line after the word "Government" and inserting in place thereof the "accelerate its current efforts to establish National Land Use Commission".

The amended Motion will therefore read as follows:-

"THAT, considering the increasing incidence of land tenure related to conflicts in our country, in the light of major contradictions in the plurality of land tenure regimes operational in Kenya today; aware that the results of the Carter Land Commission have become obsolete after over sixty years of social and economic transformation; and conscious of our collective responsibility to find a lasting solution to our country's property rights problems, this House calls upon the Government to accelerate its current effort to establish a national land use Commission to enquire into, receive opinions and report upon all aspects of the current tenure and land use problems with a view to developing new comprehensive land law to deal with the identified challenges.

This House calls upon the Government to accelerate its current effort to establish a national land use Commission to enquire into, receive opinions and report upon all aspects of the current tenure and land use problems with a view to developing new comprehensive land law to deal with the identified challenges".

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, with these amendments, my Ministry would like to support this Motion.

I may only say one thing here. Arising from what other speakers have just said before me. We in the Ministry, are responsible for issuing land to the landless in various places in the country. We have talked about land being issued to people who do not belong to an area. For instance, in Coast Province, when we get a free land, that is land which is not occupied, we survey and we want to issue it to landless people who are in that particular area, irrespective of where they come from. For instance, if Coast Province has got residents in that Province who come from Nyanza, Western and Rift Valley, they will be considered along with others. We shall not segregate them just because they come from other areas, so long as they are landless. I just wanted to make that point be known to the Members that we have got land allocation committees in various Districts which are headed by the District Commissioners and it is their responsibility to find out who are actually landless people in those areas and they are considered without any favour.

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

The Assistant Minister for Education (Mr. Komora): Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to second the amendment, and also support the whole Motion. Those who in the first place divided this country into certain owners and ignored other people who from time immemorial have lived in those areas, created and made a big mistake against humanity in Kenya. The "Mzungu Commission", which determined land ownership and land use, in Kenya, deliberately ignored some areas of this country, they deliberately ignored the

fact that some people existed even before the Mzungu came, they deliberately ignored the potential of certain areas where there is plenty of water. Naturally they had their own interest at that time to grab land for themselves and for their own use, unfortunately, those who followed them continued the practice of land grabbing, those in the high potential areas, when they finished their land created the habit of following the Mzungu's habit of grabbing land in other places.

Mr. Temporary Deputy Speaker, Sir, these days a lot of fingers are pointed at the Government by the fellows who are pointing some fingers at the Government are the same fellows who had started the game and they know the secret of land grabbing. The land laws today need to be reviewed and the local people be given their fair deal. If the Mzungu found that in Tana River, no people existed, therefore, all the land becomes a crown land, later to become settlers. The Kenya Government or the African Government, the Uhuru Government and the KANU Government, should reverse that one, because the KANU Government is made up of all Kenyans of all origins, it includes even the Pokomos, the Ormas, Dorobos, the Somalis, Borans and all those people who have been ignored. It is always fair that the mistakes of the previous Commissions should be corrected, and land be rightly given back to those people. It is not good to call it settled land when it is all known that from the time God created this earth, certain tribes were there. He placed certain tribes there and it is always fair that the land should go back to them, in this new review.

Mr. Temporary Deputy Speaker, Sir, when we look into the land issue also we have also to look into the needs of the nation. What has been happening in the past, if it is not going to be relevant to our benefits, if land is not going to be used properly, it is not good. We have problems even in the towns of planning and allowing certain developments in towns properly. We also have to look into the future. We need land to be set aside for public use, for primary, secondary, nursery and university institutions in this country, where it will not be grabbed by greedy land owners. We need land to be set aside for hospitals and other public utilities in this country. We need land to be set aside for forestry, we need land to be set aside for other uses which are beneficial to this country, we also need land to be set aside for certain Communities for obvious reasons.

In the pastoral areas, that land should be owned equally by the people of that area, if it is not possible to divide the land into individual holdings. It can be divided into communal holdings, into group ranches, and land titles be given to those people. It is important, in the right of the fact that in some places land has been exhausted, and replaced because it has been more than occupied by many people, overpopulation in certain areas, pressures will go to those areas. We know in terms of policy, it is stated by the Government that land allocation in certain areas, preference will be given to the local people. We have evidence that in the Coast Province, that has not always been the case. We, Members of Parliament from the Coast, made it plainly clear, that land allocation of late has been unfair to the local people and to many people, and if this land is reviewed, a lot of mistakes will be found.

Mr. Temporary Deputy Speaker, Sir, the Europeans have a saying that, "let sleeping dogs lie", if you wake them up, they will fight you. In the case of land ownership, when people wake up and find that some people from outside have been grabbing the land, what will happen? Naturally, they will object, they will resist, they will move, they will fight, there will be trouble. So, what we do today, we have positive or negative tomorrow. We are here, elected by the population of this country, wananchi have elected us to correct mistakes of the past to make sure that the future of our people is bright and there is peace, there is development, there is justice, there is human rights, and it is the land ownership which is a key factor to peace in future. Therefore, we support this Motion, and we support it strongly, and we will urge the Ministry of Lands to take this matter seriously, not simply as well as a Motion from a private Member here, because it is a Member's Motion, but take it and own it as a Government decision to make sure that mistakes of the past with regard to land ownership are corrected.

Mr. Temporary Deputy Speaker, Sir, in surveying the land that exists, the land that is available, and the possibility of its usage, we must also survey the water resources on the land, under the land and above the land. Because there is no point in allocating land, as hon. Farah said, the Mzungu found the Somali land was very inhospitable, but forgot that under the ground there might have been water, and if there is water, that Somali land would be very good for the Somali pastoralists. Therefore, equally, when you consider land usage, you do not forget the existence of water, you do not forget to do a necessary survey in water underground and above the ground, and the potential of harvest from the size of all the resources.

We can go on and produce a lot of examples of misuse of land allocation and things like that, but for the time being, let it be enough to say that this Motion is fully supported. It is long overdue and in view of the Government minor amendments which actually supports the same things, the Ministry of Lands must be extremely serious and take this matter and start implementing it tomorrow.

Thank you.

(Question of the amendment proposed)

Mr. Kibaki: Mr. Temporary Deputy Speaker, Sir, in supporting this Motion, I am treating it that, we can speak on the whole Motion, because the amendment is fairly small. In supporting the Motion, I think, it is important for this Parliament to recognize that, in Kenya, you cannot have as of this stage one land tenure system.

There are many areas in this country where land is owned communally and it has not been surveyed and it is not even registered. So, you have to have a tenure which recognizes that style of life, as of this stage, even if you are going to attempt to move to a future tenure which is different. But, as of this stage, for the sake of social peace, we have to recognize that, those people who are for instance, pastoralists or have communal ownership of a particular area, will go on living in that style.

Mr. Temporary Deputy Speaker, Sir, what you can do is, you can have one law only which would take care of all registered land which has been surveyed, registered and details of it established. If that was to remain one law, the administration of land use would become much easier and much more direct. So, I support that sentiment in this Motion. Equally, one of the problems which is rapidly changing land use in this nation is that, according to traditions, land inheritance is one of those things that the sons and daughters of a particular parent will have to inherit.

Now, Mr. Temporary Deputy Speaker, in areas where land has become very small, where people have small pieces of land, say, two acres or three acres, and they are deciding that they are to divide it between five sons, you then find a son has inherited 0.5 of an acre, just half an acre. There is no way of making good economic use of such small pieces of land, whatever land tenure we have, so long as this social system still holds, we are going to get into problems in economic utilization of land, because, it is being subdivided more and more.

As the Seconder of this Motion, Prof. Anyang'-Nyong'o did say, in this country the land which is of high potential and capable of intensive farming is very limited indeed, as he said. Now, that limited part of this country, about 17 per cent of land surface of this country, very soon will be reduced to very small pieces of land which are not capable of being economically firm. Therefore, one of the issues this Commission of land is going to look into, is how to educate people about other means of livelihood, or even farming a small piece of land together, so that it can be economically utilized. Once you subdivide land into tiny little pieces, it becomes very difficult to put it into good use and it also brings in social quarrels and disputes within families.

Thirdly, I would like, Mr. Temporary Deputy Speaker, Sir, to support an idea which was mentioned, but which has been surveyed three to four times since I have been in this Parliament. On the ownership and the use of coastal belt, there has been at least five Commissions and two Committees of this House and three Government Commissions which have looked into it, and have all come roughly with the same recommendation. Namely, that, people who have been squatters on that land, over a long period of time, regardless of who originally was allocated the land, with whoever was ruling the coastal strip - the Sultan - that those squatters should have the first right to the land and their inheritance should be recognized and they should be allocated that land. That has not been done. If it was done, it would be the solution of the problem we are now talking about. Because, so long as it is not done, then, whoever is administering the land on behalf of the absentee landlords, finds a way of selling it to a willing- buyer-willing-seller. Because, those are the normal economic laws of life.

Mr. Temporary Deputy Speaker, Sir, the hon. Member for Garsen is continuing what he has believed since he was a child and it is not helping him, because, he is only complaining. A grown up has to find a solution. A solution has to be found and the solution is what has been recommended by those five bodies which have looked into this issue over the last 20 to 30 years. But action has not been taken on them, that is what I believe.

An hon. Member: There is no money!

Mr. Kibaki: There has been no problem of money, the hon. Member does not make any decent speech; he believes in heckling! You must allow him freedom to heckle, he satisfies his own ego.

Mr. Temporary Deputy Speaker, what I am saying is, therefore, that, that action should be taken and we shall have found a solution. Hopefully, let me say this, that, whatever we do say in this Parliament, the fact of the economic laws of nature is that, once you have any property, leave alone land, and the property is owned individually and registered individually, then the owner of that property has freedom to do what he wants to do with it. That is the meaning of having a title to a piece [Mr. Kibaki]

of land. That is the first, and there is no way we are going to have a law on ownership and then negate it by mocking rules which mean that I own the property, but, I may not do what I want to do with it. That is a contradiction which will not hold. What will hold is that, anybody who owns a large piece of land and needs money now to educate his son or his daughter, and his only way of getting that money is to sell 10 acres, the economic laws dictate that, he does get the resources, the money he needs to educate his sons and daughters by selling that piece of land. This is true everywhere. Wherever we go, that is what actually happens and it has continued to happen and it will always continue to happen. That is a fact of life and to refuse to recognize facts of life however ugly they are, it is an exercise in futility. I am just saying what is true and what will continue to happen.

Finally, on ownership of land and people settling where they choose to settle, it must remain the freedom of the citizens of Kenya, wherever they are from, to be able to travel the whole country of Kenya and to be able to settle where they will find someone who either sells land to them or accommodates them in one way or another. We are not going to make a law which stops people moving freely within the nation and pretend that, that nation has any freedom whatsoever. That is something which will continue to exercise our minds and whatever we do. So, whatever law, whatever review we do, there are some freedom which will not be curtailed, whatever solution we are looking for.

So, I would like to propose by any such sentiments and beg to support.

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order I would like to dispose of this amendment.

*(Question of the first part of the amendment,
that the words to be left out be left out, proposed)*

(Question of the first part of the amendment, that the words to be left out be left out, put and agreed to)

*(Question of the second part of the amendment,
that the words to be inserted in place thereof
be inserted, proposed)*

*(Question of the second part of the amendment, that
the words to be inserted in place thereof be inserted,
put and agreed to)*

(Question of the Motion as amended proposed)

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu wa muda wa Spika, nakushukuru kwa sababu leo katika Bunge hili, kuna ukweli. Leo, tumeonana macho kwa macho sisi tulio katika KANU na wale walio katika Upinzani. Tumejuana kwa sababu, kitovu cha siasa ndani ya Kenya ni ardhi. Leo, tukiwa katika enzi ya vyama vingi, twazungumza mambo ya ardhi. Mhe. Kibaki amezungumzia vile angetaka ardhi iwe katika Kenya. Sisi wengine tunasema, ni wakati wa kufikiria wale waliotupigia kura. Yafaa tufikirie hali yao, mwisho wao na taabu zoa juu ya mambo ya ardhi. Watu wa Kenya wanapendana kama vile Mungu amawaagiza lakini tuna tofauti juu ya mambo ya ardhi kwa sababu watu wengine wamezaliwa wengi kuliko wenzao. Wale wengi, kwa sababu ya ukosefu wa ardhi kwao, huwa wanataka kwenda kwa walio wachache ili wamalize ile ardhi. Hiyo ndiyo taabu. Hakuna mambo mengine. Baada ya Uhuru, watu wengine walichukua ekari 1,000 au 10,000 na wakawaacha ndugu zao wengine bila chochote. Hata kando kando ya barabara hawawezi kulima. Kwa hivyo, kuna taabu na taabu lazima irekebishwe. Nimesema, mara nyingi, tufanye mfango ili turekebishe mambo ya ardhi. Hatuwezi kuwahamisha watu wengi kutoka Nyeri kwa mfano, hadi Mombasa kwa sababu mimi nina ekari 10,000 na nina ogopa kwamba wale wasiokuwa na ardhi watakuja kuninyang'anya. Lazima tuambiane ukweli. Kuna watu waliochukua ardhi Pwani, maelfu ya ekari na si kwa sababu wanataka kulima huko! Ni kwa sababu walichukua mkopo kutoka benki ili walime kwao na kule Pwani kubakie jangwa na watu wa Pwani wazipate ardhi. Kuna mambo ya siasa, lakini ukifika wakati wa kusema ukweli, ukweli husemwa. Tunapendana, lakini kama tunataka amani na umoja ndani ya Kenya, kwanza wale makabila madogo wapatiwe ardhi kule kwao halafu tutakuwa kitu kimoja. Hatutakuwa na haja ya kuteta. Hakuna kifungu katika Katiba ambacho kinasema mtu mwenye ardhi anaweza kunyang'anywa ardhi yake. Mkenya ni Mkenya. Lakini, tunasema, kama baba amekufa, ukila chakula, usimnyime mwenzako. Tusipofanya hivyo, kuna taabu badaye. Hivi vyama vyote vitasahaulika. Taabu ya ardhi katika inchi ya Kenya imedhihirika. Wale walio na taabu ya ardhi, hata kama ni Ford(K) au DP wamesema ukweli wao. Na, wale wanaoonelea kwamba wenye ardhi wasipokomywe ardhi hiyo, twaseme sawa, lakini usinyoshe mkono mrefu sana mpaka nyumbani kwa mwenzako halafu utapata mambo mengine mabaya kule. Tuwe watu wa kupendana, kusikizana, lakini ikifika mambo ya mashamba tujue kwamba shamba kwa mkenya, ni kama mume kwa mke. Mambo yote anaweza kubali lakini mke wake hawawezi kumwachilia. Kwa hivyo, ikiwa tutafanya siasa ndani ya Kenya, ikiwa ni Ford (K), DP au KANU mwishowe, mjue siasa kubwa ya Wakenya ni mashamba. Ni lazima tujulize kama watu wanaweza kutoka Mombasa na kwenda mpaka Murang'a na kuchukua shamba hiyo itakuwa ni jambo baya. Watu wa Murang'a wapate kwanza na badaye, wale wanaotoka sehemu nyingine wapatiwe. Lakini kwa sasa hivi, tuna taabu.

Mashamba yaligawanywa katika nchi hii, mengine yakawa ya AFC farms, ili masikini wa pale, wapate mashamba hayo. Imekuwa ni haramu kwa mtu wa pale kupata mashamba hayo. Tunaseme tunataka umoja, lakini siasa ni

siasa. Leo utashinda, kesho utashindwa na mwingine ata kuja, wengine watakufa. Lakini, umoja utapatikana tukikubali kurekebisha mambo ya mashamba.

Bw. Naibu wa Spika wa Muda, haya mashamba yataleta taabu katika nchi hii yetu ya Kenya kwa sababu watu watakwenda kuishi mahali ambamo kuna wengine wengi. Watu wa Lamu walianza kulia majuzi. Ninawapenda marafiki wangu kutoka Mkoa wa Kati. Hakuna mwanasiasa hata mmoja kutoka Mkoa wa Kati ambaye hatujakunywa chai au kula wali na samaki pamoja. Lakini ikifika mambo ya ardhi, watu wa Lamu wanalia. Wanasema wamekwisha. Watu kutoka Malindi pia wanasema wanamalizika. Ningetaka Bunge hili litembelee Kwale siku moja, litazame vile hali ya maisha yalivyo. Nina hakika Bunge litajiuliza liko wapi. Watapanda magari yao kutoka kwale mpaka makwao na hawatarudi Mombasa tena! Watatoka Kwale na kuelekea mpaka kwao.

Sisi bado tunasema Wakenya waishi pamoja na wafanye biashara pamoja, lakini yale mambo ya mashamba yamesahuliwa. Vita havitatokea kati ya KANU, DP au FORD. Vita vitakuwa juu ya mashamba na hasa kati ya makabila madogomadogo na maskini.

(Mr. Mwaura tried to table a document)

The Temporary Deputy Speaker (Mr. Ndotto): Mr. Mwaura, you cannot do that!

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, unajua kusoma kwingi hukosa maarifa. Yangu ni kutilia nguvu Hoja hii, na kufurahia vile Hoja ilivyopendekezwa na Dr. Kituyi ambaye alisema matatizo juu ya mashamba yaangaliwe. Mimi sijali mambo ya ekari moja hapa na pale. Mimi nasema ingefaa wale wakulima waliotajwa na mhe. Komora waangaliwe na Bunge hili, ndipo tujue tunasema nini.

Tunaipitisha Hoja hii ili kuonyesha kwamba mambo ya mashamba hayaishi. Unachotakiwa kufanya ni kwenda Pwani na kuchukuwa kipande cha shamba unalolitaka mwenyewe.

An hon. Member: Huo ni ukweli. Waambie!

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, rafiki yangu mmoja anataka kunichokoza lakini sitaki kumtaja. Watu siku hizi wana mwelekeo mmoja. Kila atakaye shamba anaingia kwa mhe. Mwavumo na kwa mhe. Nassir. Kwa hivyo, nilikuwa nataka Hoja hii irekebishwe sawasawa ili watu wakae kwa furaha na waweze kusaidiana kwa mambo mbalimbali na tuishi kwa amani. Lakini kwa sababu katika Mikoa mingine watu ni wengi na mashamba ni madogo, lazima tuketi tufanye mpango. Nikiwaambia tufanye mpango, wanasema mhe. Nassir anataka majimbo. Mimi sitaki majimbo ila amani, ili kila mtu aishi kwa amani. Tungetaka wataalamu kwa mambo ya kilimo watueleze jinsi ya kufanya mambo ili tunufaike. Lakini tunaiwacha Kenya hivi na hivyo na kila mmoja anafanya atakavyo. Hakuna mipango ya kupanga mambo ya Mombasa, Kisumu, Nyeri na Murang'a. Mimi nafurahia leo kuona kwamba kuna watu ambao wanataka maisha yajayo ya watu wa Kenya yawe mazuri. Lakini wale wana makoti makubwa hawana habari na wamekwenda nje.

Kwa hayo machache, Bw. Naibu Spika wa Muda, nataka kuunga mkono.

Mr. Nthenge: Mimi nafurahi sana kupata nafasi hii ya kuzungumza.

Kwanza, nataka kuwakumbusha Wabunge kitu kimoja. Mimi nilipoanza kutetea Kenya, watu walikuwa wachache sana. Kenya haitakuwa kubwa kuliko ilivyokuwa, hata tukiwa wengi namna gani. Kwa hivyo, ni lazima tukubali kwamba watu huzidi na nchi haiongezeki. Kwa hivyo, lazima tujue mwanadamu bila nchi si mwanadamu tena. Atakula nini? Itatubidi tuwe na nchi. Lazima tufikirie mambo ya mashamba sana kwa sababu hakuna kitu kikubwa zaidi katika maisha ya mwanadamu kama ardhi. Ni kutokana na ardhi ndipo mwanadamu anapata chakula, na bila kula atakufa.

Mimi nasema kwamba ni lazima, kulingana na ubora, haja na umashuhuri wa ardhi, tuzungumze na tupange tutaitumia namna gani. Lazima tutafute mbinu za kuifanya nchi hii yetu iwe nzuri, ili ardhi yake itumike vyema. Bila mipango, tutaendelea kama vipofu na tutakuja kugundua kwamba tumeharibu. Na tukisha haribu, tunaanza kukimbizana, na ndiyo sababu naunga mkono hii Hoja ambayo inasema tupange mpango wa kesho, sababu hata kama mimi ni mzee, sitakwisha. Nimezaa na pia watoto wangu wamezaa pamoja na wajukuu wangu. Wale wajukuu wetu wataendelea kuzaana na ardhi itakuwa ile ile lakini kukiwa na mpango mzuri, hakutakuwa na shida badaye. Mimi nasema ni lazima tukubali Hoja hii. Lazima wazee wenye mafikira mazuri waketi chini wapate maoni ya kila mtu, halafu mwisho wale wataalamu wenye maarifa wapange mpango utakaowaongoza Wakenya katika Kenya ya leo na ya kesho. Wale watu wa Kenya ya kesho pia ni wetu. Hakuna Mkenya ambaye atakuwa ametoka kwingine. Atakuwa ametoka hapa kwetu. Kwa hivyo, unapofikiria, husijifikirie wewe peke yako. Kumbuka una wajukuu, na wale wajukuu watakuwa na wajukuu. Ardhi hutumiwa na wote na kwa hivyo, lazima ipangwe vizuri. Ikiwa hatuna mpango, tutaharibu nchi.

Kwa miaka zaidi ya 40, nimekuwa kiongozi. Nimeona nchi ikiharibiwa kwa sababu ya kutokuwa **[Mr.]** na mipango. Huwa nakasirika kwa sababu nikitoka hapa nikienda Pwani, naona mashamba yaliokuwa

yametengwa kwa kulisha ng'ombe tupate mifugo mizuri, yanaanza kukatwakatwa na watu. Wakamba wengine wanataka kwenda kupanda mimea, na mvua ya kule haitoshi kwa kupanda mimea. Hiyo ni ardhi inayofaa kuwekwa wanyama kama ng'ombe, watakuwa wazuri kabisa. Lakini sasa watu wanakwenda kulima na kupalilia na mvua yenyewe ni kidogo. Mwishowe, ng'ombe uharibiwa nyasi na hakuna mavuno kutoka kwa mimea iliyopandwa. Kila kitu kinaharibika. Na hii ndio sababu mimi nataka kuwe na mpango, ili watu wenye maarifa wapangie kesho inayokuja. Hakuna cha kusema tungoje kitakachotokea. Hilo haliwezekani kabisa. Lazima tuwe na mpango kama watu walio na akili. Maarifa yangu yananiyonesha kwamba tutenge nchi ambayo itashughulikia kupandwa chakula cha kulisha taifa. Badala ya kujifikiria wenyewe, lazima tufikirie taifa lote. Lazima tujiulize taifa litakula nini. Kabla ya kujifikiria wewe mwenyewe, kwanza fikiria taifa. Sisi Wabunge tuko hapa kwa sababu ya taifa. Wengine wananiambia nazungumza mambo ya mbali, na uwajibu kwamba mimi hushughulikia kila sehemu ya Kenya, kwa sababu ni Mkenya, na kiongozi katika taifa la Kenya. Kwa hivyo, mimi nasema tuwe na mpango ili taifa lisishikwe na njaa hata siku moja.

Jambo la pili ni kwamba, taifa halitakosa mahali pa kujenga.

Jambo la tatu, tujue taifa hili ni letu sisi zote na hakuna watu ambao si wa taifa hili, na wako Kenya. Ikiwa ni Mpokomo, Mkamba, Mgiriamu, Mmaasai na wengine, wote ni sawa katika macho ya nchi ya Kenya, kwa sababu zote tunatengeneza taifa. Hakuna kabila linapaswa kuondoa wengine. Wale wachoyo na wale wanaoaribu nchi, tafadhali waambiwe wafikirie mara ya pili, na waombe Mungu awarudishe wawe watu wa kawaida ili uchoyo na ubinafsi uishe.

Tatu, elimu inaonyesha kwamba mtoto wangu atakwenda kufanya kazi huko Pokomo na ataoa Mpokomo, na ikiwa atakwenda kufanya kazi huko Kakamega, ataoa Mluhya. Haya mambo ya mimi nimetoka hapa, nini, yatakwisha kwa sababu mimi nilipokuja Nairobi, miaka ya 1940, kulikuwa na vita saa zote tu vya makabila. Sasa watoto wangu wananiambia Nthenge, mimi si Mkamba wa Machakos, kwetu ni Bahati. Kwa nini? Amezalwa na kulelewa Bahati, marafiki zake ni wa Bahati. Alisoma na Wakikukuyu, Wajaluo na Waluhya. Yeye anajua kuwa yeye ni Mkenya, ndio mimi najiita Mkamba tu, wao si Wakamba ni Wakenya. Vile vile watoto wenu na wajukuu wenu, sio tena Wakamba, Wakikuyu, hapana, atasema babu zangu walikuwa Wakamba, Wakikuyu, Wagiriamu, kwa sababu tumeanza kuchangika na mchanganyiko huu unaleta mema. kwa hivyo, ninasema kuwa tukiwa na mpango, tuwe na mpango kwamba nchi ya Kenya, ardhi ya Kenya, itapangiwa vizuri iweze kuwatufaa sisi na vizazi vyetu vijavyo, mpango mzuri. Hii ndiyo sababu juzi nilikuwa nimeleta Hoja au Mswada hapa nikiuliza kwamba maji ya Kenya pia tuyatunze kwa sababu watu wanazidi kuwa wengi na wakiwa wengi, watataka kula. Hakuna atakayezaliwa, atasema, mimi sitakula.

Kwa hivyo, lazima ardhi tuliyonayo, kwanza tuiweke pia maji itoshe, tuweze kuwatengeza chakula cha kuwatosha watoto wetu na wajukuu wetu na kikizidi, tuwauuzie wale ambao hawana wa nchi za mbali. Kwa hivyo, mimi ninaovyo, ningalipenda hii nchi, labda kamati hii ikitengezwa nitakuwa nishaondoka. Wajua mtu akikaribia miaka 70 ameanza kumaliza miaka yake na mimi nimeikaribia, natakakuwapa nia hii kwamba tukumbuke kutenga ardhi nyingi ili iwe ikifanyiwa kazi kwa ushirika. Tuwe na mashamba ya ushirika, tunafanya kazi kule, nia yenu iwe nyumba moja. Tutengeze nyingine za makampuni na ya tatu ziwe ndogo ndogo za mtu pekee kama Sankuri, Nthenge, Mutisya, Kamau, Onyoka, namna hii.

Lakini ardhi ile kubwa iwe nyingi imekwenda kwa ushirika, ifuatiwe na ya makampuni na zile ndogo ndogo, mahali kama pa kujifurahisha, pawe ndio kwa watu pekee yao wale wanaitwa kwa Kiingereza, "Individuals." Lakini mimi nia yangu ni hiyo, tuwe na nchi karibu yote imepewa kwa ushirika na watu walioelimika. Vyama ushirika tulivyotengeza Mzungu alipokuwa akienda mwaka 1962/63, zimeharibiwa kwa sababu hazikuendesha inavyofaa kwa sababu watu hawakuwa na elimu ya kutosha. Ilhali wengine hata waliokuwa na elimu walikuwa ubinafsi mwingi, "individualism, yaani mimi-mimi na hawakutifikiria ndio hatukufanyiwa vizuri, lakini nia yenu ni nzuri. Mimi mwenyewe nimetembea Israeli, mwaka 1961, nilikuwa Israeli kwa wiki kama mgeni wa Serikali yao. Na niliona kumbe mambo yakifanyiwa kwa ushirika. Nchi hata ile ya jangwa inaweza kegeuka ikiwa yatao mazao. Israeli wanatuuzia hata chakula, ukitaka chungwa nzuri latoka Israeli na kule nini, ni jangwa lakini wameendeleza nchi yao lao vizuri, inatoa mengi na hawaulizi hii ni ya nani kwanza peke yake. Haya mambo ya ubinafsi tuyamalize, tujue sisi na nimewaambia miaka 100 ijayo hakutakuwa na watoto wanaojua mimi ni Mkamba, Mkikuyu, hapana, hayatakwisha. Tutakuwa twazungumza mimi ni Mkenya na mama yangu alitoka Uarabuni, nyanyangu alikuwa ametoka Ukambani, baba yangu alikuwa Mgiriamu, namna ile watakuwa mchanganyiko maalumu. Haya mambo ya ubinafsi tuyaaache. Sasa ningependa kuona kuwa tunaweza kutengeza mpango wa kuweza kulisha taifa letu maisha yetu.

Pili, tukae vizuri. Tatu, tukitaka misikiti, makanisa, tukitaka nini, tutakuwa tumetenga ardhi yake tayari. Mpango unaopangwa kiwervevu.

Bw. Naibu Spika wa Muda, ninaunga mkono.

Mr. Moiben: Asante sana, Bw. Naibu Spika wa Muda, kwa kuweza kuniona ingawa mimi ni mfupi namna hii. Ninashukuru sana.

Ninafikiri Hoja hii ni muhimu sana katika Bunge hili. Hoja hii hasa ikiangaliwa vizuri huenda ikamaliza

matatizo yaliomo katika nchi hii. Ninasema hivyo, kwa sababu wakati wa ukoloni, kwa mfano, Wamasai na Wasabaoti, ndio waliathirika sana kwa ajili ya ukoloni. Makabila mawili haya yalipotesha ardhi yao kabisa. Kwa mfano, Wamasai walipotesha Uasin Gishu yote na Wasabaoti wakatotesha Bungoma yote, lakini hawasemi kitu juu ya Uasin Gishu wala Bungoma. Tunataka kusema tu kwamba kwa wakati huu Komisheni hii ikiundwa, iangalie makabila haya mawili hasa washirikishwe katika Komisheni hii ili mambo yao yaangaliwe vilivyo. Wakati wa Uhuru, kwa mfano, katika Wilaya ya Trans-Nzoia, mashamba yale yaliyokuwa ya wakoloni yapata karibu 10, yaligeuzwa kuwa misitu. Sasa wakaaji wake waliokuwa pale kabla ya ukoloni waangali taabuni mpaka leo na hii ndiyo taabu tunaomba sana kwamba Serikali iangalie kabisa vile inaweza kuwasaidia watu hawa kujipatia makao.

Isitoshe, Bw. Naibu Spika wa Muda, katika sehemu nyingine kuna mashamba ya ADC, yalikuwako kule Mombasa na mengine Ukambani, lakini sasa siku hizi mashamba haya hayako kwa sababu wananchi wamepewa mashamba haya, lakini upande wa kwetu ndio kumbakia. Ingefaa sana wakati Komisheni hii itakapoundwa, iangalie ile taabu ambayo watu wetu walipata wakati wa ukoloni, wasuluhishishe haya maneno ili tumalize chuki kati ya watu waliokuwa wakimiliki hiyo ardhi wapewe nafasi ya kwanza. Kwa sababu watu hawa ni wachache basi Wakenya wengine wapewe baadaye. Hiki ni kitu cha maana sana kwa sababu bila makao hasa wakati wa ukoloni, watu wengi wa Wamasai na Wasabaoti walijinyonga kwa sababu ya taabu ya kukosa ardhi yao. Pia ingefaa hii Hoja iangalie haya matatizo kabisa ili tuweze kufanya maendeleo ya kudumu.

Bw. Naibu Spika wa Muda, kweli Carter Commission, iliamua mambo mengi na ingefaa kama komisheni hii ikiundwa, iangalia ni mambo gani ya Carter Commission ambayo hayajatekelezwa mpaka sasa. Kwa mfano, Carter Commission, 1933, iliamua kwamba Wasabaoti wapewe ekari 80,000 lakini mpaka sasa hawajapata hata ekari moja. Hili ni jambo muhimu sana. Kwa hivyo, mimi nitaka kumshukuru mhe. Mbunge aliwasilisha Hoja hii, mhe. mwenzangu, mhe. Dr. Kituyi, kwa sababu ameleta Hoja ambayo inafaa sana kwa Bunge hili na nchi hii kwa jumla.

Kwa haya machache, ningependa kukushukuru sana na ninasema kuwa ninaunga hayo mapendekezo ya Waziri ya kuweka hayo mabadiliko yafanyike namna hiyo.

Asante sana, Bw. Naibu Spika wa Muda.

The Temporary Deputy Speaker (Mr. Ndoto): if the Mover is willing to give out one or two minutes, then I will give this chance to Dr. Lwali-Oyondi. You have a minute!

Dr. Lwali-Oyondi: Mr. Temporary Deputy Speaker, Sir, yes you have given me a minute, but I have talked to the Mover to give me five more minutes, therefore, I have six minutes.

The Temporary Deputy Speaker (Mr. Ndoto): That will be perfectly in order! Carry on!

Dr. Lwali-Oyondi: Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion in the view of the fact that land problems are turning this country into a position that can only be explained in terms of some "psychic" problems of the leaders. People are now grabbing land. Those who are supposed to look after our affairs are just grabbing anything without even taking into consideration the policies that have been laid down. It does not mean that we have no land policy, but it is just the madness of those who are in power who are now drunk with power and they are contravening about just every law in order to appease unsatiable thirst for land.

The explanation for this land vandalism whereby forests are grabbed, houses belonging to the Government and other public facilities are grabbed, is because they want to get enough money to achieve their political manoeuvres in the forthcoming general election. Secondly, they also have some plans, particularly in the Molo area. There is a hon. Minister who is going to settle in Molo area because he knows that he has been rejected in his home area. He is now trying to "plant" people in Molo area so that they will vote for him. This is the reason why there is this grabbing of the forests and chasing away of Dorobos who have lived in the forest since time immemorial and who have really preserved the eco-system of the forests.

If we have any proper land policy in this country we may, after the change of this Government, follow it because we have found that this Government follows no rules.

The Temporary Deputy Speaker (Mr. Ndoto): Order! Order, Dr. Lwali-Oyondi!

Dr. Lwali-Oyondi: Mr. Temporary Deputy Speaker, Sir, I have five more minutes?

Mr. Temporary Deputy Speaker (Mr. Ndoto): Order! Dr. Lwali-Oyondi, I am sorry your time is up! Dr. Kituyi.

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, first of all, I want to express my appreciation to the hon. Members of this House on both sides who have so supportively contributed to this Motion.

I have no doubt in my mind that at least those who have contributed here have expressed an awareness, a growing awareness of abandoning parochial ethnic personal interests and seeking national solutions to national problems. It is a spirit that I hope we can nurture. It is a spirit that I hope will survive the temptation of trading insults that we always fall prey to when Parliament is in recess.

Today, as we speak, there is a major confusion in the net-work of laws in this country that are apply to land. I was just reflecting about under what laws you can claim ownership or appropriation of land in this

country. Apart from the Constitution, there is Land Planing Ordinance of 1931 which is still applied, the Land Planning Act Cap.306(3); the Government Land Acts, the Registered Land Act, the Registration of Titles Act, the Land Acquisition Act, the Trust Land Act, the Land Control Act, the Group Representatives Act, the Lands Perpetual Succession Act, the Local Government Act and so on.

Each of these Acts have a role often contradictory to another provision in our Statutes on land use or land ownership. We have come to a time in the development of our legislature where we need some comprehensive legislation that can iron out the inherent contradictions between some moribund, outdated and short-sighted legislation that still exist in our statutory books.

Mr. Temporary Deputy Speaker, Sir, when we talk about land, many Kenyans still go back to this issue of agriculture, protection of my people, protection of my interest and so on. We have to start thinking as custodians of the national interest about our obligation to protect our bio-diversity, the rain catchment areas of this country and those land use regimes that have stood the test of time as the most viable in use of fragile territory. This goes beyond obsession with owning a piece of land as the opium of the land bought. I think it is a collective challenge for us all that we look at the mistakes made in the past and not seek to protect those who benefitted from such mistakes, but seek to end the habit of usurping the privilege of high office as an opportunity to do things that are against the interests of the nation and future generations.

Mr. Temporary Deputy Speaker, Sir, recently, my attention was drawn to a very interesting experience. I went and sat at the Fairview Hotel in Nairobi. If you sit at that hotel after 5 o'clock every afternoon, you will see two sets of people arriving. One set of people arrive carrying small envelopes, and more than half of them come from one area. Another set of persons arrives carrying a brief case. More often than not, they are either Kikuyus or Asians. Then after some time, you watch people twinning up and consulting and when they leave the Fairview Hotel, the ones who came with the envelopes leave with the briefcases and the ones who came with the briefcases leave with the envelopes. Fairview Hotel is one place where persons who have been illegally allocated public land transfer the allotment letters to other persons at substantial monetary benefit to themselves.

We have made enough noise condemning those who are grabbing public land and we have made enough noise concerning those who are illegally allocating land as if it is their personal estate. But I think we have come to the point where we have to start condemning those who are buying also. Corruption is a mutual exercise. Those who are benefitting from the corruption of others are equally responsible for the abuse of public trust in this country. I would like us to get collectively committed to a situation where all the ills of the past have to be corrected and ills are not confined to the Nyayo Era. The ills that pre-date the Nyayo era and the ills that have been perpetuated during the Nyayo era are collectively wrong and we have to be strong enough to say, "persons who have been allocated public land, particularly land for the expansion of schools and other public amenities, will have to lose that". Such land has to be re-appropriated as it belongs to the public and it has to go back to the public.

Mr. Temporary Deputy Speaker, Sir, we have come to the point where we have to search our souls and our responsibilities and see how we can reverse the crimes that have been committed against the National Social Security Fund (NSSF). The unjustifiable criminal acquisition by NSSF of land that has been allocated to individuals who are ready to shake it off quickly before they are caught up with has to be stopped. In some of the most glaring cases, we must have the political will to say "we have to punish those who have benefitted from this criminality".

Mr. Temporary Deputy Speaker, Sir, Prof. Anyang'-Nyong'o raised a very important point that very many persons, because of the media and the volatility of the case think of land problems as Enoosopukia problems. Enoosopukia is not the first point where there was a clash over disputed ownership and land use practices. It is one among many. The fact that not many have been raising voice about others, does not reduce the significance of those other areas. As leaders today, we have a major challenge. You have citizens of this country, without the country going to war, who live in their own country as refugees. A viable, dignified and self-respecting leadership, whether you are in Government or Opposition, has to address itself to the question of the voiceless, who continue to live in squalor in refugee camps in their country; persons who rightfully owned land and have started having extinguished hope of ever reclaiming their land. It is our responsibility, it is a challenge and unless we deal with this, we cannot pretend at any one time that we are going to turn our backs to the clashes. The active clashes of 1991-93 were an important point in the land crisis of this country. That happened in the void of policy on land question, but they were not the end, the end is the return of justice and fairness', the respect of community interests and the respect of the citizens of this country who own the property according to the laws of the land. It is in the spirit that we are all determined that we are going to solve these problems and we are going to stop the theft that has been so rampant that I thank the hon. Members who have contributed.

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

(Question of the Motion as amended put and agreed to)

Resolved Accordingly:

THAT, considering the increasing incidences of land tenure related conflicts in our country, in the light of major contradictions in the plurality of land tenure regimes operational in Kenya today; aware that the results of the Carter Land Commission have become obsolete after over sixty years of social and economic transformation; and conscious of our collective responsibility to find a lasting solution to our country's property rights problems, this House calls upon the Government to accelerate its current effort to establish a national land use commission to enquire into, receive opinions on, and report upon all aspects of the current land tenure and land use problems with a view to developing new comprehensive land law to deal with identified challenges.

PAYMENT OF NSSF DUES

Mr. Mwaura: Mr. Temporary Deputy Speaker, Sir, before I move my Motion I would like to correct a typing error. The age indicated in the Motion should not be 40 years but 45 years.

I beg to move the following Motion:-

THAT, this House, recognising the economic difficulties that affect most Kenyan families, and considering the cost of living that has come about due to liberalization policy which has caused dramatic rise of most essential commodities such as food, education and medicine, this House urges the Government to carry out a comprehensive revision of section 20 of Cap 258, in order to allow any person who retires after 45 years, after serving over 20 years to be paid his or her NSSF benefits instead of having to wait until one reaches 55 years.

Mr. Temporary Deputy Speaker, Sir, I have undertaken to move this Motion in recognition of the fact that, since the Structural Adjustment Programme came into effect in this country about three or four years ago, most of the Kenyan workers who are the majority have suffered economically. If you consider today that the population of this country is about 27 million, 12 million people out of that number form the rock on which the economic foundation of this country is founded and that is the population of the workers; the low-income earners. These are actually the people who necessitated the creation of NSSF under the Legal Notice No.8 which was introduced in this Parliament in 1965 and which was intended to ensure that the workers of this nation would contribute to a Fund that eventually would enable them, at their old age, to be paid their retirement benefits. Today, the cost of living in this country is extremely high. About eight years ago, the low-income people could afford to buy maize meal very cheaply. The cost of educating their children was also cheaper compared to today. Today, families are required to raise about Kshs8,000 to Kshs10,000 in order to send their children to school. If the low-income earners want to go to hospital, it is becoming extremely difficult to do so. In fact, they do not manage to raise money that can help them to treat their sickness, yet we know that, over the last 30 years since the NSSF was founded, this Fund controls about Kshs50 billion. Registered employers who pay for this Fund's services are 439,000, with 2.7 million registered employees who contribute money to the Fund every year. A total of about 200 employees were registered in 1994. The employees contribute Kshs1.3 billion to the fund every year, whereas they withdraw only Kshs34 million per year. So, you can see that the Fund is actually left with a lot of money. The workers contribute quite substantially.

Mr. Temporary Deputy Speaker, Sir, I see that this very important Motion has come at a time when we are just about to adjourn this morning. Without saying very much so that I get my seconder to second this Motion, let me say that all over the world, governments are maintained by the majority of their people. If our Government today cannot look after the welfare of its people, it is not right. Therefore, I would urge the Government, particularly the Ministry of Labour and Manpower Development, to support this Motion so that a majority of our people can enjoy their contributions to NSSF before they go to the grave. Also, people should be enabled to educate their children and to look after their own welfare with regard to medical care, clothing and shelter.

Without much ado, I wish to move.

Dr. Lwali-Oyondi: Mr. Temporary Deputy Speaker, Sir, I rise to second this Motion. I also wish to support my colleague who has just said that this NSSF money should be given early enough. Presently, working for ages is not all that lucrative. First, you end up earning money that is completely useless and which cannot see you through the month. Such money cannot even feed your children. Therefore, those who have worked long enough should go in for business, if they are talented. Those who are talented should go in for business so that they can easily cater for their families' needs. The capital for the business would partly come from the NSSF money which is usually kept until one is 55 years old. Because of the shock of retirement, many of the people end up dying without getting this money.

Mr. Temporary Deputy Speaker, Sir, at this juncture I would like to speak about the "golden handshake" retirement scheme. Today, retirees are being given very little of what they expected. The World Bank lent the Kenya Government money to be used in reducing the number of public servants in the Civil Service and state corporations. As far as I know, the minimum amount in this scheme for a retiree should be Kshs100,000. This is the amount that should be paid to a retiring messenger, and higher grade servants should get several millions. However, at the moment, these people are being given Kshs60,000 and some even Kshs40,000 as their "golden handshake" amount. When they ask about the Kshs40,000 that happens to have been taken away from their Kshs100,000 they are told that the amount has been spent on training them. Who is carrying out the training? That money is being stolen by somebody! The whole of this Kshs100,000, which can do very little, should be given to these poor people, instead of some amount being subtracted from it. If the amount which has been taken from these people is being kept somewhere it should be given back to its owners together with interest.

At the age of 55 years, many people are not mentally active and that is why they retire at that age. That is one reason why the National Social Security Fund (NSSF) money, which is now being misused purchasing land and so on, should be given to those people at a younger age, so that they can use it to do something. I will be very brief because I want other hon. Members to speak on this Motion.

My last point is that NSSF money should be lent out to retirees, so that they can use it in business, instead of it being invested in land that is not all that valuable.

With those few remarks, I beg to second.

(Question proposed)

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Temporary Deputy Speaker, Sir, this is a very important Motion. As far as the Government is concerned, I have neither an objection nor an amendment to the Motion at all. The NSSF was established basically to look after a number of issues. So, far, under the International Labour Organisation (ILO) requirements, we could be looking after medical care, sickness benefits, unemployment, old age and many other things.

But we in Kenya so far, we are looking after three most important issues; the old age benefits, invalidity benefits and survivors' benefits. Now, as a result of this, my only observation is that if this is to be put into practice, the workers should not take the advantage of the early age to come up and claim the benefits. The benefits are basically meant to help the aged. At the age of 45 years is when they are most experienced and profitable to the nation. If they claim and use that money within that short period, when they are old, they would not have anything. It may be disadvantageous to them at the time of need. That is the only caution I would like to put forward, otherwise, the Motion is straight forward and I will go by it.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I support the Motion.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, I have been here for quite a while. I intended to speak on the first Motion but it was not possible. I was not able to catch your eye. Just now, I have a very, very short statement to make and that is; this Motion is extremely important. It is very, very important. I think the Mover of this Motion really thought so much about the suffering of our people who retire without getting their own money. This is one of the Motions that we should be investigating to find out where the problem of *wananchi* is coming from. This is one of the areas where you find a very, very poor person roaming around, looking for money---

The Assistant Minister for Commerce and Industry (Mr. Osogo): On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the fact that the Government has accepted this Motion and that the Motion is very important and we are likely to go on Recess soon, shall I be in order at this time to move that the Mover be called upon to reply?

The Temporary Deputy Speaker (Mr. Ndotto): Order! That one can only be done if there are no speakers because we have to take two hours. If there are no speakers and the Government wants to finalise the Motion, then we can finish it, but so long as there are speakers, we have to carry on with the debate.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, I am not going to be used to move a closure to the Motion when I am talking. It is unfortunate that some MPs here think they can dictate other MPs for no reason at all. I have something to say and if other hon. Members have nothing to say, they should listen. I was saying that unless the hon. Members---

The Assistant Minister for Education (Mr. Komora): On a point of order, Mr. Temporary Deputy Speaker, Sir. I will propose that the Mover be called upon to reply.

The Temporary Deputy Speaker (Mr. Ndotto): You cannot do that. We have to take two hours. We can only do that if there are no speakers. But, apparently, hon. Kariuki wants to continue speaking and he has a right to do so.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, I do not see anything so urgent. If the

Government knew there was a problem, and they have no objection to this kind of Motion, they should have issued a statement that the Government is doing this and that. Therefore, again, if you look at the Standing Orders, this is not the kind of Motion you just stand and say you want to put the closure, unless there are no people who want to speak. What I am trying to say is that maybe, I am among the few people who receive the public almost every day in my office because they suffer so much. Once they hear the NSSF money is disappearing, and most of them are running very fast thinking that coming to an MP may help them to get their money before that thing goes down the drain--- What I am trying to say is that the Minister for Labour and Manpower Development who is in charge of this area, should take it more seriously than just to say; "we stop it because we have agreed". Take it more seriously to make sure that people really get their money and this section which is being talked about, the Minister should have stood here and told us: "I am going to bring this Motion on such and such a date or a Bill to amend this section which is referred to here". Therefore, we need to know how soon---

The Minister for Labour and Manpower Development (Mr. Masinde): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that I should have brought a timeframe here when this should be amended, when the Motion is a Private Members Motion and from the Opposition side? It is not my Motion.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, this displays a bit of a problem among ourselves because you accept the Motion but you should give some timeframe if possible, to tell us when this can be done.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until this afternoon, at 2.30 p.m.

The House rose at 12.30 p.m.