

H A N S A R D

Tuesday, 1st December, 1987

The House met at thirty minutes past Two o'clock.Mr. Speaker in the Chair

## PRAYERS

## COMMUNICATION FROM THE CHAIR

MR. SPEAKER: Honourable Members, once again, with a heavy heart, I regret to announce the sad news of the death of our friend and colleague who passed away early on Monday morning, 30th November, 1987 while undergoing treatment in London. I am referring to the late hon. Isaac Kipkorir arap Salat, the Member for Bomet.

Born in 1934, the late hon. Salat first came to Parliament in 1974. He has since made an <sup>indomitable</sup> ~~indomitable~~ mark as a courageous and active parliamentarian whose numerous contributions to debates in the House earned him a reputation of a tough, uncompromising debater. The late hon. Salat was appointed an Assistant Minister, Office of the President in November, 1979 - a position he has held continuously till his death. A staunch supporter of the ruling party Kanu, the late hon. Member won the hearts of many people for the tenacity he displayed whenever articulating either the Party or Government policies. Socially, the late hon. Salat was amiable and friendly. All of us who have been known to him will miss his humour and the smile which was part and parcel of his great personality.

His contributions to the development projects both in his constituency and the country at large, speak for themselves. This explains why the late hon. Salat has been elected for three

MR. SPEAKER (Ctd.):

consecutive terms, winning every Election with a landslide.

On behalf of us all, I convey our heartfelt condolences to the bereaved family, constituents and friends of the late hon. Salat.

I now request you to rise and observe a few moments of silence in honour of our departed colleague.

Thank you.

(Hon. Members stood for one minute in silence)

#### NOTICE OF MOTION

MR. MUNYAO: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

MR. SPEAKER: I will do that later. I do not think you need to do it, if it is the notice of Motion for the Adjournment because you have already given me the notice.

MR. MUNYAO: Mr. Speaker, it is a different one.

MR. SPEAKER: Will you sit down, Mr. Munyao? This one I have here is "Notice of Motion for the Adjournment - Unsatisfactory reply to Question by Private Notice" and it is by hon. Munyao.

MR. MUNYAO: This is a different one.

MR. SPEAKER: If it is a different one, carry on.

MR. MUNYAO: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, in view of the fact that urbanization has brought about problems related to youth up-bringing, which have resulted in an existence of large numbers of delinquent children in big towns - sometimes referred to as parking boys, this House urges the Government to check this trend by establishing homes for such unfortunate youths and raising funds during national days for their up-keep.

## ORAL ANSWERS TO QUESTIONS

Question No.690

MR. MUTHURA asked the Vice-President and Minister for Home Affairs under what circumstances Mr. Benard Maina Gikondi, Warder No.15892 was dismissed from the Prisons Services in July, 1980.

THE VICE-PRESIDENT AND MINISTER FOR HOME AFFAIRS

(Mr. Kibaki): Mr. Speaker, Sir, I beg to reply.

Ex-warder, Benard Maina Gikondi was dismissed from the Prisons Service for using personal violence against a prisoner, contrary to regulations, and he had other offences such as ~~xxx~~ absenteeism, lateness, insubordination and destruction of Government ~~xx~~ property.

MR. MUTHURA: While thanking His Excellency the Vice-President for that reply, normally, when a civil servant has committed some misconduct, he is warned the first time, a second time, and then after the third time, he is sacked. Was this man warned before being sacked?

MR. KIBAKI: Mr. Speaker, Sir, I thought the hon. Member would understand the first part of my reply. Normally, he was dismissed from the service for using personal violence against a prisoner. No warder is allowed to punish a prisoner by beating him physically; it is not allowed.

(applause)

Considering that this warder should have reported the prisoner to his bosses and action taken in the normal manner, instead, he decided to administer the violence himself on this prisoner and in a very serious manner. Particularly, as this warder<sup>was</sup> only serving probation period, he was dismissed for he was found to be of the wrong character.

END A....

J.K.

MR. MUTHURA: Mr. Speaker, Sir, prisoners are normally placed under the care of prison warders. Can the Vice-President and Minister for Home Affairs tell us what made this prison warder used physical violence on the prisoner? Could it be that the prisoner provoked the warder?

MR. KIBAKI: Mr. Speaker, Sir, even if prisoners do provoke warders, this does not call for a situation where the warders can punish the prisoners. If a warder is provoked by a prisoner, he has to report this prisoner so that the prisoner is punished according to the regulations; either by being confined or by some other action. This should take place at the prison. It is not done the way this guy did it; where he decided to begin beating <sup>u</sup> this prisoner. He beat him up very violently indeed.

MR. DDAIDDO: Mr. Speaker, Sir, while appreciating the reply given by the Vice-President and Minister for Home Affairs, I would like him to tell the House how he arrived at the conclusion that this particular Warder punished the prisoner by beating him<sup>up</sup>? I am asking this question because prisoners are beaten<sup>up</sup> by every prison warder. Why was this particular Warder victimised for allegedly punishing a prisoner?

MR. KIBAKI: Mr. Speaker, Sir, the statement the hon. Member is making as a preliminary to his supplementary question is of course not true. There are no warders who go about beating <sup>up</sup> prisoners. When the prisoners are at work - as they were in this particular case - the warders only make sure that the prisoners do not escape. They ensure that the prisoners do their work and when they finish their work they take them back to the prison. Warders are not supposed to administer any punishment to the prisoners. They are not allowed to mete out physical punishment to prisoners.

MR. MUTHURA: Mr. Speaker, Sir, cases have been known where prisoners have become violent to the point of fighting the prison warders. Can the Vice-President and Minister for Home Affairs tell us exactly what happened? ~~What~~ What made this Warder beat <sup>up</sup> the prisoner? Did he just pounce on the prisoner and started beating him <sup>up</sup> without provocation? What did the prisoner do to the Warder?

MR. KIBAKI: Mr. Speaker, Sir, maybe the hon. Member has more details about this ~~matter~~ matter than we have. What we know is that when this particular ~~Warder~~ Warder was taking care of 23 prisoners who were working at <sup>Wundanyi</sup> ~~Wundanyi~~ Prison Farm, he decided to administer physical violence on this ~~particular~~ particular prisoner. The Warder cut a piece of ~~sugar-cane~~ sugar-cane which he was eating as he was supervising these prisoners and then decided to hit this particular prisoner ~~using~~ with that piece of ~~sugar-cane~~ sugar-cane. Whatever words were exchanged between the Warder and the Prisoner were not recorded. But all the same this man beat up the prisoner very hard.

MR. SPEAKER: Mr. Kiliku's Question.

Question No.731

MR. KILIKU asked the Minister for Local Government:-

- (a) whether he is aware that the Mombasa Municipal Council has threatened to re-possess plots allocated to wananchi in Chaani and Mikindani Site and Service Scheme by December, 1987;
- (b) whether he is further aware that not all allottees in this Scheme who applied for loans from the Municipal Council of Mombasa to develop the plots have been given the loans; and
- (c) whether he could order the Municipal Council of Mombasa to withdraw the notice of repossessing the said plots and take the necessary ~~action~~ action to grant loans to these allottees.

THE ASSISTANT MINISTER FOR LOCAL GOVERNMENT(Mr. Ogle):

Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the Mombasa Municipal Council has given notice of repossession to plot allottees in Chaani and Mikindani Site and Service Schemes but this will only affect those who will not have commenced development on their plots by 31st December, 1987.

(b) Under Site and Service Scheme there must be some development done on the plot as security for an allottee to be considered for a loan and until some development has been done an allottee is not ~~eligible~~ eligible for a loan.

(c) Chaani and Mikindani Site and Service Schemes were financed by a World Bank loan and Mombasa Municipal Council cannot afford to be repaying the loan for allottees who have not been paying plot development charges nor consider allottees who have not done any development on their plots for development loan.

MR. KILIKU: Mr. Speaker, ~~Sir~~ Sir, most of those people who were allocated those plots and who have not developed them by now are people who fall ~~under the~~ in the low-income group. Why does the Mombasa Municipal Council want to repossess the plots? Where do they want to take the plots to? The project was meant for the low-income group.

MR. OGLE: Mr. Speaker, Sir, I am sure that these people must have made an undertaking that they are able to do some development on their plots. For a plot allottee to qualify for a loan he should do some development on his or her plot. I would also like to tell the hon. Member that these people have got ~~to~~ until 31st December, 1987, to show some improvements on their plots ~~so~~ so that they can be considered for loans.

MR. SPEAKER: Mr. Gachanja's Question.

MR. KILIKU: On a point of order, Mr. Speaker, Sir. I thought that discussion on this Question would continue for some time because the Question is very important.

MR. SPEAKER: I have already called Mr. Gachanja's Question.

MR. KILIKU: Mr. Speaker, Sir, I would like to know from the Assistant Minister---

MR. SPEAKER: I have already called Mr. Gachanja to ask his Question!

Question No. 738

MR. GACHANJA asked the Minister for Local Government:-

- (a) whether he is aware that Wanyee Road in Satellite which was one time tarmacked is now impassable; and
- (b) when it will be repaired.

THE ASSISTANT MINISTER FOR LOCAL GOVERNMENT

(Mr. Ogle): Mr. Speaker, Sir, I beg to reply.

(a) Wanyee Road is currently passable but there are bad sections of the road which the Nairobi City Commission is currently repairing.

(b) The repairs will be completed as soon as possible.

MR. GACHANJA: Mr. Speaker, Sir, when the Nairobi City Commission was appointed by the Minister for Local Government, it was our understanding that the Commission was going to rectify the mistakes made by the former City Council of Nairobi. But the City Commission ~~has~~ seems to be doing the opposite. This is because the roads which were tarmacked by the former City Council of Nairobi are now worn out. They are like earth roads. This particular road is not passable. But you can see that the hon. Assistant Minister says that the road is passable.

MR. GACHANJA (ctd);

Why does the Assistant Minister say that the road is passable when we know that ~~ix~~ it is not passable?

MR. OGLE: Mr. Speaker, Sir, this road is passable. If the road was impassable the hon. Member would not tell us the story he is telling us now. How does he drive through the area if the road is impassable? We have also admitted that there are bad sections of this road and ~~there~~ that these bad sections are being repaired by the Nairobi City Commission.

However, for the benefit of the hon. Member and the House, Mr. Speaker, Sir, I would like to add that the tarmacking which was done on Wanyee Road was specifically meant for light vehicles. So, due to the continued use by heavy vehicles such as trucks and buses, the light tarmack cannot ~~sustain~~ withstand the heavy loads imposed on the road by these vehicles. I would also like to repeat that the repair work will be completed as soon as possible. I am talking about the repair work which is currently being carried out on the road.

MR. SPEAKER: Mr. Mate's Question.

Question No.755

~~XXXXXXXXXX~~

MR. SPEAKER: Mr. Mate not here? Dr. Omamo's Question.

Question No.737

MR. SPEAKER: Dr. Omamo also not here? Mr. Kikuyu's Question.



Question No.686

MR. KIKUYU asked the Minister for Labour:-

- (a) whether he is aware that Mr. Peter Nyamai Kikwau worked for Zakhem Construction Engineers as a driver from March, 1984 to August, 1987; and
- (b) why he was sacked.

THE ASSISTANT MINISTER FOR LABOUR(Mr. arap Metto): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Mr. Peter Nyamai Kikwau worked for M/S Zakhem International ~~Co~~ Construction Limited as a driver twice between 1978 and 1987. He was first employed by the Company as a driver on ~~20th~~ 20th April, ~~1987~~ 1978, until 7th July, 1981 when he requested and was granted leave of ~~absence~~ absence without pay to go home for treatment by a herbalist against frequent malarial attacks he had been suffering from. After a period of three years he reported to the company that ~~he~~ he had recovered and that he wished to ~~x~~ be re-employed. The Company took him back on duty on 21st March, 1984.

END.B..

THE ASSISTANT MINISTER FOR LABOUR (Mr. Metto)(Ctd.):

(b) His services were terminated again on 6th August, 1987, when it was established that he was unable to continue his services as a driver because he suffered from an intermittent but chronic ailment which did not respond to treatment, in spite of frequent permission to be off duty to go home for treatment. His services were terminated on condition that the company would reinstate him when he reported back on duty with a medical report that he had fully recovered to resume his duties without further intermittent interruption. When his services were terminated, he was paid his terminal dues as follows:-

(i)	One month's salary in lieu of notice	Shs.1,180.50
(ii)	Leave allowance for 32 days	" 1,452.30
(iii)	Ex-gratia payment	" 1,100.00
	Total	" 3,732.80
	Less N.S.S.F. dues	" 232.00
	" Salary advance	" 500.00
	Total	" 732.00
	Balance due	" 3,000.00

MR. KIKUYU: Mr. Speaker, Sir, could the Assistant Minister tell this House which part of the Labour Act was applied when this officer was refused permission to go home for treatment until he had to ask for unpaid leave? <sup>?</sup> ~~go that he could go home for treatment?~~ Why was he not given paid leave to go home and be treated?

arap  
MR. METTO: Mr. Speaker, Sir, as I have explained, this employee has always been given leave to go for treatment, but it has appeared that he has continued being sick; this is the reason why his services were terminated so that he could go and be treated. The company concerned is prepared to accept him back if he comes with a letter from the doctor saying that he has fully recovered.

MR. KIKUYU: Mr. Speaker, Sir, could the Assistant Minister tell this House which doctor in the world can give a person a letter saying that he will never be sick again?

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MR. METTO: Mr. Speaker, Sir, I think the hon. Member knows very well that when a sick man goes to a Government medical doctor for examination or a

MR. <sup>arap</sup> METTO (CTD.):

check-up and requests for a letter to certify that he is fully recovered, he is always given that letter. However, such a letter cannot say that this particular employee will never be sick again. If the employee has actually been examined and proved to be well and properly recovered, he can always be given a letter to this effect.

MR. KIKUYU: On a point of order, Mr. Speaker, Sir. In his written answer, the Assistant Minister says:-

"His services were terminated on condition that the company would reinstate him when he reported back on duty with a medical report that he had fully recovered to resume his duties without further intermittent interruption."

My question was: which doctor, whether in Kenya or anywhere else in the world, would guarantee to a company that its employee can now go back to work and that he is not going to be sick again?

MR. <sup>arap</sup> METTO: Mr. Speaker, Sir, I do not think that this particular employer will create any other problem for this employee if he comes with a letter from his doctor certifying that he has been properly treated and has fully recovered. This employee may fall sick, suffering from a different disease, but that will be a different matter.

Question No. 765

MR. ABUYA-ABUYA asked the Minister for Labour:-

(a) whether he is aware that Mr. Joakim Okello, a former employee of Imani and Sons Company Ltd., P. O. Box 18204, Nairobi, was on 28th September, 1987 summarily dismissed after 13 years of service without any good reason; and

(b) whether he will order that Mr. Okello be reinstated without any loss of benefits.

THE ASSISTANT MINISTER FOR LABOUR (Mr. <sup>arap</sup> Metto): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Mr. Joakim Okello, a former employee of Dhimans and Sons Company Ltd., (not Imani and Sons Company Ltd. as stated) was on 28th September, 1987 dismissed after 13 years of service with the company

THE ASSISTANT MINISTER FOR LABOUR (Mr. <sup>arap</sup>Metto)(Ctd.):

because he was suspected of having stolen goods from his employer.

(b) I do not consider it appropriate at this stage to order that Mr. Okello be reinstated, with or without any loss of benefits, because of the following reasons:-

(i) After dismissal, Mr. Okello reported the matter to his union, which took it up with the employer. As a result, Mr. Okello's dismissal was discussed between the union and the management of the company in his presence, during which it was agreed that the dismissal should be reduced to termination and that Mr. Okello should be paid terminal benefits amounting to Shs.9,433/=, less deductions of Shs.984/=.

(ii) Mr. Okello was a party to this agreement, and he accepted the balance of Shs.8,449/= as the full and final payment of his terminal benefits, the receipt of which he acknowledged under his own signature. The union representative witnessed this payment by countersigning the payment documents.

(iii) Mr. Okello did not dispute the circumstances which led to his being suspected of having stolen goods from his employer. Furthermore, the said management does not have any more trust or confidence in him as a worker, and is not willing to accept him back.

MR. ABUYA-ABUYA: Mr. Speaker, Sir, could the Assistant Minister tell the House whether Mr. Okello was taken to any court of law for this alleged offence?

<sup>arap</sup>MR. METTO: Mr. Speaker, Sir, I do not think that this person was taken to any court, but, as I have stated in my reply to this Question, after this dispute arose, Mr. Okello's union, his employer and my labour officer probably met and discussed the issue. They then agreed that this man's services should be terminated. Mr. Okello accepted this agreement by signing the relevant documents. This means that he agreed to leave his job. If he did not agree to that, he should not have signed these documents and taken money as his final payment. Having done this, this is a sign to show that there was agreement between this employee and his employer.

MR. ABUYA-ABUYA: Mr. Speaker, Sir, the Assistant Minister has not answered my question as<sup>to</sup> whether Mr. Okello was charged in any court of law for this allegation. Mr. Okello was under pressure from both his employer and the union. These two parties were threatening to take<sup>him</sup> to<sup>the</sup> court of law. In other words, they were acting as the complainants and the ex<sup>e</sup>cutors. Could the Asssistant Minister, with that information, agree to go back and investigate this incident? Justice was not done because Mr. Okello was under pressure from both the employer and the union to<sup>sign and</sup> accept that condition

MR. arap METTO: Mr. Speaker, Sir, I am not aware of any pressure that was applied when this discussion was going on. If there was any, I would advise the employee to complain to my labour officer and his union so that the matter x could be investigated further. As far as I am concerned, I am not aware of any pressure.

Question No. 751

MR. arap KOSKE asked the Minister for Transport and Communications:-

- whether he
- (a) is aware that Mr. Kiprotich A. Chirchir, P/No. 140521, a former employee of the Ministry, was retired on 31st July, 1985;
  - (b) whether he is further aware that since his retirement, he has not been paid his benefits in accordance with the Pensions Act; and
  - (c) when he will be paid.

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS

(Mr. Keriri): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Mr. Kiprotich Chirchir, <sup>Personal</sup> Personnel No. 140521, retired from the Civil Service on 1st August, 1985.

(b) Mr. Kiprotich Chirchir was employed in the Civil Service on 9th May, 1970. He does not, therefore, qualify for retirement benefits in accordance with the Pensions Act since he was first appointed to the Civil Service after 1st April, 1966.

(c) He should contact the Director of ~~N.S.S.F.~~ in order to be paid his benefits which come under the N.S.S.F. Act.

MR. arap KOSKE: Mr. Speaker, Sir, arising from that reply by the Assistant Minister, is he implying that some employees who were appointed after 1st April, 1966, are not pensionable? If he does could he tell us the criterion used to reach such discrimination?

MR. KERIRI: Mr. Speaker, Sir, there is a regulation which emanated from the Directorate of Personnel Management which gives full details of what is to be done about paying retirement benefits to junior members of staff who were employed after 1st April, 1966. I do not think that I can say more than that.

MR. arap KOSKE: Mr. Speaker, Sir, could the Assistant Minister confirm to the House whether his office furnished the Director of N.S.S.F. with all the necessary information pertaining to the complainants immediately after retirement?

MR. KERIRI: Mr. Speaker, Sir, that was not the original Question. I cannot confirm or deny whether every bit of information was sent to the Director of N.S.S.F. In any case, the officer who retired from the Civil Service should have filled the necessary forms obtainable from the Director of N.S.S.F. If there had been some information that was missing, then our Ministry would have provided this.

(Noise)

MR. SPEAKER: Order! There is far too much noise in the House. Let us go back to Mr. Mate's Question.

Question No. 755

MR. KIOME, on behalf of Mr. Mate, asked the Minister for Agriculture:-

- (a) whether he is aware that Hampton I. Makaru, W.P. No. 033, was not paid his field and leave allowances from March to August, 1982; and
- (b) when he is going to be paid this money.

THE ASSISTANT MINISTER FOR AGRICULTURE (Mr. Muigai): Mr. Speaker, Sir, I request for more time in order to answer that Question

MR. SPEAKER: Okay, that Question is deferred.

(Question deferred)

Question No 737

MR. SPEAKER: Dr. Omamo has still not come yet?

(Question dropped)

#### QUESTIONS BY PRIVATE NOTICE

MR. KISUYA: Mr. Speaker, Sir, I beg to ask the Vice-President and Minister for Home Affairs the following Question by Private Notice.

(a) Is he aware that the late Mr. George Musokho, prisoner No. Bungoma /184/87/LS, who was transferred to Shikusa Prison as Prisoner No. SHK/324/87/LS on 7th March, 1987, died on 25th March, 1987,

(b) What was the cause of his death and where was he buried?

(c) Will he order that the remains <sup>of</sup> ~~is~~ the deceased be exhumed and handed over to the relatives for burial in accordance with Bukusu customs?

THE VICE-PRESIDENT AND MINISTER FOR HOME AFFAIRS (Mr. Kibaki): Mr. Speaker, Sir, there are some very important details that I am trying to get on this very serious Question. I wonder if it could be deferred until tomorrow afternoon.

MR. SPEAKER: That Question is deferred.

(Question deferred)

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

(a) Is he aware that the land belonging to the people of Wagwe and Kanjira, South Nyanza District, was taken away and fenced?

(b) Who took this land and for what purpose?

(c) Would he order that the land be returned to the original owners since they want to prepare the fields in readiness for the next season?

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware of any land that has been taken away from the people of Wagwe and Kanjira in South Nyanza.

It is not, therefore, possible for me to answer this Question fully unless the hon. Member supplies me with full details of the exact location including the area of the land in question..

Arising from the above reply, it is not possible for me to answer part (b) and part (c) of the <sup>Question</sup> ~~reply~~. However, the hon. Member has just thrown some light on the matter, and I am instructing my people to get in touch with the District Commissioner again for further information on the Question.

MRS. ASIYO: Mr. Speaker, Sir, I asked this Question by Private Notice about three weeks ago. I would ~~by now~~ <sup>by now</sup> have expected some answer <sup>as</sup> the situation is very grave. Here is a situation where somebody has moved in with a tractor and ~~has~~ <sup>has</sup> ploughed <sup>the</sup> ~~the~~ <sup>people's</sup> private land of people. He has uprooted all ~~the~~ fences, fruit trees, groundnuts and almost everything that the people had worked very hard <sup>to get</sup> ~~for~~ in the <sup>last</sup> ~~past~~ year. I would have expected the Minister to give an appropriate answer here today so that people of Kapio, Wagwe and Kanjira would know what to do from that answer.

MR. NYAKIAMO: Mr. Speaker, Sir, as I said, I sympathise



MR. NYAKIAMO (ctd.):

with the hon. Member, but as I do not have all the information, she will have to ~~wait~~<sup>wait</sup> until I get all the proper information to enable me to give a proper answer.

MR. KIOME: Mr. Speaker, Sir, due to the gravity of this matter, and given that it is food production and the livelihood of these people that is at stake and that this area is within reach by telephone, would the Minister, therefore, promise to do that the day after tomorrow? We might adjourn soon, perhaps, not to come back.

MR. NYAKIAMO: Mr. Speaker, Sir, I am not running away from the Question. I said, until I get the proper information, we will have to ~~wait~~<sup>wait</sup>. The hon. Member has already been informed of that.

MRS. ASIYO: On a point of order, Mr. Speaker, Sir. As I have said before, the situation is very grave indeed. Could the Minister undertake to tell this House that he will, within this week, give an answer to this House?

MR. NYAKIAMO: Mr. Speaker, Sir, I have undertaken to give this information to the House. Even this afternoon, I told the Gracious Lady, that I was in contact with the Acting District Commissioner this afternoon. By then I had not received the relevant information about that area. I do undertake to give a full answer when I get this information.

MR. SPEAKER: Let us move on now.

MR. GITHUA: Mr. Speaker, Sir, I beg to ask the Minister for Health the following Question by Private Notice.

(a) Is he aware that there is no radiologist at the Nyeri General Hospital?

(b) Would he ensure that one is posted there immediately?

THE MINISTER FOR HEALTH (Mr. Matiba): Mr. Speaker, Sir,  
I beg to reply.

(a) Yes, I am aware.

(b) A Radiologist will be posted to Nyeri Provincial General Hospital by the end of ~~the~~<sup>this</sup> month.

MR. GITHUA: Mr. Speaker, Sir, I would like to thank the Minister very much for having agreed to send a Radiologist to Nyeri Provincial General Hospital, and for that reason, I do not wish to ask any further questions.

MR. MUTISO: Mr. Speaker, Sir, I beg to ask the Minister for Health the following Question by Private Notice.

(a) Is the Minister aware that the body of the late Mr. Stephen Mbithi who died on 25th May, 1987, is still lying at Machakos General Hospital mortuary?

(b) Why has the post-mortem not been carried out to establish the cause of his death?

(c) Will the Minister ensure that the post-mortem is done immediately and the body released to the relatives for burial?

THE MINISTER FOR HEALTH (Mr. Matiba): Mr. Speaker, Sir,  
for  
may I request permission to defer this Question so that I might be able to find more facts about the matter in question.

MR. SPEAKER: Okay. Next Question, Mr. Angatia.

MR. ANGATIA: Mr. Speaker, Sir, I beg to ask the Minister for Transport and Communications the following Question by Private Notice

(a) Is the Minister aware that the contractor doing improvement work on Kakamega-Webuye road has dug and left huge trenches alongside the road between Tande and Matete which are dangerous to local residents and road users?

MR. ANGATIA (Contd.):

(b) Would the Minister direct the contractor to fill up and level out these trenches without interfering with people's shambas?

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS

(Mr. arap Koech): Mr. Speaker, Sir, I beg to reply.

(a) <sup>I am aware that</sup> The contractor doing improvement work on Kakamega-Webuye road has dug trenches along the road. The trenches have been dug to remove vegetation and roots on shoulders before building them up to the carriageway level and clearing the drains.

(b) The <sup>t</sup>renches will be filled up with the gravel and the roadside drains cleared without any interference to the people's shambas which are outside the road reserve.

MR. ANGATIA: Mr. Speaker, Sir, while thanking the Assistant Minister for being aware of this problem, I would like <sup>him</sup> to assure the people of the area concerned that as soon as the contractor has finished the work he will fill up the trenches? I raise this Question because there are some places where the contractor has <sup>already</sup> ~~not yet~~ completed the work and moved to some other areas several kilometres away. Can I be assured that he will come back to fill up the places and level them up so that they will not form pools of water?

MR. arap KOECH: Mr. Speaker, Sir, this will be done when the road is completed.

MR. SHIKUKU: Mr. Speaker, Sir, arising from that very encouraging reply <sup>will the Assistant Minister -</sup> because we have had ~~on~~ several occasions when Ministers have told us one thing in this House but it is a different matter altogether outside <sup>tell the House</sup> in the event of this contractor failing to fill up these trenches <sup>he</sup> what steps does ~~the Assistant Minister~~ intend <sup>to</sup> take against this contractor?

MR. arap KOECH: Mr. Speaker, Sir, we do not suggest actions to take before mistakes are made.

MR. SPEAKER: We now move on to Mr. Wagura's Question.

MR. WAGURA: Mr. Speaker, Sir, I beg to ask the Minister for Transport and Communications the following Question by Private Notice.

(a) Is the Minister aware that the recently gravelled road between Nyahururu Municipality and Silibweti is in bad condition?

(b) Is he also aware that Mailo-Inya to Shamata section of road D388 have sharp protruding stones which damage vehicle tyres?

(c) Could he undertake to repair these two roads as a matter of urgency?

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS

(Mr. arap Koech): Mr. Speaker, Sir, I beg to reply.

(a) The road in question was gravelled by the Kenya Central Graveling Unit in 1983/84, and it has since received maintenance as necessary. It was last graded in total in May, 1987. It was also programmed for the next grading during the last week of November, 1987, and, as of last ten weeks, 10 kilometres out of 30 kilometres total length, have been graded. The work will continue ~~until~~ <sup>until</sup> the whole road is covered.

(b) The Section Mailo-Inya to Shamata <sup>of</sup> Road D388 <sup>had</sup> ~~has~~ protruding stones for some time, but the situation was rectified two weeks ago. The road in question is gravel surface having been gravelled in 1984/85. The gravel used was <sup>quarry</sup> ~~poorly~~ waste and due to removal of fine materials by the traffic with time, some stones were left protruding. These stones are of hard rock and work <sup>could not</sup> ~~will not~~ be carried out when it is dry. With the moisture from the current rains the section was graded and the whole section was covered by last --

MR. SHIKUKU: On a point of order, Mr. Speaker, Sir.. I am just straining my ears to hear the hon. Assistant Minister's reply because there is too much noise in the House. I guess it is due to "too much" quorum problem. Could they consult silently, please?

MR. SPEAKER: Order! There is too much noise in the House!

## THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS

(Mr. arap Koech): Mr. Speaker, Sir, I beg <sup>repeat my</sup> to reply ~~part (b)~~ to part (c)

The Section Mailo-Inya to Shamata Road D388 had protruding stones for some time, but the section was rectified two weeks ago. The road in question is gravel surface having been gravelled in 1984/85. The gravel used was <sup>quarry</sup> ~~poorly~~ waste, and due to removal of fine materials by the traffic with time, some stones were left protruding. These stones are of the hard rock and work ~~will~~ <sup>could</sup> not be carried out when it is dry. With the moisture from the current rains the section was graded and the whole section was covered by last Wednesday, and the stones have been trimmed and covered now.

(c) Work is still in progress as explained in parts (a) and (b) above.

MR. WAGURA: Mr. Speaker, Sir, while appreciating the reply by the Assistant Minister, in part (a) of the Question, the road between Nyahururu Municipality and Silibweti was gravelled all right, but due to <sup>heavy</sup> ~~Long~~ Rains some parts were washed away. Is the Assistant Minister aware that there are some sections where milk cannot be transport to Nyahururu Town due to that bad section of the road?

MR. arap KOECH: Mr. Speaker, Sir, I am sorry, I did not hear the supplementary question.

MR. WAGURA: Mr. Speaker, Sir, I said I would like to thank the Assistant Minister for the reply. But I would like to draw his attention to the fact that <sup>some parts of</sup> the road between Nyahururu Municipality and Silibweti which was gravelled recently have peeled off. This is an area where we have a lot of milk, and the farmers are not able to take their milk to the Kenya Co-operative Creameries <sup>Factory</sup> in Nyahururu. Is he aware of that, and <sup>if he is</sup> what action is he taking?

MR. arap KOECH: Mr. Speaker, Sir, the road is being repaired right now. I also do agree with the hon. Member that it has been bad, but this is the section <sup>where</sup> the work is in progress.

MR. WAGURA: Mr. Speaker, Sir, in part (b) of the Question the Assistant Minister said that the road between Mailo-Inya and Shamata has been gravelled. But the road has protruding stones which are damaging vehicle tyres. Even after gravelling the road, those stones are still protruding. Could the Assistant Minister assure the House that they are going to put at least a quarter of fine murram so that the stones are covered?

MR. arap KOECH: Mr. Speaker, Sir, as I said before, this section of the road could not be done when it was dry. But with the onset of rain now, it is being done with the help of the moisture.

MR. WAGURA: Mr. Speaker, Sir, while I appreciate what the Assistant Minister is saying, there are several other roads which were gravelled at the same time with this particular road - for instance, Mailo-Inya to Salama Trading Centre - and <sup>in</sup> all of them the murram has peeled off. Could the Assistant Minister undertake to regravell them and ensure that they are well maintained?

MR. arap KOECH: Mr. Speaker, Sir, I want to assure the hon. Member that we are maintaing the roads by ~~gravelling~~ <sup>grading</sup> and improving the rough sections so that the stones which are protruding are trimmed off.

#### NOTICE OF MOTION FOR THE ADJOURNMENT

MR. SPEAKER: Hon. Members, I have received a Written Notice from hon. Munyao, Member for Mbooni, of his intention to raise on a Motion for the Adjournment a matter contained in a reply to <sup>his</sup> Question by Private Notice, concerning the Administrative and Constituency boundaries in Mbooni and Mwala Divisions. I will, therefore, call upon hon. Munyao to move the Motion for the Adjournment at the interruption of business on Thursday, 3rd December, 1987.

## POINTS OF ORDER

MR. SHIKUKU: On a point of order, Mr. Speaker, Sir. I stand to raise a very small point of order. I did promise the House on Thursday during a Motion for the Adjournment that I will bring the documents I referred to, being two letters, written by Mr. Dick Berg. The first letter, dated 14th August, 1987 was written to Mr. Dun Waltherman, American Embassy, Nairobi, Kenya. He also wrote to Mr. Charles Mbindyo, Permanent Secretary, Ministry of Finance, P.O. Box 30007, Nairobi, Kenya, and the letter is dated 20th August, 1987. These are the documents that I promised to lay on the Table. Whatever I said is all contained in ~~these~~ these documents.

Secondly, Mr. Speaker, Sir, I also promised this House that I would substantiate, or react to the Ministerial Statement made by the Minister of State, Office of the President, hon. ole Tipis. However, owing to the banks having to give me documents dug up from their records of 1982, the documents should be ready tomorrow; so, I shall give the statement tomorrow. Thank you, Sir.

(Hon. Shikuku laid the letters on the Table)

MR. MATHENGE: On a point of order, Mr. Speaker, Sir. With your permission Mr. Speaker, Sir, I would like to say that the Government has done its best in Laikipia, particularly the Administration in sub-dividing the land. It is the intention of the Government that every farm must be sub-divided so that the shareholder can get a title deed.

However, there is confusion over one piece of land, and a lot of questions have come up. So, it is now high time the Attorney-General issued a statement concerning Loriani Ranching Company, which is the one in question. He should tell us in his statement who the directors and the shareholders are, and why there has been <sup>some</sup> difficulty in sub-dividing it. This has brought a lot of chaos in that area. If the Government does not take action immediately, I do not know what will happen to those people. They have been putting a lot of questions to the Government, and there have been a lot of cases about this land. Some ~~direct~~ directors have sold the same farm. What we ~~know today~~ understand today is that <sup>the land</sup> originally had

MR. MATHENGE (CTD):

about 570 g registered shareholders, but now ~~we~~ there are 18,000 shareholders in the same piece of land. So, I would like the Attorney-General to give a statement on how this problem will be solved. Thank you.

MR. KINYANJUI:

On a point of order, Mr. Speaker, Sir. Last Tuesday when the Minister for Labour was answering a Question on the payment of terminal benefits to Mr. Eliud Njoroge, who worked for Livingstone Registrars Ltd, I told the Minister that Mr. Njoroge had been deducted what his company called "Severance Fund". The Minister, in his own words, agreed with hon. Omido that should there have been such deductions, they were illegal. Now, I have a voucher here, dated 31st December, 1984, which clearly shows that a fund known as "Severance Fund" was being deducted. Would the Minister look into this matter and take action against <sup>this Company</sup> which did not even care to refund what they had deducted from the salary of Mr. Eliud Njoroge?

MR. ANGATIA: On a point of order, Mr. Speaker, Sir. I rise up to ask for your permission to appeal to the Minister of State, Office of the President, to intervene in a situation where the District Officer (D.O.), Kabras, called Julius Muguika, is causing ~~at~~ the people a lot of hardships.

First of all, the D.O. has gone to a secondary school and <sup>dissolved</sup> ~~dissolved~~ the board of governors, and decided ~~that he is going~~ to form his own board of governors for that school. When the district education officer (D.E.O.) came to form ~~the~~ boards of governors for various ~~f~~ schools, including this school, called Shivanga Secondary School, the D.O. insisted that the board of governors <sup>should be</sup> ~~is going to~~ (formed by the highest authority in the land, and, therefore, the Minister for Education <sup>would</sup> ~~will~~ not constitute the board of governors for that school. I want to appeal to the Minister of State, Office of the President, to tell us whether he has now taken over the management of schools, including appointment of boards of governors for schools, in particular, the appointment of the Board of Governors for Shivanga Secondary School.

Mr. Speaker, Sir, this is an area which shows very ~~at~~ clearly the way <sup>of</sup> this particular D.O. is interfering with the affairs of the people, Kabras. At the ~~the~~ same time, he is particularly campaigning for particular ~~and~~ candidates, who are hoping to stand for ~~par~~ Parliamentary seats when the elections are called. We do not mind who stands for election; we do not mind who are preparing themselves for the



MR. ANGATIA (CTD):

election. However, we take serious exception to the idea of a D.O. of an area, who is supposed to be an impartial administrator of a particular area, consistently ~~dividing~~ <sup>dividing</sup> the people of Kabras. Right now, the people ~~are~~ <sup>are</sup> seriously divided; there are a lot of fights; a few assistant chiefs have been beaten up. The whole situation is ~~is~~ turning chaotic, just because of a particular ~~of~~ D.O., who is interested in promoting the ~~his~~ interests of certain politicians. If the D.O., who is supposed to look after the peace ~~of~~ <sup>in</sup> a place ~~and~~ <sup>by making</sup> sure that people are ~~not~~ <sup>are</sup> united, is the one who is consistently dividing them, then the Minister of State, Office of the President, should issue a statement and tell us whether this D.O. has been sent to Kabras to tell the people that he will not leave that place until the sitting Member of Parliament has been removed. If the D.O. is promising that he will be in Kabras until I leave Parliament, and he is sure that I am leaving soon, I do not know who has assured him of this.

Mr. Speaker, Sir, the most worrying thing to the people is that he is quoting the highest authority in the land. We do not mind D.O.s giving us problems. But when a D.O. is telling wananchi that he is quoting the highest authority in the land, we would like to know which authority this is. If he is pointing to us the highest authority in the land, it is a serious matter. He is using that to harass the people, divide them and create problems. So, I would like the Minister of State, Office of the President, to give a statement to allay the fears of the people Kabras.

Mr. Speaker, Sir, at the same time, I would also like the Minister for Education to assure the parents and students of Shivanga Secondary School that the board of governors will be constituted in the proper manner by the Ministry of Education. If that school has been surrendered to the Office of the President, and the ~~XX~~ D.O. who is constituting the board of governors, let us also know, so that we do not go on questioning the D.E.O. all the time, and we will ~~in~~ know that that school is being run by the D.O. ~~if~~ Even if it is the D.O. who should run it, let us have another another D.O. instead of this one. He is causing clashes all the time; he is going to Harambee meetings and campaigning about how the present Member of Parliament has failed. We cannot stand this, and I would like the Minister of State, Office of the President, to make a statement on this matter.

F.4. 1.12.87

THE ASSISTANT MINISTER, OFFICE OF THE PRESIDENT (Mr. Maiyani): On a point of ~~order~~ order, Mr. Speaker, Sir. It would have been proper for the hon. Member to have brought this complaint to our office. If he wants our help, what is our office going to do without some information in writing? He should come to our office, and then we will do whatever is necessary to put the matter right.

END

F

*Rjem*

MR. ANGATIA: On a point of order, Mr. Speaker, Sir. Whenever I raise matters here on points of order, the Minister requests that I write to his office. I have written twice before and the answers that come back are mere denials of even things that exist. For example, when I raised a matter here, before we adjourned last time, the Minister of State, Office of the President, hon. ole Tipis promised that if I wrote to him, he would solve the problem. I wrote and complained about assistant chiefs who were being appointed unconstitutionally and the answer I received was that those sub-locations did not exist and even that those assistant chiefs did not exist while they were there. Am I ~~not~~ to come and say that there is a sub-location called such and such and there is an assistant chief called so and so? The Assistant Minister came here and told me that they did not exist while they did. So, it is pointless writing to Office of the President because the answer that I will receive will be meaningless and denying even the existence of people who ~~are~~ are known to exist and sub-locations which are known to exist. In their efforts to cover up the issues, they will merely deny everything. Therefore, it is better to ask questions about them here ~~and~~ so that he can answer them here.

THE MINISTER FOR ENERGY AND REGIONAL DEVELOPMENT (Mr. Biwot) On a point of order, Mr. Speaker, Sir. I have one point of order which I would like to raise. I am glad that the hon. Minister of State, Office of the President, hon. Tipis has come and will answer this question himself. There is one particular remark which we must clear once and for all. The use of the phraseology, "higher authority" which even the President himself has cleared, that there is nothing known as "higher authority", and now everybody should remove that phrase out of his mind completely, so that genuine things can be attended to genuinely. I state like

the same way that the hon. Minister of State

THE MINISTER FOR ENERGY AND REGIONAL DEVELOPMENT (Ctd.):

I would like to support what hon. Njururi has said. If the hon. Member has a genuine and legitimate case to present, by all means, let it be presented in the normal way so that normal justice can take place, but I am not here to answer on behalf of the Minister of State, Office of the President to whom the point of order was addressed to. But, I was only concerned about one small remark, "higher authority", because this remark has been used extensively and erroneously and presumptuously without any base.

MR. SHIKUKU: On a point of order, Mr. Speaker, Sir. I am standing on a question of procedure. I thought Standing Order No. 69 of this House provides the Member to make his personal statement about his constituency. Is it in order, therefore, for hon. Maiyani Njururi to tell hon. Angatia that he should go to his office, when Standing Order No. 69 allows us to speak here? We are elected to speak here, not in his office. Is he in order?

THE ASSISTANT MINISTER, OFFICE OF THE PRESIDENT (Mr. Maiyani): The gentleman has just made a statement——

AN HON. MEMBER: He is an hon. Member.

MR. SHIKUKU: On a point of order, Mr. Speaker, Sir.

THE ASSISTANT MINISTER, OFFICE OF THE PRESIDENT (Mr. Maiyani): The hon. Member, hon. Angatia has just made a verbal statement. If he could lay some documents on the table, the Minister would take the documents and study them to find out whether it is true or not.

By merely complaining against the district officer does not help us in the Ministry at all. We cannot sack the district officer because someone does not like him. He should bring material evidence here.

MR. SPEAKER: All right, we must go on.

(Applause)

## MINISTERIAL STATEMENT

THE MINISTER OF STATE, OFFICE OF THE PRESIDENT (Mr. ole Tipis):  
 Mr. Speaker, Sir, I am sorry I was a bit bogged down with some other official business. Sir, I did make a categorical statement last week where I agreed that a sum of Shs.80,000/- was ~~x~~ misappropriated by some officers here and there. I did also mention ~~by~~ to my hon. friend that this Government cannot condone misappropriation or misuse of public funds collected from wananchi. We are now "deep digging" the pros and cons and whoever is involved--

Although I was not here, to hear what my hon. friend was trying to allege, everything will be investigated ~~in~~ thoroughly. Cheques ~~and~~ are there and they will be presented to this House. Even the officers of the Butere Self-help Development Fund ~~w~~ are also involved, but it would be prejudicial to mention everything before the report has come out. Just to dramatise an issue which concerns ~~the~~ this Government, in my view is trying to make political capital out of nothing. Let us wait for the facts because they are there. Let anybody or any hon Member, ~~f~~ for that matter bring any other substantive documents that he has. He should not just stand up on a point of order to abuse the good name of the Government.

MR. SHIKUKU: On a point of order, Mr. Speaker, Sir. I am sure, my hon. friend just ~~saw~~ saw me standing on a point of order and assumed that I was talking about Butere Self-help Development Fund. The hon. Members who were present including you, Mr. Speaker, Sir, did not hear me touch the question of Butere Self-help Development Fund. I was only referring to the question raised by hon. Njururi when he asked hon. Angatia to go to his office when Standing Order No.69 ~~is~~ provides us with the opportunity to raise matters pertaining to our own constituencies.

MR. SHIKUKU (ctd):

As far as Butere ~~Sex~~ Self-help Development Fund is concerned, I have not made any statement apart from promising earlier on that ~~tomorrow~~ tomorrow, I shall bring the documents and everything <sup>else</sup> to respond to his earlier ministerial statement.

I never touched ~~on~~ anything <sup>and</sup> about Butere Self-help Development Fund. <sup>le</sup> You can bear me ~~with~~ witness, Mr. Speaker, Sir. I do not know why he just assumed that once the Member for Butere <sup>stands</sup> ~~is~~ on his ~~ff~~ feet, he <sup>must</sup> ~~is~~ talking about Butere ~~Sex~~ Self-help Development ~~Fund~~ Fund?

THE MINISTER OF STATE, OFFICE OF THE PRESIDENT (Mr. ole Tipis):  
On a point of order, Mr. Speaker, Sir. We as elected ~~representatives~~ representatives of our people, ~~we~~ have a duty to those who we represent and <sup>those</sup> ~~those~~ who elected us. In my humble view, I think that it would save us a lot of time, if anybody or any hon. Member has a genuine grievance or allegation, just before we shout and dramatise the issue, ~~we should~~ <sup>to</sup> sort it out with the respective Ministries concerned. If he is not satisfied, then he <sup>would be</sup> ~~is~~ at liberty to come and say so in this House. The time has come <sup>when</sup> ~~where~~ we should be ourselves and try, especially now to cool down the temperature and see the facts as they stand.

MR. ANGATIA: On a point of order, Mr. Speaker, Sir. I am rising to thank the two Ministers who ~~responded~~ responded to my point of order. First of all, I would like to thank the hon. Biwott for saying that nobody should use the phrase, "higher authority". I would like to inform him that last week, on 24th November, 1987 at Malaba, while we were selecting the boards of governors, the District Officer did use the phrase, "The Shivanga Board of Governor is going to be formed and consultations are ~~go~~ taking place at the highest authority, higher than the Minister <sup>for</sup> ~~of~~ Education."

MR. ANGATIA (CTD):

Secondly, I would like to thank the Minister of State, Office of the President, hon. ole Tipis for saying that we elected representatives have a duty to our people. When these people are suffering or have complaints, it is proper that we come and request relevant authorities to deal with these matters. So, I want to thank these Ministers and assure them that I have the facts about the District Officer's behaviour. What I ~~gave~~ have said is recorded in the HANSARD and the Assistant Minister can read it. I hope he will take action when he sees the facts as contained in the HANSARD. Thank you Mr. Speaker, Sir.

END G.....

THE ASSISTANT MINISTER FOR EDUCATION (Mr. M'Maitisi):

Mr. Speaker, Sir, the hon. Member ~~fm~~ has said that during the selection of the board of governors of the secondary school, the district officer took the the upper hand. I am sure the hon. Member knows that we have an Act of Parliament which governs the selection of a board of governors of a school, which includes the sponsor, a Member of Parliament, the district officer, a councillor and the other people who are selected. I am sure we have not surrendered the running of educational matters to the administration. The procedures of educational matters are still under the Ministry of Education and we shall follow them.

Thank you, Mr. Speaker.

MR. SPEAKER: Next order!

#### BILLS

##### First Reading

The Statute Law (Miscellaneous Amendments) Bill

(Order for First Reading read -  
Read the First Time - Ordered to be  
read the Second Time tomorrow)

##### Second Reading

The Constitution of Kenya (Amendment) Bill

(The Attorney-General on 17.11.87)

(Resumption of Debate interrupted on 25.11.87)

MR. SPEAKER: DIVISION Ring the Division Bell.

MR. SPEAKER: Order! Ring the Division Bell

(The Division Bell was rung)

(END....H)



MR. SPEAKER: Order! Will you take your seats? Well, I am ~~am~~ afraid we could not get the required minimum number of hon. Members to enable us to vote. So, it means we will have to repeat the exercise again. I do not know when we should do it -

HON. MEMBERS: On Thursday!

MR. SHIKUKU: On a point of order, Mr. Speaker, Sir. Let me quote the Standing Orders.

MR. SPEAKER: No. That is all right. This will not be until ~~th~~ we reach Thursday and I think it is agreed upon.

MR. SHIKUKU: On a point of order, Mr. Speaker, Sir. Standing order No.61 part (b) and unless I am understanding it differently from what is written says as follows:-

"If the division on that question results in majority of Ayes, but less than such fixed majority, and the Noes have not ~~are~~ numbered 35 per cent of all the Members of the House or more, Mr. Speaker may direct one further division--

Mr. Speaker, you did that last time.

HON. MEMBERS: Where?

MR. SHIKUKU: We failed the first time we voted here last week. Let me continue reading the Standing Order which goes on to ~~z~~ state:

" --- on the same question to be held within seven days ---"

Today, you are very right, it is the seventh day. The Standing Order goes on to state as follows:

"--- from the date of that first division; but if he does not so direct any further division, or if on such further division the fixed majority is not obtained,"

This was supposed to be another division, but yet we could not obtain it. It concludes by saying:

"--- he shall declare that the Motion is negatived".

This is what the Standing Order says. We have not yet obtained the required minimum number of hon. Members.

MR. OMIDO: On a point of order, Mr. Speaker, Sir. In the first place, the division of last week should not have been called because a division can only be called if two thirds of all hon. Members are in the House. Last week we

MR. OMIDO (Ctd.):

did not have two-thirds of all hon. Members in the House, and so if there was any division on that day, then it was negatived because it ~~then~~ should not have been called.

THE ATTORNEY-GENERAL (Mr. Muli): On a point of order, Mr. Speaker, Sir. There was, indeed, an error because the Standing Order No. 61 part (a) says and I quote:

"In every instance where the Constitution lays down that a fixed majority is necessary to decide any question-

~~at the phrase~~  
(a) the House shall not ~~and I underline~~ shall not proceed to a division on that question unless and until a number of Members equivalent to such fixed majority is present at the ~~the~~ time for directing the division;"

The Constitution in itself Section 47 (2) says and I quote:

"A Bill for an Act of Parliament shall not be passed by the National Assembly unless it has been proposed ~~to~~ for the second time by votes of not less than 65 per cent."

So, Mr. Speaker, Sir, when you were advised by those who were counting that there was the official number required, there was an error. That number was not there, and therefore, proceeding to a division without the required number ~~makes~~ <sup>made</sup> that sort of exercise null and void and of course illegal.

(Applause)

MR. SHIKUKU: On a point of order, Mr. Speaker, Sir.

MR. SPEAKER: Order, Mr. Shikuku! I am satisfied ~~with~~ by what the hon the Attorney-General has said, and I do not think it is of any value continuing with further ~~and~~ argument.

(Applause)

END J

MR. SPEAKER: Next Order!

MR. MUNYAO: On a point of order, Mr. Speaker, Sir.

MR. SPEAKER: It had better be different now.

MR. MUNYAO: Yes, Mr. Speaker. Perhaps the Chair and the Leader of Government Business will have to note that after the Chair had given enough notice that there would be a division today, the Front Bench has let us down since we have enough Back-Benchers. It is the <sup>Members of the</sup> Front Bench who are not in; otherwise we would have voted today. Let this be noted, Mr. Speaker, Sir.

COMMITTEE OF THE WHOLE HOUSE

Order for Committee Read

Mr. Speaker left the Chair

IN THE COMMITTEE

Mr. Chairman took the Chair

The Hides, Skin and Leather Trade Bill

MR. CHAIRMAN: Order. Hon. Members, when the House adjourned last time, we had finished approving up to Clause 17. We shall now proceed from there.

Clause 18

THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT (Mr. Oyondi):

Mr. Chairman, Sir, I beg to move:-

THAT Clause 18 be amended by inserting the words "or importer's licence" immediately after the word, "importer's licence" appearing on the first line thereof.

(Question, that the words to be inserted be inserted, put and agreed/

(Clause 18 as amended agreed to)

Clause 19

THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT (Mr. Oyondi):

Mr. Chairman, Sir, I beg to move:-

THAT Clause 19 (2) be amended by deleting paragraph (c) and inserting the following:-

- (c) without the permission of an inspector, prepare, treats or cures any raw hide or skin with the object of selling it as leather or soaks, immerses or in any other way applies liquid to any hide or skin which has been partially or wholly dried:

(Question that the words to be deleted be deleted, proposed)

MR. SHIKUKU: Mr. Y Chairman, as far as my Order Paper is concerned, after the word "paragraph" on the first line of the amendment to Clause 19, I just see a big black dot and I do not know what it stands for.

THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT (Mr. Oyondi):  
Mr. Chairman, Sir, it stands for (c).

(Question that the words to be deleted be deleted put and agreed to)

(Question that the words to be inserted in the place thereof be inserted, put and agreed to)

(Clause 19 as amended agreed to)

Clause 20:

THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT (Mr. Oyondi):  
Mr. Chairman, Sir, I beg to move:-

THAT, Clause 20 be amended as follows:-

- (a) by deleting the words, "or export" appearing in the last line of paragraph (f) and inserting "export or import".
- (b) by deleting the words "two years" appearing in paragraph (n) (ii) and inserting "five years".
- (c) by deleting paragraph (p) and inserting the ~~following~~ following:-

*h be*

- (p) prescribing the method to ~~the~~ employed for the marking or labelling of shade and suspension dried or salted hides or skin indicating the actual place of origin.

Mr. Chairmen, Sir, with regard to part (b) of the amendment, it was found necessary to increase the period to five years because we thought that the ~~max~~ period of two years was too short to ensure proper ~~and~~ auditing of accountable documents and other relevant records maintained by licensed dealers given the ~~adequate~~ <sup>inadequate</sup> number of ~~available~~ available trained officers employed for the job. So, that was the reason for increasing the period from two ~~years~~ to five years.

(Question that the words to be deleted be deleted, put and agreed to)

(Question that the words to be inserted in the place thereof, be inserted, put and agreed to)

(Clause 20 as amended agreed to)

(Clause 21 agreed to)

(Title agreed to)

(Clause 1 agreed to)

THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT (Mr. Oyondi):

Mr. Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Hide, Skin and Leather Trade Bill and its approval thereof with amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

Mr. Speaker in the Chair

#### REPORT

The Hide, Skin and Leather Trade Bill

MR. arap NG'ENYI: Mr. Chairman, Sir, DEVELOPMENT (Mr. Oyondi):

~~Mr. Speaker, Sir,~~ I beg to report that the Committee of the whole House has considered the Hide, Skin and Leather Trade Bill and approved the same with amendments.

#### CONSIDERATION OF REPORT AND THIRD READING

THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT (Mr. Oyondi):

Mr. Speaker, Sir, <sup>I beg to report that</sup> a Committee of the whole House has considered the Hide, Skin and <sup>Leather</sup> ~~Leather~~ Trade Bill and has reported the same to the House with ~~and~~ amendments. I therefore beg to move that the House doth agree with the Committee in the ~~Said~~ said Report.

THE MINISTER FOR CO-OPERATIVE DEVELOPMENT (Mr. Wanjigi) seconded.

(Question proposed)

(Question put and agreed to)

K.4.-----1.12.87.

THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT (Mr. Oyondi):

Mr. Speaker, Sir, I beg to move that the Hide, Skin and Leather Bill  
be now read the Third Time.

THE MINISTER FOR CO-OPERATIVE DEVELOPMENT (Mr. Wanjigi) seconded.

(Question proposed)

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

END K. 

Second Reading

## The Sectional Properties Bill

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Speaker, Sir, I beg to move that the Sectional Properties Bill be now read a Second Time.

Mr. Speaker, Sir, as Parliament is aware, the Government has for some time been concerned with the provision of shelter to wananchi through the construction of dwelling houses and their sale to wananchi at a price that they can afford. In the last few years, the rapidly escalating value of land in the major urban areas of the country and the ever rising cost of building materials, have put the price of houses beyond the reach of many but a very small sector of the population. It has, therefore, become necessary for a greater emphasis to be placed on the construction of flats since several units can be put on a small piece of land thereby increasing the occupancy density and lowering the prices of units to a level that is affordable by a bigger percentage of the population.

As the memorandum of objects and reasons state, the main object of this Bill is to provide for the division of buildings into units to be owned by individual proprietors. The proposed legislation, will ~~and~~ apply only to land held on freehold title or on a leasehold title where the unexpired residual of the terms is not less than 45 years. You can see that under Clause 2. The Bill also proposes that the preparation and approval by relevant authorities of plans intended to support titles of parts of buildings; ~~and~~ the form and content of such plans and the certificates necessary to authenticate the technical correctness of such plans. The Bill also proposes the opening and maintaining of registers for sectional ~~ix~~ plans and sectional titles separate and distinct from the register for the time being maintained under the existing land registration statutes; ~~and~~ the substantive law governing the rights and duties of proprietors of sectional property and other persons having interests therein, for example, lessees and mortgagees.

It is proposed to provide that irrespective of the statute under which the land is registered, on the registration of sectional plan, the rights and duties of the owners of the units shown on the plan and other persons dealing with them shall be governed by the Registered Land Act Chapter 300 of the Laws of Kenya.

In order to avoid multiplicity of titles, on registration of a sectional plan in respect of any registered piece of land, the title to land shall be cancelled. On such cancellation, no further transaction will henceforth be registrable against the title. In effect, therefore, the sectional plans and any titles issued thereunder will come in force in total substitution of the title to the land. Any mortgage subsisting on the title to the land, will, therefore, ~~must~~ have to either be discharged before the registration of the sectional plan, or with the written consent of the mortgagees be transferred to the titles of the units.

The preparation of purchase agreement between the developer and the prospective purchasers of units, the rescission of such agreements and the disposition of any monies shall be paid by a purchaser by way of a deposit. In order to protect prospective purchasers against loss of their deposits through the bankruptcy of the developer or other causes, it has been provided that any monies payable by way of ~~deposit~~ deposit under any purchase agreement, shall be held in an interest-earning trust account and shall not be payable to the developer until the developer is in a position to give possession of the units to the purchaser. This is done in order to safeguard whoever has put a deposit down, until the building has been put up and units provided.

On the registration of a sectional plan, there shall come into being a management corporation to which all the purchase agreement will be subject. The corporation will be incorporated by the act of registering the sectional plan and not by filing of documents with the Registrar of Companies under the Companies Act. Further, the corporation will not be subject to the Companies Act. The Corporation shall be managed by a Board appointed by its members



and in accordance with by-laws made by the members. The Board shall appoint an institutional manager for the management of the units in a sectional ~~plan~~ plan. The corporation shall be responsible for the management of common property including the payment of rates, land rents and insurance premiums for the building. The corporation shall be empowered to levy contributions from the members for the provision and maintenance of common services any payment of plot outgoings and to enforce compliance with such levies through criminal penalties, action for recovery and lodging of caveats operating as legal charges against the title of any defaulting members. Any funds held by the corporation and any interest accruing on any fund held by the corporation for the maintenance of common services, shall not be construed as income within the meaning of the Income Tax Act.

If for any reason the owners wish to change the sectional nature of their titles, and revert to the ownership of the whole land, it has been provided that on application to the Registrar of Lands supported by a unanimous resolution of all the members in a general meeting, and provided that no mortgage or other restraint is subsisting against any of the sectional titles, the Registrar shall cancel all the sectional titles and register all owners for the time of the units as proprietors of the parcel in common for shares equivalent to their common factor.

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## THE MINISTER FOR LANDS AND SETTLEMENT (ctd.):

On cessation of the sectional status the land shall revert to the Act under which it was registered originally, before the registration of the sectional plan.

7. On the cessation of the sectional status, the corporation may be dissolved by the members by a unanimous resolution in a general meeting. On such dissolution, the assets and liabilities of the corporation shall be applied and discharged in manner prescribed.

8. This Bill will enable the owners of ~~land~~ flats and other parts of buildings, to ~~wher~~ which titles have been issued under existing legislation, to qualify to be issued with certificates of title subject to the fulfilment of the following conditions. - Here I ~~x~~ mean that if already there are buildings whose owners want to revert them to sectional plan, ~~ix~~ one would be allowed to do so provided the ~~ix~~ following conditions are fulfilled:-

L u.c. (a) preparation and obtaining approval and registration of a sectional plan of the building or buildings with all the details and certificates prescribed under the Bill.

L u.c. (b) a declaration by the owner of the land or the reversion thereof that he wishes to have the land and buildings held on sectional titles under the Bill.

L u.c. (c) a unanimous declaration by all the owners of the units that they wish to hold their interests as sectional property under the Bill.

L u.c. (d) obtaining the written consent of the mortgagee having a ~~any~~ mortgage on any unit title.

L u.c. (e) any mortgage on the head title is discharged.

## THE MINISTER FOR LANDS AND SETTLEMENT (ctd.):

9. Upon registration of the sectional plan, there shall come into force a ~~xx~~ corporation with the ~~xxx~~ same rights, powers and duties as the one created on the registration of a new plan. All covenants contained in <sup>any</sup> ~~any~~ document of title binding the company and any owner of a unit for the benefit of the other co-owner shall remain in full force and effect ~~s~~ as if the same had been made between the owners of the units and the corporation hereby created. Secondly, the Registrar shall, on payment of the prescribed fee and without further assurance, register each as proprietor of a sub-lease held under the ~~x~~ head title as proprietor of a unit under the sectional plan and record any mortgage on the sub-lease against the sectional titles.

Upon such registration, the interest of the lessor in the land and building shall ~~determine~~ and be extinguished and the owners of the units shall hold the same estate.

Mr. Speaker, Sir, turning back to the Memorandum of Objects and Reasons, and for easy reference, the Bill is divided into five parts. Part I - clauses 1 to 3 <sup>set</sup> ~~out~~ the preliminary provision such as the application of the proposed ~~xx~~ registration and definition of terms ~~xx~~ used in the Bill. Part II - clauses 4 to 16 <sup>provides</sup> for the registration of sectional plans and units with the Registrar and also provides for the ~~xxx~~ incidental rights of the owners of the individual units and the common property. Each sectional plan presented for registration must comply with the requirements set out in clause 9. Part III - clauses 17 to 45 <sup>contains</sup> provisions aimed at providing for the proper management of the units comprising the sectional property. Once a sectional plan is registered under the ~~xx~~ proposed registration, there will be

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constituted a corporation consisting of the owners of the units. The corporation will have a board of management which ~~x~~ will, in turn, appoint an institutional manager for the day-to-day running of the affairs of the corporation.

Part IV - clauses 46 to 53 <sup>contains</sup> provisions relating ~~the~~ to the sale and renting of residential units. The respective rights of the developer and the purchaser are clearly defined.

Part VI, which is the rest of the Bill, contains provision necessary for its effective enforcement, including the power of the Minister ~~f~~ to make regulations. ~~add~~

Mr. Speaker, the public has been waiting for this Bill for a long time. In my opinion, it is in the interests of the Kenyans to have this Bill passed. As I said earlier, it will make it possible to bring the prices of properties lower, ~~is~~ and to allow for units to be purchased by individuals at a price that is affordable. I feel the Bill was overdue.

With these few remarks, I beg to move.

THE MINISTER FOR CO-OPERATIVE DEVELOPMENT (Mr. Wanjigi):

Mr. Speaker, Sir, I am very grateful to you for allowing me to second this Bill. ~~I~~ I am very happy to do that because when I was in the Ministry <sup>which</sup> with my colleague ~~who~~ is now heading, ~~it~~, I had a little bit of ~~is~~ a contribution to make to this Bill, and I <sup>with</sup> ~~with~~ to ~~is~~ congratulate the current Minister for, at last, bringing this Bill for possible approval by this august House.

The industrial world in Europe and the United States of America got into this stage we are in many years ago. They taught us how to build, but we never learnt that, in fact, we can utilize the skies above us; that the space above the land is

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valuable to us. For the first time, the Bill begins to show us that the space above us is as valuable as the land on which we cultivate. I think this is a very fundamental appreciation of the Kenya that we all love.

The Bill also reminds us of the law of the sea. For many centuries, the industrial world exploited the seas without any regard to those ~~was~~ countries which bordered with them. It <sup>is</sup> only five or ten years ago that the world recognized that we do have a claim of 200 miles of sea, if we ~~was~~ border the sea, like we do at the Coast.

Hon. Nyakiamo will no doubt agree with me when I say that the space above us is valuable; we can build on it if we have a title deed. We can mortgage that title ~~and~~ deed. Therefore, that space is not to be abused. This is one major thing that makes ~~me~~ me feel very happy in ~~was~~ seconding this Bill. It is a historic moment for us; ~~and also is~~ historic in the sense that while we know we are producing every day and every minute - our population is increasing ~~and~~ and it will doubled in another 13 ~~we~~ years' time, we know that there is no way we ~~we~~ are going to expand, like rubber, the amount of buildable land to accommodate these people. The only way we can expand it to go upwards. Let it be known today that if we are building a school, even if we do not have money to build a lot of floors, for heaven's sake, build a foundation that will allow you to extend the buildings of that school to the fourth, fifth or even sixth floor when money becomes available.

END M.

## THE MINISTER FOR CO-OPERATIVE DEVELOPMENT (contd.):

This is very important. I can give a genuine example which I witnessed the other day when I went to Murang'a. The Town Hall which was only built a few years ago can now not be expanded upwards because it is already jammed and all the existing offices are occupied. The extensions cannot be done because the foundation was not catered for in the construction of that building. It is, therefore, important that while debating this Bill the architects and planners should take into account whether the foundations of the houses that we are putting up today are going to be adequate in the next 10 years.

They should ensure that the buildings can be increased upwards to accommodate the floors that may be required when that time comes. We should not wait to find ourselves in a situation whereby we shall have to demolish a building that was built only a few years ago in order to allow us to take advantage of the present Bill. It is, therefore, very important that when planners and architects are planning for hospitals, schools and any other buildings to bear in mind that the way to go now for the future in our building industry is upwards. The investment that they may <sup>have,</sup> therefore, should be more extensive and with a lasting foundation so that it does not become a waste. It may become very handy in a few years time.

I also want to say that this Bill allows the average Kenyan - a small man - who may not own a piece of land, to have some property. This is because land is finished. You can sub-divide the dry land of Garissa or Kajiado, but its value would be very little, because you need 10 acres in order to feed one animal. The only way that some of our smaller people can have something of their own, is to own a flat up in the tenth or eleventh floor. He will then be able to say,

## THE MINISTER FOR CO-OPERATIVE DEVELOPMENT (contd.):

"Yes, I have a title deed which I can bequeath to my family when I have gone"; "I have a title deed which can enable me to borrow something  $\bar{x}$  because I own a flat up the tenth floor." This allows ownership of property and makes owners to feel committed because they own something. If you do not own anything, you can destroy other people's property because you will be destroying nothing of your own. If you, however, belong ~~and~~ own something you will value that particular title deed, and you will not be a party to those who may be wishing to destroy the property of others. ~~The bill that is~~

I think it is particularly important to encourage small men to own property. ~~and~~ I speak with a very selfish attitude here. In the Co-operative Movement we are encouraging members to mobilise their personal savings so that they can own something. They cannot own land because it has already been bought. If they are, however, able to save enough money to build a flat or a series of ~~the~~ flats, they can each own one house or <sup>one</sup> flat up in that block. I am not only talking about the big towns like Nairobi. Very soon, even what we now call rural towns like Kisii, Machakos, Nyeri or Karatina, ~~they~~ are not going to be rural towns in a few years time. They will <sup>be</sup> as valuable as Nairobi is today. I think it is important, ~~is~~ that the small man, particularly through the Co-operative Movement, will be able to feel that, "If I save enough there is a possibility of my owning something up <sup>in</sup> the sky skies," Something that will be recognised by the Government, and the banking sector and <sup>something</sup> which I can bequeath to my family when I have gone."

I am grateful and wish to thank my colleague for bringing this Bill. <sup>It is a Bill which</sup> I hope ~~that~~ the House ~~it~~ will see ~~to it~~ <sup>fit</sup> that ~~it~~ passes without too much debate, because I think every-

THE MINISTER FOR CO-OPERATIVE DEVELOPMENT (contd.):

body has been waiting for it. The only appeal I would like to make to the Minister, who is also my colleague, is that ~~he~~ he should realise, for heavens sake, that we are miles and years behind in the survey and registration of title deeds.

End N.

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## THE MINISTER FOR CO-OPERATIVE DEVELOPMENT (Ctd.):

We are miles away; I do not know what we are going to do. Even if it is a question of asking for surveyors from all over the world to come and help us while we recruit our own, while we train our own, it is all right. We have seen doctors and engineers brought here on technical assistance and we very urgently require enough surveyors so that people can have title to what they have invested<sup>in</sup>

It is a big shame that areas like Umoja and Dandora which are 10 years old have no titles yet here, we are talking about sectional titles. It is agreed that we have sectional titles; but if we are twenty years behind in the survey of the present buildings for the formalization of titles, it makes this task a hundred times more difficult. It is therefore, a mammoth task - an area which requires a crash programme; an <sup>area</sup> are/which requires us to think not in terms of the few students we are able to f turn out in Land Economics. It requires a revolutionary approach so that at least, we can catch up with the backlog of many, many areas of survey not only in Nairobi but throughout the whole country. People are now erecting buildings in a haphazard way because there is nobody who is giving them guidance or to tell them "This is the plan that the Ministry has approved; this is the title you will get in another few years time and so on." I am not saying that the Department of Lands is failing. In fact, those people are working day and night; I am not saying they have failed. We were failed by the Colonial Government for 16 years. I think the other day, we were being told that we only had about 16 graduates in that department. So, my comments are not to be interpreted as if I am not appreciative of what the Lands Department has done. Even the Department of Survey are working very well and at least, our records are correct. That is one thing I want to say because you can go to some other areas in the world

## THE MINISTER FOR CO-OPERATIVE DEVELOPMENT (Ctd.)

and you find that your title deed has been mortgaged four or ten times without even your knowledge. At least we know that ~~our~~ the records we have are correct; the officers we have are very honest and dedicated, But, they do require our appreciation of the task ahead of us, the task they cannot manage and the task they will not manage unless the Ministry thinks in terms of a crash training programme; A crash recruiting programme which includes technical assistance <sup>is necessary</sup> /so that when this Bill becomes an Act, it is implemented with the knowledge that there will ~~not~~ <sup>no</sup> be waiting until when perhaps somebody has given up. and <sup>says</sup> said "Why pass the sectional title deed if I cannot get my title deed?"

With these few remarks, I am very happy to second the Bill.

(Question proposed)

MR. KARAURI: Thank you very much, Mr. Speaker, Sir for giving me this opportunity to support this Bill. I was only here for only part of the time when the Minister was moving the Bill so, I did not get the proper explanation by the Minister on the formation of the <sup>Corporation</sup> ~~co-operation~~ which I will ~~ix~~ touch on. The spirit of the Bill is very good because our people will now have an access to cheaper accommodation and ~~a~~ property in buildings ~~like the storey even at the top for it can hold many buildings~~. Stricter supervision should be ensured by the Ministry of Works, Housing and Physical Planning so that people do not build unsteady storey buildings or buildings which are going to crack and collapse within no time.

It appears that the Minister is doubtful or he is not assuring us that those who will own such houses will get the renewal of the lease when they ask for it <sup>because</sup> since Clause 2 reads thus:-

"This Act shall apply only in respect of land held on freehold title or on a leasehold title where the unexpired residue of the term is not less than forty five years."

I do not know why the unexpired residue of the term "is not less than forty five years" is included here. I would expect that even if the term is less than 20 or even less than 10 years, whoever buys that ~~is~~ one will have easy access to getting permission of increasing or renewing the lease. I do not know why we are limiting it to forty five years. Is it that there is doubt that these people are not going to be easily allowed to renew the lease? If the Minister knows that these people will be allowed to renew the lease, then why does he not make it three years? Even if there are five years remaining, then owners of those premises can be allowed to apply for the renewal of the lease and they get it; we talked of 99 years.

We would like the Minister when he is replying to assure us that whoever buys such a premises will not have a problem in renewing the lease.

There is the question of the establishment of the corporation starting on Clause 17. Perhaps I have read the Bill in a hurry but it is still <sup>not very</sup> ~~now~~ clear to me <sup>as to</sup> how the rules of the corporation here are going to be enforced. How will people start for example, if some <sup>10</sup> people have bought a five-<sup>storeyed</sup> building consisting of ten separate units? Who is going to ensure that, ~~straightaway~~ <sup>straightaway</sup> they are going to form a corporation and who is going to ensure that that corporation works? I know that they are talking about the Public Trustee in the absence of those people co-operating and forming a body that is immediately workable, but there are difficulties here. That is why I am admitting that I may have read the Bill in a hurry, but to me it does not appear

very clear that these ~~mar~~ corporation rules will be enforced in case those owners of those units do not co-operate; or perhaps none amongst them has got that leadership ability to summon them and tell them that we must move in this direction and we are required by Law to have this and that. I think there should be something ~~more~~ clearer - something that ~~ax~~ that makes the formation of a corporation a must to them - so that whoever buys one of the units, ~~he~~ knows that it is a must to join the others and say, he must pay so much. We should now be talking about something which will make them act immediately ~~so that~~ even if somebody is unwilling. Somebody may occupy the <sup>Section</sup> building which is at the bottom and feel secure and will not care to co-operate with the others. We need something that appears in a straightforward manner that it is going to enforce the rules and by-laws of this corporation or the unity among these people.

There is a Clause that is talking about <sup>Swing</sup> ~~sealing~~. That is Clause 17 (2) which says:-

- (A) Corporation shall consist of all those persons -
- (a) who are the owners of units in the parcel to which the sectional plan relates; or
  - (b) who are entitled to the parcel when the sectional arrangement is terminated under this Act."

END 0.....

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MR. KARAUARI (ctd);

Mr. Speaker, Sir, Clause 20 of this Bill states as follows:-

"The Corporation shall subject to this Act carry out any details imposed on it by the by-laws unless by unanimous resolution or the proprietors otherwise resolve, insure and keep insured buildings and other improvements on the parcel against fire, sea, effect such insurance as is required by law to effect or as it may consider expedient ----"

I do not want to read verything here, Mr. Speaker, Sir. But there is no straightforward manner in which these units are going to be managed. This is because if we were talking about a society we would be clear that if you are a member of that society you would contribute so much so that you have a common fund. But this Bill talks of a common fund <sup>and</sup> <sup>but</sup> it is not clear as to how that common fund is going to be established. It is also not clear who will manage that <sup>common</sup> fund. They say that the Corporation will do that. But the manner in which the Corporation is created is not very clear. That is why I would have liked the Minister to explain further. If the Attorney-General is prepared, he should explain this to us before we proceed further with the debate on this Bill. I think this will do this House a lot of good.

Mr. Speaker, Sir, I have said that this is a very good Bill - the intention and the spirit. But the Corporation puzzles me a lot. This is because it is not clear as to how this Corporation is going to operate. How ~~the~~ are the owners of those separate units going to operate?

We know what human nature is; unless there is something to enforce this owners of those separate units may not co-operate. We want to know how this thing is going to be run.

Mr. Speaker, Sir, I would like to say that Clause 29 is contradicting another Bill that we passed in this House in the past. Perhaps what I can see here is an oversight. I would like the Attorney-General and the Minister for Lands and Settlement to look into it and perhaps amend it. You will find that Clause 29(1) says:

"The Board shall, not more than 28 days after its election appoint an institutional manager for the management of the units comprised in a sessional plan."

Also Clause 29(2) says:--

"The person appointed as an institutional manager under section 1 shall be an accountant registered under the Accountants Act who has held a practising certificate for a period of not less than five years or be an accountancy firm that has had an office in Kenya for a period not exceeding five years."

Mr. Speaker, Sir, this clause contradicts another Act we passed in this House. The management of properties is under valuers. This particular Bill wants the ~~management~~ management of those ~~premises~~ premises to be under an accountant. What does an ~~accountant~~ accountant know about valuation? What does an accountant know about broken doors or cracks on walls or leaking roofs? ~~The~~ An accountant does not know how to value these things. An accountant deals with figures. We ~~have~~ passed another Act here and according to that Act valuers are ~~g~~ sole managers of properties. I think this is an oversight which should be corrected. If it is not corrected the Minister should explain to us how an accountant can be able to manage and ~~x~~ value a property and therefore become a manager of property. This is because we have passed another Act here which states very clear what should be done by a valuer. The same Act

MR. KARAUURI (ctd);

disqualifies those people who are not valuers themselves. It disqualifies people who have not qualified as valuers from practising in any firm. I think many people have closed down their firms because when that Bill became a law they found themselves in an awkward position; acting against the law. So, they had to quit. So, when we say here that accountants should do that job then we are contradicting the other Act we passed here; about valuers and property.

Mr. Speaker, Sir, as somebody stated ~~here~~ here earlier, we are gratified to note that the Minister is moving in the right direction; to give our people title deeds. I am sure that this ~~is~~ Bill is confining itself to urban areas. I say this because I am not envisaging a tall building in my ~~constituency~~ constituency in the near future. But people in my constituency <sup>we</sup> have suffered quite a lot. I think the Minister - while thinking about title deeds -- While thinking about the title deeds, let the Minister also look at the rural people who have no land that they can call theirs because they have no title deeds. I am talking about people who live on trust land that is entrusted to the county council when it rightly belongs to those people. I have a lot of coffee on my shamba and also a good house there but these things are not mine. I cannot use my land and I do not even know whether when the demarcation team comes they will not decide to put somebody else on the land I am living on today. So our people are discouraged from doing a lot of development on their land. Our people are poor because their land has not been demarcated. So, while the Minister is thinking about title deeds today, let him also think about ~~the~~ rural people.

Mr. Speaker, Sir, I do not want to repeat what hon. Wanjigi said, but let the Minister now think of training more surveyors. He should also employ more land adjudication people. They should even be employed on contract so that when they have finished adjudicating and demarcating the whole of the country they can retire. I do not know for how long we shall continue talking about this problem. I know that if the Minister is not careful you will find that w even 200 years from today some of our people will have no title deeds.

I want to inform the Minister that people in towns are superior to those living in the rural areas. This is because the Wazungu demarcated land in towns many years ago. These people are superior to the other people in any district; think of ~~Meru~~ Meru Town, ~~Machakos~~ Machakos Town, Nakuru, Kakamega and so on. When people in towns got their title deeds they were able to borrow money and also own property. They were able to mortgage their title deeds. Also these people think they speak a better language than those poor people in the rural areas because their land has never been demarcated. So, time has come for the Minister to think about rural people when he thinks about people in towns.

With those remarks, Mr. Speaker, Sir, I beg to support.

THE ATTORNEY-GENERAL(Mr. Muli): Mr. Speaker, Sir, I rise to support the Bill. First of all I would like to say that ~~ix~~ I think hon. ~~Karauri~~ Karauri has come up early enough to prov\_cke me to explain a few things. I would like to e\_xplain briefly what the Bill is all about. As was observed, rightly, clause 2 of this Act shall only apply to land held on free hold or lease hold terms. That is the beginning of the chapter. It is correct ~~for~~ and right for hon. Wanjigi and hon. ~~Karauri~~ Karauri to emphasise the need to have title deeds issued to our people in respect of land or property held by our people throughout the Republic. You are not limited.



THE ATTORNEY-GENERAL (ctd);

That is what this Bill says. You cannot apply this Bill unless you have a title to a free hold or a ~~leasehold~~ title to a lease *hold* hole. There is that cry that where land has not been demarcated it has not been subject to issue of title deeds. So, this exercise must be speeded up. Efforts must be made in order to issue these certificates or title deeds to our people.

END. P. . .

## THE ATTORNEY-GENERAL (CTD.):

Mr. Speaker, Sir, before I say what I want to say next, I had better say that this is a very important Bill both historically and in its effect. It is historically important because up to now, the people of Kenya know property as being land, which is bounded by geographical boundaries with Uganda, Tanzania, the sea, Somalia, Ethiopia and Sudan. That is the only property they know. We have not come to realise that Kenya owns the sky up to very many miles above. We own all that space above our land. We have not been aware that all the sea up to the extent of 200 miles and everything underneath it is a part of Kenya. We should exploit all the resources that we can get within that extent of 200 miles and all the way up to the northern border with Sudan and to the southern border with Tanzania. I am glad to report that we already have a boundary in the sea, 20 nautical miles away, and this boundary is fixed. So far, we have not fixed our northern boundary with Somalia, but efforts are being made so that that boundary, 20 nautical miles in the sea, may be drawn. We know that we can measure 200 miles northwards to our boundary with Somalia, and although we have not fixed this boundary yet, we will soon engage in the exercise of fixing it, just as will be the case with our southern boundary with Tanzania.

There are plenty of resources underneath our coastal sea which stretches to 200 miles. We have shipping. We are also told that all sorts of minerals are to be found there, but they are now being exploited by foreigners who are powerful enough to own ships and sea cruisers. We should realise now that we should work as hard as possible to exploit all the resources in our sea. I am glad to say that exploitation has been extensive due to the lack of these title deeds. Hon. Karauri raised this issue with alarm and said that effort must be made with speed to give everybody a title deed for his land so that he can exploit it downwards and upwards.

You cannot do much without holding such a title deed. You cannot carry your piece of land to the bank and tell it, "I want to borrow this money and my security is this piece of land." You cannot always take the bank

THE ATTORNEY-GENERAL (CTD.):

manager or any other bank official to the land and tell him, "This is my land." He will not understand. Therefore, you will not be able to get the loan you want. So, I join my colleagues hon. Karauri and hon. Maina Wanjigi in emphasising the plea that the Minister take every step to ensure that every corner of our Republic where land is held by people, these people are provided with title deeds which they will be able to use before we actually bring this Bill into effect.

The space up in the sky is ours. We need the air there just as we need the rain, the sun and all other types of environment that are beneficial to man within our air space. Our air space stretches very many miles away. By this Bill, we are only touching on a very limited space. We protect our air space because it is valuable. You will find some technical words in the Bill, such as, "easement". Perhaps, you may not be so technical as to realise what they mean. An easement is like the right to have light and air around the building you own and access to it. That is an easement, and it is a right just like the ownership of a piece of land. We are all entitled to an easement. When hon. Members come across these terms, they will find them technical but the words have a very far-reaching importance.

Mr. Speaker, Sir, I touch on clause 2 to emphasise that this Bill cannot operate until we have a title deed to a freehold or a leasehold. On that score, I might answer that question of 45 years. We thought that 45 years was a long period within which this Bill can apply initially, hoping that when there is an extension of term for the entire premises, the lease would be extended after applying for such an extension to the municipal council concerned or whoever is supposed to grant extensional lease. In that case, the leasehold can be extended, and so are the units involved.

I would now like to touch on the word "corporation", but before I come to that, I will ask hon. Members at this stage of our debate to grasp only three important aspects. Due to the question of drafting and reading the Bill, there will be a lot of minor amendments when we come to the Committee Stage. One of

THE ATTORNEY-GENERAL (CTD.):

amendments is the one that was mentioned by hon. Karauri with regard to putting a limit on who <sup>will be the</sup> institutional manager. We will amend that clause and ~~enx~~ enlarge it. This manager could be an accountant, an estate agent or an advocate. We are coming up with an amendment to enlarge that clausex because we think that limiting the position to an accountant makes the issue too narrow. An accountant may be knowledgeable in this area as can be an estate agent or an advocate. There will be an amendment to tie those three together. Without having to read every word here, I ask hon. Members to grasp three points. The Bill is technical and its wording is in the draftsman's language, but the subject is real property in law and as a matter of fact. You may not understand every word unless you want me to be answering you from time to time.

Imagine that you have an acre of land with a freehold title, which last 99 years. You could sub-divide that land horizontally into even quarter acres and build on them both horizontally and upwards. There is no difficulty in that. You can sub-divide the land horizontally into as many units as you are allowed by the planning officers of that particular area. Imagine that you have been able to exploit your acre horizontally.

END Q 

THE ATTORNEY-GENERAL (ctd.):

Now, this Act-- to help ~~you~~<sup>you</sup> grasp this first point - is trying to give you the right of a ownership vertically. You have already had one acre that way. Now, imagine you wanted to go up. On that half acre or one acre, you would build a storey building with, say, 10 storeys - perhaps it shall not go beyond that, although, it could go up to any level you wanted since the sky is the limit - provided, of course, the foundation is firmly laid. I echo my colleague, hon. Wanjigi, that from now onwards, any builder wishing to erect a building on his one acre within urban or rural areas must remember that the land will not expand to give him any more space. His neighbour will not allow him nor will he sell him his piece of land. He needs his piece of land. So, from now onwards, remember this law is going to give you an opportunity to find ownership of property vertically. Therefore, when you are planning to build a house, try to have foresight of many years to come. Build a firm and durable foundation that will be able to carry as many storeys as you can build. If you build two and the next day, you think in terms of putting up another one, and the foundation was not firm; I am afraid you will be limited unless you demolish that building and start all over again. So, this is a challenge. Builders on their free hold property must in future remember this opening of going up vertically to as far as the sky can allow them. The foundation will be the key point when one has in mind going up, perhaps, in five or 10 years.

So, Mr. Speaker, Sir, having constructed his 10 floor building which, of course, is supported by one title deed owned by one person, the owner of the freehold, if the owner wished to give ownership of flats, and offices up to the 10th floor, but he does not wish to lease the flats any longer, because it is ~~always~~<sup>not</sup> always economical to go into leases, he would like to have somewhere that he could call his own. This as a matter of fact, is an opening for our young

THE ATTORNEY-GENERAL (ctd.):

people ~~who are~~ coming out <sup>of</sup> from universities and schools who have nothing ~~else to own~~ and who <sup>will</sup> would find no land to own. <sup>They would</sup> ~~Those who~~ to have would like ~~something~~ to call their own, and they can only get a flat above the ground floor and so on. They will now be able to get a flat <sup>through</sup> ~~by~~ the owner ~~is~~ now allowing those floors to be converted into sectional plans showing what you have. Each unit will now be able, on registration, to be issued with what we are going to call <sup>a</sup> ~~the~~ Certificate of Sectional Property. We will amend ~~this from~~ the Certificate of Title in the Bill. Remember it will <sup>now</sup> ~~be~~ called Certificate of Sectional Title. This is a title deed in itself. Any person who purchases <sup>first,</sup> a flat on the ~~second~~ or fourth floor, will own that particular flat or <sup>a</sup> ~~portion~~ of the unit as his own for all intents and purposes. It will be ~~leasehold~~ or free hold.

END R.....

*R. J. ...*

## THE ATTORNEY-GENERAL (Contd.):

NP// It is just like the owner of the actual title because that title will be spoilt. Every one will count whatever he has by certificate of sectional properties. So, in fact, we shall have a unit which is held by freehold ownership divided into certificates of sectional properties vertically so that each person or owner can own his flat in any floor for himself. There will be many certificates of sectional properties entitling many people to ownership of those properties of flats or offices, or whatever you have, on those floors.//Since the first title has now been wiped out, it brings me to the question hon. Karauri raised earlier on: Who is going to manage these people? They are very many people. The actual landlord is gone now, and we have so many people holding segmentations. No one can protect the other because he is only owning a small portion. But when the landlord was there - the owner - he could look after the entire building. Now, you are the only one person out of that building, and out of that there are many others like you. Who is going to be the landlord to manage the entire complex? We say that the complex now will no longer be like a freehold for one man. It will be held by a corporation who will be the landlord now. The corporation will be executive man. He will be an institutional manager. The people themselves will be the shareholders of that corporation, and will decide how to run the corporation. In other countries they are called "Cordomiums" and other names. But here we shall be calling them as "Corporation Buildings", or whatever it is, but it is run by institutional manager. It is just like a company although the Company Act will not apply here. Those people will sit and make their resolutions and decisions as to how the future and running of that corporation will be.

The corporation will be a legal body with perpetual succession. It will have some money perhaps made available by the shareholders

THE ATTORNEY-GENERAL (Contd.):

to run the administration office. That corporation will be able to defend any outsider who will --

QUORUM

MR. OMIDO: On a point of order, Mr. Speaker, Sir. I am sorry to interrupt the hon. Attorney-General. But he is making very important contributions to the House, and those who are supposed to be here so that they can go and explain to the public are not here in good number. So, there is no quorum in the House.

MR. SPEAKER: You are right. We do not have a quorum now. Ring the Division Bell.

(The Division Bell was rung)

End S.



MR. SPEAKER: Okay; there is Quorum now. We can move on.

THE ATTORNEY-GENERAL (Mr. Muli): Thank you, Mr. Speaker, Sir. I was dealing with the chapter of corporations, Part II of the Bill. But, perhaps, I may just look at ~~the~~ the scope of the Bill again. Part I is the preliminary, dealing with the definition. So, that one is not very important.

Mr. Speaker, Sir, Part II is the creation of <sup>ownership of</sup> ~~an~~ property above another property within a building vertically as apposed to horizontally. So that now there will be a sectional ~~plan~~ plan. The sectional plan will now define how many units ~~within~~ that building will have. Each unit will have what we call "Certificate of Sectional Property". That Certificate of Sectional Property will be a title deed itself for that particular <sup>flat</sup> ~~or~~ floor, so that the new owner now can say "I have got a flat, or that block of offices, under my Certificate of Sectional Property". And he can go to the bank with that and raise money just like any other person ~~who~~ holding a title deed can raise funds through the banks to be able to do other business.

So, Mr. Speaker, Sir, as I said earlier, it is an opening for young men who have come out <sup>of</sup> institutions and schools ~~with~~ without any piece of land anywhere, and they are not going to find any ~~strict~~ land, because land is <sup>not</sup> going to be elastic enough to cater for the ever-growing population. They will now, in future, be able to own something they <sup>can</sup> call their own. They will own a flat or block of flats above what was a freehold property, which now, instead of being sub-divided horizontally, will be sub-divided vertically using the sectional plan. So, now each unit will be owned ~~by~~ by an individual, or individual persons, under that ~~Sectional~~ Certificate of Sectional Property.

Mr. Speaker, Sir, having said that, I was dealing with the question of corporation. Since there are many owners under the Certificate of Sectional Property, and the original landlord is gone, no one can prevent the enemy from coming and endangering, or damaging, the property. But there must be someone to do that. The property, or plot, of one of the owners may be inside somewhere surrounded by those of the others. So, who is now going to protect the entire corporate building? There will, therefore, be a legal body, which is supposed to look after that. That body is the corporation, as established <sup>under</sup> the Sectional Chapter, which is an exhaustive Chapter dealing with ~~a~~ corporation. The executive person ~~with~~ of the corporation

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THE ATTORNEY-GENERAL (CTD):

will be ~~the~~ an institutional manager. He will have all the powers, or some of the powers, of the corporation to execute.

END

T

*Kjorn*

JMK

THE ATTORNEY-GENERAL (ctd.):

The owners will be the shareholders and will decide how to run and administer the corporate body from the time they take over. So, it is important to have such a body to do so. I have mentioned that in other countries they are called condominiums, but we will call them body corporates here.

Mr. Speaker, Sir, as I said, this is a technical Bill dealing with real property and I want to simplify it <sup>by</sup> saying that it has three fundamental things in it. First, you ~~have~~ are holding a free-hold title horizontally and you wanted to sub-divide it, but you can convert that vertically by building up a house which you can sub-divide into flats. Those blocks of flats will be held by what we will be calling a certificate of sectional property, and that certificate can be used just like a land title deed; it will be a title deed itself. I said that this Bill is very important historically in that it has opened Kenyans not to just think in terms of purely horizontal ownership; they should also think of vertical ownership of property. I did emphasise earlier on that we should also open our eyes and not only see the land that borders our neighbours but also the space above us. We protect the air space ~~is~~ because we have ~~the most important~~ air, which is an important element that we must have. We should also enjoy sunlight. The right of way in the apartments - which are called easements in law - must be protected because the person who lives there is entitled <sup>and</sup> to breathe air / see the ~~rays of the sun~~ light of the sun. So, anybody trying to build next to you ~~will~~ in order to block those easements will be fought off by the corporation just as you would fight anyone ~~is~~ denying you your rights. There is also the right of access because individuals right at the sixth floor can be cut off by unscrupulous persons. They can be either shut out or cut off so that when they wake up in the morning they are not able to come out. So, there is the need to protect the right of way, which is an easement <sup>apartment</sup> pertaining to your property. You cannot be prohibited or hindered from going to that property. The prohibitions are given under the relevant chapter of our laws.

Mr. Speaker, Sir, easements are as good as ownership to title deeds. If you have no access to your property, then what is the use of it? There is no point of having a room unless you can have air coming in or sunlight coming in. So, we protect

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THE ATTORNEY-GENERAL (ctd.):

those easements which we call easements to the property you ~~have~~ have. This is a subject to the real property which is mine and I do not wish to go deep into the matter. This is a Bill of very great importance and, as hon. Wanjigi said, the Mover will go in the annals of history as having opened the eyes of Kenyans to know that they can own property vertically.

With those few remarks, Mr. Speaker, Sir, I beg to support the Bill.

DR. GECAGA: Thank you, Mr. Speaker, Sir, for affording me this opportunity to make a few remarks about this Bill. This piece of legislation, I believe is very important and, if passed, will have far-reaching effect that will be beneficial.

It is quite true, as the hon. Minister for Co-operative Development said when he was making his contribution, that our population is expanding at an alarming rate. I would, therefore, like to take this opportunity to remind the Government of certain things that we ought to be looking at. We know that we do not have any more land available in Kenya. Even what is available is only a small part which is good arable land. However, we do ~~not~~ have swamps and marsh lands which can be reclaimed. I know of countries like Hong Kong and others who have, in fact, reclaimed land from the sea. Modern methods ~~are available~~ of making such reclamations possible are available. I, therefore, suggest to the Government to intensify its efforts in this direction and, at the same time, also intensify its efforts in seeing how semi-arid land could be made better use of, either through irrigation schemes or by planting crops which can thrive in such areas.

Coming back to the Bill itself, I would like to say that when passed, this piece of legislation will enable people to acquire titles to properties in a block of flats, for instance. One thinks particularly of young people. There are those people who leave university and schools and who might be lucky enough to find a job but, having found the job, would not be able to find accommodation. Obviously, such people with modest means would not be able to buy houses for themselves, as much as they would like to own them. This legislation will ~~now~~ enable them, after working for a year or two and saving enough money, to put down a deposit by which they will

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DR. CECAGA (ctd.):

then be able to acquire a title to a house in a block of flats. That will give them shelter over their heads. Next to good health, the next most important thing is ~~shelter~~ descent shelter. Having got shelter, these people will progress in their jobs and, if they get better paid, will be able to move out of such flats and find a small house and buy. They will be able to use their title to their flats to borrow money in order to purchase such a house. This is the way one progresses; one starts in a small way and grows. We expect that our young men and women will do the same.

Mr. Speaker, Sir, having acquired a title, a young man will be able to present it to a bank manager and request to be given a loan to buy a house. The title will then be deposited with the bank as security. There are some ~~ix~~ people who think that security is not ~~m~~ important but, on the contrary, security is very important to a banker. We must remember that the money which a bank is looking after is not its own money; it is money which belongs to depositors who put in their few shillings in a bank for the manager to look after. Those ~~me~~ depositors have a right to require that money at any time, and the banker should be able to produce that money when required to do so. Therefore, the money that a bank manager has in a bank, whether in millions or more, is not his money; it is money which he ~~m~~ holds on trust for all those depositors.

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NRP//

//DR. GECAGA(Ctd.):

Therefore, he cannot claim to have used that money. This is why, very often, in fact nearly always, a banker will require some security because he knows that if he gets such security, if things go wrong, there is recourse whereby he can still hold this particular security and recover the money. Therefore, no depositor will lose his money in the bank.

I was interested to hear the Minister assuring us that the deposits will be paid to co-operatives. So often, one has seen ~~projects~~ <sup>the</sup> so-called developers who have made all sorts of promises <sup>scheme</sup>. They have said that they are going to develop a certain ~~project~~ and have called for bidders to come and put down their deposits, and many people have done so. Perhaps the developer has not started the scheme and when he does start it, the scheme never reaches its maturity but ~~is~~ stops half-way through. Sometimes, it never even ~~is~~ gets off the ground and the result, as we all know, is that, very often such a man runs away with that money and there is little likelihood of the depositors recovering their money. He might even be declared bankrupt by the court and if he is, again, the chances are that very little money will be recovered from him by the court. <sup>regarding</sup> In this way, the assurance we have been given by the Minister, I hope that there will be no such danger of money deposited by prospective buyers <sup>being</sup> ~~will~~ be lost or squandered in anyway whatsoever.

There is a point which I would like to make <sup>but</sup> ~~and~~ I have not actually seen ~~it~~ in the Bill and I hope that the Minister will respond to this point when he comes to reply. ~~and this is:~~ Would it be possible for two or three people to get together and <sup>flats?</sup> ~~purchase~~ jointly purchase ~~aircrafts~~ ~~aircrafts~~ If I am saying this because if you consider young people, you will find that their means are modest and it may be possible for two or three of them to put together enough money in order to buy one or two ~~houses~~ flats together which they can use jointly. When the time comes for parting, there are legal ways in which that can be done without any problems. However, I have not seen such a provision in the Bill. Perhaps the Minister can consider whether this is something that ~~is~~ could be included in the Bill.

DR. GECAGA (Ctd.):

Having said so, Mr. Speaker, I do not want to add very much on what has already been said because what needs to be said on this Bill has been said by the previous speakers. I hope that all of us here will ~~support~~ support this Bill.

With those remarks, I beg to support.

MR. MUNYAO: Thank you very much, Mr. Speaker, Sir, for allowing me to say a few words on this Bill. First of all, I would like to congratulate the Minister because I was here at the time he was moving this Bill. He made a lot of effort to describe the Bill and I will not blame him for not <sup>giving</sup> many details because he is a banker and not a builder. However, what he left unsaid <sup>has</sup> already been said by the Attorney-General. I would like to thank the hon. Minister for particularly coming up with this kind of information. <sup>It</sup> has been said here earlier that ownership will have to go down into this kind of thing.

Mr. Speaker, Sir, right of ownership goes ~~down~~ back to the time of <sup>told</sup> Adam and Eve. That was the time when a man, like hon. Thuo, was <sup>told</sup> by God that he was going to create a wife and that ~~he~~ the man was going to own her, and the right of ownership started at that time.

THE MINISTER FOR CO-OPERATIVE DEVELOPMENT (Mr. Wanjigi): On a point of order, Mr. Speaker, Sir. I am sure we can afford to quote the Bible correctly. <sup>Bible</sup> It is very unfortunate for hon. Munyao to misquote the <sup>Bible</sup> Bible. If he does not know the Bible, he should not ~~use~~ quote it to make an example.

MR. MUNYAO: Mr. Speaker, Sir, with all due respect to my friend, the hon. Minister, if I do not know the Bible, I <sup>thought</sup> ~~thought~~ he would tell me where I went wrong. If he is as ignorant about the Bible as I am, why then stand up on a point of order. If I do not know how to quote the Bible properly, and the hon. Minister does not know how to correct me, then why does he stand on a point of order? If the hon. Minister knows what the <sup>quotation</sup> quotation says, then I would sit down so that he can give me the quotation but I do not think it is proper for him to just stand up and accuse me of not knowing the Bible and then <sup>sitting</sup> ~~sit~~ down without helping me; otherwise, we shall remain just ~~the~~ the same. What improvement has he made on what I misquoted?

THE MINISTER FOR CO-OPERATIVE DEVELOPMENT (Mr. Wanjigi): Mr. Speaker, Sir, the right Biblical quotation was "I will give you a person; a woman who will be your companion and your helper but you are not going to own her".

MR. MUNYAO: Mr. Speaker, Sir, if the hon. Minister knows the Bible <sup>one of the</sup> ~~is~~ very well, he will agree with me that it is ~~a~~ books which are written in proverbs. If the Bible was so direct, then nobody would go to ~~Church~~ Church. Mr. Speaker, Sir, the Bible says that you should give ten per cent of your earnings to the Church. If hon. Wanjigi had ten buses or ten cars, would he be all that foolish to be leaving one bus or one car at the Church every time he goes ~~to Church~~ there? The Bible is a very complicated book and we should take it in a proverbial manner. When God said, ~~that~~ "I shall create ~~me~~ a companion for you", He meant to say, "You shall own her". In fact, Mr. Speaker, Sir, this is true because if - - -

MR. SPEAKER: Order Mr. Munyao! That is not your subject. Move to the business of the House and stop that kind of argument.

(laughter)

MR. MUNYAO: So, Mr. Speaker, Sir, the right of ownership began at that time and ~~me~~ I now can see some light of having a legislation, not only to establish the right of ownership, ~~not only~~ for buildings, but for ~~the~~ other property as well.

Mr. Speaker, Sir, I would like to make two points which to me are very important. M If a building is of three, four or five flats and I happen to be on the third floor, fifth floor or even sixth floor, I will have the right to own that part I occupy permanently. M However, we have a habit today where, if you <sup>example</sup> take for <sup>living in</sup> ~~example~~ a person/~~sharing~~ <sup>Madaraka</sup> a flat in ~~Madaraka~~ Estate who happens to be living ~~there~~ <sup>5th</sup> at the fourth or ~~fifth~~ floor, you will find that he does not care about other people living in the lower flats. You will find people living in the upper flats throwing things anyhowly. I would like ~~in~~ the Minister to tell us how the people living in the lower flats will be taken care of. I am saying this because we must have a law to protect the people living in the lower ~~p~~ flats so that those living in the upper flats are able to keep their areas as clean as possible.



MR. MUNYAO (Ctd.):

If this is not done a building of about ten or 20 floor will be very dirty  
 the people living in  
 because all/the other nine or 19 flats above will be ~~the~~ throwing gabbage down.  
 That means it will be the responsibility of the person living on the ground floor  
 to be cleaning the place. What will be the end of this habit? When the Minister  
 concludes this Bill, I would like him to carry out negotiations with other  
 Ministers so that we can know how to cater for the ~~responsibility~~ <sup>the</sup> responsibility of sharing/  
 cleaning <sup>of</sup> these places. If we are sharing a flat, then we should know the  
 responsibility of ~~the~~ sharing the cleaning of the flat.

Having <sup>talked</sup> ~~said~~ about the responsibility of cleaning these buildings, I  
 would like to talk about the responsibility of maintaining the flats. I am saying  
 this because these buildings start from down and go up, and they are not like a  
 pit latrine which starts from the surface and goes down. However, with these  
 flats everything starts down and goes up. The piping, the electrical power and ~~the~~  
 other fixture start from down and go up. How are we going to make sure that there  
 will be no frustrations from some of the ~~neighbours~~ neighbours either from the  
 second or third floor. <sup>?</sup> <sup>must</sup> We/have that law of sharing responsibility so that if I  
 am at the third or <sup>Fifth</sup> ~~fifty~~ floor, I have the right to modify my own buildings.

END V

MR. MUNYAO (ctd):

Mr. Speaker, Sir, I would like the Minister to explain some of these things to us when he comes to reply. This is because all the buildings in the city and elsewhere are undergoing modification and improvement. For example, in Nairobi on Moi Avenue and Kenyatta Avenue, most of the buildings ~~with~~ which are 30 to 40 years old are now being pulled down to give way to the construction of other buildings. I have a very typical example, say, where a building which has about 10 to 20 floors and various people own title deeds there. One person, perhaps, on fourth or seventh floor might want to re-modify his building earlier than others so that it looks totally different. If this is a flat which was built with common fixtures, what will that person <sup>do</sup> if he would like to re-modify his premises on third or fifth floor? Will he be held there simply because he ~~is~~ cannot develop his property the way he wants? What will happen? This is practical and some people would not like their buildings to be similar to other peoples'. For example, in this House, hon. Keriri has a suit of his choice, hon. Muturia, hon. Wanjigi and others. We do not want to be <sup>in</sup> uniform. I am assuming that the buildings which

(The Speaker left the Chair)

(The Deputy Speaker took the Chair)

are going to come up, will have flats which will look typical <sup>in</sup> ~~the~~ every respect. For example, when ~~I~~ I want to own a flat, say, I am a coffee dealer - as some people have managed to have more money than others - I would like to pull my flat down on <sup>the</sup> ~~on~~ third floor and re-modify it because I do not want to go to another area since the ~~land~~ land is already scarce. I will want to pull <sup>it down</sup> ~~it~~ re-modify my flat so that it looks totally different from the rest in that building. What will I do? Will I tell the other people to hold their flats because I would like to pull mine down? This is because I am entitled to re-modify my flat because I have a title deed to the third or fourth ~~floor~~ floor of that building. When I will want to pull <sup>my</sup> ~~the~~ flat down to re-modify it, it will up to them because I have a title deed and I am entitled to my own

development and changes.

Mr. Deputy Speaker, Sir, I cannot be asked to move out because I am entitled to that flat and I have all the rights to it. We are all equal people because we have title deeds and certificates of ownership and so on. They, therefore, cannot tell me to move out because I have my right. What will happen in this case? When the Minister comes up to reply, I would like him to tell us what will happen in these circumstances.

I agree entirely with the hon. Attorney-General <sup>on the question of</sup> ~~the question of~~ ~~land benefits~~ land benefits. It is very true that out of the few population census we have had, there have been remarkable increases at every stage. For example, in 1948 when we had the first census, we were hardly five million people. The previous census we have had, have been projecting an increase. It has already been projected that ~~by~~ by the year 2000, we are going to be over 34 million people. All those people will be entitled to own land. Because of this, I would like the Minister to join me in saying that the developers in the rural areas should not mismanage their own land. If I have, say, five acres or 20 acres, development must be pushed to one corner. We should put buildings in that particular place and leave the other portion of the land for food production. We need food in those areas and if we go on segmenting these areas, say, because I bought a ~~piece~~ piece of land with hon. Keriri when we were in good terms and now that we do not agree anymore, I would like to <sup>have</sup> ~~my~~ my piece of land and his children would like to have theirs, then this policy will not really benefit us.

For that reason, Sir, I would like to appeal to the Minister to consider stopping ~~unnecessary~~ unnecessary sub-divisions of bigger land. This country had farmers who had about 20,000 to 30,000 acres of land and they ~~was~~ were able to convince financiers that they could borrow and repay. This is because to be able to farm economically, one needs ~~to~~ invest in heavy machinery. No banker is going to give you a loan of Shs.5 million to Shs.10 million to buy big harvesters and tractors to use on a small piece of land

of about 10 to 15 acres. That is totally uneconomical. We have known countries where we, perhaps, keep on borrowing grains from which have farms stretching from here to Laikipia. In the morning, a farmer leaves with a tractor for the farm and later in the evening helicopters fly to pick him up. In evening, he leaves the tractor there and the helicopter picks him up and the following <sup>morning</sup> he will start from where he left. I would say that we might not get that kind of land now but it is an economical way of farming.

This system of segmenting land is not good. The idea should not ~~be~~ to buy land in large groups and later segment it into small portions. If we need to be self-sufficient in food and in other things, then that kind of land sub-division must <sup>be</sup> waived and totally discouraged. This discouragement can only be done by the hon. Minister for Lands and Settlement. There should be a limit to which land can be ~~at~~ sub-divided. It was just the other day when Karen and Langata had five acres as the smallest unit of land. What is happening today? Sub-division has been allowed by the City Commission and now the value of that area has even gone down. This is because ~~ixf~~ the area has got very many kicks and the value of the area has come down. We need to maintain some of these areas and we must have minimum acreages to a particular area.

While making an appeal to the Minister to have a minimum acreage of land, I would also ~~ix~~ like him to consider one thing. There is a very <sup>funny</sup> situation whereby the physical planners fall under a different Ministry. The other day, the Minister for Lands and Settlement brought a Bill to regularise this profession so that we can have many physical planners to go out and plan our land. ~~Immediately~~ What shocks me is that the Minister controls this portfolio but the actual physical planners fall under the Ministry of Works, Housing and Physical Planning. How are we going to match the two Ministries? He speaks for the physical planners because they fall under his Ministry and yet they sit in a different Ministry. The Minister should put his eggs in one basket so that ~~x~~ when they perish, they do so totally. We need

MR. MUNYAO (ctd):

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the physical planners to go out and advise our people in the rural areas. I have in mind health centres, schools and other places which have big portions of land ~~of~~ measuring about 10 to 15 acres. When the actual development starts in these places, it is done so haphazardly. You will find that the committee members who know nothing about physical planning, put up a ~~gi~~ big building right in the middle of a five or a 10 acre plot. This is a permanent building which cannot be pulled out. Instead of starting development from the sides of the plot, they put a building right in the middle.

  
END W

MR. MUNYAO (ctd.):

This could only be done if the Minister could, as he promised us last time when we were passing another Bill here concerning the Ministry, send physical planners to the rural areas to help ~~the~~ in planning public utilities. Proper planning ~~of~~ of public utilities such as schools, health ~~centres~~ and market centres will go a long way in ensuring that proper buildings are set up.

Mr. Deputy Speaker, Sir, when we talk about title deeds and ownership of land here, we have in ~~our~~ mind flats and other buildings which ~~stand~~ stand vertically on the land. We must also think about the ownership and title deed of that land. There are so many people in Kenya who only God knows how they have been surviving. For example in Machakos, people have been denied ownership of their land, and thereby have been denied expansion and ~~a~~ development because if those individuals who have been living under such strenuous situations had the privilege of getting title deeds of their own land, they could easily mortgage those pieces of land with financial institutions and raise ~~some~~ money to develop their land and do other things to raise the ~~the~~ standards of farming in those areas. Farming and self-sufficiency are common ideas. When will the people of Machakos, <sup>and other areas</sup> who have not as yet got their title deeds, get them?

When we were passing a Bill here the other day concerning physical planning, the Minister assured us that those markets under county councils, which have not been properly managed, are going to be physically planned so that more titles can be made available. Shopkeeper<sup>s</sup>, who have no connection with the other people, will have their own titles for their own pro-

MR. MUNYAO (ctd.):

panies in the market centres and in any other areas where they own ~~the~~ property. Therefore, that is another burning issue which we ~~we~~ would like the Minister to look into and ~~to~~ take action <sup>on to</sup> and make sure that the people concerned benefit.

Mr. Deputy Speaker, Sir, since the sky is now going to be the limit, we are going to be required to have proper foundations. I am appealing to the Minister for Lands and Settlement to see that there are specifications which are going to be ~~to~~ followed by the engineers such that specific laid down guidelines are followed in putting up any kind of building. If we are going to ~~let~~ let the situation remain as it is, people are going to construct houses the way they want, and this is not the <sup>right</sup> idea. As this is going to be an open thing the foundation of any building must be constructed according to the guidelines which will be drawn by the Minister for Lands and which must, also, be followed by the engineers who will put up these buildings.

Mr. Deputy Speaker, Sir, a lot has been said on this Bill. The only section\_s which deal with technicalities are III and ~~IV~~ IV, and those have been covered. Therefore, I do not have more to say, but to support the Bill; we should ensure that it becomes a law, but I would like the Minister to tell me what I will do as concerns ~~and~~ developing the third, fourth or fifth ~~in~~ floor <sup>if</sup> ~~when~~ the people above or below me are not interested in going ahead.

With those few remarks, I support and wish the Minister all the best.

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS  
(Mr. Lugonzo): Thank you Mr. Deputy Speaker, Sir. I would also

## THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS

(Mr. Lugonzo)(ctd.):

like to ~~say~~ make a few remarks on this Bill, which is a landmark in our history ~~in~~ of housing. I would also like to congratulate the Minister for having brought it here because I think it will go a long way in trying to provide shelter for as many people as possible. ~~because~~ ~~there~~ because there are many people who ~~do~~ cannot own houses at present because they do not have land on which to put ~~up~~ up houses.

Mr. Deputy Speaker, Sir, I would only like to add a few remarks to the ones which have already been made by other hon. Members. I would like to talk about survey, which has already been mentioned. I would like the Minister to take survey as a first priority, especially in the urban areas. I am saying this because what this Bill is aiming at cannot really materialize smoothly unless our urban areas have been properly ~~surveyed~~ <sup>surveyed</sup>. When I am saying this, I have in mind an urban area like Kakamega, which, I feel, has come to a standstill as far as the development ~~in~~ of housing is concerned. Even if we agree today that people should put up storey buildings and have them divided up such that one ~~in~~ storey belongs to one person and the other one belongs to another person, the building of such buildings ~~will~~ ~~not~~ ~~start~~ unless surveying is given priority, as it has been mentioned in this House.

The second point I would like the <sup>Minister</sup> ~~Minister~~ to note is the question of security. Most of our urban centres, especially the smaller ~~one~~ ones like provincial and district headquarters, where we hope this Bill, when it becomes a law, will take effect, do not have experts on how ~~in~~ building constructions should be done. Even in a town as small as Kakamega or Bungoma, people have started putting up storey buildings; they



THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS

(Mr. Lugonzo)(ctd.):

are trying to go up as is being suggested here. Not long ago, ~~that~~ I witnessed the collapsing of a ~~h~~ building in Kakamega - it collapsed and yet it was on the ~~main~~ main street of the town. ~~Somebody~~ The person who was constructing is was building a storey building for the first time. He used some poles to support the first floor, ~~and~~ and after he had done the flooring, he removed the poles. When the ~~poles~~ poles were removed, the whole thing collapsed. Fortunately, the workers who were ~~working~~ working on the building had just left. It was a ~~fy~~ pitiful sight. Kakamega is not a small town and yet it ~~had~~ had no expert adviser on building construction. This should have been done by a structural engineer or a civil engineer who knows what kind of ~~a~~ foundation is necessary for that kind of house. That kind of danger must be got rid off if this Bill is going to be meaningful. We cannot have people living 10 stories up and they are not sure <sup>whether or not,</sup> ~~that~~ that that building they are living in will ~~not~~ collapse one night.

END X.

THE ASSISTANT MINISTER FOR INDUSTRY(Mr. Lugonzo)(ctd);

Mr. Deputy Speaker, Sir, buildings have collapsed in Egypt and Mexico. So, the Minister must make efforts to supply each urban areas with a qualified structural engineer or a qualified ~~x~~ civil engineer. Such a person should be capable of ~~advising~~ giving advice in the ~~construction~~ construction of any given house. We must not underrate Kakamega Town. Somebody may come up and say that he wants to ~~be built~~ put up a <sup>20</sup>storey building in Kakamega Town. So, there should be a Government officer there who will be able to supervise the construction of that building; from the foundation right up to the time it is completed. So, the Minister must ~~safeguard~~ safeguard this Bill by making that kind of undertaking; that he will provide qualified engineers in every district who will supervise and make sure that the houses put up in those districts are put up in the manner they should be put up so that wananchi can feel safe however high they may be living in those buildings.

Mr. Deputy Speaker, Sir, since we are trying to get shelter for ~~many of our people~~ as many of our people as possible, I suggest that the Ministry concerned should look into the cost of building materials. If we have to put up 20-storeyed buildings wananchi who need houses may not be able to afford them unless the cost of building materials is revised.

With regard to our new 8-4-4 system of education I have witnessed, from the beginning to the end, the construction of two classrooms - in my constituency - at a school known as Shirumba Primary School. You will find that two classrooms in that particular primary schools have been completed; <sup>at</sup> ~~with~~ a cost of KShs.24,000/-. But you will find that if our so-called experts are called upon to quote the cost of those two classrooms they ~~they~~ will quote a figure beyond KShs.200,000/- ~~for the same~~.

THE ASSISTANT MINISTER FOR INDUSTRY(Mr. Lugonzo)(ctd);

So, Mr. Deputy Speaker, Sir, if we ~~intend~~ intend to provide shelter to our people - and that is what this Bill is aiming at --- You will find that the cost of putting up some of these high rise buildings will be so inflated that ~~wananchi~~ wananchi ~~whom we want to benefit~~ whom we say should benefit from these buildings will never even ~~be~~ be able to acquire those flats we want them to acquire.

Mr. Deputy Speaker, Sir, land in urban areas ~~is~~ should be acquired by the Ministry of Lands and Settlement. Many wananchi are wondering what the Ministry of Lands and Settlement is doing about acquisition of land for the development of such buildings. The Commissioner of Lands is supposed to acquire land in all these urban areas like Kisumu, <sup>Homa Bay</sup> Kakamega, Embu and so on. The Commissioner of Lands - and not the local authorities - must acquire land for this purpose. But this is not being done. No land is being acquired in our up and coming urban ~~centres~~ centres. How will these buildings that we are passing Bills for be constructed if no land is being acquired. Even people who hold ~~title to~~ <sup>title deeds</sup> free-hold land ~~have no facilities~~ do not have the necessary facilities to enable them to develop their plots.

END.Y..

THE ASSISTANT MINISTER FOR INDUSTRY (Mr. Lugonzo)(Ctd.):

So, I would like the Minister to note that he has a very major job of making sure that he acquires enough land as fast as our development demands. There are people who are ready to develop houses for residential and industrial purposes. At the moment, no such land has been acquired. I am using the example of Kakamega because that is where I live. I have been asking the Mayor of Kakamega, "Where is the land for industries?" There are people here in Nairobi who want to put up industries there. When I ask the Mayor where residential houses are, he says that he has only 20 houses, whereas there are thousands and thousands of applicants for them. Of course, this is not the Mayor's fault; it is somewhere in the Ministry of Lands and Settlement. It is the Ministry that should look forward to development in, say, Nyeri and acquire land there so that those who want to develop Nyeri have no problem in getting a place where to make that development. I think that is important.

Facilities should be made available to all parts of urban areas. The last point I want to make here is in connection with storey buildings. I would be happy if the Minister would listen to me. There are these storey buildings owned by so many people. If a storey building is owned by so many hundred people there is some difference. There is the ground floor, the first floor and so on until, maybe, the twentieth floor. I would like to know through you whether the Minister is going to regulate the prices of such flats so that it decreases as one goes up. Someone climbing to the twentieth floor, especially if there is no lift, spends a lot of energy. So, the flat right at the top should be less in cost than the one on the ground floor. If there is a lift and it breaks down, this will cause <sup>to</sup> whoever wants <sup>to</sup> go go up inconvenience because he will have to walk all the way up. Maybe the law should provide for regulated prices in such a case. Sometimes, even water may not reach the top of the building. Provision should be made in the prices of such flats.

After this Bill has gone through, I would like the Minister to consider the already constructed flats. We have Karickor, Madaraka, Kariobangi South and California Estate flats. When this Bill becomes law, it should

THE ASSISTANT MINISTER FOR INDUSTRY (Mr. Lugonzo)(Ctd.):

immediately offer the people who live in these flats the right to begin buying them and acquiring title deeds regardless of whether they live on the third, the fifth or any other floor. The people who live in those flats should get the first opportunity to buy them. We should not wait until we put up other flats elsewhere. Let us start with the people who live in estates that have already been built in that manner. Let the people who have lived in Kariokor flats for three, four or 10 years be given the flats with title deeds. The same should apply to California Estate, Huruma Estate, Kariobangi South Estate, Madaraka Estate and other estates.

Finally, Mr. Deputy Speaker, Sir, the Minister will need planners. You may have a group of very uneducated people, maybe a thousand of them, who do not have houses but who want to form the kind of corporation he is talking about here. They would like to put up a building so that they can all live in it, but they are just ordinary wananchi who do not know how to plan and do not have much money. The Minister should have planners to cater for such people.

END Z



THE ASSISTANT MINISTER FOR INDUSTRY (Mr. Lugonzo)(Contd.):

Mr. Deputy Speaker, Sir, if this Bill goes through now and the Act starts <sup>operating</sup> tomorrow, and there are about 1,000 people from Kirinyaga who want such a building in Nairobi here, the Minister should have a person who can plan for them such a building at once, and do every thing at a cheap rate because they cannot afford the present charge the architect will put into a building which is 100 feet by 80 feet and probably going up 15 or 20 storeys. They cannot afford. But if some arrangements is made by the Minister so that such people can get some cheaper help or free help from the Government, then if this Bill goes through then the Act will be able to be <sup>applied</sup> realised. But if we are going to have 1,000 poor people who would like to own houses in Nairobi being told, "Okay, the architect is going to ask you to pay KSh.10 million as his fees and the whole building is going to cost KSh.100 million", then the whole Act may never work at all. So, first plan, --

THE ATTORNEY-GENERAL (Mr. Muli): On a point of order, Mr. Deputy Speaker, Sir. I am sorry to interrupt my colleague, Seth. Here we are concerned with the Bill itself. I quite agree with him that people can join hands together and build a house in common on a plot, as a corporation, or whatever ownership. Once you have such an existing building, this Act comes to play. This is when there is an existing house held on a very simple freehold or leasehold. Now, that is the house/building you want to subdivide vertically when it is in existence. For instance, you want to subdivide it into several units in whatever floor you want, and then those units are then sold to an individual or individuals. So, it is not the actual person who is going to build the house. The Act does not come into play ~~then~~ that is the point I wanted to clarify until there is an existing building held on a freehold or leasehold. It is not something that

THE ATTORNEY-GENERAL (Contd.):

is not existing. It can come into existence owned by several people, and once they set it up, the Act comes into play.

THE ASSISTANT MINISTER FOR INDUSTRY (Mr. Lugonzo): Mr. Deputy Speaker, Sir, while I thank the Attorney-General for that explanation, I think the Bill should not be restricted to buildings which are already put up that people come and acquire part of it. It should even be possible for people who come together and <sup>if</sup> they want a building, also to go ahead and acquire it. So, those are the people I want provision for that they can get services which will enable them to build cheaply.

Finally, Mr. Deputy Speaker, I think we need the estate agents. <sup>they</sup> I am sure <sup>they</sup> would play a very major role in this kind of provision. Actually, they would be the main people to control this corporation. Even if we have lawyers, estate agents would also be employed to deal with the problems of the estates. I think the Minister should provide for either our <sup>Universities</sup> University or other schools to train personnel for estate agents work. I am sure our <sup>Universities</sup> University cannot train a lot of personnel for estate <sup>agents</sup> work as quickly as possible.

End AA.

JMK

THE ASSISTANT MINISTER FOR INDUSTRY (Mr. Lugonzo) (ctd.):

Why can we not have institutions that can ~~tax~~ train technicians on real estate agency so that they will be able to help in these matters? They could become workers for these corporations we are thinking about and be able to do some work for which we cannot get enough graduates.

With those few remarks, Mr. Deputy Speaker, Sir, I beg to support the Bill.

MR. SHIKUKU: Ahsante sana, Bw. Naibu Spika. Mungu amenijalia nikapata nafasi kuongea juu ya Mswada huu.

Kwanza kabisa, nataka kusema kwamba tungeitumia Kanuni ya Bunge ambayo inateua ~~kamati~~ Ministerial Committees ili kuujadili Mswada huu kwanza kabla ya kuletwa hapa. Kamati hizo ziko katika Kanuni za Bunge lakini hazifanyi kazi siku hizi. Siku hizi sheria zetu zimeanza kuvunja na pia Kanuni za Bunge hili zinavunjwa. Hiyo ndiyo dalili ya maovu au mwanzo wa mambo yatakayokuwa maovu katika nchi hii. Kwa vile huu ni Mswada mpya kabisa, ungejadiliwa na Ministerial Committee kinaganaga na waeleze maoni yao nao pia waelezwe na wenye kuanadika Mswada mwenyewe juu ya faida itakayotokana na Mswada m huu. Katika Kanuni za Bunge, imesemekana kwamba ni lazima Mswada mpya ujadiliwe na Ministerial Committee ili wanachama wa kamati hiyo watueleze uzuri na uovu wa Mswada huu. Hiyo ni sheria moja ambayo iko katika Kanuni za Bunge na ambayo haitumiwi.

Jambo la pili ambalo nataka kusema ni kwamba katika Kenya kuna uhaba wa ardhi. Mimi nimesema hapa mara nyingi kwamba kuna uhaba wa ardhi katika nchi hii, na kwamba hakuna nchi yoyote itakayoweza kumpatia kila mwananchi ardhi. Nimesema kwamba kukatakata mashamba kutaleta taabu ya chakula katika nchi hii siku zijazo. Mashamba yaliyokuwa yakitoa ngano, mahindi na vyakula vingine yamekatakata. Wale wanaokatia watoto wao nao watoto wao wanawakatia watoto wao na kadhalika. Mtindo huo ukiendelea, mwishowe hatutakuwa na ardhi ya kupanda chakula na tutakufa au tuwe waombaji milele na milele. Wanasiasa tulio katika Bunge hili hatufanyi mipango ya siku zijazo. Huu Mswada ni mzuri kwa sababu unasema kwamba nyumba ziwe zikijengwa za ghorofa; hakuna



1.12.87.

MR. SHIKUKU (ctd.):

tena jambo la kujenga nyumba ndogo ndogo ambazo zinakuwa ~~shauri~~ kama vibanda baada ya miaka mitano. Mtindo huo wa kujenga nyumba ndogo ndogo unachukua ardhi kubwa sana. Wakati umefika ambapo tunatakikana kuwa ~~tu~~ tukijenga nyumba kubwa kwenda juu. Hata katika nchi ~~kwa~~ zilizoendelea, watu wa ~~huko~~ huko wanajenga nyumba kubwa tena refu na mtu akikaa huko anakaa starehe. Mawaziri wanatakiwa kutembea nje ya nchi hii, na wanapotembea wawe wakitembea na macho yao 'nje' bali si kuweka macho yao mfukoni. Ukienda katika nchi za ng'ambo ni lazima uangalie vile mambo yanavyotendeka. Kama Mawaziri wetu wangukuwa wakitembea na macho yao nje, wangeona maendeleo yanayopatikana katika nchi za nje na kuyaleta hapa. Nafikiri ~~w~~ Mawaziri wanapoenda katika nchi za nje wanaweka macho yao mifukono.

Katika nchi nyingine ~~z~~ zilizoendelea, ukiangalia matumizi ya ardhi utaona kwamba unaweza kutoka hapa hadi Mtito Andei bila kuona nyumba zilizojengwa huko. Sehemu hiyo yote inachukuliwa na kulimwa. Ukifika Mtito Andei ndipo unaona boma ambayo watu huishi. Je, hawa ~~W~~ Mawaziri wanaoenda ng'ambo ~~hawa~~ hawayazoni maendeleo hayo? Kwa nini wanaporudi hapa Kenya wanakatakata mashamba. Kwa mfano, ukienda pande za Kabarak ambako kulikuwa kunakuzwa ngano, utaona kwamba shamba hilo limekatakatawa na maboma yamejengwa kila mahali. Je, hatuoni mambo yanayofanywa katika nchi za ng'ambo na tukauleta ujuzi huo hapa Kenya?

#### ADJOURNMENT

MR. DEPUTY SPEAKER: Order, hon. Shikuku. You will continue tomorrow.

Hon. Members, it is now time for the interruption of business. The House is therefore ~~is~~ adjourned until tomorrow, Wednesday 2nd <sup>December,</sup> at 9.00 a.m.

The House rose at thirty minutes past Six o'clock.

END..... BB.

## Fifth Session

R E P U B L I C   O F   K E N Y A  
T H E   N A T I O N A L  
A S S E M B L Y  
O F F I C I A L   R E P O R T

Wednesday, 2nd December, 1987.

MORNING SITTING

## ORAL ANSWERS TO QUESTIONS

Questions Nos. 756, 717; 752, 705, 741, 694 and 794

## QUESTIONS BY PRIVATE NOTICE

Expiry of Office of Manga Division Land Control Board  
(Mr. Abuya-Abuya)

Repair of Tarmac Road Between Thogoto and Gikambura (Mr. Kinyanju)

Cause of Delay in Re-opening of Lowarengak Health Centre  
(Mr. Ekidor)

Missing 1983 K.J.S.E. Certificate for Mr. Charles M. Tobias  
(Mr. Angatia)

Abrupt Transfer of Mechakos District Education Officer (Mr. Munya)

Acute Shortage of Water in some Areas of Isiolo South Constituency  
(Mr. Jaldesa)

Delay in Paying Compensation to 200 people in Yatta for Crops  
Destroyed by Wild Animals (Mr. Mutiso) - Deferred.

## POINTS OF ORDER

The Attorney-General informs the House that a Mr. Roel Victor Moens has a Valid Work Permit Contrary to Hon. Shikuku's Allegations that he does not have one.

Impassability of Kisii - Kebirigo - Chemosit Road - the Matter will be Looked into by the Minister.

A Minister not Turning up in the House to Handle the Affairs of his Ministry - Ministers have a Collective Responsibility.

A Sad State of Affairs of Likoni Ferry - the Attorney-General will Look into the Matter from a Legal point of view.

A Local Industries Struggling for Survival - Although the Hon. Member has Raised the Issue Render Standing Order No.69 He has made a Debate of the Matter and the Chair cannot Assist him.

Transfer of a Suspect's Case from Iten Court to Kibera Court here in Nairobi - The Attorney-General Address the Member to Give him all the Particulars of the Case.

## MOTIONS

Compensation for Accused persons who are Convicted but Subsequent set Free after Appeal - Mr. Koske on 25-11-87 - Resumption of Debate Adjourned on 25-11-87 - Negatived.

Subsidizing and Abolition of Duty and Sales Tax on Equipment Used by the Disabled - Mr. Omido on 25-11-87 - An Amendment Introduced by the Minister for Finance - Resumption of Debate Interrupted on 25-11-87 - Agreed to as Amended.

Kilimanjaro Water Project to Cover more Areas in Machakos - Mr. Kikuyu on 25-11-87 - Question proposed - Resumption of Debate interrupted on 25-11-87 - Debate again interrupted without Question put.

H A N S A R D

Wednesday, 2nd December, 1987

The House met at Nine o'clock.Mr. Deputy Speaker in the Chair

## PRAYERS

## ORAL ANSWERS TO QUESTIONS

Question No.756

MR. WAKIONDO, on behalf of Mr. Mate, asked the Minister for Energy and Regional Development what is delaying the completion of Karurumo-Ishiara Rural Electrification Scheme in Embu District.

THE ASSISTANT MINISTER FOR ENERGY AND REGIONAL DEVELOPMENT(Mr. Mwicigi): Mr. Deputy Speaker, Sir, I beg to reply.

Electrification of Karurumo and Ishiara was completed in October, 1986, which was in accordance with the Government's and the Kenya Power and Lighting Company programme of work. Accordingly, no delay was experienced.

It is now upon the local people to apply directly to the Kenya Power and Lighting Company for connection to their premises after completing the necessary internal wiring of the premises.

MR. WAKIONDO: While thanking the Assistant Minister, Mr. Deputy Speaker, Sir, is he aware that Ishiara Hospital has not been connected to electricity?

MR. MWICIGI: With regard to the main line, Mr. Deputy Speaker, Sir, I would like to inform the hon. Member that the power passes through that area. However, the local people have to apply to the Kenya Power and Lighting Company for connection to their premises. They also have to do the internal wiring of their premises so that we can do the connection.

MR. DEPUTY SPEAKER: Mr. Kiliku's Question.

Question No.717

MR. MWAVUMO, on behalf of Mr. Kiliku, asked the Minister for Labour:-

- (a) whether he will tell the House the number of employees working with Mombasa Towels Manufacturing Company in Changamwe;
- (b) how many of these employees are casuals; and
- (c) whether he will take the necessary action to have these casuals employed permanently.

THE ASSISTANT MINISTER FOR LABOUR(Mr. arap Metto): Mr. Deputy Speaker, Sir, I beg to reply..

(a) The Mombasa Towels Manufacturing Company in Changamwe has 201 employees.

(b) 190 of these employees are casuals.

(c) There is no provision under the law for me to force any employer to employ workers on permanent basis. I am, therefore, unable to take action to have these casual workers employed on a permanent basis.

MR. MWAVUMO: Mr. Deputy Speaker, Sir, I thank the hon. Assistant Minister for that reply. But since there are vacancies in this company - and the people who should occupy them are also there - could the Assistant Minister try, personally, <sup>try</sup> to persuade the employer to employ these wananchi on permanent terms?

MR. arap METTO: Mr. Deputy Speaker, Sir, it is true that these casuals are too many. I also agree with what the hon. Member has suggested. Although there is no law that empowers me to force an employer to employ people on permanent terms, I can use my officers to persuade the employer to employ these casuals on permanent terms of service.

At the same time, Mr. Deputy Speaker, Sir, I would like to inform the House that there are proposals to amend the Employment Act to provide for a limitation of the employment of casuals. The draft proposals to amend the Act have been presented to the Labour Advisory Board for consideration.

MR. MUNYAO: Mr. Deputy Speaker, Sir, the Assistant Minister's reply to part (b) of the Question contravenes the Ministry's regulations regarding the employment of casuals. Those regulations state that no employer will be allowed to keep a person on temporary employment for more than three months. How can the Assistant Minister exonerate himself from this state of affairs?

MR. arap METTO: Mr. Deputy Speaker, Sir, it has been very difficult for us to enforce the Employment Act. These employers make sure that they break the service of these casuals before the expiry of the three months stated in the Employment Act. So, it is very difficult for the Ministry or anybody else to force employers to employ casuals on permanent terms. This is because these employer make sure that they do not contravene the Act. They employ people for a certain period of time; stop them for some few days and after some days they employ them again.

MR. DEPUTY SPEAKER: Mr. Koske's Question.

Question No.752

MR. KOSKE asked the Minister for Labour:-

- (a) whether he is aware that a Mr. Francis Cheruiyot Lang'at a former employee of Ministry of Agriculture and Livestock Development was forced to retire on 30.6.86 on the grounds that he had attained 55 years as per Ref. No. (c) EST 13319/TV/4 of 13.1.86;
- (b) whether he is further aware that in accordance with Ref. No. SFGG/C/W/R/86/317 of 27.8.86, the complainant was informed that he could not get his dues on grounds that he has not attained the age of 55 years; and
- (c) whether he could assure the House that Mr. Lang'at will be paid all his dues.

THE ASSISTANT MINISTER FOR LABOUR(Mr. arap Metto): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that a Mr. Francis Cheruiyot Lang'at was retired on 30.6.86 on the grounds that he had attained the compulsory retirement age of 55 years. This is because I have been unable to obtain any information from the Ministry of Agriculture where Mr. Lang'at was employed before his retirement.

(b) In addition to our inability to have obtained the necessary information on Mr. Lang'at from the Ministry of Agriculture, we also failed to establish his National Social Security Fund membership number. Furthermore I have been unable to trace any correspondence from the N.S.S.F. addressed to Mr. Lang'at bearing the Ref. No. SFGG/C/W/R/86/317 dated 27.8.86 in which Mr. Lang'at was informed that he could not get his dues on the grounds that he had attained the age of 55 years.

THE ASSISTANT MINISTER FOR LABOUR(Mr. arap Metto)(ctd);

I am requesting the hon. Member to let me have Mr. Lang'at's N.S.S.F. membership number to facilitate further investigations in this matter.

(c) In view of the explanation given in parts (a) and (b) of the Question I am unable to assure the House that Mr. Lang'at will be paid any dues since I do not know whether or not he is a member of the N.S.S.F. and whether or not he has attained the statutory retirement of 55 years.

MR. MUTHURA: Mr. Deputy Speaker, Sir, here we have an employee who is suffering because two Government Ministries cannot agree. The former Ministry of Agriculture and Livestock Development retired this man because he had attained the age of 55 years. But the Ministry of Labour says "No". Can the Assistant Minister promise this House that he is going to carry out further investigations so that he obtains the relevant records as far as the N.S.S.F. is concerned so that this person, who is not working now, can be paid his money?

END. A. . .

MR. arap METTO: Mr. Deputy Speaker, Sir, as I have stated in my reply to this Question, all <sup>that</sup> what I need is the hon. Member to give me the N.S.S.F. number that will assist me to investigate this matter. Furthermore, I promised the House that I will induce our machinery in co-operating with the Ministry of Agriculture so as to get the other information which is required.

MR. arap KOSKE: Mr. Deputy Speaker, Sir, arising from this surprising answer ~~for~~ from the Assistant Minister, and since I have the documents from both the Ministry of Agriculture and from the Ministry of Labour saying actually what I have said here - I have those documents ~~in~~ here in my pigeon-hole and I can give them to the Assistant Minister now.- how long is it going to take him to solve this problem now ~~that~~ ~~that~~ those documents are here with me?

AN HON. MEMBER: Lay them on the Table.

MR. arap METTO: Mr. Deputy Speaker, Sir, first of all I thank the hon. Member for promising the House that he has the information that I require. I promise the House and the hon. Member that I will really take action as soon as possible.

MR. SHIKUKU: Mr. Deputy Speaker, Sir, arising from that contradictory reply where the Assistant Minister ~~x~~ in the first place says that he has no records - the N.S.S.F. number of this mwananchi - yet the Ministry of Agriculture <sup>Compulsorily</sup> ~~temporarily~~ retired <sup>this gentleman</sup> ~~him and~~ the Assistant Minister comes here and tells the House that they have no records, yet the hon. Questioner has the correspondence between the two Ministrys; where do we stand? Can we take the Assistant seriously in this House? We cannot! If the hon. Member produces the documents which proves that this man was an employee of the Ministry of Agriculture and that there is is correspondence between him and the ~~Minister~~ Assistant Minister's office will the Assistant Minister apologise to this



MR. SHIKUKU (Ctd.):

House, to this mwananchi and to the whole nation because we are really very tired of these funny replies?

MR. arap METTO: Mr. Deputy Speaker, Sir, I do not think that the hon. Member for Butere is right in his allegation. Hon. arap Koske said that he has the correspondence between the employee and the Ministry of Agriculture; not with my Ministry. Since the hon. Member who brought this Question to this Question to this House has agreed that he has the information--

MR. SHIKUKU: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to try and mislead us when only a few minutes ago, the hon. Questioner said that he has the correspondence from the Ministry of Agriculture and the Ministry of Labour. He says that hon. arap Koske did not say that but we heard hon. arap Koske say that he has the correspondence between the Ministry of Agriculture and the Ministry of Labour. Is he in order to mislead this House, when he also heard hon. arap Koske say that he had the correspondence from the two Ministries?

MR. DEPUTY SPEAKER: Yes; but when the Assistant Minister said that they could not trace them, how <sup>can we</sup> ~~could~~ vouch for the <sup>manner</sup> ~~money~~ in which the ~~money~~ the files are kept in these Ministries? That is why I think it was significant that the hon. Member is going to produce ~~the~~ copies of the letters he referred to. The Minister has promised that he will check and bring them to the House; I do not see the contradiction here.

MR. SHIKUKU: On a point of order, Mr. Deputy Speaker, Sir. My supplementary question was to the effect that if ~~the~~ hon. arap Koske produces the two <sup>letters</sup> ~~correspondences~~ from the Ministry of Labour and the Ministry of Agriculture, will the Assistant Minister come to this House - loudly - to this mwananchi and the <sup>nation</sup> ~~wananchi~~. as a whole? <sup>Will he do that?</sup> if hon. arap Koske lays those two <sup>letters</sup> ~~correspondences~~ on

MR. SHIKUKU (Ctd.):

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the Table? That is all I was asking.

MR. arap METTO: Mr. Deputy Speaker, Sir, as I have promised the House, if I get these documents from the hon. Questioner, I will study them and come and answer the House accordingly.

MR. DEPUTY SPEAKER: Hon. arap Koske, maybe you would like to lay on the Table the documents you promised to lay on the Table. Next Question.

(The hon. Mr. arap Koske laid the documents on the Table)

Question No.705

MR. KIKUYU asked the Minister for Transport and Communications whether he can consider taking over the road from Kipandini to Mikuini, so that it can be regularly maintained as other roads.

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS  
(Mr. Keriri): Mr. Deputy Speaker, Sir, I beg to reply.

Funds for classified roads have drastically been reduced over the last few years and there is a temporary embargo on classifying new roads when it is not possible to properly maintain the roads which are already classified. It is therefore, not possible to take over the Kipandini - Mikuini road as of now.

MR. KIKUYU: Mr. Deputy Speaker, Sir, I am a bit surprised by the Assistant Minister's answer in that regard in that this section called Kipandini - Mikuini road is a section on a classified road but that section is not classified. It is just 1.75 kilometres long and any road grader doing the other part of the road will definitely have to do this 1.75 kilometres of the road. All that I am asking the Ministry to do is to make it legal that what they are doing presently is done on a classified road. They do it every time they are maintaining the rest of the road and all that we are saying is that they should legalize that 1.75 kilometres

MR. KIKUYU (Ctd.):

and nothing more. Nobody knows how it was left out.

MR. KERIRI: Mr. Deputy Speaker, Sir, I am happy that the hon. Member does appreciate that we have been helping in making this road passable. He has himself been requesting for assistance to make this road passable and in fact, we have been grading it when we have some little spare money. He says it is 1.75 kilometres long but I am not quite sure that he is right because I am told that that section is about 9.4 kilometres at the junction from the same road,---It joins another classified road. The point I am making is that when we have had some spare money, we have been assisting, although this section is not classified; we have been assisting in grading it to make it passable. I have gone on and said that because of the drastic reduction that has been effected in our Vote as far as the maintainance of roads is concerned in the last few years, we are not classifying any more roads until the situation improves as far as the Treasury Kitty is concerned. It does not matter how long any section takes at present; but we shall continue if we have some spare money to assist in making roads passable.

MR. KIKUYU: Mr. Deputy Speaker, Sir, this road has been appearing in Questions in this Parliament for a long time. At one time, the Minister promised to put culverts on this road - about a year ago. Two of them were laid on the roadside and nothing has been done. Can the Assistant Minister assure this House that he will follow up the maintainance together with the putting up of these culverts which he promised he will put on this road?

MR. KERIRI: Mr. Deputy Speaker, Sir, I am very prepared to continue discussing this section of the road with the hon. Member <sup>in this House</sup> as long as he wishes. As I said the other

MR. KERIRI (Ctd.):

day, the hon. Member has been to our District Engineer and this engineer has been very co-operative with the hon. Member. He has been assisting the hon. Member to maintain this road. If he continues with that co-operation with the District Engineer, I am sure the culverts will be installed. All he needs to do is to have a bit of talk with this engineer since he is his friend. Let him continue being his friend and he will do the job. I do not think it is fair for the hon. Member to expect me to go there and start talking to the District Engineer. It might then turn out ~~and~~ that this engineer says "Look, I have been co-operating with the hon. Member ~~very~~ much and now he has told my Minister to <sup>tell me to</sup> come and do this job." Why does the hon. Member not continue with that habit he has with the engineer?

END B.....

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JMK.

Question No. 741

MR. MUTHURA asked the Minister for Health what buildings are planned for Nanyuki District Hospital during the 1987/88 Financial Year according to the District Development allocation.

THE ASSISTANT MINISTER FOR HEALTH (Mr. arap Cheboiwo): Mr. Deputy Speaker, Sir, I beg to reply.

There are no buildings planned for Nanyuki District Hospital during the 1987/88 Financial Year.

MR. MUTHURA: Mr. Deputy Speaker, Sir, according to the district development allocation, there is an allocation for buildings in Nanyuki District Hospital to be put up in the 1987/88 Financial Year. If those buildings will not be constructed during that period, when does the Ministry plan to put up any buildings at the hospital?

MR. arap CHEBOIWO: Mr. Deputy Speaker, Sir, there is an allocation of K£10,000 in the Printed Estimates for 1987/88 for Nanyuki District Hospital which is meant for planning, design, drawings and preparation of bills of quantities in respect of projects to be implemented in the 1988/89 Financial Year. The project will include an operation theatre, a recovery ward, an MPH/FP unit, a pharmacy, injection and dressing rooms. It will also include a records office.

Mr. Deputy Speaker, Sir, the allocation for the hospital during the 1988/89 and 1990/91 forward budget is K£10,000 for the first financial year, K£80,000 for the second financial year and K£150,000 for the third year. The allocation for 1990/91 Financial Year the Ministry has allocated K£400,000. From that information, it is clear that the Ministry has not forgotten the Nanyuki District Hospital.

MR. MUTHURA: Mr. Deputy Speaker, although the Assistant Minister was too fast for me to follow what he said, is he now confirming to this House; and the wananchi who are served by that hospital, that these funds will be there and we will not come back here only to be told "when funds are available?"

MR. arap CHEBOIWO: Mr. Deputy Speaker, Sir, as things stand now, we do not envisage any changes in our plans. However, I cannot rule out the possibility of there arising things beyond the Ministry's control. In any case, the funds are allocated for those years just as I have stated.

MR. MUTISO: Mr. Deputy Speaker, Sir, arising from the previous answer by the Assistant Minister when he said that K£10,000 have been allocated for planning, designing and what-have-you, can he tell the House how it happens that such large sums of money can be allocated for that kind of work whereas we know that the Government has its own engineers, architects and other personnel? For what purpose is this money allocated? Who utilises this money allocated for planning and designing?

MR. arap CHEBOIWO: Mr. Deputy Speaker, Sir, it is normal practice that when a building is to be put up it must be designed and the quantity surveyor must be engaged. These people are appointed by the district development committee. I think I answered that question clearly because I stated that this K£10,000 is meant for designing and planning.

Question No. 694

MR. MWAUMU, on behalf of Mr. Chepko asked the Minister for Tourism and Wildlife:-

- (a) whether he is aware that Mr. John Cheruiyot, who was employed at Kabulwo Game Camp on 2nd May, 1985, was sacked after working for only one week; and
- (b) why he was sacked.

THE ASSISTANT MINISTER FOR TOURISM AND WILDLIFE (Mr. Awori): Mr. Deputy Speaker, Sir, I beg to reply.

I am aware that Mr. John Cheruiyot was employed as a casual at Kabulwa Game Camp on 2nd May, 1985, and worked up to 31st October, 1986. His services were terminated when he had worked for 18 months and not one week.

His services were terminated together with those of other casual employees due to lack of funds by Keiyo/Marakwet County Council who had hired them.

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MR. CHEPKOK: Mr. Deputy Speaker, Sir, according to the letter I quoted, it is written that the man worked for only one week. I took that fellow to the officer incharge of the game camp and the officer told me that there was no chance for employing more people and that is why the employee was stopped from working. Can the hon. Assistant Minister-----

MR. DEPUTY SPEAKER: Order, hon. Chepkok. There is a strange thing happening here now. When I called this Question, somebody else asked it on your behalf and then, all of a sudden, you are talking. Can I know what is happening between you two?

MR. MWAVUMO: Mr. Deputy Speaker, Sir, hon. Chepkok thought that he would be late today and he ~~has~~ had asked to me ask his Question in case that happened.

MR. DEPUTY SPEAKER: Okay. Hon. Chepkok, you should apologise to the House for coming late before I allow you to ask a supplementary question.

MR. CHEPKOK: Mr. Deputy Speaker, Sir, I apologise to the House for coming late. However, I had requested my hon. friend to ask my Question in the event of me being late.

As I was saying, Sir, I am requesting the hon. Assistant Minister to assist this young boy to be reinstated.

MR. MUTISO: On a point of order, Mr. & Deputy Speaker, Sir. I do not know whether it is my mind that is not serving me right, but I remember that sometimes last week we dealt with this same Question. Or is this a different Question?

MR. DEPUTY SPEAKER: Yes, it is the same Question. If you remember well, I deferred it because there were some rather strange things happening.

MR. CHEPKOK: Mr. Deputy Speaker, Sir, this is the same Question that we were dealing with last week. As I said then, I have misplaced the letter and I could not find it. However, it is true that this employee was ~~sacked~~ sacked after working for only one week, and that is why I am requesting the Assistant Minister to assist him to be reinstated.

MR. AWORI: Mr. Deputy Speaker, Sir, it is possible that this young man is not telling his Member of Parliament the correct situation. In fact, he worked for some 18 months. He was being paid KShs.513/- per month. At the time he was dismissed

MR. AWORI (ctd.):

he had earned KShs.9,234/-.

MR. MUTISO: On a point of order, Mr. Deputy Speaker, Sir. If I also do remember correctly, the argument being advanced by both the hon. Questioner and the Assistant Minister is the same one which made this Question to be deferred. Indeed, they were supposed to go and sort out the matter to know who is telling the truth. The same Question has been put and the same argument is now prevailing. Where do we stand now? The hon. Questioner still maintains that the employee was sacked after working for only one week and the hon. Assistant Minister maintains that the man had worked for 18 months. What is the correct position?

MR. DEPUTY SPEAKER: As far as the Chair is concerned, there is no argument. The hon. Assistant Minister is answering questions as they come from hon. Members.

MR. EKIDOR: Mr. Deputy Speaker, Sir, could the hon. Assistant Minister furnish the House with the names of the other employees whose services were terminated along with those of Mr. Cheruiyot?

MR. AWORI: Mr. Deputy Speaker, Sir, I do not really understand the purpose of that question. There is no reason for me to give the names of the other employees whose services were ~~terminated~~ terminated along with those of Mr. Cheruiyot because I have already confirmed that the man had worked for 18 months and not for one week. In any case, it is not actually the Ministry of Tourism and Wildlife that had employed this person. He had been employed by Keiyo/Marakwet County Council. So, it is that county council that would have the list of the names the hon. Member is asking for.

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MR. OMIDO: On a point of order, Mr. Deputy Speaker, Sir. The hon. Questioner maintains that this employee worked for only one week, and the hon. Assistant Minister says the employee worked for 18 months. Can the hon. Assistant Minister substantiate that this fellow/<sup>actually</sup>worked for 18 months? How shall we know the truth because one side-----

MR. DEPUTY SPEAKER: Order! There is nothing to be substantiated by the Assistant Minister. He is ~~answ~~ answering a Question, and if the hon. Member wants ~~to~~ to prove that that this fellow worked for one week, he can lay the documents on the Table, then the Assistant Minister can challenge him.

MR. CHEPKOK: On a point of order, Mr. Deputy Speaker, Sir. That boy comes from my area, and after he had worked for only one week, I took him to the officer in charge of the Kabulwo Game Camp. So, it is possible that somebody else earned his salary for those 18 months. It is not true that this man worked for 18 months, I know him personally, and he is also my neighbour.

MR. DEPUTY SPEAKER: Order! unless there is some documentary proof, I cannot help the House to ~~get~~ get any further than this, because it is a word of somebody against another one.

Mr. Galgallo's Question.

AN. HON. MEMBER: On a point of order, Mr. Deputy Speaker, Sir.

MR. DEPUTY SPEAKER: Order! Let us move on. Mr. Galgallo is not here. So, let us move on to Questions by Private Notice. Mr. Abuya Abuya.

MR. GALGALLO: Mr. Deputy Speaker, Sir, I am here.

MR. DEPUTY-SPEAKER: I am sorry, but you ~~are~~ ~~are~~ raising ~~on~~ a point of order.

Question No.749

MR. GALGALLO asked the Minister for  
Tourism and Wildlife:-

- (a) how many of our tourist Hotels ~~are~~ are being managed by foreigners;
- (b) what are their qualifications in this profession; and
- (c) whether, in view of the scarcity of jobs, ~~how~~ he will Kenyanise the hotel industry.

THE ASSISTANT MINISTER FOR TOURISM AND WILDLIFE (Mr. Awori

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

(a) There are 32 tourist hotels which are managed by foreigners.

(b) Of the 32 foreign managers, four are holders of diplomas in the ~~manifi~~ profession. One holds ~~also~~ a City and Guilds certificate, while the rest have only had ~~a~~ on-the-job training in hotel management with many years experience.

(c) Certainly, it is the policy of my Ministry that management positions in the tourist hotels will be occupied by Kenyans. To this end, I have directed the Hotels and Restaurants Authority not to issue hotel managers' ~~to~~ licences to expatriates as long as we have qualified Kenyan personnel, or unless they are Kenyans already understudying such foreigners.

MR. ABUYA-ABUYA: Mr. Deputy Speaker, Sir, would the Assistant Minister tell the House ~~at~~ when this policy directive was given and, if at all it has been implemented, how many positions have been ~~at~~ Africanised since then?

MR. AWORI: Mr. Deputy Speaker, Sir, there are very many hotels in this country which are being managed by Africans.

MR. ABUYA-ABUYA: On a point of order, Mr. Deputy Speaker, Sir. Part of my supplementary question sought as to when the Ministry gave this policy directive, and the Assistant Minister has not answered it.

MR. AWORI: First of all, it has always been a Government policy to Africanise positions held by expatriates whenever there are qualified ~~xx~~ Africans. As far as the directive is concerned, I cannot give you the exact date, but it was given several years ago.

MR. GALGALLO: Mr. Deputy ~~Spe~~ Sir, the Assistant Minister said that there are some hotels which are being managed by some foreigners who have some qualifications to do that job. Since we have some Africans who have been trained at Kenya Utalii College, and who are jobless, why are these foreigners allowed to continue managing our hotels?

Secondly, Mr. Deputy Speaker, Sir-----

HON. MEMBERS: Ask one question at a time.

MR. AWORI: Mr. Deputy Speaker, Sir, I have <sup>said</sup> ~~said~~ that in a number of hotels we have ~~ga~~ graduates from Kenya Utalii College who are understudying the expatriate managers.

MR. GALGALLO: Mr. Deputy Speaker, Sir, can the Assistant Minister tell us which are these hotels where Africans or Kenyans are understudying the foreign managers, and for how long they have been doing so?

MR. AWORI: Mr. Speaker, Sir, I am afraid I cannot tell you that, but let me give you an example. There are 162 tourist resort hotels in Kenya, and out of those 162 hotels, only 32 are managed by foreigners. I think that shows that well over 130 of our people are managing tourist class hotels.

the Assistant Minister

MR. MUTISO: Mr. Deputy Speaker, Sir, said that the

Ministry of the Government has given a directive policy to the effect that these hotels should be Africanised. When he was ~~exh~~ challenged to ~~say~~ give the date of when the directive was given, he said 'several years ago'. I do not believe that this is actually correct, because the Assistant Minister has not proved to the House when this directive was given. Sir, are you really convinced that he is telling the truth to this House?

MR. AWORI: Mr. Deputy Speaker, I have no reason not to tell the truth to this House. This was a directive from one department of the Ministry to ~~xxxx~~ another. It ~~was~~ a directive which was signed by the Minister of Tourism and Wildlife to the licencing officer within the Ministry. I said the directive was issued several years ago <sup>although</sup> I cannot ~~to~~ give you the exact date.

MR. SHIKUKU: Mr. Deputy Speaker, Sir, arising from that reply, <sup>that</sup> ~~the Assistant Minister tells us that~~ out of 162 tourist resort hotels only 32 are still manned by non-africans, <sup>Would</sup> the Assistant Minister elaborate on that, ~~because~~ because we know the drainage of foreign exchange is going through the tourist hotels, <sup>?</sup> and ~~is~~ <sup>are</sup> he ~~only~~ telling us there ~~are~~ <sup>only</sup> 32 hotels managed by foreigners or does he mean foreigners who have got citizenship. Are they really the 'nywele ifgumu' Africans who are running these hotels or <sup>are</sup> ~~they~~ other paper citizens who are still repatriating foreign exchange from this country?

MR. AWORI: Mr. Deputy Speaker, Sir, the Question did not discuss indigenous Kenyans; it discussed citizens; and I gave the answer as far as citizens are concerned. If I ~~am~~ may just add <sup>to that,</sup> of those 32 foreign managers who are managing those 32 hotels, 27 of those hotels are ~~xxx~~ wholly owned by non-citizens, and ~~I think~~ it has been agreed that where an organisation is wholly owned by non-citizens, they have a ~~xxxx~~ right to employ their own manager.

MR. SHIKUKU: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has not replied to my question. He talked of a directive to Africanise the tourist hotels, and now he talks of citizenship. He is not telling the House the whole truth, because we know of people who have ~~xxx~~ acquired citizenship not because they are interested in this country - their brothers are in Canada <sup>and others</sup> ~~or~~ some in London - but ~~the~~ because they are interested in siphoning ~~the~~ foreign exchange from this country.

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MR. DEPUTY SPEAKER: What is your point of order?

MR. SHIKUKU: My point of order, Mr. Deputy Speaker, Sir, is that the Assistant Minister has not told the House what we mean by Africanisation? He has <sup>been</sup> talking of <sup>the</sup> citizenship of "paper" citizens.

MR. DEPUTY SPEAKER: When the Assistant Minister stood up to answer your question, he did indicate that the Question in its original form was talking about Kenyanisation. That was answered in the main reply. So, what is your point of order?

Let us move on now.

MR. GALGALO: On a point of order, Mr. Deputy Speaker, Sir.

MR. DEPUTY SPEAKER: No, we are moving on.

Let us move on to Questions by Private Notice.

#### QUESTIONS BY PRIVATE NOTICE

(MR. ABUYA-ABUYA) to ask the Minister for Lands and Settlement the following Question by Private Notice:-

- (a) Who are the members of Manga Division Land Control Board?
- (b) Is he aware that the tenure of office for this Board expired many years ago?
- (c) If so, when will the new Board be reconstituted?

MR. DEPUTY SPEAKER: Mr. Abuya-Abuya is not in?

Let us move on to the next Question.

MR. KINYANJUI: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Transport and Communications the following Question by Private Notice.

- (a) Is he aware that the tarmac road from Thegoto to Gikambura badly needs repair?
- (b) When will these repairs be carried out?

MR. DEPUTY SPEAKER: Anybody from the Ministry of Transport

and Communications?

Let us move on to the next Question.

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

(a) Why has it taken so long to re-open Lowarengak Health Centre despite the District Development Committee's (D.D.C.) recommendations?

(b) As a matter of urgency, could he order that the said health centre be re-opened immediately?

THE ASSISTANT MINISTER FOR HEALTH (Mr. arap Cheboiwo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Lowarengak Health Centre is managed by the Roman Catholic Church as a mission/<sup>health</sup> centre. As far as I am aware, the g facility has been operating normally. However, the in-patient department was closed in 1986 on account of financial problems.

(b) In view of the above, I am unable to order the re-opening of the in-patient department.

MR. EKIDOR: Mr. Deputy Speaker, Sir, could the Assistant Minister tell the House what the policy of the Ministry is when such a private hospital faces financial problems?

MR. arap CHEBOIWO: Mr. Deputy Speaker, Sir, the Ministry's policy is very clear on such matters. As I said, this a missionary health centre. When a private health institution faces problems which necessitate Government assistance, the authorities of the institution, in the case the Roman Catholic Church, should approach the Government and then my Ministry would take the necessary action. This might mean <sup>the</sup> supply of drugs, staffing or total takeover although we do not encourage the later. In this particular case, the authorities managing the missionary health centre, have not sought my Ministry's assistance. The facility in question has a capacity of 14 Beds. I am assuring the hon. Member, because he knows what he is talking about, the D.D.C. of Turkana District and this august House, that as soon as the Roman Catholic Church requests through the D.D.C.,

MR. arap CHEBOIWO (ctd.):

as the hon. Member has mentioned, my Ministry will take action immediately.

MR. EKIDOR: Mr. Deputy Speaker, Sir, the Assistant Minister has explained the Ministry's policy on this matter very clearly. Why did it take so long for the Ministry to send staff or drugs to this health centre?

MR. arap CHEBOIWO: Mr. Deputy Speaker, Sir, the simple answer to this is that the authority concerned has not recommended this through the D.D.C.

MR. EKIDOR: Mr. Deputy Speaker, Sir, I am a member of the D.D.C. The D.D.C. has recommended that the Ministry takes over this health centre. What is the Assistant Minister now telling the House?

MR. arap CHEBOIWO: Mr. Deputy Speaker, Sir, I do not have any dispute with the hon. Member about his being a member of the Turkana D.D.C. I am also a member of the D.D.C. of my District. If the D.D.C. has recommended that, I shall check this immediately I leave here, and if it is true that this recommendation has reached the Ministry's office, then action will be taken ~~on that~~.

MR. SHIKUKU: Arising from that reply, Mr. Deputy Speaker, Sir, <sup>in</sup> ~~which~~ <sup>I do not</sup> ~~me~~ believe that the Assistant Minister is serious, the hon. Member, who a member of the D.D.C. of Turkana, has told him that the recommendation was submitted to his Ministry a long time ago. Why did the Assistant Minister not ~~a~~ check to find out whether there was a recommendation before he came to this House? There is a recommendation from the Turkana D.D.C. in his office.

MR. arap CHEBOIWO: Mr. Deputy Speaker, Sir, I think the hon. Member for Butere is putting words into the mouth of the hon. Member for Turkana East by saying "a long time ago". I did not hear hon. Ekidor saying that. He only said that they had recommended. He did not use the words "a long time ago". I checked for this



MR. arap CHEBOIWO (ctd.):

the minutes containing such recommendations by the D.D.C., but I did not see them in my office, before I came here today. I do not want to have a dispute with him because he knows the date when they were sent. I have given the House an assurance that if the D.D.C. has recommended the re-opening of this In-patient Department, it would be done tomorrow. There is no problem in that matter.

MR. DEPUTY SPEAKER: Let us move on now.

MR. ANGATIA: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Is he aware that Charles M. Tobias, Index No. 63166012, has not received his 1983 Kenya Junior Secondary Examination (K.J.S.E.) certificate?

(b) When is he getting this certificate?

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Kisiero): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that Mr. Charles M. Tobias, of Chegulo Secondary School, who passed in the 1983 K.J.S.E. using Index No. 63166012, has not received his certificate. My Ministry through the Kenya National Examination Council dispatched all the K.J.S.E. certificates of the successful candidates to the Provincial Education Officer, Western Province, for onward transmission to the Headmaster of Chegulo Secondary School.

(b) Mr. Charles M. Tobias should get in touch with the Headmaster of Chegulo Secondary School for his 1983 K.J.S.E. certificate.

MR. ANGATIA: Mr. Deputy Speaker, Sir, while I thank the Assistant Minister for that reply, the responsibilities of the headmaster fall under the office of the Ministry of Education. It is the duty of the Minister to check why the headmaster did not issue the certificate to this candidate. It is not fair to send the candidate to the headmaster who is an officer of the Minister.

MR. ANGATIA (ctd.):

It is the Minister who should have asked the headmaster to issue the certificate or give reasons why he has not issued it to the candidate.

MR. KISIERO: Mr. Deputy Speaker, Sir, it is up to the candidate in question to check with <sup>the</sup> his headmaster of Chegulo Secondary School. As I have said, he passed the K.J.S.E. very well. The certificate was dispatched to the Provincial Education Officer who must have dispatched to the headmaster of Chegulo Secondary School. So, it is up to Mr. Tobias to go to the headmaster for his certificate.

MR. MUNYAO: Mr. Deputy Speaker, Sir, the other day there was a Question here requesting the Ministry to ask the Kenya National Examinations Council to be processing these certificates within the first ~~one~~ year. This is a case where this mwananchi has been without a certificate for four years. He says that he is aware that the mwananchi did his K.J.S.E. in 1983. Is the Assistant Minister really in order to confuse the House more by <sup>asking</sup> the student <sup>concerned</sup> to check with the Headmaster who, for one reason or another, has not been able to give that same student his certificate for four years? Could he accept to take up the responsibility <sup>for getting</sup> to get this student his certificate?

MR. KISIERO: Mr. Deputy Speaker, Sir, it is not true that we delayed the certificate for four years. As I said, the certificates were dispatched. They must already ~~by now~~ be with the headmaster. <sup>Assistant</sup> The Minister cannot go to every school to ask every headmaster to release to each candidate his certificate. It is obvious that ~~the~~ <sup>in</sup> the headmasters know their duties <sup>should</sup> that they release certificates to the respective candidates. But, some of those candidates may not have fulfilled the Board of Governors regulations. They might not <sup>all</sup> have paid their fees. So, we cannot go to every school to force the headmaster to release ~~the~~ certificates to ~~the~~ candidates.

END E.....

MR. ANGATIA: Mr. Deputy Speaker, Sir, I am not asking the Assistant Minister to go to every school in the Republic to cause certificates to be given to students; I am asking this in respect of only one school. Could he direct the Provincial Education Officer there to direct the Headmaster concerned to issue this certificate? If there is any reason why the certificate cannot be issued, <sup>?</sup> feedback should be communicated to the Assistant Minister so that he can pass it on to me. That is all I am asking for. We do not want the Assistant Minister to go round telling us stories about the regulations of boards of governors. It appears that he has no idea of there being any reason why this candidate should not have been given this certificate. His duty is to direct the people concerned to issue the certificate. If there is any problem, there should be some feedback to him, and he should give me that feedback.

MR. KISIERO: Mr. Deputy Speaker, Sir, before I go to the Headmaster in question, I should also be satisfied that <sup>that</sup> candidate himself has also been to the Headmaster and that he has been refused his certificate. The hon. Questioner has not told us whether this candidate has already gone to the school and whether he has been refused his certificate. If this has happened, we have not been told why it has.

MR. ABUYA-ABUYA: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister seems to mistrust the hon. Member. We know that the mwananchi who is represented by a Member of Parliament in this House goes to his Member of Parliament when he needs assistance in an issue. This means that the candidate in question has tried to get his certificate and that he has failed. Could the Assistant Minister accept that it is his responsibility to find out what has happened and ensure that this mwananchi gets his certificate?

MR. KISIERO: Mr. Deputy Speaker, Sir, I wish to assure my hon. colleague that I do not mistrust hon. Angatia. We are friends, and I am sure I cannot mistrust him. However, the question here is that I have been asked to go and direct the Headmaster concerned to give a certificate to a candidate, but I have not been told whether the candidate himself has been to the Headmaster and been refused his certificate. I should know that before I take any further

MR. KISIERO (CTD.):

steps.

MR. MUNYAO: On a point of order, Mr. Deputy Speaker, Sir.

MR. DEPUTY SPEAKER: Order, Mr. Munyao.

I think we are taking a long time on nothing. The Assistant Minister was asked whether he was aware that this person has not received his certificate and whether he could say when this person is going to get the certificate. I think this is a very simple matter in that if the Assistant Minister had said that he is aware of this matter and that the certificate is at the school concerned, that would have ended the matter. However, we are now going round and round the issue without really saying much to solve the problem. Since the candidate is entitled to his certificate, maybe the Assistant Minister could help the House by telling us where this certificate is, who is holding it and for what reason this is so. This will help the House to move on.

(Applause)

MR. KISIERO: Mr. Deputy Speaker, Sir, this certificate is with the Headmaster concerned, but we have not been provided with the reasons why he is holding it. It appears that the candidate has not gone to see the Headmaster.

MR. ANGATIA: Mr. Deputy Speaker, Sir, the Assistant Minister is grossly misleading the House. Chegulo Secondary School closed, but I do not know when it closed. If the Assistant Minister issued this certificate to the Provincial Education Officer, maybe the latter has been keeping it because he is not willing to give it to the candidate. The candidate does not know where to go for his certificate. The school that the Assistant Minister refers to as Chegulo closed down several years ago. I cannot remember in which year it was closed, but it is not longer there. The Assistant Minister now says that this certificate is with the Headmaster, but I am telling him that there is no Headmaster there. Where do we need to go in order to get this certificate? If it is with the Headmaster, there is no Headmaster at Chegulo. If it is with the Provincial Education Officer, who is an officer under the Assistant

MR. ANGIATIA (CTD.):

Minister, maybe he is the one who can help us by giving this candidate his certificate. If he is looking for the Headmaster, whereas there is no such school - this means that there is no such Headmaster - where will the candidate go for his certificate?

MR. KISIERO: Mr. Deputy Speaker, Sir, I will get in touch with the relevant Provincial Education Officer to find out whether the certificate in question is in his office.

MR. MUNYAO: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) What necessitated the abrupt transfer of the District Education Officer of Machakos District at this time of the year?

(b) Will he assure this House that an equally qualified officer will be posted to take over this district?

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Kisiero): Mr. Deputy Speaker, Sir, I beg to reply.

(a) My Ministry effected a normal x transfer of the out-going Machakos District Education Officer in October, 1987 because of the exigencies of the service. Furthermore, this was in accordance with the laid-down, existing terms of service governing the m employment and deployment of civil servants, who are expected to serve anywhere in the Republic of Kenya.

(b) I wish to assure this august House that Mr. J.M. Kiilu, who is an experienced education officer and who has worked in Machakos District Education Office since October, 1979 has been identified and appointed the new District Education Officer for Machakos District. Furthermore, he took over the education administration of this district from his immediate predecessor on 5th November, 1987.

MR. MUNYAO: Mr. Deputy Speaker, Sir, the Assistant Minister assures the House that this transfer was normal. That leaves a lot of doubts behind. How normal was it? It was the Provincial Education Officer who brought a

MR. MUNYAO (CTD.):

letter ordering one officer to move in and the former ~~one~~ to go out. How normal was that?

MR. KISIERO: Mr. Deputy Speaker, Sir, this transfer was as normal as any other. A civil servant expects to be asked to move to any destination at the shortest notice possible. There is no stipulated time of notice that a headmaster, a district education officer or any other officer must be given. All civil servants should be prepared to move at short notice.

MR. MUTISO: Mr. Deputy Speaker, Sir, while I personally do not have any quarrel with this transfer, if it is normal, I would like to have the Assistant Minister's assurance to the effect that the gentleman who has taken <sup>over</sup> ~~offer~~ this office is actually properly qualified to run such a large district as Machakos, with so many schools and teachers to look after.

MR. KISIERO: Mr. Deputy Speaker, Sir, I would like to assure my hon. colleague that Mr. Kiilu is a qualified officer to take over the position of Machakos District Education Officer. He completed his teaching course at Kagumo Teachers College in 1961. Between 1962 and 1965, he taught in various primary schools. In 1965 and 1966, he was teaching at Kilungu Day Secondary School. Between 1970 and 1979, he was the Headmaster of Makueni Boys High School. In 1980, he was transferred to the District Education Office in Machakos District. In the same year, he was appointed Deputy District Education Officer, Machakos. On 14th May, 1980, he was promoted to District Education Officer I on Job Group "K" of the Public Service Commission. So, I believe that Mr. Kiilu is qualified enough to be District Education Officer.

(Applause)

MR. MUNYAO: Mr. Deputy Speaker, Sir, I put it to the Assistant Minister, through you, that he has misled the House. Firstly, when he says that this transfer was normal, I would like him to explain to the House how normal it was. In normal transfers, there are letters to that effect, but in this particular one, the Provincial Education Officer had to go there to order the District Education Officer to go out and tell the new one to move in.

MR. MUNYAO (CTD.):

The Assistant Minister has said that Mr. Kiilu has taught in various primary and secondary schools, but we all know that, following hon. Mutiso's question. There is not a single school, particularly at the secondary level, where the teacher has not been removed by the board of governors because of inefficiency. How come that the Assistant Minister is now telling the House that this same man is going to handle this large district, which has been taking the eighth position in examination results throughout the country? Will this position not go down, instead of going up?

END F 

MR. arap KISIERO: Mr. Deputy Speaker, Sir, first of all, I would like to say that in the Civil Service there are no categories of transfers: one known as normal and the other one known as abnormal. No such things exist. Transfers are plain transfers.

As to the allegation that Mr. Kiilu was not doing well in certain schools and that he was being removed by the schools' boards of governors, that is not correct. He was the headmaster of Makueni High School from 1967 to 1979. If he was a poor administrator, he should have been sacked or removed. We did not ~~not~~ get any adverse report about him <sup>and,</sup> therefore, so far as we are concerned, he was a good headmaster.

MR. JALDESA:

MR. JALDESA: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Water Development the following Question by Private ~~IN~~ Notice.

(a) Is the Minister aware that there is an acute shortage of water at Modogashe, Sericho and Gubata in Isiolo South Constituency as all natural sources of water have dried completely?

(b) Is he satisfied with the implementation rate of Modogashe and Sericho a water projects?

(c) What plans does the Minister have to supply water in this area?

THE MINISTER FOR WATER DEVELOPMENT (Mr. Mwendwa): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that during dry spells, Modogashe, Sericho and Gubata ~~s~~ of Isiolo District do suffer from shortages of water.

(b) I am satisfied with the rate of implementation of the Modogashe and Sericho Water Projects.



THE MINISTER FOR WATER DEVELOPMENT (ctd.):

(c) Mr. Deputy Speaker, 10 boreholes have been drilled in and around Sericho, three of which have been found to be productive while seven are dry. Surveys for the distribution have now been completed and pump installation is expected in the near future. As for Modogashe, a geological team is in the area with a view to determining how best to serve the area.

MR. JALDESA: Mr. Deputy Speaker, Sir, I am surprised by the Minister's reply, particularly to part (b) of the Question, where he said that he is satisfied with the rate of implementation of the Modogashe and Sericho Water Projects. I raised a Question about the implementation of water projects for the same place in 1985, and ~~the~~ reply given by the then Minister for Water Development was that by March, 1976, the Modogashe Water Project would have been completed. I am now surprised when the Minister says that he is satisfied with the implementation of the water project whereas, since 1983, there has only been designing and planning going on but ~~the~~ nothing has been implemented. He had better go and check what is going on there.

*(Hon. Mwendwa continued to sit)*  
MR. SHIKUKU: I thought the hon. Member asked a

Supplementary Question.

MR. DEPUTY SPEAKER: The Minister was not in a position to react.

MR. MWENDWA: Mr. Deputy Speaker, Sir, I will check.

HON. MEMBERS: On a point of order, Mr. Deputy Speaker, Sir.

MR. DEPUTY SPEAKER: Order! I do not know what is happening this morning. I thought the Minister was by-passing the comment because the hon. Member did not ask any question - he ~~had~~ made a comment. There is why I was leaving it to the Minister to decide on what to do since it was not a question. Then the Minister, all of a sudden, stands up and says he will check.

MR. MUTISO: Thank you Mr. Deputy Speaker. Arising from that satisfaction of the Minister by the rate of the implementation of these water projects, can he tell the House when these projects ~~started~~ began, when, according to his monitoring of the projects, ~~how~~ he hopes them to be completed, and whether they are moving within the time schedule, <sup>?</sup> ~~so that that can satisfy the Minister.~~

MR. MWENDWA: Mr. Deputy Speaker, Sir, I do not have the information on the details ~~of~~ of when these projects started, but it is true that the Swedish International Development Agency has been in that area for the last three years, ~~and~~ we expect that they are doing the exploratory drilling so that, as a result of what will be found, then plans will be ~~made~~ made for the provision of water. As I have already said, out of <sup>the</sup> ten boreholes that were drilled there, only three had water.

MR. ABUYA-ABUYA: <sup>On a point of order,</sup> Mr. Deputy Speaker, Sir, hon. Mutiso asked a very important question, <sup>whether</sup> ~~that is~~ the Minister <sup>was</sup> satisfied that these projects are being carried out ~~in~~ within the ~~in~~ schedule. The Minister has not answered that question. This means that he does not know what is going on, as far as these projects are concerned. Would he ~~be~~ now answer that question?

MR. MWENDWA: I did answer that question, I did not say that I am satisfied with ~~in~~ what is going on. It is not fair for the hon. Member to say that I do ~~not~~ not know what is going on. I have already said that 10 boreholes have already been drilled and other things are going on there. Why is the accusing me of things which are not true?

MR. MUTISO: The Minister has not answered my supplementary question. In his reply, he said that he is satisfied with the rate of implementation of these water projects. I asked him to tell House ~~the~~ when these projects started and

MR. MUTISO (ctd.):

when he hopes they will be completed, and if he is satisfied with the rate of the implementation of the water projects. Otherwise, he is just making a statement which has no meaning.

MR. MWENDWA: Mr. Deputy Speaker, Sir, the projects started ~~in~~ three years ago and they will be completed in December this year.

MR. JALDESA: Mr. Deputy Speaker, Sir, when I asked this Question for the first time, the Assistant Minister who replied to it ~~talked~~ talked about boreholes in other districts other than Isiolo District, and it was deferred. Now the Minister ~~says~~ <sup>states</sup> categorically that he is satisfied with the implementation of the water projects, but he does not ~~give~~ give us any reason as to why he is satisfied with the implementation. Are you, Mr. Deputy Speaker, satisfied that the Minister is giving us the proper reply?

MR. DEPUTY SPEAKER: It is not for the Chair to be satisfied. But if your point of order had any merit, I think the Minister said that he expects the projects to be completed this month. That is what would give an indication of what the Minister has.

MR. SHIKUKU: On a point of order, Mr. Deputy Speaker, Sir. Thank you very much, I thought ~~you~~ you had forgotten me. The Minister is telling us things from the blues. In the first instance, he said that he ~~is~~ was not quite sure ~~in~~ when the projects were started. I always listen. Then all of a sudden, he says that the projects were started three years ago and they will be completed in December this year. He has forgotten that his predecessor told the hon. Member that the projects were to be completed in March, 1986. Now he says that they will be completed in December this year. Where do we stand with the Minister?

MR. MWENDWA: Mr. Deputy Speaker, Sir, the projects ~~we~~ started three years ago and they will be completed in December this year.

MR. HASSAN: On a point of order, Mr. Deputy Speaker, Sir. I also come from Modogashe - the same place the Questioner comes from. In fact, the town is on the border of Isiolo and Garissa Districts. I am aware of the projects the Minister is talking about, but the way he is replying to the Question is ridiculous. My question is, if the Minister is telling us that the projects were started three years ago and are due to be completed in December this year, what stages have been completed? In the digging ~~of~~ of a borehole, ~~there~~ there are stages. Can the Minister tell us what stages have been completed and which is the one which will be completed in December?

END G.

MR. DEPUTY SPEAKER: Order! Mr. Hassan, what is your point of order?

MR. HASSAN: My point of order is that the Minister has misled the House. If he has not misled the House, then could he answer the question that I have already put to him. I am saying that he has misled the House because the hon. Member, who asked this Question, has said that he was promised in 1985 that this project was going to be completed in March, 1986. In the first instance when the Minister was answering this Question he had no answer as to when the project started, but all of a sudden he stood up and said that it started three years ago and it was going to be completed in December. Now, if it was started three years ago, could he answer the questions that I have just asked? What stages has the project gone through and which one is going to be completed in December? This is because there are a number of stages involved in the digging of a borehole; there is the question of surveying, drilling, supplying the equipment and finally <sup>the</sup> question of pumping water out.

MR. MWENDWA: Mr. Deputy Speaker, Sir, as I mentioned, we are now dealing with CIDA project which is conducting exploratory drilling as a result of which a decision will be made as to what to do about the provision of water. ~~in that~~ However, this does not mean that the Ministry of Water Development has stopped any activities on the provision of water in that area. For instance, I did say that a geological team has already been sent to Modogashe to study the geo-physics of the area. Natural water resources have dried up, and, therefore they will study the area. As a result of that, we will know how to move. Boreholes have been sited, but they have not yet been drilled. Sub-surface dam in--

HON. MEMBERS: What are you referring to?

MR. MWENDWA: I was talking about the CIDA project which started three years ago and which is supposed to be completed in December. Now I am talking about the activities being taken by the Ministry of Water Development. So we should not confuse issues. The fact that <sup>the</sup> CIDA project is going to be completed does not mean all the activities on water development in the area are going to cease. There are other activities which will continue to take place.

HON. MEMBERS: At what stage is the project now?

MR. MWENDWA: Ten boreholes have already been drilled; three have been found to be productive and seven have been found to be dry.

MR. SHIKUKU: On a point of order, Mr. Deputy Speaker, Sir. Since you normally frame questions very well, can you help us here? To try and get some <sup>the question in</sup> ~~xxxx~~ information from the Minister, <sup>?</sup> could you frame <sup>your</sup> usual way so that the hon. Minister can understand us? He has said they have drilled 10 boreholes, but we had asked <sup>him to tell us the</sup> ~~what~~ stage <sup>has</sup> ~~has~~ this one of Modogashe reached?

(Applause)

MR. DEPUTY SPEAKER: Order! I think the Minister has tried to answer the ~~the~~ Question. However, should there be other things, ~~what is best for the~~ ~~House is that~~ there is ~~xxx~~ another provision in the Standing Orders which hon. Members may want to resort to.

MR. MUTISO: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Tourism and Wildlife the following Question by Private Notice.

(a) Is the Minister aware that over 200 people from Yatta Constituency whose assessment had been made and ~~x~~ passed for compensation for their crops destroyed by Game have not been paid since 1984?

(b) Would the Minister tell this House why no payments had been made to the people of Yatta, <sup>and</sup> and if there are any, could he say who ~~ex~~ they are?

MR. DEPUTY SPEAKER: Anyone ~~x~~ here from the Ministry of Tourism and Wildlife?

Okay, that Question is deferred.

(Question deferred)

Next Order.

MR. ABUYA-ABUYA: On a point of order, Mr. Deputy Speaker, Sir. My Question has not been answered.

MR. DEPUTY SPEAKER: I apologise, Mr. Abuya-Abuya. There are two Questions which have not been answered. by Private Notice/ ~~x~~ I have already called the first one, but Mr. Abuya-Abuya was busy with other things. ~~xxx~~ ~~The other one is of~~ Mr. Kinyanjui, <sup>his</sup> ~~she~~ <sup>is</sup> ~~she~~ asked <sup>the</sup> ~~but~~ the Minister and his Assistant Ministers were also busy, <sup>and</sup> ~~so~~ <sup>were</sup> ~~they~~ <sup>able</sup> ~~did not~~ <sup>to</sup> ~~answer~~ <sup>it</sup>

Mr. Abuya-Abuya, ask your Question.

MR. ABUYA-ABUYA: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Lands and Settlement the following Question by Private Notice.

- (a) Who are the members of Manga Division Land Control Board?
- (b) Is he aware that the tenure of office for this Board expired many years ago?
- (c) If so, when will the new Board ~~be~~ reconstituted?

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The following are the Members of the Manga Division Land Control Board:-

1. The District Commissioner (Kisii)
2. Assistant Agricultural Officer
3. Assistant Education Officer
4. Councillor Evans Keraro Osiemo
5. Councillor Mainga Nyaberit
6. Japhet Angwenyi Nyabwari
7. Justus Ngoge.
8. Christopher Muma Otieno
9. Mrs. Paskaria Kemuma Mugoya
10. Benson Akuma Ombuki
11. Samuel Kerongo
12. Obae ~~OE~~ Oseko

(b) I am not aware that the tenure of office for this Board expired many years ago. In fact, it has not expired.

(c) Another Board will be reconstituted when the ~~term~~ term for the existing Board expires.

*just the matter further,*  
Mr. Deputy Speaker, Sir, to clarify, members of a Division Land Control Board are appointed by the Minister to hold office for such a period as may be prescribed or, where no period is prescribed, for such a period as may be specified in the appointments.

The current ~~MANA~~ Manga Division Land Control Board Members was appointed to hold office for a ~~PER~~ period of three years vide Gazette Notice Number 2810 of 18th July, 1986. They have, therefore, a further one year x and seven months to serve before their term of office expires.

MR. ABUYA-ABUYA: Mr. Deputy Speaker, Sir, could the Minister tell the House what criteria is followed in selecting these land control board members?

MR. NYAKIAMO: The criteria is that we select the people we think are able to serve on the board.

MR. ABUYA-ABUYA: Mr. Deputy Speaker, Sir, how come that three-quarters of the Members in the Board have been there since Independence and he knows it? Except, of course, in the cases of ex-officials like the District Commissioner and the councillors, the rest have been there since Independence.

MR. NYAKIAMO: I go by the Gazette Notice which has appointed them. I do not know why the hon. Member does not want them, but they have been appointed properly.

MR. MUTISO: On a point of order, Mr. Deputy Speaker, Sir. The Minister has not answered the question. The question was not whether they have been appointed correctly or incorrectly. Some of them have been there since Independence. Why have they been reappointed and reappointed? The Minister says that the tenure of office is only for three years. How come that these ones have been there for 25 years?

MR. DEPUTY SPEAKER: Let me answer that question. They were appointed only one and half years ago. So unless you can prove that ~~for~~ there is a law which says that they must get out after a certain period, then I do not see anything wrong with the answer given by the Minister.

MR. KIKUYU: The last part of the Minister's answer is that he is the one who appoints these people and that he can reappoint them. The hon. Questioner has pointed out that these people have been in the board since Independence. This is a country-wide problem because some wazees have sat in these boards for a long time. They are even bribed by wananchi so that they can agree to change land boundaries. Why does the Minister not consider having these wazees elected by wananchi rather than being appointed by specific people in the ~~xxx~~ rural areas? They are really exploiting wananchi too much. They need money, chai and so on.



MR. NYAKIAMO: If any person has a specific complaint, I am prepared to consider that. I think it is a serious allegation to say that they need chai and so forth. After all, land matters are dealt with by wazee who know that we have very many landless people. I do not say that some of them have not asked for chai, but it is unfair for an hon. Member just to stand up and say they take chai. He should bring information to us so that we can check.

END H.....

MR. SHIKUKU: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Minister to pretend that he does not know 'chai' business in this Republic? Is it in order for him to pretend and behave as if he has come from Mars?

MR. DEPUTY SPEAKER: Mr. Shikuku, are you in order to suggest that the Minister is pretending?

MR. SHIKUKU: Mr. Deputy Speaker, Sir, from his answer he is giving us the impression that he does not know of any 'chai' business, which can never be true.

MR. DEPUTY SPEAKER: Order! Order! That is not fair. The Question before the House is about the members of Manga Division Land Control Board but if you begin speculating what is happening in Garissa, Homa Bay and so on, then it will be a different issue. The Question which was put before the Minister is about Manga Division Land Control Board. From the supplementary question raised by hon. Kikuyu, the Minister has said that if there are specific cases, they can be brought to his attention and he will take action. I do not think that that is being unfair.

MR. MUTISO: Mr. Deputy Speaker, Sir, in view of the fact that Kenya is a democratic country and that there is a need always for either re-appointment or re-election of people holding certain offices, would the Minister consider it appropriate, from time to time, to change these people? This is because their remaining in those offices for longer periods will subject them to corruption which is a sinful thing penetrating into this country. Since the Minister is aware of this, can he consider ordering the appointment of different people to hold those offices? These people do not need to go to any university to qualify to be ~~board~~ members of land control boards; they just need experience and to be known by the community. Can he consider changing these people from time to time?

MR. NYAKLAMO: Mr. Deputy Speaker, Sir, I take the point which has been raised by the hon. Member for Yatta that we should take into consideration people who qualify and try to mix or change them as the case may be. I take that point. I would also like to tell the House that we are the very people

who want board members with experience and who are conversant with land matters and we should also take that into consideration. I will, nevertheless, consider that point.

MR. DEPUTY SPEAKER: Let us go back to Mr. Kinyanjui's Question.

MR. KINYANJUI: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Transport and Communications the following Question by Private Notice.

(a) Is the Minister aware that the tarmac road from Thogoto to Gikambura badly needs repair?

(b) When will these repairs be carried out?

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS (Mr. arap Koech): Mr. Deputy Speaker, Sir, I beg to reply.

MR. SHIKUKU: On a point of order, Mr. Deputy Speaker, Sir. Is this not the second time I have heard the hon. Member ask this Question?

MR. DEPUTY SPEAKER: You are right. I do not know where the Assistant Minister was at that time.

MR. SHIKUKU: Mr. Deputy Speaker, Sir, the Assistant Minister should apologise first before proceeding to answer the Question.

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS (Mr. arap Koech): Mr. Deputy Speaker, Sir, I was right in this House but because there was a lot of noise, I did not hear when the Question was being asked. I was ready to answer but I did not hear when the Question was being asked.

MR. SHIKUKU: On a point of order, Mr. Deputy Speaker, Sir. The procedure in this House is that if a Question is called and no one responds, naturally, whether the Minister or Assistant Minister was here or above this ~~the~~ roof, he apologises to the effect that when the Question was called he could not respond for various reasons. Could he apologise loudly, Sir?

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS (Mr. arap Koech): Mr. Deputy Speaker, Sir, I apologise for not answering the Question when it was called for the first time.

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS (Mr. arap Koech) Ctd:

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

(a) I am aware that the road needs repair.

(b) Normal maintenance carried out on this road has not coped with defects that have been developing very fast. The Ministry will intensify the maintenance of this road and it is hoped that the repairs will be complete before the end of the year.

MR. KINYANJUI: Mr. Deputy Speaker, Sir, I would like to know from the Assistant Minister whether the Ministry has an inspection and maintenance programme. Does the Ministry have to wait until we raise Questions in this House before they carry out road repairs?

MR. arap KOECH: Mr. Deputy Speaker, Sir, that is why I said that the Ministry is intensifying the maintenance of this particular road so that it can cope up with defects which are developing very fast.

MR. KINYANJUI: Mr. Deputy Speaker, Sir, would the Assistant Minister tell us the exact date when these repairs will be carried out. This is because the damage which has been done to this road will render it impassable very soon. Can he tell the House the exact date ~~at~~ the repairs would be completed?

MR. arap KOECH: Mr. Deputy Speaker, Sir, I have assured the hon. Member that we have intensified the maintenance of this particular road and repairs would be completed before the end of the year.

MR. DEPUTY SPEAKER: Next Order.

#### POINTS OF ORDER

THE ATTORNEY-GENERAL (Mr. Muli): On a point of order, Mr. Deputy Speaker, Sir. On 25th November, 1986, the hon. Member for Butere, Mr. Martin Shikuku, made comments on a point of order to the effect that a Mr. Roel Victor Moens is working in Kenya without a work permit. I wish ----

MR. SHIKUKU: On a point of order, Mr. Deputy Speaker, Sir.

HON. MEMBERS: He is on a point of order.

THE ATTORNEY-GENERAL (Mr. Muli): I wish to confirm that Mr. Roel Victor Moens holds an entry permit No.134869 issued to him on 6th January, 1987. This entry permit is valid for two years. It is not true, therefore, that he is working in Kenya illegally. I do, however, know that initially he had been fined for not having a work permit but that was regularised soon after.

MR. SHIKUKU: On a point of order, Mr. Deputy Speaker, Sir. I am ready to produce a copy of the HANSARD to this effect. The Attorney-General has avoided the crux of the matter. I did say that Mr. Roel Victor Moens who was working with Sabena Airlines, had been convicted of working without a work permit and had been fined a sum of Shs.3,000/=. I made a cutting of this article from the Daily Nation and I stood on a point of order to find out why this particular person was working without a work permit. I also raised a question as to why he is not paying rents here but in London. I gave the name of the Swiss bank branch in London where he was making<sup>rent</sup>/payments to Mr. Udi Gecaga and I also quoted the amount in pounds. I was asking the Attorney-General why this man has not been convicted in view of the fact that they are now arresting the other women here who have kept money elsewhere and tried to export it. Why has he not prosecuted Mr. Roel Victor Moens for taking money out of this country~~and~~ and keeping it outside this country? That is all I wanted to know. I did not say that he was working without a work permit and I will produce a copy of the HANSARD to that effect. He is now working but he had been convicted previously. He is taking our money out of this country and I do not know why the Attorney-General has not produced him before the court to be prosecuted for taking money out of this country whe\_n he can arrest a ~~women~~ woman who had kept money elsewhere for purposes of exporting it.

(Laughter)

THE ATTORNEY-GENERAL (Mr. Muli): Mr. Deputy Speaker, Sir, this is not a laughing matter. The money was kept elsewhere and that is a fact. I stood to clear the first part that this gentleman was initially taken to court because he claimed he was not aware that he needed a work permit as he

THE ATTORNEY-GENERAL (ctd):

I....5 2.12.87

had just arrived. The matter was subsequently regularised and he is now having a work permit ~~made~~ and he is legally doing his job as stipulated in the work permit.

As to the exportation or payment of money abroad, that <sup>is</sup> another matter. You raised <sup>your</sup> ~~your~~ point but I did not wish to touch on it at the moment because it may prejudice what may be done.

END I 

Si

MR. ABUYA ABUYA: / On a point of order, Mr. Deputy Speaker, Sir, I rise on an important issue which is directed to the Ministry of Transport and Communications. Right now, as I am talking, the communication between Kisii and Nyamira is cut off. This is because the road Kisii-Kebirigo-Chemosi<sup>road</sup>, which was under construction by Messrs Solel Boneh, whose contract was terminated about one and a half months ago, is no longer under any maintenance. Vehicles cannot, therefore, pass through <sup>this road</sup> making it impossible <sup>for people</sup> to move tea from the farms to the factory. I am, therefore, requesting the Ministry of Transport and Communications to take emergency measures to rectify the situation so that they can help the farmers and all those who communicate between Kisii and Nyamira sub-district.

Mr. Deputy Speaker, Sir, I am aware that I <sup>have</sup> ~~have~~ raised on a point of order here before to ask the same Ministry to give a Statement as to whether this same contractor has or has not <sup>connived</sup> colluded with the top Ministry of officials to allow him to move out with the huge equipments which he was using for the construction of this road <sup>and</sup> to deprive the Government construction machinery <sup>work</sup> ~~to the tune of~~ shs. 24 million. This is the fourth ~~time~~ time I am raising this issue here, and the Minister has refused to give a Ministerial Statement. His ~~silence~~ <sup>silence</sup> has given me ~~the~~ impression that the Minister is involved in this matter. This is a serious matter and yet we are unable to get an answer from the Ministry. As of now, I am requesting the same Ministry to take care of the very chaotic situation between Kisii and Nyamira since there is no communication in that area.

Thank you very much, Mr. & Deputy Speaker Sir.

MR. DEPUTY SPEAKER: Let us allow the Assistant Minister to respond to the two issues.

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS (Keriri): Mr. Deputy Speaker, Sir, as regards the question raised earlier on by the hon. Member on a point of order about the contractor and the Ministry - as I said last time - the Minister had said that he would handle that matter. He is not available now and I think he should be given a chance to give a full reply to that. He has already said that he will do it.

As to the question of making sure that vehicles should, in fact, move from one area to another, and that tea, coffee, and the other produce are transported with ease we shall look into that matter seriously.

MR. MWAVUMO: On a point of order, Mr. Deputy Speaker, Sir.

MR. DEPUTY SPEAKER: Let us first hear what Mr. Shikuku has to say.

MR. SHIKUKU: On a point of order, Mr. Deputy Speaker. Mr. Deputy Speaker, my point of order is as a result of the reply which has been given by the Assistant Minister. I think this is the fourth time this matter, which involves the finances of this country, has been raised in this House. The Assistant Ministers have all stood up and told us, "The Minister would like to answer this question himself". The Minister himself does not show up in this House. It appears that we are going to adjourn this House before the Minister comes here. Where do we stand Mr. Deputy Speaker? Can you use your good offices to order the Minister to come to this House and respond? We cannot allow this kind of situation to continue. This is the fourth time we are getting such an answer.

(Applause)



MR. DEPUTY SPEAKER: Order! order! I think it is true, Ministers have one voice. So, regardless of who is actually giving the reply, it is the Ministry's reply. I would, therefore, hope that we do not have a repeat of this, <sup>to the effect</sup> that ~~it will be said that~~ a particular individual is the one who ~~is going to~~ <sup>should</sup> answer a specific question. This is supposed to be a policy matter related to the welfare of the ~~the~~ Ministry's needs and files. I hope that you will be able to sort this in the Ministry so that we can get the communication.

(Applause)

Mr. Mwavumo you can now raise your point of order.

End J.....

MR. MWAUNO: Jambo la nidhamu, Bw. Naibu Spika. Ningependa kuilekeza nidhamu yangu kwa Mkuu wa Sheria. Hii ni habari ya kivuko cha Likoni Ferry. Nimeeleza juu ya jambo hili na Mkuu wa Sheria akasema kwamba ataichukua hatua. Mpaka sasa kuna hatari kubwa sana, na zile ferry ambazo zinawabeba raia watukufu wa nchi hii, nikikujulisha, ni jambo la kusikitisha kujua kwamba hazina kibali cha kuwabeba watu. Sijui ni kwa nini Mkuu wa Sheria hawezi kuishtaki kampuni hii ya Kenya Bus Service kwa sababu inahatarisha maisha ya wananchi. Nadhani kama ingekuwa ni matatu ambayo inaenda bila kuwa na leseni ingekuwa imeshashkwa na mwenye gari tayari akafungwa.

Bw. Naibu Spika, ni jambo la kuhuzunisha kuona kwamba wananchi ambao ni wengi sana wanasafirishwa na ferry hii ambayo haina leseni kwa miaka mingi. Mkuu wa Sheria analijua jambo hili. Hakuna leseni au chochote kwa ferry hii na raia wako katika hali ya hatari. Ningekuomba uamuzi wako juu ya jambo hili kwa sababu hii ni mara ya tatu sasa. Waziri amesema na hakuna chochote kinachofanyika. Maisha ya wananchi yako katika hatari na Mkuu wa Sheria bado hajaishitaki kampuni hii ya Kenya Bus Service kwa kuwabeba watu bila kibali ama leseni kutoka kwa kampuni ya Lloyd. Bw. Naibu Spika, ungenisaidia juu ya jambo hilo.

THE ATTORNEY-GENERAL (Mr. Muli): Bw. Naibu Spika, nafikiri yafaa niseme kwa lugha ya Kiswahili pia. Mhe. Mbunge ameinuka juu kumshtaki Mkuu wa Sheria kwa jambo fulani/ <sup>bili</sup> akiwa na hasira kubwa sana kama Mkuu wa Sheria amemtendea jambo fulani. Mimi sikuelewa na mambo aliyokuwa akisema. Anaweza kusema kwa njia nzuri bila kuwa na hasira ili tuweze kuelewa kabisa?

(applause)

MR. DEPUTY SPEAKER: Order! Order! Let me assure the Attorney-General that the hon. Member for Mombasa South is only giving out the feelings of wananchi from his Constituency, and that within these precincts he is in no longer of being hurt by anybody. But I think the issue that the hon. Mwavumo is raising, he has already raised it, either twice or thrice, on the fact that there is a danger to life at the Likoni Ferry, and that there has not been an adequate response from the Ministry concerned. It was said that something is being done, and I think as each day passes, the danger gets more and more worse in the place. But what I think he has done now is to legalise the issue by saying that due to lack of documentation even on some of these ferries, it is even more dangerous now that if it collapses, there is no resort to insurance and so on. Even licences are not there apparently! Now, I do not know whether that is not the responsibility of the Transport Licensing Board again. But because you are here in charge of <sup>the law</sup> lives, you can respond.

THE ATTORNEY-GENERAL (Mr. Muli): Thank you, Mr. Deputy Speaker. Now, I understand the problem, and since the hon. Member has legalised it, investigations into the matter, from the legal point of view, will be undertaken.

MR. MUNYAO: On a point of order, Mr. Deputy Speaker, Sir. I am raising a very important issue affecting our local industries. I am calling upon the Ministries of Finance, Commerce and Industry perhaps to consult each other and make a statement in this House with regards to how our local industries are going to be saved.

Mr. Deputy Speaker, Sir, what is happening now is that most of <sup>our</sup> local industries here are either financed by the Industrial Development Bank (I.D.B.), Development Finance Company of Kenya (D.F.C.K.), I.C.D.C. or the Kenya Industrial Estates (K.I.E.). Now, with the

MR. MUNYAO (Contd.):

apparent constant devaluation of the Kenya Shilling, it is becoming extremely difficult to run the local industries, and the fear is that they are all soon going to collapse.

Mr. Deputy Speaker, Sir, the movement of our Kenya Shilling is not favourable to the foreign currencies. For example, two years ago 1 Deutsche Mark was equivalent to KSh.5/- in 1984, but today it is KSh.10/-. Also, 1 U.S. Dollar was about KSh.10/-, but today it is KSh.17/-. Also, 1 Sterling Pound was about KSh.20/-, but today it is KSh.30/-. What is happening with a local borrower is that if you had borrowed, say, KSh.10 million, and you were required to pay KSh.100,000/- per month or every year, you are now required to double that amount and yet you are not making so much <sup>money.</sup> The result is that all those industries which had borrowed from that basket are going down. I feel it is high time the Minister for Finance, in consultation with the Ministers for Commerce and also Industry, re-examines the International Monetary Fund (I.M.F.) advices. I am sure that some of them might be detrimental to our own local industries.

Again, over and above that, Mr. Deputy Speaker, Sir, the local industries are being disturbed by the fact that the Ministry is allowing some companies to import some items which are still locally manufactured. This means that our Kenyans are deprived of employment and a lot of other things. There is nothing more serious than lack of employment in a country.

Finally, Mr. Deputy Speaker, Sir, a Bill like the one we passed here recently on Exchange Control was passed so quickly, and as a result, it has affected most important venues of our employment. *An example of this is:* For instance, horticulture, which is very important and it is the third employer in the country. Horticulture is now "dead" because no one would dare risk the idea of exporting anything to United

MR. MUNYAO (Contd.):

Kingdom when he knows that if anything little happens he would be required to pay in foreign currency (Sterling Pound).

Mr. Deputy Speaker, Sir, I am only requesting the Minister to sincerely re-examine the I.M.F. regulations and also some of these controls which are also affecting our imports. If we are required to be given an import licence, which is valid for, say, six months, it should be valid for six months before opening of a letter of credit. But after opening a letter of credit, that licence should be subject to amendment because we are dealing with foreign countries. They are not interested whether they sell to Kenya, China, Taiwan, and so on. I am sure that if we do not re-examine these things something is going to happen.


Thank you very much, Mr. Deputy Speaker.

MR. DEPUTY SPEAKER: Now, Mr. Munyao, you stood on a point of order under Standing Order No.69. But <sup>what</sup> you have effectively done is actually to debate. I am afraid I am not in a position <sup>to assist you</sup> because you are lumping three different Ministries and expecting a response. I do not know in what form. But I would have thought that matters of that nature would be calling on various Ministries through a debate; but on a point of order like this one, you have just compounded the problem. The issues are there; yes. It is understood. But I do not think the approach that you have adopted would be very legitimate under the circumstances.

MR. MUNYAO: Mr. Deputy Speaker, Sir, I am only addressing <sup>matter</sup> this <sup>to</sup> the Ministry of Finance because what they do affects also the Ministries of Commerce and also Industry. I only mentioned the Ministry of Industry because I was referring to the effects to the local industries.

MR. DEPUTY SPEAKER: But you knew that it is lacking focus! What is your point of order, Mr. Chepkok?

MR. CHEPKOK: Jambo la nidhamu, Bw. Naibu Spika. Nidhamu yangu inamhusu Mkuu wa Sheria. Mwaka jana kijana mmoja alikamatwa na kupelekwa kortini Itenĩ, na baada ya siku chache kesi hiyo iliahirishwa na kuletwa mpaka Kibera, Nairobi. Nataka Mkuu wa Sheria atueleze kama yule hakimu ambaye yuko mahakamani Itenĩ hajui kazi yake ili ikabidi kesi hii kuletwa mpaka Kibera, Nairobi, au ni kwa nini kesi hii iliahirishwa huko? Wazazi wa kijana huyo walipata taabu sana kuuza mali yao ili wapate nauli ya kuja kusikiza kesi hiyo hapa Nairobi.

End K. 

MR. CHEPKOK (Ctd.):

Bw. Naibu Spika, Mkuu wa Sheria akipiga simu kule Iten, atajua kuhusu kesi ambayo ilitolewa kutoka korti ya Iten na kuletwa hapa Nairobi katika korti ya Kibera kwa sababu hakimu mwenyewe ~~zafikam~~ anaifahamu kesi hiyo. Kwa hivyo, ningeta Mkuu wa Sheria alieleze Bunge hili tofauti baina ya korti ya Kibera na ile ya Iten.

THE ATTORNEY-GENERAL (Mr. Muli) Bw. Spika, kama mhe. Mbunge angetaka kulisaidia Bunge hili, angeleta nambari ya kesi hiyo, jina la yule mshtakiwa na jina la Hakumu wa korti ya Iten na yule wa korti ya Kibera, ili nijue kama wote wawili wana jurisdiction moja. Nasema hivyo kwa sababu ~~kwa~~ hakimu wengine wana jurisdiction ndogo na wengine wana jurisdiction kubwa ya kusikia kesi. Kwa hivyo, mhe. Mbunge akilisaidia Bunge hili katika jambo hili, pia yeye atasaidiwa kwa kupatiwa jawabu. Nasema hivyo kwa sababu korti zetu zote hapa nchini, zina jurisdiction ambayo zimepewa na jambo la kuhamisha kesi kutoka korti moja hadi nyingine linafanyika kila wakati. Kwa hivyo, ikiwa kuna mashahidi wengi katika ile kesi ya Iten walioko hapa Nairobi, kesi hiyo inaweza kuletwa hapa Nairobi ili mashahidi hawa wasije wakapelekwa mpaka kule Iten kutoka hapa Nairobi, kwa sababu hiyo ni gharama kubwa. Ikiwa mashahidi wengi katika kesi hii wanatoka kule Iten, ningetaka kujua ni kwa nini kesi hiyo ililetwa mpaka hapa Nairobi.

Kwa hivyo, ningetaka kumwuliza mhe. Mbunge, kupitia kwako, Bw. Naibu Spika, atueleze zaidi juu ya jambo hili.

MR. CHEPKOK: Bw. Naibu Spika, nitaleta nambari ya kesi hii na jina la kijana anayehusika. Sioni haja ya kuleta kesi hiyo hapa Nairobi kwa sababu kule Eldoret kuna korti kuu na - - -

MR. DEPUTY SPEAKER: Do not repeat that again! You have ~~already~~ already stated the point at issue and the Attorney-General ~~has~~ has accepted to look into the matter. Since you have said that you will give him the relevant details concerning the case, I suggest that you give him this information direct so that he can respond straightaway without having another exchange across the ~~the~~ Floor. Next Order!.

## MOTION

THAT, in view of the fact that at the moment there is no law to provide for compensation whereby when people are convicted and on subsequent appeal they are set free and the sentence set aside; this House urges the Government to introduce a legislation to provide for such cases where convicted persons who on appeal are set free, could be adequately compensated for the period they will have served in prison.

(Mr. Koske on 25.11.87)

(Resumption of Debate interrupted on 25.11.87)

MR. DEPUTY SPEAKER: It is now time for the Attorney-General to respond.

THE ATTORNEY-GENERAL (Mr. Muli): Mr. Deputy Speaker, Sir, I believe it is now my time to respond and I must apologize for not having been here in debate on the House when this Motion was going on. However, I had the advantage of reading the HANSARD. Before I respond, I would like to move a slight amendment to the Motion.

MR. SHIKUKU: Oh No! No!

have

THE ATTORNEY-GENERAL (Mr. Muli): Mr. Deputy Speaker, Sir, I/as much a right to speak as the hon. Member, who is my friend, and to make a slight amendment to this Motion. First of all, the Motion is framed in such a manner that the last two sentences are repetitive, and I would like to improve its wording for proper recording, so that we can have some sort of order. Secondly, I would like to bring in a concept which this Motion actually intends to bring. As I said, I went through the HANSARD on the debate on this Motion and <sup>found that</sup> the thrust of it; in other words, the force behind <sup>it</sup> is not seeking a legislation. The force behind it is <sup>calling f</sup> less delay. Why are these people kept for too long? Why is it that they stay/ too long for before the courts finalize their cases. Why is it that ~~xxxx~~ the appeal cases that come before the court of appeal when too late, the consequences being / the persons concerned suffer. <sup>?</sup> So, I would like to bring about the concept which the Motion actually calls for and not a legislation.

Mr. Deputy Speaker, Sir, the amendment which I want to make is on the fourth line after the words, "Government to" as follows:-



After the words, "Government to" at the end of the fourth line, delete all the words therein appearing, and substitute thereof, the following:-

"take appropriate measures to ensure that delays in the disposal of cases and appeals are minimized".

~~MEMY~~ MR. SHIKUKU: On a point of order, Mr. Deputy Speaker, Sir,

~~REX~~ The amendment by the Attorney-General is completely negating the meaning of this Motion. We are not talking about delays in hearing of cases but we are talking about cases which were heard in court where certain people were convicted and served for a certain period in prison but after appealing were declared innocent. However, if you now delete all the words from the words, "Government to" where we are talking about introducing a legislation to provide for such cases where convicted persons who, on appeal, are set free, could be adequately compensated for the period they will have served in prison, you are negating the concept of the Motion. That is where the "meat" of this Motion is, but if you delete all those words, you have <sup>completely</sup> ~~completely~~ negated the concept of the Motion. So, the amendment by the Attorney-General is a completely new Motion. We are not talking about delays in hearing of cases in court. The Attorney-General has said on several occasions that he cannot compensate people who have been set free because there is no law to enable him to do so. ~~Say~~ However, when we have brought a Motion seeking that legislation, the Attorney-General opposes it. What are we going to do about the Attorney-General? When we are speaking the minds of our people, he is just having a nice time because he does not know how much our people are suffering. <sup>U.C.</sup> because he has not been elected by the people.

IN THE ATTORNEY-GENERAL (Mr. Muli): Mr. Deputy Speaker, Sir, I do not accept the last three sentences from the hon. Member that I have no feelings <sup>for</sup> of the people. He thinks he is the only ~~person~~ person who has <sup>for</sup> the feelings of the people. I do not accept that and all the hon. Members in this House have the feelings of the people and not hon. Shikuku solely. Therefore, Mr. Deputy Speaker, do not allow this particular hon. Member, who is my friend, to ~~try~~ try to take advantage of his position to think that he is the only one who is Godly while the others are not.

MR. SHIKUKU: But I am an elected representative of the people but you are not:

MR. DEPUTY SPEAKER: Order Mr. Shikuku!

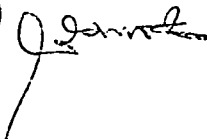
THE ATTORNEY-GENERAL (Mr. Muli): Mr. Deputy Speaker, Sir, what the hon. Member has said is not all correct. As a matter of fact, the last three sentences in this Motion are not necessary; they are a repetition. If you read the first two or three sentences in the Motion, you will find that the last two lines are a repetition. I did indicate <sup>that</sup> for the sake of proper record, I will remove that repetition by deleting the last two lines in the Motion.

Secondly, I submitted that there is no negation in the amendment. I am saying this because in the Motion, there are words to the effect that there is no law to provide for compensation. I have not removed those words. The actual question here is: Why are you paid compensation? You are paid compensation because you have been ~~unlawfully~~ unlawfully kept in custody or in detention for a long period. This is the period which we want to minimize. Therefore, the argument that my amendment is quite contrary to the concept of the Motion should not arise.

As I said earlier on, ~~the thrust~~ the meaning of the Motion is that there are delays and, therefore - - -

MR. KIKUYU: On a point of order, Mr. Deputy Speaker. The Attorney-General has not specifically addressed himself to the point of order raised by hon. Martin Shikuku on the question of negating the total concept of this Motion.

END L



MR. KIKUYU (CTD):

This Motion does not in any way state that people are imprisoned for a long time waiting for appeals. It states that you go to court and convicted by a competent magistrate. According to the Attorney-General, this magistrate is competent and <sup>he</sup> sentences you to a four years imprisonment. Let us say that you stay in prison for two or three days and after that, the court of appeal decides that you were convicted illegally and therefore, you are not guilty; <sup>how</sup> ~~How do~~ <sup>Should</sup> we compensate you as a nation for having imprisoned you, even if it was for one hour in the cells where it is not conducive for human beings to stay? For <sup>hon. Members</sup> most of us who have not been to these cells, may not understand why we are arguing that people ~~why~~ should not ~~be~~ kept there for no apparent reason. We want the Attorney-General to address himself to what is in the Motion. People ~~sa~~ stay in prison cells and ~~fix~~ finally they are told, ~~told~~ they are ~~told~~ free they can go home and yet they have served a long period in prison doing hard work like breaking concrete, sleeping on cemented ~~x~~ floors and eating very dirty food and the like.

THE ATTORNEY-GENERAL (Mr. Muli): The hon. Member thinks that he is ~~being~~ plausible in his argument. The ~~xxx~~ argument that brings about this Motion was mooted by hon. Shikuku himself and ~~now~~, of course, it has <sup>Span</sup> ~~span~~ up from hon. Koske's ~~as a~~ Motion. This is as a result of two cases <sup>which</sup> and then subsequently build up with other cases. <sup>One of</sup> these two cases <sup>is was</sup> ~~are~~ the appeals in Nakuru where a person stayed in jail or prison for about 18 years or so and was released. <sup>Case</sup> The second ~~one~~ which was followed by a question which was asked here, not too long ago during this sitting, <sup>was</sup> where a person was released after 15 years, ~~and~~ I convinced the hon. Member that that was a commutation and not an acquittal <sup>Case</sup> and it was not setting aside of judgement. That was satisfactorily done. The Motion then ~~pre-~~supposes that you have to pay compensation for having put someone away for a long period. That is how the ~~mx~~ Motion came about.

## THE ATTORNEY-GENERAL (ctd):

If the Motion is asking whether there are any laws for someone to resort to compensation, as I will show in my response, for compensation for unlawful or malicious prosecution, the law exists. Therefore, the Motion should not stand on that ground alone. If one can prove that one was prosecuted before a magistrate maliciously, and that one was imprisoned unlawfully, falsely and that is why the court of Appeal or a High Court sitting as a court of appeal-- One has all the right to bring action against the Attorney-General on behalf of the Government and the law exists for that sort of ~~pre~~ procedure. So, we were not--

Deputy

MR. SHIKUKU: On a point of order, Mr./Speaker, Sir. The Attorney-General is actually misleading the House. There was no question of malicious or not malicious. When I asked about three questions of this nature in this House, the Attorney-General specifically told me "Yes, as much as I like them to be compensated Mr. Speaker, ~~in~~ my hands--" I can check that from the HANSARD, "My hands are tied because there is no law for compensation after you have been set free on appeal." So, when he talks of malicious prosecution, and so forth, he is bringing new ideas all together while this Motion states that whether you are maliciously <sup>or not maliciously</sup> imprisoned, you should be compensated for the period you have been there. Therefore, his amendment is actually ultra vires, and I am reading this from the Standing Orders. The only thing he could probably have done after the word "to" or the word "introduce" was to move to the second sentence from the bottom and read, "to be adequately compensated", because the words, "other legislations ~~has~~ provide for such cases" has been on the other part. So, I would like to move an amendment which will not negate the Motion but the Attorney-General's amendment, of ~~x~~ deleting all these ~~wax~~ words is negating this Motion and I submit

MR. SHIKUKU (CTD):

humbly, taking into account my experience in this House that this is completely ultra vires, negating the ~~xxxx~~ whole purpose of this Motion.

THE ATTORNEY-GENERAL (Mr. Muli): Mr. Deputy Speaker, Sir, I am grateful to the hon. Member for conceding half way. Therefore, I may not labour on the question of repetition because he has agreed that there is a repetition and to that extent, he has conceded to the amendment. So, to that extent, can I now continue ~~x~~ with the balance. So, we have conceded to that partly and therefore, I will go to the other part.

The other part is that I still maintain that it does not ~~x~~ improve the facts of the matter if to compensate a person for being kept in custody far too long whereas he has been denied his right to earn. He should be compensated but there is no law to award compensation for a person having been kept far too long. But, regarding questions of malicious and unlawful cases, I will be addressing the House on my response. I hope I will get a seconder and hon. Koske perhaps may accept this I had spoken to him and he did not seem to show any serious objection.

THE ASSISTANT MINISTER FOR ENERGY AND REGIONAL DEVELOPMENT (Mr. Mwicigi): Mr. Deputy Speaker, Sir, I would like to second the amendment proposed by the Attorney-General. First of all there should be no misunderstanding over this matter, because, basically, justice is to be gi~~v~~en and it does not have to be tied up with compensation.

MR. DEPUTY SPEAKER: Order! I think I better give a ruling on hon. ~~Shikku~~ Shikuku's contention, because Standing Order No48 (2) does give the Speaker, the power to have his opinion as to whether any proposed amendment ~~g~~ negatives the original Motion to the extent that it is completely different. Well, in order to help the House to move, I will say that I have looked at the amendment~~s~~ and the relevant Standing Order, and it is my opinion that this does not

MR. DEPUTY SPEAKER (ctd):

negative the Motion as such, ~~because~~ it is simply shifting the stress rather than actually going completely opposite. Now, with that ruling, I will allow Mr. ~~Mr~~ Mwicigi to continue, but that, of course, gives every Member ~~the~~ <sup>an</sup> opportunity to have his opinion on the amendment.

MR. SHIKUKU: On a point of order, Mr. Deputy Speaker, Sir. I have also been looking at the Standing Order regarding the opinion of the Speaker, but the aim of this Motion was to ask compensation. With this amendment, does that compensation come in, Sir, If I may seek your advice?

MR. DEPUTY SPEAKER: I thought you had indicated that you want to move ~~and~~ an amendment to the amendment, so I am waiting for that occasion when I would have proposed the question.

MR. SHIKUKU: ~~xxxxxx~~ But, Mr. Deputy Speaker, Sir, I just wanted your guidance on this issue. With these words--

MR. DEPUTY SPEAKER: I have already given ~~xxxx~~ guidance.

MR. SHIKUKU: But does compensation still have any sense in this Motion? Is there any compensation at all? Can somebody be compensated after the Motion has been amended?

AN HON. MEMBER: Yes.

MR. SHIKUKU: But with the amendment, can somebody now be compensated.

MR. DEPUTY SPEAKER: That is what I am saying. The <sup>negating</sup> ~~negating~~ of the Motion, which is calling on the Government to take action-- What the original Motion wanted was ~~the~~ the question of compensation and the amendment by the Attorney-General is that instead of putting "compensation", what he is saying is that cases be made so short. Mr. Mwicigi, carry on.

M.5.....2.12.87

THE ASSISTANT MINISTER FOR ENERGY AND REGIONAL DEVELOPMENT

(Mr. Mvicigi): Mr. Deputy Speaker, Sir, I will continue in seconding the amendment because, there is no other way we <sup>can</sup> ~~should~~ deal with this matter. The main issue is that one of delay.

END M.....

*M. M. M.*

## THE ASSISTANT MINISTER FOR ENERGY AND REGIONAL DEVELOPMENT

(Mr. Mwicigi)(ctd);

Mr. Deputy Speaker, Sir, there have been a lot of delays and the Attorney-General has promised to take action to ensure that these delays are minimised. He has said that more judges will be appointed so that these delays can be reduced. A lot of technicalities are involved in some of these cases. Some of these delays could also involve the lawyers. The lawyers keep on postponing the cases and this also has to be minimised. There are also technicalities in filling in certain forms. You may hear ~~somebody~~ somebody saying "Form A was signed before Form B, or the vice-versa, and because of that this conviction has been quashed." This kind of thing also ~~creates~~ causes a lot of embarrassment and sometimes we ~~can~~ may compensate for the wrong thing. I do not see how this compensation can be made. First of all it is not done ~~anywhere~~ elsewhere. What is important is proper delivery of justice; everybody should have his rights. If some mistakes are made by the ~~prosecution~~ prosecution and if these mistakes are not malicious or intentional no compensation ~~is~~ should be paid. The question of going to jail--- If somebody is jailed and upon appeal he is acquitted ~~because~~ because of technicalities, I do not see how the taxpayers' money should be used to pay compensation to such a person.

Mr. Deputy Speaker, Sir, I beg to second the ~~and~~ amendment.

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

MR. DEPUTY SPEAKER: We have got two minutes before the Mover is scheduled to reply. Unless there is any hon. Member who wants to use those two minutes, I will call upon the Mover to reply.



(Mr. Kikuyu stood up)

MR. DEPUTY SPEAKER: Yes, Mr. Kikuyu.

MR. KIKUYU: Mr. Deputy Speaker, Sir, I would like to use the remaining two minutes to ~~xxx~~ oppose very strongly the Motion as amended by the Attorney-General. I would therefore like to move an amendment to the Motion as follows: That, we delete all the words after---

MR. DEPUTY SPEAKER: Order! I have the amendment here and therefore I cannot follow what you are trying to do.

MR. KIKUYU: If you have the amendment, Mr. Deputy Speaker, Sir, then it means that the Attorney-General has ~~misdirected~~ misdirected the efforts of this House. He has made this Motion very useless to the wananchi who are in prison; some on trivial matters and others on false allegations against themselves and which they cannot prove to be false. Some of the wananchi in this country cannot ~~aff~~ afford lawyers. They are jailed for years because they cannot effectively defend themselves in court. You will find that some of these people are set free after successful appeals are lodged by their relatives. These people are set ~~gr~~ free but they are not compensated. The period which a person spends in jail is very detrimental to his family and to himself. Such a person becomes an animal because he ~~stay~~ is forced to live with people who have animalistic characters. I have been to prison myself. If you go there you will see men who have turned other men into their wives. You are tortured very much especially if you are a Christians. You will also find that after all this suffering the ~~High Court~~ ~~Judge tells you~~ Court of Appeal Judge comes and tells you "Brother, you can go home; the magistrate had jailed for years for nothing." This is very hurting and I sincerely request the Attorney-General to re-think about his decision. Thank you, Mr. Deputy Speaker, Sir.

(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)

MR. KOSKE: Mr. Deputy Speaker, Sir, before I reply, I would like to give hon. Munyao three minutes to say something.

MR. MUNYAO: Mr. Deputy Speaker, Sir, I would like to thank the hon. Mover for giving me three minutes of his time. I would only like to r\_emind the Attorney-General and the Front-benchers of one thing. I would also like the Attorney-General to listen to me very <sup>Carefully</sup> clearly.

When the law regarding detention without trial was brought to this House--- I was not in this House at that time. But I know that hon. Oginga Odinga, a former Vice-President in this country, was the one who was pushing that Bill through this House. What happened is that he was the first culprits--- At least he was among the first victims of that law. He was detained without trial. He was detained under a law which he had pushed through this House. A recent case involves <sup>one of predecessors</sup> the ~~present~~ of our present Attorney-General. The present Attorney-General is very good and we do not wish him that. The former Attorney-General, Mr. Charles Njonjo, pushed a law through this House to make Kenya a one-party State. He was the first victim of that law. Here we are---

THE ATTORNEY-GENERAL(Mr. Muli): On a point of order, Mr. Deputy Speaker, Sir. Will you allow this hon. Member to insinuate and continue to insinuate that the Attorney-General is trying to push a legislation which is not beneficial to this country? I have all the time, since I was appointed Attorney-General, been trying to bring the House together with me so that we can pass legislations that are meaningful. I am not interested in that kind of personalization the hon. Member is engaging in; that tomorrow ~~when~~ if I go to prison I should be treated differently. I think these remarks which are individually aimed at the Attorney-General are very ~~unfortunate~~ unfortunate indeed.

MR. MUNYAO: Mr. Deputy Speaker, Sir, I was giving examples so that the Attorney-General could be with the us until we reject this Motion.

THE ASSISTANT MINISTER FOR FOREIGN AFFAIRS

(Mr. Mak'Anyengo): On a point of order, Mr. Deputy Speaker, Sir. The hon. Member is ~~giving~~ misleading the House by giving false examples. If I heard him correctly he said that the ~~the~~ Detention Act was pushed ~~thru~~ through this House by Oginga Odinga. I would like to remind him, if I remember well, that when the Detention Act was passed in this House---

MR. MUNYAO: On a point of order, Mr. Deputy Speaker, Sir.

THE ASSISTANT MINISTER FOR FOREIGN AFFAIRS(Mr.

Mak'Anyengo): I am on a point of order because you are misinforming the House. That Act was passed ~~while~~ while Oginga Odinga and his group were campaigning during the <sup>little</sup> general elections. It was the late Tom ~~Ma~~ Mboya who moved that Bill in this House. So, the hon. Member is mis-informing ~~the~~ the ~~House~~ House by giving wrong examples.

MR. SHIKUKU: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is mis-informing the House.

MR. DEPUTY SPEAKER: Order! I do not know what you are trying to do. I did not follow what hon. Munyao said because I was consulting on something else here. But I do not see the relevance of mis-information because the Detention Act is already in our Statute Books. If hon. Munyao wants to refer to it in his own way, he is entitled to that.

MR. SHIKUKU: On a point of order, Mr. Deputy Speaker, Sir.

The records of this House must be kept right. The hon. Assistant Minister has mis-informed this House. I was in this House at that time. It was hon. Oginga Odinga, who was the Minister for Home Affairs, who pushed the Detention Order ~~law~~ through this House. The hon. Assistant Minister should not mention Tom Mboya's name because he is dead. He can go and ask Oginga Odinga because he is still alive.

END.N..

THE ASSISTANT MINISTER FOR FOREIGN AFFAIRS (Mr. Mak' Anyengo): On a point of information, Mr. Deputy Speaker, Sir.

MR. MUNYAO: I do not want any information, Mr. Deputy Speaker, Sir.

MR. DEPUTY SPEAKER: Continue, Mr. Munyao.

MR. MUNYAO: Thank you very much, Mr. Deputy Speaker, Sir.

Finally, since I have got only one more minute, I will remind the Attorney-General, through the  $\alpha$  Chair that at that time when we were passing the other Bill which was intended to deny <sup>bail for</sup> murderers and other serious offenders and that they should be remanded directly, I raised an issue here affecting the two coucillors and a businessman in Machakos who had been locked in for one year <sup>and</sup> ~~he~~ denied bail. During that time, the Attorney-General agreed with the House that that was an error and a provision will be looked into so that this kind of compensation could be made available.

THE ATTORNEY-GENERAL (Mr. Muli): On a point of order, <sup>The HANSARD speaks for itself.</sup> Mr. Deputy Speaker, Sir. ~~I never said such a thing and I was reading that part only this morning.~~ I never said such a thing and I was reading that part only this morning.

MR. MUNYAO: Mr. Deputy Speaker, Sir, we know that the Attorney-General is the legal <sup>and</sup> ~~adviser for~~ <sup>adviser to</sup> this House and I will ~~ask~~ ask him, through the Chair to be at least cool when he is addressing the hon. Members. When he raises and says "I never did that--" We want calm and gentle discussion when we are in the House. The Attorney-General has severally assured this House that this provision will looked into.

The Motion is killed; it is completely dead because it has totally no meaning. Let me remi~~nd~~nd the Attorney-General that he should bear in mind that later on that something of this kind might crop up ~~and~~ affecting a relative <sup>like myself</sup> ~~of mine~~, a friend, or even the Attorney-General himself.

Thank you.

MR. arap KOSKE: Thank you very much, Mr. Deputy Speaker, Sir.

First of all I would like to thank all the hon. Members who have had time to give comments pertaining to this Motion. What actually made me to bring this Motion to the House is <sup>that</sup> because there was somebody who was convicted for three years in jail and after being in jail for 18 months, the Court of Appeal <sup>set</sup> sent him ~~free~~ home. When I brought a Question concerning this issue, the Attorney-General said that the person could not be compensated because there was no law <sup>to</sup> provide <sup>a compensation</sup> in such ~~an issue~~.

Mr. Deputy Speaker left the Chair

The Temporary Deputy Speaker. (Mr. Angatia) took the Chair

I thought also why I had to bring up this Motion was in order to urge the Police, the Magistrates, the Judges and even the witnesses to exercise extra carefullness while taking action or while giving evidence.

Mr. Temporary Deputy Speaker, Sir, although the Motion has been amended, I still urge the Police to try and be at least ~~first of all~~ about 80 per cent sure of the suspect before they arrest him. In other countries, including the United Kingdom, they do that - the police will not arrest unless they are ~~ex~~ about 80 per cent sure that the suspect has committed an offence, and in the event of wrong conviction, normally the State compensates the complainant.

While replying to this Motion, I would also urge the Government to see to it that the magistrates, judges and prosecutors are completely reliable while performing their duties. I would also like to urge the Government to improve the curriculum used by all those who are involved in judiciary matters. The present magistrates that we have in Kenya are also over-worked. Since they are involved in making very important decisions, I would

MR. arap KOSKE (Ctd.):

suggest that these magistrates should not be over-worked; more should be appointed so that they can mann these cases ably. I would also like to urge the Government to establish more courts in the divisions to avoid congestions and delays in the district headquarters where most of these cases are heard.

I have also noticed personally, some of the magistrates who come to the courts when they are not sober enough. Why should we allow people who are partly drunk to come to the courts and make decisions? I would like to suggest and urge the Government that any magistrate and all those who are involved in the judiciary matters should be scrutinized and once it is realized that they have become addicts of alcohol, they should be ~~put~~ laid off on public interest.

I have also noted that there are several loopholes in our laws and I would like to urge the Attorney-General's office to accelerate the pointing out of such loopholes and to bring the suggestions to this House for debate so as to make the necessary amendments.

Police cells should also be made free of bedbugs, lies and contagious diseases because cells and jails are not only meant for punishment but at the same time, they are meant to be places for improving somebody's character. We have reckoned good leaders who had been in jails ~~was~~ where they received a lot of experience and they have become very useful and productive after leaving the jails.

With these few remarks, I beg to move.

(Question of the Motion as amended put and negatived)

MR. SHIKUKU: Mr. Temporary Deputy Speaker, Sir, did I hear you say that the M "Noes" have it?

THE TEMPORARY DEPUTY SPEAKER (Mr. Angatia): Yes; the "Noes" have it.

(applause)

THE ATTORNEY-GENERAL (Mr. Muli): On a point of clarification, Mr. Temporary Deputy Speaker, Sir. Is the position now that "Noes" have thrown this Motion of theirs out?

AN HON. MEMBER: Yes!

THE ATTORNEY-GENERAL (Mr. Muli): They do not want it any more? I think that is the answer.

(applause)

MR. SHIKUKU: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Chair has made a ruling. In this case you have said that the "Noes" have it - in other words the amended Motion has been thrown out.

(There was noise in the Chamber)

THE TEMPORARY DEPUTY SPEAKER (Mr. Angatia): Order! It was the whole Motion and the matter is closed. Let us move on to the Next Order.

MR. KIKUYU: On a point of order, Mr. Temporary Deputy Speaker, Sir. According to the Standing Orders - if I am not wrong - the Mover of an amendment is not supposed to vote when that amendment is called for voting. In the two instances we have voted, I have been watching the Attorney-General very carefully, and he voted in both. What do you say to that?

AN HON. MEMBER: But you were very far.

MR. SHIKUKU: On a point of order, Mr. Temporary Deputy Speaker, Sir. My point of order is this; The Attorney-General being an ex-official is not allowed to vote. If he ~~opened~~ opened his mouth as the hon. Member says---He says that he saw his mouth open; that is also wrong. He should be told so.

END O....



THE TEMPORARY DEPUTY SPEAKER (Mr. Angatia): Order, hon. Members! I did not see the Attorney-General vote. Therefore, we will move on to the next Order.

THAT, noting the concern the Government has for disabled people in our community, and being aware of the very high cost of equipment used by the disabled; this House urges the Government to abolish duty and sales tax payable on special items used by the disabled and that such items be specified in the Official Gazette after scrutiny by the Government.

(Mr. Omido on 25.11.87)

(Resumption of Debate on Motion as amended interrupted on 25.11.87)

THE ASSISTANT MINISTER FOR ENERGY AND REGIONAL DEVELOPMENT (Mr. Mwicigi): Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion as amended, and to thank the Minister for Finance for introducing an amendment which is acceptable to the House.

Disabled people in this country are part and parcel of our population and, therefore, we should help them as much as possible. Disabled people need our support materially and morally. Statistics show that 2.4 per cent of our population comprises people who are disabled in one form or another. This is a huge part of our population, ~~large~~ and I would even ~~recommend~~ recommend that there be a committee or a department of the Government concerned with the disabled. It is good to give those disabled people who require wheelchairs that facility.

Mr. Temporary Deputy Speaker, Sir, while helping the physically disabled people in our community, we should also think of those who are mentally incapacitated. There are those in our community who, not through their fault, are mentally ~~incap~~ incapacitated. We should, therefore, take care of them by giving them equal treatment with the physically disabled. We have people who can only be assisted this way. The Government should have a department or a commission to cater for this group of people. When thinking of those mentally incapacitated people, we ~~should~~ should take into account the fact that there are those who have very low intelligent and

2.12.87.

THE ASSISTANT MINISTER FOR ENERGY AND REGIONAL DEVELOPMENT (Mr. Mwicigi) (ctd.):  
 who need assistance in one form or another. So, we would like both the Ministries responsible for finance and culture and social services to start building a big department to cater for the disabled people in our Republic. These people need our support very much. Those of us who earn should contribute something towards assisting those other members of the community who cannot earn a living for themselves. This is where our assistance is required most.

*With those few remarks, I beg to support.*

THE ASSISTANT MINISTER FOR LABOUR (Mr. Metto): Ahsante sana, Bw. Naibu Spika wa Muda, kwa kunipatia nafasi hii ili nami niunge Hoja hii mkono kama ilivyo-badilishwa.

Kwanza kabisa, nataka kumshukuru mhe. Omido kwa kuileta Hoja hii, na pia kumshukuru Waziri wa Fedha kwa vile alivyoibadilisha. Hii ni Hoja hii ya maana sana kwa sababu inatafuta njia ya kuwasaidia watu wasiojiweza. Nataka pia kuichukua nafasi hii kumshukuru Mtukufu Rais kwa sababu amejishughulisha sana katika kuangalia vile wananchi wasiojiweza wanavyoweza kuhudumiwa vyema. Hata nakumbuka vile Mtukufu Rais alivyoliongoza taifa hili kuchanga zizi zaidi ya KShs.20 milioni ~~ma~~ mnamo mwaka wa ~~1980~~ 1980 kuwasaidia watu wasiojiweza. Watu wasiojiweza ni ndugu zetu ambao aidha walizaliwa katika hali hiyo au waliingizwa katika hali hiyo na ajali za barabara ni, na wanahitaji usaidizi wetu sana. Katika Kenya kuna takriban watu milioni mbili ambao hawajiwezi. Hiyo ni idadi kubwa sana ya watu, na naonelea kwamba Hoja hii imeletwa wakati unaofaa.

Bw. Naibu Spika wa Muda, pesa zinazotolewa na Serikali, kupitia Wizara ya Utamaduni na Huduma za Jamii, hazitoshi kuwasaidia wasiojiweza. Hii ndiyo sababu tunaona mashirika ya kujitolea yakijitokeza kwa ajili ya kuwasaidia wasiojiweza. Ningependa kutumia wakati huu kutoa mwito kwa wachora ramani za nyumba zetu wahakikishe kwamba wanawafikiria watu wasiojiweza. Kwa mfano, watu wasiojiweza hupata shida kubwa sana wanapotaka kwenda ofisi fulani kwa sababu, vile nyumba zetu zilivyojengwa, hawakufikiriwa. Kwa hivyo, tunapoendelea mbele ni lazima tuwe na mipango kamili kuhakikisha kwamba watu wasiojiweza wanapata huduma zinazofaa.

THE ASSISTANT MINISTER FOR LABOUR (Mr. Metto)(Ctd.):

Ningependa pia wale wanaotengeneza viti vya magurudumu vya wale wasiojiweza walifikirie jambo hili kwa makini. Wasiojiweza hawa huwa na matatizo sana hasa kule mashambani kwa sababu hutumia viti kutoka ng'ambo ambavyo si vizuri sana kwa barabara zetu <sup>Zisizo uzuri</sup> ~~wasiojiweza~~ sana kule mashambani. Kwa hivyo, ningetaka kuitumia nafasi hii kutoa mwito kwa viwanda vyetu hapa nchini vitengenzeze viti vinavyofaa kwa watu wetu wasiojiweza kule mashambani. Watu hawa ndio wanaohitaji sana viti vya magurudumu vinavyotengenezewa hapa nchini. Kwa njia hii, hatutatumia pesa nyingi za kigeni kununulia viti vya ng'ambo na bidhaa nyingine zinazohitajiwa na wasiojiweza hapa nchini.

Ningependa kutoa mwito pia kwa vituo vinavyowafundisha wasiojiweza. Ninatoashukrani kwa zile pesa ambazo Mtukufu Rais hutoa kila mwaka kuvisaidia vituo hivi na kuviwezesha kuwafundisha wasiojiweza utaalimu fulani utakaowawezesha kushiriki katika ujenzi wa taifa letu. Shida iliyopo ni kwamba pesa zinazopewa Wizara ya Utamaduni na Huduma za Jamii ni kidogo sana. Ninajua kwamba vituo hivi vimewasaidia sana watu wetu wasiojiweza kujipatia elimu ambayo imewasaidia kujitegemea maishani. Wengine wao wanafanya kazi mbali mbali za ujenzi wa taifa letu baada ya kuhitimu mitihani yao katika vyuo hivi.

Hoja hii imewasilishwa hapa wakati unaofaa na ninatoa shukrani kwa Waziri wa Fedha kwa kukubali kuondoa ushuru unaotozwa bidhaa zinazotumiwa na wasiojiweza. Ushuru huo ulikuwa ukiongeza gharama ya vifaa hivi.

Kwa haya machache, Bw. Naibu Spika wa Muda, naunga Hoja hii mkono ikiwa vile imerekebishwa.

MR. MUTISO: Thank you very much, Mr. Temporary Deputy Speaker, Sir. Let me also join my colleagues very briefly in support of this very important Motion as it now stands after the amendment. The question of the disabled people of this country is very important in that we have quite a lot of these people in the country. Some of these people cannot move because many of them come from very poor families, and cannot afford to buy imported wheel chairs as they are very costly.

I am speaking from experience, I myself having got involved in trying

MR. MUTISO (CTD.):

to get some wheel chairs for some disabled persons. I have found the exercise very difficult in that even a tyre for a wheel chair of this nature costs no less than Shs.450/=. Just imagine one tyre costing so much! Most of these chairs have three wheels, but one is smaller than the other two. So, if you multiply this figure by two and a half, you will find that three spare wheels cost well over Shs.1,000/=. The price of the chair itself is very enormous, and this is because of import duty.

I do not see the reason why the Government could not exempt imported wheel chairs from import duty. These chairs are not imported here for commercial purposes; they come to serve a special need of helping the helpless. Therefore, I do not know the reason why the Government did not have the foresight to see this fact in advance even before this Motion was brought here and lift import duty on these wheel chairs. When I went to buy some spare parts for one wheel chair from the Red Cross offices just next to Parliament, near County Hall, the dealers told me that they had no alternative but to sell these parts dearly because of the duty which is imposed on the importation of wheel chairs and their spare parts. I wondered why this is so.

This is why I personally feel that this is a very important Motion which asks the Government to interpret what it really means by this duty. We know that there is a special fund for helping the disabled. If the Government has seen it wise even to establish a fund for the disabled, it should also have known well in advance that since some of these wheel chairs and other similar facilities are not available locally, import duty on them should have been lifted a long time ago. In that case, the disabled could import these things, not to make any profit, but to serve themselves in their needs. It is because of this that I feel that this is a very good Motion. It is asking the Government to do exactly what it talks about.

I have had the experience of trying to look for wheel chairs and spare tyres without success except in a very few places in this city. When you find them, you find that the price is colossal. In fact, they cost more than normal bicycles. One wheel chair costs no less than Shs.5,000/=:, and this

MR. MUTISO (CTD.):

is really terrible especially when you consider that you are buying, say, a spare tyre in order to enable somebody to move about. You wonder why this price should be so high, but this is because of the import duty levied on these things. You will also find that the prices of other similar accessories that the disabled use and which are not locally produced are very high.

I feel that this is a sensible Motion which deals with a very important matter about which the Government is much concerned with and <sup>is</sup> involved in. So, the Government should accept it and implement it forthwith without wasting any time. We have observed many Motions being passed in this House and the Government taking even years to put them into effect. In this case, however, I consider this Motion to be very special and important. I hope that the Government is in agreement with respect to this Motion. The House is only asking that the Government takes quick steps and put the Motion into operation as soon as it is passed. This import duty should be lifted so that these things can be imported here in great quantities as they are not being produced locally.

END Q 

MR. MUTISO (ctd.):

They are, Mr. Temporary Deputy Speaker, Sir, for a special category of people. A person like me or you who is <sup>able</sup> ~~whole~~ does not need to buy that chair. You do not need it. It is not for any commercial purpose. It is <sup>like</sup> ~~to be as~~ a supporting <sup>leg for</sup> ~~by~~ a disabled person to push himself or herself from one point to another without being assisted. Therefore, if there is any service that this House or nation can give to show that it really has great concern of helpless persons; this is <sup>it.</sup> ~~one.~~ I would like to recommend to the House and the Government that as soon as this Motion is passed, <sup>we</sup> ~~let us~~ see action being taken straight away. The Minister for Finance who is in charge of these duties, but who is very rare in this House, should be <sup>asked to</sup> ~~informed~~ take---

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo): On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister for Finance is being accused of rarely being in this House. He was here when the Motion was being introduced, and <sup>he</sup> ~~proposed~~ an amendment. Is it correct for the hon. Member to say that he is rarely in the House? <sup>to,</sup> I am here to take notes.

MR. MUTISO: Mr. Temporary Deputy Speaker, Sir, I did not <sup>that</sup> notice ~~my~~ good friend, the hon. Member for Kigumo, was present in the House. I was not referring to him. Nevertheless, I accept his correction.

What I was saying is that, since the Assistant Minister is here representing the Minister, let us see quick action <sup>being</sup> taken ~~on taken~~ as soon as this Motion is passed today. We want to hear an announcement next week that this duty has been removed so that these things can begin to come <sup>into</sup> ~~in~~ in this country. That way, our disabled people can make use of them. The price of these wheel chairs and the other accessories can be cheaper for any person ~~for~~ <sup>from</sup> the low <sup>income-</sup> ~~earning~~ families.

With these few words, I support the Motion.

MR. KIPKORIR: Thank you, Mr. Temporary Deputy Speaker, Sir, for allowing me to support the Motion. It is time for us, Kenyans, to look at the problems confronting our less fortunate people. I support hon. Omido very much for forwarding this Motion to the House in order that we try to find ways by which we can help wananchi to buy or ~~to~~ get these apparatus for disabled people.

It is not only today that Kenyans have talked about this thing. - It <sup>is</sup> through our President who is mindful of other people, that money has been raised for our disabled people. It is a good example that we should follow <sup>in order</sup> to assist wananchi. It was sometime last year that I ~~x~~ had a student in my area who was unable to walk. He was helpless with nothing and could not raise money to buy such a chair. I negotiated <sup>t</sup> with some donors around my area - the <sup>Lions Club</sup> ~~Linecraft~~ <sup>members</sup> ~~People~~ - who assisted this child. The price of the apparatus was so expensive that it was almost impossible to buy <sup>just one artificial leg</sup> ~~it~~. It cost them shs.29,000/= to buy just one <sup>artificial</sup> leg for that disabled child.

END R.....

*R. Kipkorir*

MR. KIPKORIR (ctd.):

I was very grateful to those donors who came to the aid of that pupil from my constituency who was helpless. These days, that boy is enjoying life and feeling like any other Kenyan. It is our duty to see that all Kenyans are ~~happy~~ happy. It was not the choice of the disabled to ~~have~~ become disabled; it was due to nature that that happened to them. It is, therefore, the responsibility of the leaders to ensure that these people are properly cared for.

I blame some leaders ~~in~~ in some sub-locations. We Ltrs. have now ~~been~~ got the District Focus for Rural Development Strategy through which all problems affecting the community must be solved. But as I look around, even ~~in~~ in my constituency, I find that there are some <sup>disabled</sup> people ~~in~~ who have been left out and are not being recommended <sup>to the district development committee</sup> for assistance. I would like all the leaders - ~~in~~ from the village level to the national level - to identify the disabled and recommend them to the district development committee for assistance so that they can be assisted by the Government. I would also like to appeal to the Ministry of Culture and Social Services to increase their efforts so that we can see how we can improve the welfare of our people. In this way, our people will feel that they are Kenyans.

Mr. Temporary Deputy Speaker, Sir, there are some vacancies which sometimes occur in Government Ministries and parastatal organizations, and there are some disabled people who ~~have~~ have just left school and ~~as~~ they are unable to ~~to~~ walk ~~for~~ for long distances to look for employment. These school leavers should be assisted and taken to colleges for training so that they, too, ~~can~~ can be of assistance to this nation.



MR. KIPKORIR (ctd.):

We have seen in the past that there are some disabled people who have contributed wonderfully to ~~the~~ nation-building. Some of these people are typists<sup>and</sup> telephone operators. I am, therefore, appealing to teachers in the various schools to see to it that those children who are disabled in their schools are looked after and that ~~th~~ when they finish school, they are ~~x~~ followed up by the Ministry of Education so that they can be absorbed into the Government Ministries for employment. In this way they will feel that they are Kenyans in their country.

I would also like to appeal to everybody, especially the Ministers, to advice their Ministries to see that from top to bottom, disabled ~~peop~~ people are <sup>looked</sup> ~~look~~ after properly. The same goes for the leaders in the sub-location - Kanu chairmen and assistant chiefs <sup>to it</sup> to see ~~that~~ that no ~~Kenyans~~ disabled Kenyans are left out. In so doing, the welfare of all Kenyans will be uplifted. There are some families ~~wh~~ which have disabled children ~~and~~ whom they are unable to educate. These children should be looked after by the Government. There is no other way of assisting these people unless people come out and help them. As a leader, one is a leader for everybody. Once a person has been elected to this House, or for some ~~of~~ other ~~po~~ post outside this House, he or she must take his or her responsibilities properly and look after the welfare of the people of his or her area. Leaders need to be very careful because Kenya is ~~a~~ moving forward, and it is a Kenya in which social life is required. Social life is for everybody. We would like to make those people who are not mindful of others understand that it is their duty to be mindful of ~~k~~ other people's welfare.

I would also like to support His Excellency the President for visiting at least everybody in this country. He has <sup>visited</sup> ~~gone~~ all

MR. KIPKORIR (ctd.):

parts of the country. Why can we not do the same, as leaders?

I really support hon. Omodo's Motion and I hope that the Minister will respond to it favourably and hope that hon. Members will also support it.

There is also the issue of equipment for the disabled. There are some people who are willing to help us by providing such equipment. It ~~is~~ is the responsibility of the Government to see that such people are taken care of because their interest is to develop this country positively. We need to cooperate with these people so that our development can move towards the right direction.

With those few remarks, I beg to support.

MR. MATE: Thank you Mr. Temporary Deputy Speaker, Sir, for giving me this chance to join my friends in supporting this amended Motion. I agree with most of the sentiments expressed by the various speakers to the effect that we need to be mindful of the ~~welfare~~ welfare of the unfortunate members of our society, who are over 2 million people. This figure could increase any time, given the high carnage on our ~~road~~ roads and the other means of communication. In fact, this is a very important Motion because any one of us could become disabled any time. This is why we should give this Motion the seriousness it ~~des~~ deserves.

Secondly, what our disabled people require is sympathy and love from those who are physically ~~able~~ able to assist them. We should not despise those who are disabled. If we get a person crawling on his knees or his bottom, we should not disregard him. We should give such a person love. Apart from the material assistance which we should give to these people, we should also give them love, and show them that we need them, and that they

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MR. MATE (ctd.):

are part of our society and that they matter. ~~W~~ We should not despise them or throw them aside when we are boarding matatus. Those of us who are huge, like hon. Oyondi, if they use their might to throw those who are physically disabled about, this would be a disservice to them. We should give them assistance and love, in addition to the things which are being advocated by my colleague here.

END S.

MR. MATE (ctd):

Mr. Temporary Deputy Speaker, Sir, I feel that our society should not look down upon those who ~~are~~ are mentally disabled. Disability can take different forms. Some people are mentally disabled while others are physically disabled. This is a section of the community we ignore. A third form of disability is spiritual disability. I will leave that for the time being

(Laughter)

and concentrate on mental disability. Our society has a tendency of forgetting this section of the community. For example, the moment your head blows off, nobody cares about you; when a person starts to walk about naked, nobody cares about him. The mentally disabled <sup>people</sup> should be taken care of by the society and the Government.

At this juncture, I would like to say that we should introduce mental hospitals in all districts and locations - at the dispensaries and health centres - so that the mentally disabled can be taken care of. Old age is another disability. I am sure that a number of people are going to be disabled very soon because of old age. ~~Even~~ This also applies to this House. This is because the moment you become very old, Sir, you are already disabled and you should, therefore, be taken care of either by the Government or the society. The Government should establish institutions where old people can be admitted and taken care of like some of my hon. colleagues here. Institutions should be established - although they are not African by culture - where old people can be taken when they become disabled because of old age. Old age is a disability and it should be noted that we are not passing this particular Motion so that it is ~~through~~ thrown to the archives as is normally the case. What I am trying to say is that old age should not be forgotten because it is also a form of disability. We are all going to face that music. Those <sup>who</sup> can run today and play football are going to be physically disabled tomorrow because of old age. If we do not take measures to think ~~about~~ and plan about them, they will very soon become a big problem to the society.

It should be the concern of the society and the Government that old age should also be planned for because it is another form of disability. Those who are spiritually disabled, I will leave their case to the 'Ministry of preaching', those involved with theological matters and to various churches to preach to them. Spiritually disabled people exist and they could be among us in this House. The 'preaching ministry' is doing a good job by preaching to those who are spiritually disabled.

Finally, I would like to say that apart from reducing sales tax or waiving it completely on items used by the disabled, we should also try to think<sup>of</sup> ways and means of manufacturing wheelchairs locally. With our modern standards of technology in the manufacturing industry, we should think, not only of manufacturing wheelchairs at a subsidized price, but also to manufacture them locally so that they become cheaper to our people. This is a very important aspect which should be looked into by the Ministry of Industry. The Ministry should see to it that these wheelchairs are manufactured locally rather than importing them. Instead of waiving the sales tax and subsidizing the prices, why can we not think of manufacturing these items locally?

I would like to make a strong appeal to the Ministry that this important Motion should be implemented upon approval. This Motion is very important because it concerns each one of us because we do not know when we can be disabled. Disability can come as a result of an accident, old age and any other kind of calamity. This Motion should be implemented immediately if it is passed and it should not be thrown ~~to the~~ to the archives and forgotten.

With those few remarks, I beg to support the Motion.

THE TEMPORARY DEPUTY SPEAKER (Mr. Angatia): It is now time for the Mover to reply.

MR. OMIDO: Mr. Temporary Deputy Speaker, Sir, before I reply, I would like to give hon. K'Ombundo five minutes to make a few remarks.

MR. K'OMBUNDO: Mr. Temporary Deputy Speaker, Sir, I would first of all like to thank my hon. friend, Mr. Omido, for two things. The first one is for giving me the chance to speak and also for bringing this very good Motion

to the House. In support of this Motion, I would like to say that this is an area where our people should help the country by manufacturing these items locally. It is a good suggestion that the Government should waive duty on the <sup>imported</sup> items used by the disabled. The important thing is that the items required by the disabled people of Kenya should be manufactured in this country. It is not impossible to manufacture them; in fact, it is very easy to manufacture them. They should be made here. The Kenya Industrial Estates and other agencies that promote industrial development should look into this matter.

This is an area which the jua kali<sup>mechanics</sup> - who are now being aided - should come forward and help. It is not impossible to make good wheelchairs. We should make these things right here in Kenya. If we concentrate in importing them, we are going to give the Indian the opportunity to make colossal amounts of money for nothing. By allowing the importation of these items, we shall be promoting the Indian. We should work hard and help the disabled ~~xxx~~ people because our motto as Kenyans is to look after ourselves. We have iron, wood and all the ~~xxx~~ raw materials needed in the manufacture of these items. We should, therefore, manufacture these items locally.

With these few remarks, Sir, I would like to support this Motion.

Thank you very much, Mr. Omido.

MR. OMIDO: Mr. Temporary Deputy Speaker, Sir, once again before I reply, I would like to give hon. Ogot two minutes to say something.

MR. KIKUYU: Why are you only picking on Luos?

THE ASSISTANT MINISTER FOR CULTURE AND SOCIAL SERVICES

/(Mrs. Ogot): Mr. Temporary Deputy Speaker, Sir, I would like to thank hon. Omido for allowing me to say very few words on this very important Motion ~~xxx~~ which my Ministry is very happy about. I would like to ask the hon. Members of Parliament who are here and those who will later hear or read what has been debated, to bear in mind that prevention would do a lot to reduce the swelling figures of disabled persons in Kenya. For example, in

THE ASSISTANT MINISTER FOR CULTURE AND SOCIAL SERVICES (Mrs. Ogot) Ctd:

the area of ante-natal, a number of disabilities could be prevented. It is very important for expectant mothers to attend ante-natal clinics and to attend immunization clinics organised by the Ministry of Health until the infants have received the triple vaccine which will prevent them from getting any disabilities as they grow.

On the question of those who are disabled through accidents, we would like to urge the insurance companies to promptly settle claims lodged by these people. That ties up with the Motion which urges the Government to remove sales tax and subsidize the prices of items used by the disabled. A lot has been said about wheelchairs and I would like to say that when manufacturing such items locally, we should also make the supportive walking and hearing aids as well <sup>braille machines</sup> ~~brails~~ for the blind people.

Finally, I would like to urge the communities in every district to organise seminars, as money is available, for parents of disabled people, to ~~go for them~~ teach them how to handle such persons.

With those few remarks, Sir, I beg to support.

END OF T

MR. OMIDO: Mr. Temporary Deputy Speaker, Sir, I want to thank every hon. Member who has contributed to this Motion. They have already stated the importance and the necessity of this Motion.

The Motion, Sir, if it is implemented properly and immediately it is intended to serve nearly a population of 2.5 million people of our disabled persons, which is not a small number. What happens is that in some of our homes we tend to disregard or hide those unfortunate disabled members of our community behind so that other people do not see them. We think it is a curse to be disabled. However, I would appeal to our people to take and regard them as human beings. It is only that they have been unfortunate to be in the conditions in which they find themselves.

Sir, when implementing this Motion, I would like the Minister to take particular note of the fact that usually when disabled persons order for these equipment, it takes a long time. There are delays in processing the papers to bring the equipment here. So, I would like the Ministry to take special note that they do not cause that delay and, therefore, causing further suffering to the disabled.

Sir, as I speak here now, I have a letter written by a 13-year old cripple. It is a very sad and moving letter. In short, it says, and I quote:-

"I am 13 years old, a crippled boy, attending Nile Road Special School. I have a wheel-chair which needs repair to the tune of KSh.8,000/-. As the spares may not be readily available, I may need a new wheel chair which I understand will cost KSh.15,000/-".

Sir, this letter is from a 13-year old cripple. He also says that his father is a cripple too who is also moving in a wheel-chair. It is a sad situation. The parent also writes and says that he has even appealed to the Ministry for a wheel-chair which has not been forthcoming. He asks me to pay special tribute to hon. Mudavadi who, when he appealed to him some time ago, gave him a wheel-chair, and



MR. OMIDO (Contd.):

that wheel-chair is worn out now. So, both of them now require KSh.15,000/- to buy two wheel-chairs. It is a sad situation indeed.

Now, when thinking or considering, as the Minister said he is going to gazette the equipment that will be used, I would like him to take into account those special equipment used in special schools for cripples. These schools also have special desks or special things like rumps because the children they cater for are in a condition which require that those equipment be made available. So, I would request the Minister to take special note that when implementing this Motion they should exempt from duty the equipment used at the special schools.

Sir, I would also like to appeal to our universities to carry out research on ~~disabled~~ <sup>used by the disabled people</sup> equipment. Some hon. Members have already spoken about ~~this~~, the need to manufacture locally equipment for the disabled persons. I believe that if our universities worked to improve this, I am sure they would be able to produce equipment which is suitable for use by cripples in our rural areas because the present imported ones are only good for use in towns and <sup>the</sup> City. So, I would appeal to our universities to co-operate in this field.

Sir, I am sure the House is aware that when people become crippled due to sometimes accidents and so on, they are always living on drugs which are very expensive. For instance, I know of a friend of mine who is a cripple and he uses drugs worth not less than KSh.1,000/- per month. So, something should be done about <sup>the</sup> acquiring of drugs by these disabled persons.

Sir, I would also like to urge the Government to consider this as an interim measure with a view to granting disabled people free equipment in future because they unable to fed for themselves.

Sir, I beg to move.

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

Resolved accordingly:

THAT, noting the concern the Government has for disabled people in our community, and being aware of the very high cost of equipment used by the disabled; this House urges the Government to abolish duty and sales tax payable on special items used by the disabled, and that such items be specified in the official Gazette after scrutiny by the Government.

#### MOTION

THAT, while appreciating the Government's efforts in providing adequate water supply to Machakos Town by way of Kilimanjaro Water Project; this House urges the Government to ensure that the same project takes into consideration areas named here below:-

- (a) Mutituni and Ngalani;
- (b) Mua Hills, Kathekakai and Kitenge Settlement;
- (c) Kiimakimwe, Masakwani, Kipandani;
- (d) Kasinga - Mungala - Kiandani; and
- (e) Kimutwa Sub-location to augment the existing facilities in Kimutwa and Katumani Dryland Research.

(Mr. Kikuyu on 18.11.87)

(Resumption of Debate interrupted on 18.11.87)

THE ASSISTANT MINISTER FOR INFORMATION AND BROADCASTING

(Mr. Khasakhala): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for allowing me to say a few words on this very important Motion.

I would like to join my colleagues in thanking His Excellency the President for having initiated personally this particular project. I would also like to appeal to the designers of this particular project which is very important because the water will be flowing by force of gravity to the areas mentioned here in the Motion to speed up the work. The designers are our own local people - Africans - and although they are being assisted by some foreigners, but I think the Africans should understand the problem of Africans better than the foreigners. When they are designing water projects, they should take into

## THE ASSISTANT MINISTER FOR INFORMATION AND BROADCASTING

(Mr. Khasakhala)(Contd.):

consideration facilities for storage tanks along the rising mains. It is not good having a water project running through so many miles without a storage tank provided along with the rising main so that when several storage tanks are provided along the rising main people on the way can tap water from these tanks to assist other villages which are also along the water supply. For instance, water goes all the way to Kisumu Town without any storage tanks provided on the rising mains. Also, water goes straightaway to Mombasa without serving some people who are on that main line.

Well, if we are going to assist people of this country get water by the year 2000, as it has been indicated by the Government or the Ministry itself, we should consider the cost element. It would cost less if we provided storage tanks along the rising mains. I should have suggested that we have dams, but they are more expensive than tanks so that when water is being pumped to its destination - where it is supposed to go - it is stored on the way to its destination. Therefore, people along this line can tap this water and use it for the purposes which have been indicated in this particular Motion.

End U.

*M. G.*

THE ASSISTANT MINISTER FOR INFORMATION AND BROADCASTING (Mr. Khasakhala)(Ctd.):

Mr. Temporary Deputy Speaker, Sir, I ~~for~~ have found that most designers do forget that water kiosks are important too. I am saying this because not everybody is going to be able to get tapped water to his house. Now, if we can provide water ~~has~~ kiosks along the rising main pipe, <sup>to</sup> in markets and, <sup>also to</sup> in the various community centres, where people living in villages, are not able to get piped water right into their homes, <sup>these people</sup> ~~they~~ can come and get water <sup>and</sup> this would help them a great deal. These people can also use water kiosks ~~which~~ along the road where they can buy clean water. Water is very important to human life and without water, we can have a lot of health hazards. Without water, we cannot agriculturally develop because it provides <sup>development</sup> in the field of agriculture. Without water, we cannot even grow trees. Water assists us in growing seedlings for afforestation purposes. So, we can establish seedbeds along water supplies so that we can use the water to grow more trees in order to enable us to have forests throughout the country.

Mr. Temporary Deputy Speaker, Sir, we cannot even build houses without water. Therefore, water provides a lot in the field of development. When we talk about water, therefore, we should not only talk about drinking water, but <sup>also</sup> we should ~~also~~ consider ~~also~~ having enough water for developing agriculture. I am talking about the designs for the supply of water because this is where we go wrong. We design water projects without considering other ~~various~~ items which go along with the supply of water. I would like to appeal very strongly to the Minister for Water Development to make sure that when <sup>his officials</sup> ~~they~~ are designing water projects, they ~~must~~ consider the various other things that go along with water supply.

Mr. Temporary Deputy Speaker, may I ~~now~~ come to a water project in my own area which is known as Maseno Water Supply. This project was designed many <sup>at</sup> years ago and was aimed <sup>at</sup> providing water to Maseno Township where there are various institutions, forgetting all the other places through which the water passes. The water comes from Emuhaya to Maseno but the designers did not consider that there are areas in ~~from~~ Emuhaya where this water could be used to assist the people ~~there~~. I would like the Minister for Water Development to re-design this particular water supply; that is Maseno Water Supply, so that we can ~~be~~ supply the water to Luanda,

THE ASSISTANT MINISTER FOR INFORMATION AND BROADCASTING (Mr. Khasakhala)(cda'td.):  
 which is the only urban centre along the water supply. We cannot build factories without water. There are two very important things when you consider establishing a factory, and that is, the supply of electricity and water. No factory can work efficiently without water and I am, therefore, <sup>appealing</sup> appearing to the Minister, when <sup>his officers</sup> they are considering the extension of the Maseno Water Supply, to ~~xxxx~~ seriously consider supply water to the areas covered by ~~the~~ Luanda urban/~~centres~~ <sup>centre</sup>. I am saying this because Luanda is a new urban <sup>centre</sup> and unless we get sufficient water supply, it is not going to be easy to develop this particular area. We need to ease the unemployment problem in the country and we can do this easily if we can provide water in the rural areas so that some people can use it to build small-scale industries.

Mr. Temporary Deputy Speaker, Sir, with the supply of electricity and water, you can establish small-scale industries in a village. In an urban area like Luanda ~~urban area~~ <sup>area</sup> which is now coming up, I feel very strongly that the Ministry of Water Development should seriously consider building more tanks along the rising main pipe throughout Emuhaya Division and supply water directly to Luanda Trading Centre, so that the people there can be able to build a few industries which can provide some employment <sup>opportunities</sup>. We thank the President also for encouraging the jua kali mechanics. Where we have jua kali mechanics, the Ministry should consider to installing water taps, ~~there~~ <sup>there</sup> so that these people can use the water. I am saying this because you cannot have jua <sup>Kali</sup> ~~garages~~ <sup>garages</sup> without water. In most markets throughout the country, we have jua kali/~~mechanics~~ <sup>garages</sup> and many ~~people~~ people are keen in trying to manufacture a few things <sup>through</sup> ~~through~~ these ~~xxx~~ jua kali garages. Therefore, we should also consider the area of these ~~n~~ jua kali garages and provide <sup>them</sup> the ~~jua kali mechanics~~ with water. I am saying this because they need this water in order to clean whatever they are manufacturing. They also need the water to cool their machines they are using.

Mr. Temporary Deputy Speaker, Sir, I feel that water should be considered as a very important item in our lives. As the Minister has already amended and accepted this particular Motion, I ~~do not~~ see the reason why he should not, when

THE ASSISTANT MINISTER FOR INFORMATION AND BROADCASTING (Mr. Khasakhala)(Ctd.):

<sup>designing</sup> water supply to Machakos Town, ~~not~~ provide water tanks at <sup>Mutituni</sup> Mutituni, Ngalani and all the areas which have been mentioned in the Motion. We should have water tanks <sup>built</sup> ~~built~~ along the main pipe so that water can be tapped from these tanks to the areas where the hon. Member who moved this Motion was very much concerned about lack of water. ~~there~~ So, the people should see signs of water ~~is~~ being supplied to their respective areas for the pupose of development.

Mr. Temporary Deputy Speaker, Sir, I am glad to note that the Ministry of Water Development has been ~~work~~ working very hard to assist the country, but ~~they~~ <sup>it</sup> should hasten the exercise. I am saying this because there are certain water projects which have been recommended by the district development committees but nothing so far has been done ~~to~~ to implement <sup>them</sup> ~~these projects~~. If we are going to sit back and wait for the donors to give us this money, it is going to be very difficult to implement these projects. I ~~think~~ we should use our ~~own~~ own money, at the moment, to facilitate the implementation of water projects <sup>all</sup> throughout the country. I am saying this because donors alone cannot solve/our problems. I also feel that the Ministry of Water Development should train more people to ~~man~~ <sup>man</sup> the engines and other equipment where these projects have been established. We need more trained people ~~to~~ to do this work so that breakdown of machines and water pipes ~~does~~ does not take too long to be repaired. At the moment, if you have a breakdown of a machine in any water project, it takes a very long time to repair the breakdown because we do not have enough trained people to carry out the repair work. Therefore, instead of always rushing to the district headquarters, let us have trained people at the divisional level to ~~repair~~ carry out any repair work in the water projects throughout the country.

With those few remarks, I fully support the Motion.

THE ASSISTANT MINISTER FOR CULTURE AND SOCIAL SERVICES (Prof. Sumbi):

Thank you very much, Mr. Temporary Deputy Speaker. I notice I have just a few minutes. First of all, I would like to thank His Excellency the President for having initiated this particular water project. ~~The importance~~ The emphasis that the President puts on the importance of water, ~~is~~ is very encouraging and I hope he will continue doing that. Recently, he said that maybe one day, we will

THE ASSISTANT MINISTER FOR CULTURE AND SOCIAL SERVICES (Prof. Sumbi) (Ctd.)

have a big water tank somewhere on the top of Timboroa Hills so that the water can be pumped from Lake Victoria to <sup>supply</sup> the entire country. This Motion is very important because the areas mentioned ~~in it~~ are within the Municipality of Machakos Town. So, it is very appropriate that these areas also are supplied with water. I support what hon. Khasakhala said that when this <sup>water</sup> pipeline from Kilimanjaro ~~to Athi~~ to Athi River, Machakos and Kajiado is laid, those along the pipeline should also benefit from the supply of water. I urge the Ministry and the Government to have a team between Sultan Hamud and Emali, where there is <sup>a</sup> tank ~~now~~ <sup>now</sup> which is being fed with water from Kilimanjaro, although in a small quantity.

## ADJOURNMENT

THE TEMPORARY DEPUTY SPEAKER (Mr. Angatia): Hon. Members, it is now time for the interruption of business and the House is, therefore, adjourned until 2.30 p.m. this afternoon.

The House rose at thirty minutes past Twelve o'clock.

END V

R E P U B L I C     O F     K E N Y A  
T H E     N A T I O N A L  
A S S E M B L Y

OFFICIAL REPORT

Wednesday, 2nd December 1987

AFTERNOON SITTING

PAPER LAID

ORAL ANSWERS TO QUESTIONS

Questions Nos. 766, 758, 767, 706 and 742

QUESTIONS BY PRIVATE NOTICE

Sub-division of a Farm belonging to Dagoretti Nyakinyua Group (Mr. Gachanja)

Impassability of Moi Drive Umoja Estate, Nairobi (Mr. Wakiondo)

Acquisition of Pura Area by Samburu Country Council (Mr. Lotitiyo) - Dropped

Payment of Cotton Delivered by Busia Farmers to the Ministry (Dr. Mango) - dropped

Damage to Bridge across River Chwele at Kigai (Mr. Kisuya)

Impassability of Roads C 101 and E 713 between Katulani and Ikalaasa, Mbooni (M. Munyao)

Delay in Construction of Gesima telephone exchange (Mr. Abuya-Abuya)

Repair of Water pump for Tangulbei Primary School, Baringo District (Mr. Twarith)

MINISTERIAL STATEMENT

Allegations by an Hon. Member that there are foreigners working in Kenya are baseless

POINTS OF ORDER

Mr. Roel Victor Moens exporting money out of this country and crediting the same in the account of Mr. Udi Gecaga's account in a Swiss Branch Bank in London. The Attorney-General

Made a statement on the same issue in the morning and as such it cannot be discussed further

The Government of Kenya is alert all the time about illegal entry of foreigners in this country

Opening a condolence book in Parliament Buildings for the late Hon. Salatt - The Matter is not for the Chair

An Assistant Minister, Office of the President Mr. Fred Kubai request to react on assistance he gave to two musicians and he says that he will do so in due course

Fate of Lorian Ranching Company - The Attorney-General or the Minister concerned requested to make a statement

BILL

Second Reading

The Sectional Properties Bill - The Minister for Lands and Settlement (Mr. Nyakiamo) on 1.12.87 - Question proposed - Resumption of Debate interrupted on 1.12.87 - Debate again interrupted without question put



H A N S A R D

Wednesday, 2nd December, 1987

The House met at thirty minutes past Two o'clock.The Temporary Deputy Speaker (Mr. Karauri) in the Chair

## PRAYERS

## PAPER LAID

The following Paper was laid on the Table:-

Legal Notice No.309 - The Parliamentary Constituencies Review Order, 1987.

(By the Attorney-General (Mr. Muli)

THE ATTORNEY-GENERAL (Mr. Muli): Mr. Temporary Deputy Speaker, Sir, I would also like to remind the hon. Members that the exercise is now complete and the maps like this one showing 188 Constituencies are ready. So you will find a map like this one deposited in the Members Library. Also Nairobi and Mombasa have been enlarged; and these maps will be found in the Members Library.

## ORAL ANSWERS TO QUESTIONS

Question No.766

MR. KINYANJUI asked the Vice-President and Minister for Home Affairs:-

- (a) whether he is aware that the father of Mr. John Waweru Kabura, Ex-warder, File No.17843, who died on 10th April, 1986 has not been paid the deceased's final dues; and
- (b) what has been the cause of this long delay and when these payments will be effected.

THE ASSISTANT MINISTER, OFFICE OF THE VICE-PRESIDENT AND MINISTRY OF HOME AFFAIRS (Mr. Mwita): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am not aware.

(b) The long delay has been caused by the fact that no claim has been submitted by the next of kin. As soon as it is submitted, it will be processed and paid.

MR. KINYANJUI: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister aware that his own Ministry processed a request for the payment? If he is aware that such a request was processed, what happened to ~~it~~ it?

MR. MWITA: Mr. Temporary Deputy Speaker, Sir, I am not aware, but as I said in my earlier reply, if the claim is submitted, it will be processed.

MR. KINYANJUI: Mr. Temporary Deputy Speaker, Sir, how can the Assistant Minister say that he is not aware when I have a copy of that request which was prepared by an officer from his Ministry? I ~~r~~ even have the officer's name - a Mr. M. Sungura. It was prepared on 27th March, 1986; what happened to it?

MR. MWITA: As far as I am concerned, that letter or document that the hon. Member is talking about has not reached my office.

MR. KINYANJUI: Mr. Temporary Deputy Speaker, Sir, I seek your assistance here. It seems that the Assistant Minister has not done any homework on this Question. We know the name and the file number of the deceased; we know his parents and that an officer of this Ministry prepared this document I have. This document is unfortunately illegible but it is a true document which was prepared by a Mr. M. Sungura. Why did the Assistant Minister not get the information from ~~his~~ the file? This deceased officer had a file - No. PF 17843/15.

MR. KINYANJUI (Ctd.):

Surely, it is not for us here to <sup>give</sup> ~~tell~~ the <sup>Assistant</sup> Minister all that information which is contained in the files in his office. When ~~we~~ this Question was brought here, he should have requested for the proper information from his office. Would you agree with me that the Assistant Minister has not done any homework on this Question? Would he also promise ~~the House~~ to go back and ~~g~~ bring us the proper information?

MR. MWITA: Mr. Temporary Deputy Speaker, Sir, I think all that the hon. Member is interested in is the payment to the next of kin of this officer. Therefore, I would kindly request <sup>to him to pass</sup> ~~that if he could pass~~ that ~~if~~ information to me <sup>because may</sup> ~~it could help me~~ to process the payment as quickly as possible.

Question No758

MR. arap KOSKE asked the Minister for Lands and Settlement:-

- (a) who ~~is~~ the current legal owner of ~~is~~ Plot No.8839/28 in Litein Township; and
- (b) how a Mr. James Kipruto Lelei lost it to the new occupant and how fair the transaction was administered.

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo):

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

(a) The County Council of Kipsigis is the current owner of Plot No.8839/28 in Litein Township.

(b) Mr. James Kipruto Lelei is still in occupation of the plot by virtue of a temporary occupation licence he bought from the former licensee in 1984. I am therefore, not aware that he has lost it to a new <sup>occupant</sup> ~~occupier~~.

MR. arap KOSKE: Mr. Temporary Deputy Speaker, Sir, arising from that very interesting answer from the Minister, if this plot ~~with~~ still belongs to the complainant, how did it come about that the Clerk of the county council, accompanied by policemen went to Litein and threatened this man to get away from the plot?

MR. NYAKIAMO: Mr. Temporary Deputy Speaker, Sir, the fact that the county council Clerk went to threaten him does not necessarily mean that the plot does not belong to whoever it is at the moment. As a matter of interest, and to help the hon. Member, I will mention sequences of events relating to the plot, if you will ~~a~~ permit me, Sir.

1. In 1967, the County Council of Kipsigis allocated a plot on temporary basis with option of annual renewal to M/S Reliable Flour Mills, which was owned by J.M. Patel.

2. In 1981, Mr. Patel died and two persons - Mrs Kusumbil Jasbai Patel and Mrs Jaishri Nyarendra Kumar Patel ~~and~~ were issued with letters of administration in respect of his estate in 1985.

3. After Mr. Patel died, the Clerk to the council informed the Commissioner of Lands that the plot has been allocated to Mr. Josia Kipkoech A. Soi.

END A...

MR. NYAKIAMO (ctd);

Mr. Temporary Deputy Speaker, Sir, the Commissioner of Lands took the action on the basis that the plot was already allocated to Messrs. Reliable Flour Mills - on temporary basis. The County Council responded by sending a copy of a letter addressed to the Company advising them that <sup>since</sup> they had not accepted the terms of the offer, the plot was in the process of being allocated to another person. So, the Commissioner of Lands has not as yet acted on the County Council's recommendation to have the plot allocated to Mr. Soi. Mr. Lelei is claiming ownership of the plot on the grounds that he bought the buildings and the electric flour mill in 1985 at a cost of KShs.90,000/-, from the administrators of the estate of the late Mr. Patel while Mr. Soi is claiming that the District Plot Allocation Committee allocated the plot to him in 1981.

Mr. Temporary Deputy Speaker, Sir, the Commissioner of Lands is convinced that Mr. Lelei bought the machinery and the buildings from the administrators of the estate of the late Mr. Patel. After careful investigations, the Commissioner of Lands has come to the conclusion that the County Council wanted to snatch the plot, illegally, from Mr. Lelei and allocate it to Mr. Soi. The County Council's argument that the temporary occupation licence lapsed with the death of Mr. Patel has no legal basis. It is therefore recommended that the temporary occupation licence bought by Mr. Lelei be converted into a long term lease in view of the fact that the plot is already developed and business is being conducted thereon.

MR. NYAKIAMO (ctd);

Mr. Temporary Deputy Speaker, Sir, Mr. Soi may be considered for an alternative plot <sup>if</sup> the County Council produces evidence to prove that it has complied with the laid-down ~~procedures~~ procedures; that is, it had advertised the plot offering it to the public and that the applications thereof were considered by the District Plot Allocation Committee ~~according~~ in accordance with the law.

MR. KOSKE: Mr. Temporary Deputy Speaker, Sir, while thanking the Minister for that reply, can he ~~have~~ therefore order that the complainant occupies the plot ~~as~~ from now?

MR. NYAKIAMO: Mr. Temporary Deputy Speaker, Sir, this does not need my order. He is the man who is occupying the plot now.

Question No. 767

MR. SIFUNA asked the Minister for Health:-

- (a) whether he is aware that there is a need to expand Bungoma District General Hospital to cope with the increasing number of patients;
- (b) whether he could make funds available for the expansion as it has been recommended by the D.D.C. many times.

THE ASSISTANT MINISTER FOR HEALTH (Mr. Muthamia): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that there is a need to expand and improve Bungoma District Hospital.

(b) I am doing everything possible to ensure that funds are made available for the purpose.

MR. SIFUNA: Mr. Temporary Deputy Speaker, Sir, while thanking the Assistant Minister for his reply, could he be more specific and perhaps let us know when the expansion of this particular Hospital is scheduled to commence?

MR. MUTHAMIA: Mr. Temporary Deputy Speaker, Sir, the following projects are programmed for implementation during the period 1987/88 and 1990/91:

- (1) An Operating Theatre plus a <sup>Recovery</sup> Maternal Ward.
- (2) A Maternal Unit.
- (3) An Out-patient Department Pharmacy.
- (4) An Injection and Dressing Room.
- (5) A Medical Records Office.
- (6) A modern kitchen and a laundry.

Mr. Temporary Deputy Speaker, Sir, the funds budgeted for these jobs amount to K£.324,750 and they will be provided as follows:

The Kenya Government will provide K£.50,000; the Government of Finland K£.100,000 and the World Bank will provide K£.174,750, making a total of K£.324,750.

Question No.706.

MR. KIKUYU asked the Minister for Education:-

- (a) what are the "O" Level results of Mutituni Secondary School for the years 1984 to 1986;
- (b) what are the reasons for the poor performances of this school; and
- (c) what action he is taking to improve the situation.

THE ASSISTANT MINISTER FOR EDUCATION(Mr. M'Maitzi): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

The "O" Level results of Mutituni Secondary School for the years 1984 to 1986 are as follows: In 1984 alone 10 out of 39 candidates obtained passes up to Division III; 12 got Division IV while 16 failed the examinations totally.

In 1985, Mr. Temporary Deputy Speaker, Sir, 12 candidates out of a total of 49 candidates obtained passes between Division I and Division III; 15 got Division IV and 21 candidates failed totally.

In 1986, Mr. Temporary Deputy Speaker, Sir, 15 out of 57 candidates passed up to Division III; 14 candidates got Division IV and 28 candidates failed the examination.

Mr. Temporary Deputy Speaker, Sir, the lack of adequate and professionally qualified teachers had to lead to this poor performance. The school has 12 teachers, 11 of whom are not qualified. Only one of them is qualified. During the selection and admission of pupils this school has normally selected pupils with ~~gr~~ low grades. This is because it is a private school. These pupils with low grades do not do well in the final examinations.

My Ministry is taking the following steps to see to it that the school improves. An inspection team has been sent to the school and as a result of our advice to the management of the school, the school has now acquired more land to ~~facilitate~~ facilitate the expansion of educational facilities. The management has also been instructed to employ better qualified teachers. My inspectorate team has also promised to visit the school in January, 1988 to see whether the management has followed their advice.



MR. KIKUYU: Mr. Temporary Deputy Speaker, Sir, in his reply to part (a) of my Question, the Assistant Minister has said that a given number of candidates has been passing each year up to Division III. It is true that the school has never produced a Division I candidate. I am not even sure it has produced a Division II candidate. There are very many private schools around that particular secondary school and they are doing very well. Can the Assistant Minister tell or order the Management of this particular school to employ teachers - even if they are untrained - who have gone up to "A" levels? Everybody knows that a candidate with Division IV in Kenya is a failure. That piece of paper they call Division IV is useless. A candidate with Division III and particularly in those districts with large numbers of educated people cannot get a job. With a Division IV you cannot get a job unless you are from Turkana or Wajir. Can the Assistant Minister order the Management of this school to employ teachers who are qualified? If they cannot get properly qualified "A" level candidates they can employ ~~the~~ retired and qualified teachers who need jobs instead of employing Form Four leavers.

END. B...

MR. M'MAITSI: Mr. Temporary Deputy Speaker, Sir, I think I have already said in my reply that that is why inspectors had to go there.

MR. KIKUYU: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister tell this House when this school was last inspected, besides the inspection that was carried out when I asked this Question? This school has been in existence for over eight years now. From the report I have, however, no inspector has been going there.

MR. M'MAITSI: Mr. Temporary Deputy Speaker, Sir, I do not know how many visits the <sup>hon. Member</sup> has heard of; but what I have told him is that my Ministry has inspected the school and promised to go back there in January, 1988. This means inspectors were there recently.

MR. MATHENGE: Mr. Temporary Deputy Speaker, Sir, when the Assistant Minister says that his Ministry visited the school last and that no action has been taken since then, does he realise that all these mistakes the hon. Member is talking about have been there? What action is the Ministry now taking to make sure that the mistakes in that school are corrected? If it is the teachers in the school who are spoiling the school, it is the duty of the Assistant Minister to remove them and bring in qualified teachers to make sure that the school is on the right footing.

MR. M'MAITSI: Mr. Temporary Deputy Speaker, Sir, firstly, this is a private school. I have said that as a result of our inspection, it has acquired another piece of land and that it is expanding the existing facilities it has. We have definitely instructed it to employ teachers who will have been registered by the Teachers Service Commission as being qualified enough to teach there.

MR. KIKUYU: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister insists that this school is <sup>normally</sup> inspected. I have asked him when it was last inspected, and he seems to be avoiding that question. If he wants to avoid it, could he tell us how many of the teachers in that school - only one of them is qualified to teach there; the other eleven teachers are not qualified - have reached the minimum standard which was given by the Ministry

MR. KIKUYU (CTD.):

as a guiding policy in respect of the teachers to be employed by private schools? The majority of these teachers are Form IV failures.

MR. M'MAITSI: Mr. Temporary Deputy Speaker, Sir, I think the hon. Member must have heard my Minister say that we are going to crack down on the schools that are not following the relevant Act of Parliament which covers the establishment of schools. If this school has been visited and it has not shown any improvement, you can be sure that it will be closed down by January, 1988.

Question No. 742

MR. WAGURA, on behalf of Mr. Muthura, asked the Minister for Education which schools in Laikipia District will benefit from the £20,000 allocated during the 1987/88 Financial Year.

THE ASSISTANT MINISTER FOR EDUCATION (Mr. M'Maitisi): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

In accordance with the Government policy of the decentralisation of the implementation of district projects, £20,000 was allocated to Laikipia District for the development of secondary schools there during the 1987/88 Financial Year. Furthermore, Laikipia District Development Committee has already approved the allocation of these funds to four maintained secondary schools, namely, Rumuruti, Mwenje, Gatero and Njonjo Girls. Gatero Secondary School was allocated £4,100, and each of the other three schools, £5,300.

MR. WAGURA: Mr. Temporary Deputy Speaker, Sir, while I thank the Assistant Minister for his reply, I would like to say that he has not considered some of the schools in remote areas there. What plans does he have to cater for such schools as are in Mukogondo Division?

MR. M'MAITSI: Mr. Temporary Deputy Speaker, Sir, the District Development Committee of Laikipia has to set out their priorities so that when we give it money, it allocates it according to their priority list.

## QUESTIONS BY PRIVATE NOTICE

MR. GACHANJA: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister of State, Office of the President the following Question by Private Notice.

(a) Is he aware that the farm bought by Dagoretti Nyakinyua at Molo in 1974 has not been sub-divided?

(b) Is he further aware that some intruders have built houses in the farm without the consent of the members?

(c) Could he assure the House that the said farm will not be sold to an outsider and that it will be sub-divided among the members?

THE MINISTER OF STATE, OFFICE OF THE PRESIDENT (Mr. ole Tipis):

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

(a) Yes, I am aware.

(b) What I am aware of is that only the squatters who were settled on this farm even before it was bought by Dagoretti Nyakinyua have houses on it. They number 43 in all.

(c) The farm will not be sold to outsiders unless the shareholders so desire. The farm will otherwise be sub-divided and plots allocated once the present arrangements to identify the shareholders and survey work are finalised.

MR. GACHANJA: Mr. Temporary Deputy Speaker, Sir, I would like to thank the Minister for his good answer. I would also like to bring to the notice of the Minister the fact that some outsiders, and not squatters, have moved into the farm and started constructing houses there. They do not belong to the said society. So, I would like the hon. Minister to carry out further research into this fact.

Secondly, three district commissioners have worked very hard to see that this farm is sub-divided, and I do not know what the actual hitch is that has caused this sub-division not to be completed. Could the Minister tell us when exactly this sub-division is going to be completed so that shareholders may get their land?

MR. ole TIPIS: Mr. Temporary Deputy Speaker, Sir, for the information of hon. Members, including the hon. Questioner, sometime in April, this year, the District Commissioner, Nakuru, called a meeting of all members to the farm, and this meeting was also attended by my friend, the hon. Questioner. It was resolved in this meeting that an urgent exercise to identify genuine shareholders be undertaken by the Provincial Co-operative Officer, Nakuru, as they are scattered all over the country. This exercise is now about to be completed. It was further resolved that the District Commissioner makes the necessary arrangements to provide a Government surveyor to sub-divide the land. We have now been informed further that since the time this Question was tabled, another meeting would be called soon so that a compiled list of shareholders could be read out to all members. Any complaints, omissions, and so on, will then be dealt with there and then. <sup>After</sup> establishing the number of members and the corresponding shares, the Government surveyor will then move in to sub-divide the farm before members are allocated individual plots. The farm, for the information of the House, measures 1,670 acres.

As for the question of outsiders building houses on this farm, the Provincial Administration has been alerted to stop this until the whole exercise is completed.

END C

MR. ole TIPIS (ctd.):

Secondly, Mr. Temporary Deputy Speaker, Sir, I would like to inform my hon. friend that the Provincial Co-operative Officer is coming here to Nairobi on 10th December, 1987 to follow up and try to identify genuine shareholders. So, we are doing everything possible to expedite the exercise.

MR. GACHANJA: Mr. Temporary Deputy Speaker, Sir, I am very grateful to the Minister for that reply. I would like to put it to him that these outsiders are also cutting trees and burning charcoal there without fear. I would like him to assure this House that the District Commissioner there is going to ensure that nobody is allowed to cut trees and burn charcoal there until this land is given to the owners.

MR. ole TIPIS: Mr. Temporary Deputy Speaker, Sir, I have already answered to the effect that the Provincial Administration, namely, the District Commissioner of Nakuru, <sup>of this and</sup> is aware <sup>of this and</sup> has been alerted to keep an open eye and watch the situation for any outsiders who might try to interfere or intrude into this farm until it is properly surveyed and the genuine shareholders are allocated their rightful plots.

MR. TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Next Question.

MR. WAKIONDO: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is he aware that Moi Drive in Umoja Estate, Nairobi, is impassable during the rains due to floods caused by poor drainage system?

(b) If the answer is in the affirmative, what action is he taking to rectify the problem?

THE ASSISTANT MINISTER FOR LOCAL GOVERNMENT (Mr. Ogle): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Moi Drive in Umoja Estate, Nairobi, is impassable during <sup>the</sup> rains because the residents there throw building materials and rubbish into the <sup>drains,</sup> drainage system.

(b) The City Commissioner has been clearing the <sup>blocked</sup> drainage system. This problem can only be solved if the residents co-operate.

MR. WAKIONDO: Mr. Temporary Deputy Speaker, Sir, I appreciate the answer given by the Assistant Minister. Is he in order to say that it is the residents who are causing the problem of the blocked drainage system? Has he ever visited this place when it rains?

MR. OGLE: Mr. Temporary Deputy Speaker, Sir, my officers ~~do~~ visit the place. I <sup>myself</sup> do not have to do it physically. <sup>myself</sup> I am entirely in order to say what I have just explained <sup>to</sup> the House.

MR. TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Next Question.

(MR. LOTITIYO) to ask the Minister for Local Government the following Question by Private Notice:-

- (a) Is he aware that Samburu County Council took an <sup>area</sup> ~~area~~ called Pura against the wishes of the community?
- (b) Is further aware that the same land has been hired for cultivation?
- (c) Could he order the Council to return the said piece of land to the original owners?

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Mr. Lotitiyo is not in? We shall come back to his Question later.

Next Question.

(DR. MANGO) to ask the Minister for Agriculture the following Question by Private Notice:-

- (a) Is he aware that some cotton farmers in Busia have not been paid for their 1986/87 crop?
- (b) How much is the Ministry owing these farmers?
- (c) Could he order that they be paid immediately?

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Dr. Mango is not in?

Let us go on to the next Question.

MR. KISUYA: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Transport and Communications the following Question by Private Notice.

(a) Is he aware that the bridge across River Chwele, at Kigai, on the road from Chelebei through Namwela/Toloso is damaged and hence, communication in the area is at the moment adversely affected?

(b) When will this bridge be repaired?

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS (Mr. arap Koech): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that the single-line 24-inch pipe culvert, and not a bridge, across River Chwele at Kigai was partly washed away leaving about a quarter of the total length. Communication was, thus, affected. A temporary solution was found by putting stones on the upstream and vehicles are now using the crossing. It was not possible to restore the culvert due to the floods.

(b) For a more permanent solution, it is intended to install two <sup>rows</sup> ~~roads~~ of 24-inch culvert. All the pipes have been delivered to the site and the actual installation work is scheduled to start as soon as ~~the~~ floods have gone down enough to allow the work to be carried out.

MR. KISUYA: Mr. Temporary Deputy Speaker, Sir, it is now ~~a period of~~ three months since this bridge ~~was~~ broken down. In fact, it <sup>Serves</sup> ~~covers the area~~ of Mt. Elgon in the constituency of hon. Kisiero ~~into~~ Central Bungoma <sup>and</sup> ~~up to~~ Bungoma <sup>Town</sup>. All I would like to ask the <sup>Ministry</sup> Assistant Minister is why ~~(has this)~~ been delayed so much? They <sup>knows</sup> that this ~~the~~ road brings in a lot of coffee to Bungoma Depot?



MR. arap KOECH: The reason, Mr. Temporary Deputy Speaker, Sir, is ~~because of the~~ floods. We cannot do <sup>this</sup> the work until ~~the~~ floods subside. As soon as the floods subside, we are going to do a good job.

MR. KISUYA: Mr. Temporary Deputy Speaker, Sir, does the Assistant Minister think that people can stay on the other side of ~~an~~ Mt. Elgon without crossing into Bungoma, ~~to~~ delivering their goods or without seeing their own relatives? Is he saying that people should just <sup>stay</sup> on the other side without crossing the river?

MR. arap KOECH: Mr. Temporary Deputy Speaker, Sir, we have installed a temporary measure. We have put stones upstream to enable ~~the~~ vehicles to pass. I know <sup>that this</sup> it may not be the <sup>solution</sup> best, but <sup>it</sup> this is the best we could do at this time before the floods subside.

MR. TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Let us move on now.

MR. MUNYAO: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Transport and Communications the following Question by Private Notice.

(a) Is he aware that roads C 101 and E 713, between Katulani and Ikalaasa Market, in Mbooni, are almost impassable?

(b) Would he take urgent measures to get the roads repaired before the long rains?

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS (Mr. Keriri): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the roads between Katulani and Ikalaasa Market, C 101 and E 713, at Mivukoni, <sup>have</sup> ~~has~~ been rendered almost impassable by <sup>a</sup> seasonal river that crosses the road when it changed its course during the current rains.

u.c./ (b) <sup>The</sup> re-instatement work cannot be carried out now because of the water. It will be done immediately after the current rains.

MR. MUNYAO: Mr. Temporary Deputy Speaker, Sir, with all due respect to the Assistant Minister, the area that he has quoted is not the area that is mentioned in the Question. The area we are concerned with in respect of road E 173, is between Katulani Market and Ikalaasa where there are some rivers on the site which have overflowed their banks. We would like these places to be filled up. Could the Assistant Minister assure the House that this is going to be done as there is no rain in the area now?

MR. KERIRI: Mr. Temporary Deputy Speaker, Sir, if there are no rains now, I assure the hon. Member and the House that the road is going to be repaired.

MR. MUNYAO: Mr. Temporary Deputy Speaker, Sir, I thank the Assistant Minister for that commitment which he has given not only to me but also to those people there. Is he aware that on road C 101, that is, between Wamunyu and Makutano, there are two big potholes? On three occasions the Assistant Minister has told the House and those wananchi there that these potholes are going to be filled up, but up to now they are still there?

MR. KERIRI: Mr. Temporary Deputy Speaker, Sir, I wish I knew the area as well as the hon. Member. If I knew that area so well, then I would, probably, be his rival. I would like to assure the hon. Member that we would like to make that road as passable as possible. I cannot claim to know the places that he mentions and also the drifts along that road.

MR. MUNYAO: Mr. Temporary Deputy Speaker, Sir, I agree with the Assistant Minister that he might not know the geographical area so well. I have brought up this Question in this House three times and three times the Assistant Minister has promised to fill those potholes. The Road Engineer in Machakos knows about this road and this problem. Could the Assistant Minister assure this House that he will speak to this engineer so that these three potholes can be filled up at Athia Market? These potholes are very dangerous.

MR. KERIRI: Mr. Temporary Deputy Speaker, Sir, when I came here, I was already aware of this section of the road ~~which~~ which is referred to in the Question. The hon. Member is now talking about other sections of the road. Since this is a Question by Private Notice, I did not have time to go through all these sections. I will have to go back and check on the areas he is talking about. I will assure the hon. Member that we are going to talk to the district engineer ~~to~~ to try and assist in this matter. I hope that when the hon. Member goes back home during the week-end, he will also talk to the district engineer and ask him whether he will embark on this job.

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Mr. Abuya-Abuya's Question.

MR. ABUYA-ABUYA: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Transport and Communications the following Question by Private Notice.

(a) Is the Minister aware that in answering Parliamentary Question No. 851 on 28th October 1981 and No. 29 on 17th November, 1983, he promised that Gesima Telephone Exchange was to be constructed and completed in 1983 and 1984/85 respectively?

(b) Is he further aware that none of these promises has been fulfilled?

(c) Will the Minister tell the House when this Exchange will be constructed?

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS (Mr. Keriri): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) It is true that in answering Parliamentary Question No. 851 and No. 29 of 28th October, 1981 and 17th November, 1983 respectively, a promise was made that Gesima Telephone Exchange was to be constructed and completed in 1983 and 1984/85 ~~to~~ respectively.

(b) Due to circumstances beyond control, it has not been possible

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS (Mr. Keriri) Ctd:

to provide telephone services to Gesima as anticipated in the two Parliamentary replies.

(c) I am now informed that the work is in progress and service will be available before the end of December, 1987.

MR. ABUYA-ABUYA: Mr. Temporary Deputy Speaker, Sir, this is one Ministry which has always embarrassed wananchi right from the start. The answer given by the Minister in 1981 reads in part as follows:-

"The construction of Gesima Telephone Exchange and several similar projects have had to be delayed because of the economic constraints facing the country. However, the work in Gesima Telephone Exchange has now been re-scheduled to the Kenya Posts and Telecommunication Corporation."

This was in 1982 and the people of Kitutu East, particularly those from around Gesima, waited in vain and that year ended without anything being done.

I raised the same Question in 1983 and the Minister again promised that the telephone exchange would be constructed during the <sup>Financial Year</sup> 1984/85/ Sir, nothing was done at the site; not even the ~~survey~~ survey work. I have taken the trouble of going to see the Managing Director of the Kenya Posts and Telecommunications Corporation but nothing seems to have materialized. The Assistant Minister is misleading the House that work is in progress while I know very well that nothing has been done there. Would the Assistant Minister take it upon himself and bring an honest answer to this House? If possible, he should go to the site and confirm that what I am saying is true. Could he now give this House and the nation nothing but the truth rather than <sup>being</sup> ~~cheat~~ ~~lead us with what he has been told~~ by his officers?

MR. KERIRI: Mr. Temporary Deputy Speaker, Sir, before I comment, I do not know whether you agree with the hon. Member in the use of the word 'cheat'. If you agree, Sir, then I will go ahead and comment on what he has said. He said that I should go back and bring an ~~firm~~ honest answer. What I am giving here as a reply to this Question, is what I believe is honest. If the hon. Member thinks that it is not honest, then it is for him to prove that

it is not an honest reply. However, I have said that I have been informed that the work is now in progress and the hon. Member says that he has been on site but has not seen any progress. We, therefore, seem to be saying two contradicting things; he is saying the work is not in progress while I am told that the work is in progress. I will undertake to check which of these two points is correct.

MR. ABUYA-ABUYA: Mr. Temporary Deputy Speaker, Sir, when will the Assistant Minister bring an honest answer to this House? Could he tell us whether he will do so next week? I would like to repeat that the personnel of the Kenya Posts and Telecommunications are liars and cheats. Would the Assistant Minister himself ———

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Order! Mr. Abuya-Abuya would you withdraw the words 'liars and cheats'?

MR. ABUYA-ABUYA: Mr. Temporary Deputy Speaker, Sir, I am not saying that the Assistant Minister is a liar. What I am saying is that the Kenya Posts ———

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Order! It does not matter whoever you are calling a liar. Would you withdraw that word because it is out of order? The words 'liars and cheats' are out of order.

MR. ABUYA-ABUYA: Mr. Temporary Deputy Speaker, Sir, I would like to insist that they cheated in 1981, 1983 and they are cheating now. What can we call that, Sir?

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Order! Mr. Abuya-Abuya would you withdraw those words because they are out of order?

MR. ABUYA-ABUYA: Mr. Temporary Deputy Speaker, Sir, I do not think that these people deserve to be called anything than——

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Mr. Abuya-Abuya would you please withdraw those words because they are Unparliamentary?

MR. ABUYA-ABUYA: Mr. Temporary Deputy Speaker, Sir, I really do not understand on what basis I should withdraw those words. The telephone exchange is simply not there.

HON. MEMBERS: Withdraw and apologise.

MR. ABUYA-ABUYA: Mr. Temporary Deputy Speaker, Sir, perhaps, I will withdraw those words when the Assistant Minister gets to the site and we compare notes.

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): This has nothing to do with the Assistant Minister. The fact is that those words are Unparliamentary and against the rules of debate in this House. Will you withdraw them?

MR. ABUYA-ABUYA: Okay, Mr. Temporary Deputy Speaker, Sir, I ~~will~~ withdraw the words but the fact remains that these people are not doing anything.

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Order, Mr. Abuya-Abuya! Will you withdraw those words without any conditions?

MR. ABUYA-ABUYA: Mr. Temporary Deputy Speaker, Sir, <sup>I have</sup> ~~will~~ withdrawn those words. Now, will the Assistant Minister promise this House that he will go to the site and come and give a proper answer in this House next week? This is because the Assistant Minister should not have the audacity of misleading the nation.

MR. KERIRI: Mr. Temporary Deputy Speaker, Sir, it is not the hon. Member's responsibility to make sure that I go on site. I will promise him that I will give a reply soon but I may not have to go to the site. I will not go to the site, Sir.

MR. ABUYA-ABUYA: On a point of order, Mr. Temporary Deputy Speaker, Sir. Does the Assistant Minister know that he is supposed to serve <sup>the wananchi of</sup> ~~this~~ nation including those in Kitutu East? He is saying that he does not want to go to the site. Would I be in order to suggest that the wananchi appeal that he gets sacked because he is not doing his job?

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): That is not a point of order. Let us go on to Mr. Twarith's Question.

MR. TWARITH: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

MR. TWARITH (ctd):

E...5

2.12.87

(a) Is the Minister aware that the water pump for Baringo Tangulbei Primary School, Baringo District, is not functioning?

(b) When will it be repaired?

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Kisiero): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that the water pump that serves Tangulbei community including Tangulbei Primary School and which is maintained and serviced by the Ministry of Water Development is old and often breaks down.

(b) The Ministry of Water Development, through the Rift Valley Province Borehole Service Team, has already made arrangements to have this water pump repaired. Furthermore, the same Ministry has procured a new water pump which will soon be installed.

END/E

MR. TWARITH: Mr. Temporary Deputy Speaker, Sir, I would like to ask the Assistant Minister to make arrangements with the Ministry of Water Development to ~~put~~ <sup>repair</sup> this water pump before the school opens next term.

MR. KISIERO: Sir, I am sorry I did not hear what my friend has ~~asked~~ <sup>said</sup>.

MR. TWARITH: Mr. Temporary Deputy Speaker, Sir, while thanking the Assistant Minister for that good reply, I would like to ask him to make arrangements with the Ministry of Water Development to have that pump ~~put~~ <sup>repaired</sup> before the school opens next year.

MR. KISIERO: Sir, the Ministry of Water Development is already repairing the old pump and preparing to instal a new one. So, we shall continue to press the Ministry of Water Development ~~and consult with them so that this matter may be~~ <sup>to have</sup> ~~undertaken~~ <sup>Solved</sup> as soon as possible.

(Mr. Karauri):

MR. TEMPORARY DEPUTY SPEAKER / Let us go back to Mr. Lotitiyo's Question.

(MR. LOTITIYO) to ask the Minister for Local Government the following Question by Private Notice:-

- (a) Is the Minister aware that Samburu County Council took an area called Pura against the wishes of the community?
- (b) Is he further aware that the same land has been hired for cultivation?
- (c) Could the Minister order the council to return said piece of a land to the original owners?

MR. TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Mr. Lotitiyo still not in? Then that question is dropped.

(Question dropped)

(DR. MANGO) to ask the Minister for Agriculture the following Question by Private Notice:-

- (a) Is the Minister aware that some cotton farmers in Busia have not been paid for their 1986/87 crop?
- (b) How much is the Ministry owing these farmers?
- (c) Could the Minister order that they be paid immediately?



MR. TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Dr. Mango still not in? Then that Question is dropped.

(Question dropped)

MINISTERIAL STATEMENT

THE MINISTER OF STATE, OFFICE OF THE PRESIDENT (Mr. ole Tipis): Mr. Temporary Deputy Speaker, Sir, with your permission, I would briefly like to respond to two points of order raised in this House by my hon. friend, hon. Shikuku,

On 18th November, 1987, the hon. Member claimed that he had received information from a "well wisher" to the effect that there are three aliens namely; Mr. Mohamed Masood, Mr. A. Shah and Mr. Isaac Mughal, working in Kenya at Isinya without valid work permits. Also, on 25th November, 1987, the hon. Member claimed that a Mr. Moens Roel Victor, Manager for Sabena Airlines was working in the country without an entry permit.

Sir, in response to the first point of order, our investigations have revealed that <sup>out of</sup> the three persons said to be at Isinya Mr. Mohamed Masood Aziz was found on site carrying construction work on the health centre. Mr. Aziz is a Kenya citizen, and happens to be a son of Mohamed Masood mentioned above. Mr. Mohamed Masood is a Tanzanian and his application for renewal of work permit had been rejected by the Government. He has since gone back to Tanzania.

Secondly, Sir, Mr. Isaac Mughal is also a Tanzanian and a relative of the contractor, Mr. Mohamed Masood Az Aziz. He is in the country on a visitor's pass, but he has not been working for him. The third person mentioned, Mr. Imtiaz Shah could not be traced either at Isinya or Westlands. We could not trace records of his particulars either to be able to establish his immigration status. He is, therefore, unknown person to us as our efforts have not yielded results.

THE MINISTER OF STATE, OFFICE OF THE PRESIDENT (Ctd.):

Sir, in view of the foregoing the claim that the said three foreigners are working in Kenya illegally is baseless. We believe that the whole affair has arose out of family quarrels or differences and has no any substance at all.

On the second point of order, although directed to the hon. Attorney-General, certain aspects of the issue raised touched the immigration status of Mr. Moens Roel Victor, a matter which <sup>falls</sup> ~~falls~~ under the purview of my Ministry. Whereas, I would leave the hon. Attorney-General to clarify the other aspects of the allegation, I would like in the meantime to clarify that Mr. Victor holds a valid entry permit. Mr. Victor is the Sabena Airlines area Manager for Kenya. He was issued with an entry permit No. 134869 on 8th January, 1987 which is valid for two years. It is not true, therefore, to claim that he is working in the country illegally.

Sir, we appreciate the concern the hon. Member has shown by tabling numerous documents in this House to substantiate various claims and allegations. However, it would be much more worthwhile and time saving if such matters could be taken up directly with the appropriate Ministries for desired actions. Tabling unauthenticated documents is not only a total waste of valuable time of this House, but can even be seen ~~a~~ not only as a self-seeking machination ~~but~~ <sup>as</sup> and also one aimed at causing disrepute to the Government and its machinery. Efforts continuously aimed at depicting the Government as corrupt surely cannot be equated to patriotism ~~which~~ <sup>claims</sup> which the hon. Member ~~claim~~ <sup>claims</sup> to champion.

Finally, I would like to reiterate what I have said in this House before that ours is a responsive Government. We will continue to take seriously constructive criticisms which are properly channelled for desired redress. However, I take great exception to the manner my hon. friend has had a lot at ~~it~~ and especially by tabling unauthenticated documents from the so-called "well-wishers."

Thank you.

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

Sir, my point of order was in two parts; it was based on a telephone conversation and some information ~~ix~~ sent to me in writing. I am glad that the Minister admits that one of them was a Tanzanian and he is no longer here. However, the time I received that information, the two people were working in the country, but the other one has since disappeared. He says that one of them, that is the son of Mr. Aziz is a citizen of this country -- that is all right. The point I am trying to make and which has disturbed me very much is in respect of Mr. Moens Roel Victor, the ~~xx~~ area Manager for Sabena Airlines.

Sir, the HANSARD bears me; I did not say he is working in this country without a work permit. I said he was previously convicted for working in this country without a work permit and he was fined a sum of Kshs. 3,000/- by our courts here.

END F....

MR. SHIKUKU (Contd.):

Sir, my point of order was not in respect of him working here without a work permit. My point which they are avoiding was that this man having been convicted of working in this country without a work permit previously, he is also exporting money out of this country to an account outside this country. I mentioned the number of the account and the bank which is a Switzerland Bank branch in London, and the name of the account holder was Udi Gecaga. Now, I was asking the Attorney-General why he was not prosecuting this Victor <sup>Moer</sup> ~~Roer~~. Why ~~action~~ <sup>action</sup> has not been taken against him when we are arresting other members of the public? Those who have taken money out of this country are already in court. Even recently, a woman was arrested with money hidden "elsewhere" which the hon. Minister has also read out, but I do not want to repeat it here because it makes people lose the appetite of the whole thing! But the point is that I did not say that Victor is working here without a work permit. I said he had previously been working here without a work permit, but now he is exporting money out of this country. That is all, Sir.

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Order, Mr. Shikuku I am informed that the Attorney-General made a statement this morning on that matter, and you are aware of it. The matter is under investigation and your continuing discussion on the same matter might prejudice the investigations. So, it is not fair to continue discussing it.

MR. SHIKUKU: But the hon. Minister has already referred to it. Why should I keep quiet? Do you advise that when the Minister talks about Victor <sup>Moer</sup> ~~Roer~~ I just keep quiet and say "Amen"? No way!

THE MINISTER OF STATE, OFFICE OF THE PRESIDENT (Mr. ole Tipis): Mr. Temporary Deputy Speaker, Sir, I just want to clarify one point very, very clearly: That the Government machinery of this country is

THE MINISTER OF STATE, OFFICE OF THE PRESIDENT (Mr. ole Tipis)(Contd.)  
well polished, lubricated, and capable of saying things rather than giving or dwelling on hearsay or witch-hunting. The Government has taken the initiative and will continue to do so. Our security personnel are working day and night to prevent any illegal entry by people from outside our territorial borders. As such, we have caught them, and as hon. Members know, they have been prosecuted and convicted in court.

What I am trying to say, Sir, is that of late we have been very, very strict indeed. Kenya cannot be allowed to be a dumping ground for foreigners especially now that there is the cry of an unemployment of our own indigenous black people. I think we are responsible to look after the interests of our nationals first than anybody else. So, please, let nobody try to insinuate that the Government is asleep until somebody shouts from tree tops to alert the Government. We are always alert. We are on 24 hours active service despite the difficulties.

MR. MUNYAO: On a point of order, Mr. Temporary Deputy Speaker, Sir. Following the sad demise of our dear friend and colleague, because the distance might be too far for us to be able to attend the funeral, would it be in order to request the Chair to direct that the condolence book be opened here so that we can all sign, and also other members of the public can sign it as well?

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Well, I do not think that matter is for the Chair.

MR. KANINDO: On a point of order, Mr. Temporary Deputy Speaker Sir. About a week and a half ago I stood on a point of order to request hon. Fred Kubai who is an Assistant Minister, Office of the President, concerning two musicians whom he did help. To date, I have

MR. KANINDO (Contd.):

not heard anything from him. Could he tell the House what happened?

THE ASSISTANT MINISTER, OFFICE OF THE PRESIDENT (Mr. Kubai):

Mr. Temporary Deputy Speaker, Sir, I am collecting information about the case concerning the hon. Questioner and his two friends, and we will make <sup>a</sup> statement in this House in due course. Thank you, Sir.

MR. WAGURA: On a point of order, Mr. Temporary Deputy Speaker Sir. This is a follow-up of what hon. Mathenge asked the Attorney-General to make a Ministerial Statement in this House.

Sir, we have a ranching company in Laikipia District known as Lorian. Some shareholders bought the farm and according to the Registrar, the members are 1818, but according to reliable sources, it is only half of them who are going to get land. So, before any discussions can blow up, the Attorney-General or the Minister, should come up and make a Ministerial Statement, and tell us who are the legal owners, the directors, when the company was formed, and how many members are legally registered in his office? So, we would like the Attorney-General to make a statement to clear the air so that we know who the legal owners of that ranching company known as Lorian are.

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): We move on now. Next Order.

## BILL

### Second Reading

The Sectional Properties Bill

(Minister for Lands and Settlement on 1.12.87)

(Resumption of Debate interrupted on 1.12.87)

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Mr. Shikuku was contributing.

MR. SHIKUKU: Ahsante sana, Bw. Naibu Spika wa Muda. Wakati Bunge lilipoahirishwa jana, nilikuwa nimeanza tu kulieleza Bunge hili kwamba Mswada huu umechelewa sana; ungeletwa hapa mapema kwa sababu tukiangalia hata Nairobi hii vile vyumba vilivyojengwa tutaona kwamba tumechukua ekari nyingi sana kujenga vijumba vijumba vidogo vidogo ambavyo vimechukua nafasi kubwa sana. Isitoshe, baada ya miaka mitano au kumi zitakuwa zinaitwa "shanty", yaani nyumba ambazo hazifai, na zinatakiwa kubomolewa tena. This is the reason why Africa will remain developing forever and a day. Hii ni kwa sababu hawafanyi mipango ya kujenga nyumba ambazo zinaweza kukaa kwa muda wa miaka mingi, yaani nyumba za kudumu. Kwa mfano, Nyumba ya Mahakama Kuu ya Kenya ambayo iko hapa Nairobi ili\_jengwa kabla ya mimi kuzaliwa, na hata kabla ya babangu kuzaliwa pia, lakini ingali iko, na huwezi kupata hata ufa moja kwa nyumba hiyo. Nyumba/imejengwa vizuri na itadumu kwa muda wa miaka mingi. Lakini sisi Wafrika tukijenga, nyumba inamaliza tu leo, na kesho tukikupatia ufunguo, kesho kutwa utaona nyufa zimeanza kutokea kwa kila kona. Hata katika Bunge hili kuna nyufa. Juzi tu mkeka ambao ulikuwa hapa ulioza, na hata huu ambao uko sasa uko karibu kuoza pia. Hii ni kwa sababu Mwafrika hafikirii mambo ya mbele; anataka kuona lile ambalo liko karibu na yey

Bw. Naibu Spika wa Muda, nilikuwa nimesema hapo jana kwamba sisi viongozi tunapokwenda nje ya nchi hii, huenda wengine kati yetu hutembea na mamcho yao yakiwa "mifukoni". Hii ni kwa sababu kama wangukuwa na macho yao "nje", basi wangeona vile watu wanavyopanga nyumba, mashamba, na vile watu wanavyofanya kazi yao na wakarudi hapa kuutumia mtindo huo ambao wameona nje. Kwa mfano, habari ya ardhi katika Kenya - hata ardhi hii ya kujenga - baada ya miaka 24 ya Uhuru bado tunafanya siasa tu.

End G.

MR. SHIKUKU (Ctd.)

Tunawaambia wananchi, "ninyi tutawapatia ekari mbili, na wewe tutakupatia ekari tatu na yule ekari tano <sup>na huyo</sup> ekari kumi". Jambo hili ni la kisiasa na wakati umefika wa kuacha kufanya mambo ya kisiasa na kuwaambia wananchi ukweli mchungu. Ukweli mchungu ni kwamba si kila mwananchi wa Kenya ambaye atapata ardhi. Jambo hili haliwezekani kabisa. Nasema hivyo kwa sababu ardhi ya Kenya ni ndogo na, isitoshe, ardhi hiyo haiongezeki bali binadamu ndio wanaongezeka. Kwa hivyo, kuwaambia wananchi kwamba tutawapatia ardhi, si kweli. Ni lazima tuwaambie wananchi <sup>Kuwa</sup> si kila mtu atakayepata ardhi. Nimesema jambo hili ~~kwa~~ mara nyingi katika Bunge hili na ningetaka kurudia. Hata wakati huu, Kenya <sup>maelekea kuwa</sup> ~~itawa~~ na njaa, na ni lazima sisi kama viongozi kuangalia mbele. Nasema hivyo kwa sababu gani? Ninasema hivyo kwa sababu yale mashamba yaliyokuwa yaki toa ngano, kwa mfano, mahindi na kadhalika, yameingiliwa. Tumekwishaingia katika mashamba hayo ambayo yalikuwa ya Wazungu na kupeleka siasa zetu kule. ~~na kuyepata yale mashamba~~. Baada ya ~~kuxax~~ kugawiwa mashamba yale, tumewagawia watoto wetu na wale watoto sasa wamewagawia watoto wao. Sasa unapokwenda katika shamba ambalo lilikuwa <sup>vikitoa</sup> ~~kifitoa~~ mahindi, utakuta kwamba limejaa nyumba. Hatari ni kwamba zile nyumba ambazo zimejengwa na wale wananchi, zimechukua ardhi yote ~~na~~ na sasa hawana pahali pa kukuza chakula. Hivyo ni kusema watakosa chakula wanapokaa katika zile nyumba kwa ~~sax~~ sababu ardhi yote imejaa nyumba na hawawezi kula nyumba. Kwa hivyo, itatubidi kuomba mahindi kutoka nchi za ng'ambo. Ni kwa nini hatuwezi kuyaona mambo hayo?

Hata Wabunge wengine walikuwa wakisema katika Bunge hili kwamba "villagisation" <sup>au</sup> ~~indigenization~~ na kwamba ~~kwataki~~ kuona watu wakiwekwa katika vikundi. Kuna wakati ambao utafika, and I want this to be recorded. <sup>tu</sup> Mimi ninaona mbele na hiyo ndiyo kazi yangu. Lakini nikishaona mbele, nasema vile ninavyoona, lakini <sup>hivyo</sup> ninaposema, ninapingwa, lakini baada ya kunipinga, baadaye, wanayafuata yale mambo nilikuwa nikiyasema. Basi kazi yangu wakati wote ni kuona mbele. Nimesema mambo mengi hasa katika Bunge hili ambayo yamepingwa, lakini baadaye wanayafuata yale ~~x~~ ninayosema, bila kuona aibu. Hata hawasemi kwamba Bw. Shikuku aliyasema hayo maneno hapo mbeleni, lakini wanajifanya kwamba wao ndio wameyagundua ~~kaxa~~ mambo hayo.



Hii hasa ni tabia ya Wabunge wa Viti vya Mbele.

L.C.  
Bw. Naibu Spika wa Muda, ningetaka kusema kwamba wakati umefika - - -  
Mimi mwenyewe nimepewa ploti katika mpango wa Makao na hii ploti ni nambari 259,  
lakini watoto wangu hawataigawanya ploti hii. Watafanya ushirikiano na kulima  
pamoja na yule atakayetaka kuigawanya ploti hii, basi ataenda kutafuta ploti yake.

AN HON. MEMBER: K Lakini ni wangapi?

MR. SHIKUKU: Bw. Naibu Spika wa Muda, nina vijana wanane.

AN HON. MEMBER: Na wasichana?

MR. SHIKUKU: Ninao wasichana <sup>wanane</sup> pia. Kwa hivyo wote wanatoshana na  
hii ndiyo sababu unaona kwamba mimi niko balanced katika Bunge hili. Mimi si mtu  
ambaye anakwenda hivi au vile. No way!

(kicheko)

Kwa hivyo, Bw. Spika wa Muda, wakati umefika wa viongozi kuona mbele na  
kusema ukweli na si kx kusema maneno matamu ambayo yanawafanya wananchi kufikiria  
kwamba <sup>wanawongozwa</sup> wanawongozwa vizuri. Ukweli ni kwamba ni lazima <sup>tunache</sup> kugawanya <sup>hizo</sup>  
ardhi katika mipango ya makao. Hata ikiwa watu wamenunua shamba kubwa, ni lazima  
waambiwe wajenge nyumba zote pamoja katika ploti ya ekari tano ili ardhi inayobaki  
itumiwe kwa kushirikiana pamoja. Hivyo ni kusema kwamba watakuwa wakifanya kazi  
kule shambani na kurudi nyumbani. Jambo hilo litakuwa ~~nzuri~~ nzuri kwa sababu Waziri  
wa Maji ataweza kuwaletea watu hawa maji kule. Vile vile wataweza kupata <sup>sinema</sup>  
pale pale na kadhalika. Wakitaka wanaweza hata kujenga nyumba za orofa kule.

AN HON. MEMBER: That is what is called "<sup>"villagization"</sup> ~~villagization~~".

MR. SHIKUKU: Yes. This is <sup>"villagization"</sup> ~~villagization~~. Kila mtu kawa wakati  
huu hawezi kupata ~~xx~~ ardhi na kama kila mtu atapata ardhi, ha tutaweza kupata chakula.  
Kwa hivyo, tungetaka kufanya mpango wa aina huu. Jambo lingine ambalo tunataka  
kufanya ni lile la <sup>Kuuziisha viwanda</sup> ~~industrialization~~, jambo ambalo litawachukua watu ambao wataaji-  
riwa kufanya kazi mijini na kuyaacha mashamba yaendeleo kulimwa ili kupata chakula  
cha kuwalisha watu mijini ~~xxx~~ pamoja na wale waliobaki kule mashambani.

Kwa hivyo, ninauunga mkono Mswada huu kwa sababu hizo tatu. Sababu ya  
kwanza ni kwamba tunajenga nyumba nyingi katika sehemu ndogo na tutaendelea kujenga  
nyumba za orofa badala ya kujenga nyumba zinazozaa zinazojaa kila pahali. Tutaendelea

kujenga nyumba za orofa na nyumba hizo zitakuwa za kudumu. Nimetoa mfano niliposema kwamba ingefaa kama viongozi wangekwenda kuitembelea nchi ya Sweden na kuingia katika Mji wa Stockholm. Wakifanya hivyo, watajua jinsi gani watu wa Sweden wanavyojenga nyumba zao. Watu wa Sweden wanajenga nyumba za orofa kutoka huko mpaka huku na hata nyumba nyingine/ni kubwa kama Bunge hili. Utaona kwamba nyumba ya orodha inakwenda juu kabisa na kila mtu katika flat yake ana chumba <sup>cha</sup> wageni, chumba <sup>cha</sup> kula, chumba cha kulaa, chumba cha watoto, chumba cha kuogea na kadhalika na ~~yeye~~ anapata ~~xx~~ hati ya kumiliki nyumba hiyo na kila mtu chini na juu/ana hati kama hiyo. Kwa hivyo, ~~wingi~~ viongozi wa nchi hii wangepata ~~wafu~~ <sup>Kuzuru Mji wa</sup> kule Stockholm na kujionea maendeleo yanayoendelea kule na kupata akili kidogo. Hata kama ingewezekana, pengine tungepata washauri kutoka kule ili kutuonyesha vile wanavyojenga nyumba zao, ambazo ni imara sana na huwezi kuona nyufa. Lakini ukiangalia nyumba zetu, ~~xxx~~ utaona kwamba zina nyufa kutani. ~~Kwa hivyo~~ Kwa hivyo, Bw. Naibu Spika wa Muda, ni lazima tujenge nyumba za orofa ili ~~tusiendelea~~ <sup>tusiendelea</sup> kutumia ardhi nyingi ~~kwa~~ katika miji yetu. Vile vile, ukienda kule Kabartonjo, Butere na kadhalika, utaona ~~xx~~ nyumba nyingi sana lakini <sup>wakati</sup> umefika wa watu ~~ki~~ kuanza kujenga nyumba za orofa kwa sababu ardhi yetu sasa imejaa nyumba na watu wanazidi kuzaa bila kusikia mwito wa kupunguza uzazi.

AN HON. MEMBER: Wewe ni mmoja wa hawa watu wasiosikia.

MR. SHIKUKU: Bw. Naibu Spika wa Muda, ni vigumu kuwaajiri polisi ili kuwazuia watu kuzaa kwa sababu polisi pia wanazaa. Kuna watu watakaokaa katika nyumba hizi za orofa. Kutakuwa na watu wanaokaa katika orofa ya ~~kwanza~~ kwanza, ya i pili, ya tatu mpaka orofa ya 26 au ya 30. ~~Hu~~ Watu hawa ni wa aina mbali mbali na kati yao kutakuwa na watu wanaoitwa kwa Kiingereza, "crooks" Hawa crooks watawanyanya watu wengine na ~~mtik~~ ukitaka kujua ninasema nini, ingefaa ~~wangachukue~~ <sup>vingi</sup> uangalie vyama vya shirika vya Kenya. Vyama vya shirika zaidi ya 100 ~~vina~~ <sup>zina</sup> vimenyanyaswa na kunyonywa na wakora na maswali/yameletwa hapa Bungeni kuhusu jambo hili. Kuna wakurugenzi ~~wengine~~ wa bandia ambao wamwanyanya nyasa watu wengine. Lakini katika Mswada huu, sioni kifungu chochote kinachosema juu ya jambo hili. Sisi tungetaka kuipitisha Mswada huu ambao ni wa kwanza ~~wa~~ <sup>Kwa</sup> kueleza jinsi gani mambo ya vyama vya mashirika yatakuwa yakiendeshwa. Tunaambiwa

MR. SHIKUKU (Ctd.):

H.4.---2.12.87.

kwamba amri zitaletwa lakini tungetaka ~~mz~~ amri hizo ziletwe hapa ili kila mtu anapoingia katika Bunge hili ~~awe~~ chini ya ~~kiza~~ amri hizo. Nasema hivyo kwa sababu kutakuwa na watu walio na akili kuwashinda wengine. Watu hawa watafanya mipango fulani na watu wengine watajikuta nje bila kujua. Ninavyozungumza hapa, ukionda kule Butere na ~~mza~~ mahali pengine, ~~tu~~ utampata mzee mmoja ambaye amepata hati ya kumiliki ardhi yake. Yule mzee <sup>kumkodisha</sup> ~~anaweza/kumpatia~~ mtu mwingine ardhi ya ~~k~~ kulima kidogo lakini baada ya kulima ile ardhi kwa muda wa ~~miza~~ miaka miwili au mitatu, anazunguka katika ofisi ya Ardhi na kupata hati ya kumiliki ardhi ile. Mwishowe <sup>yule</sup> ~~ile~~ mtu anamwambia ~~yule~~ mzee <sup>kutoka kwenye</sup> ~~yule~~ aondoke ~~kwa~~ shamba lake. Mzee yule anasema, "Nitaondoka kwa shamba hili namna gani na hili ni shamba langu?" Sasa yule mtu anaizungusha ile ardhi kwa ua la seng'enge. Huu ni ujanja ambao unafanyika katika Mswada huu. Ni kifungu gani katika Mswada huu ambacho kinazuia ujanja kama huo. ~~Kinazuia ujanja kama huo. Kinazuia ujanja kama huo. Kinazuia ujanja kama huo.~~

END H

MR. SHIKUKU (ctd.):

Wale walio na pesa wanaweza kuwazunguka wengine - wanauzunguka mbuyu. Siku hizi, chochote chaweza kufanyika huku Kenya kwa sababu watu wa KK Kenya wamekuwa walafi wa pesa. Siku hizi kama huna pesa, wewe si mtu. Ukiwa na pesa, hata ukifanya makosa hushtakiwi. Mhe. Shikuku akisema hakuna haki katika Kenya anaambiwa, "wewe ondoka Bungeni". Naondoka halafu narudi, lakini ukweli nitasema, kwamba mdogo hana haki; anazungushwa hivi na vile na baadaye kitu chake kinakwenda. Hii ndiyo sababu itakayoifanya mvua ipotee, kama watu wakubwa wanaanza kuwanyanyasa wadogo kwa sababu wao wakubwa wana pesa. Siku hizi, huwezi kuchaguliwa uje Bungeni kama huna pesa; kama hufanyi mikutano ya Harambee hutakikani. Walio na pesa wanasema, "hatutaki maneno, tunataka vitendo". Vitendo vitatendekaje bila pesa? Hizi pesa wanazitoa wapi? Nilipowauliza swali hilo hapa walisema, "Shikuku ana wivu". Mwisho wake benki zilifungwa na pesa za watu wadogo zikachukuliwa. Watu hawa wakubwa wakifika mkutanoni, watu wadogo wanaambiwa, "Jitayarisheni kupiga makofi". Kwa mfano mhe. Thuo amefika na akatoa Sh.250,000/- akiwa pamoja na marafiki zake. Kwa hivyo wananchi wanapiga makofi, na wanaambiwa wapige tena. Kumbe pesa hizo zinazopigiwa makofi ni kutoka kwa akiba ya yule mtu mdogo aliyekuja kuchangisha pesa! Siku moja, baadaye, akienda katika benki yake, anakuta hakuna pesa. Analilia hapo akiwa amekishika kitabu chake, akisema, "pesa zangu zote zimekwenda, zilizobaki <sup>ni</sup> /na Sh.4,000/- tu. Kumbe akiba yake ndiyo iliyokuwa ikipigiwa makofi ya kilo! Wakubwa wamewanyanyasa z watu katika Kenya hii.

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo): Lakini mimi sitoi pesa hivyo.

MR. SHIKUKU: Nilikuwa natoa mfano tu, rafiki yangu mhe. Thuo. Kwa hivyo Bw. Naibu Spika wa Muda, pesa zimekuwa ndiyo Mungu huku Kenya. Kama huna pesa, wewe si mtu. Hk Hata

MR. SHIKUKU (ctd.):

leo ukitaka kumwingilia mhe. Mwangale katika mawakilisho yake bila yake kujua, kitu cha kufanya ni kutumia pesa. Mimi nakaa katika mawakilisho ya mhe. Mwangale.

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Stick to the Bill.

MR. SHIKUKU: Ahsante Bw. Naibu Spika wa Muda, lakini nilikuwa natoa mfano tu. Nyumba hizi za orofa zikijengwa, watu wadogo watakuwa wakiishi ~~x~~ pamoja na wale wakubwa wenye pesa. Wale wadogo watazungushwa. Ukisikia nikisema maneno mengi, natoa mfano tu. Nimeona kwamba watu wa Kenya wamekuwa hatari na baba yao ni danger, lakini mungu yuko, ingawa hatutakiwi kumwachia kazi zote. Inasemekana kwamba kama umelala harabarani na motakaa inakuja, huwezi ~~ku~~ kuendelea kulala ~~x~~ na kusema Mungu <sup>atakuangalia</sup> ataxiangalia; utakanyagwa.

Kwa hivyo, ni lazima tuangalie tuone haki ya mdogo iko wapi katika Mswada huu. Siku hizi kitu cha <sup>u</sup> <sub>h</sub> muhimu ni kufanya mikutano ya Harambee na mtu anaweza kuingilia mawakilisho ya mhe. Mwangale. Mimi naishi ~~x~~ huko kwake lakini sifanyi mambo ya fujo huko. Ni kifungu gani katika Mswada huu kinachomlinda mtu mdogo?

Swali nililo\_nalo ~~x~~ ni <sup>hili:</sup> ni kitu gani kitakachofanywa na mtu mdogo atakayekuwa ameonewa na watu wakubwa katika nyumba hizi za orofa?? Kwanza, mtu ~~na~~ kama huyo anahitajika <sup>Kuwa</sup> ~~ape~~ na pesa za kumwezesha kufanya mashtaka katika Mahakama Kuu. Injunction peke yake inamgharimu <sup>anayeshitaki</sup> ~~anayeshitaki~~ ~~x~~ zaidi ya Sh.60,000/- Je, yule mama wa Butere au wa Kabartonjo anawezaje kupata ~~x~~ Sh.60,000/- za kumwezesha kufanya injunction? Basi sheria hii ni ya watu wakubwa; mtu mdogo asiye na pesa hana haki ~~yake~~ kwa sababu hana pesa za kumwezesha kufanya mashtaka katika ~~ku~~ Mahakama Kuu.

Mswada huu ni mzuri lakini nilisema kwamba ~~x~~ ni afadhali kama tungekuwa na kamati ya Bunge hili, kufuatana na Kamati za Bunge

MR. SHIKUKU (ctd.):

hili, ambazo zinahitaji kila Wizara iwe na kamati ya Bunge.

Kazi

/hii yote haifanywi. We are not sticking to the laws. Kitu kinachofanyika hapa ni kuvunja sheria tu. Sheria zinavunjwa, Kanuni za Bunge zinavunjwa na vitu vingine vingi vinavunjwa, hata karibu tuvunjike sisi wenyewe. Kama hatuweki Kanuni za Bunge na tunaendelea kuzivunja sheria za nchi hii ---

THE ASSISTANT MINISTER FOR HEALTH (Mr. arap Cheboiwo):  
Bunge litavunjwa.

MR. SHIKUKU: Sio Bunge litakalovunjwa, Bunge litakuwa hapa. Atakayevunjika ni mhe. <sup>arap</sup> Cheboiwo. Bunge litakuwa k hapa lakini mhe. <sup>arap</sup> Cheboiwo, mhe. Shikuku na mhe. Angatia ndio watakovunjika.

MR. ANGATIA: On a point of order, Mr. k Temporary Deputy Speaker, Sir. I am not rising on a point of order because my name has been mentioned, but I just wanted to know of incidences when we have broken the law; we in authority.

MR. SHIKUKU: Ni rahisi kulidhibitisha jambo hilo. Kanuni za Bunge hili zinasema kila Wizara iwe na kamati yake. Mpaka leo, tangu mhe. Angatia aje katika Bunge hili, kamati hizi hazijakaa; hazikutani. Kwa hivyo, Kanuni ya Bunge imevunjwa. Vile vile, <sup>hii ni</sup> ~~ama~~ sheria iliyopitishwa katika Bunge ~~na~~ hili na <sup>kutika satili</sup> ~~ik~~apitishwa na Mtukufu Rais, na ~~na~~ inavunjwa. Kwa mfano utaona kwamba hivi majuzi, Diwani Maitha, aliyechaguliwa na watu kufuatana na Katiba ya Kenya, alikatazwa kuhudhuria mikutano na kuwakilisha watu wake wa Manispaa ya Mombasa kwa ~~na~~ sababu ~~hii~~ alikuwa amesimamishwa kazi. Nilipouliza Swali hapa, Waziri wa Serikali za Wilaya alikubaliana nami na akaamuru kuwamba Diwani Maitha arudi katika kazi yake na alipwe marupurupu yake. Hakukuwako na sheria. Sheria hiyo ~~na~~ ilivunjwa.

AN HON. MEMBER: Sasa amerudi kazini?

MR. SHIKUKU: Sasa ~~na~~ amerudi na anafanya kazi. Lakini kama singeuliza Swali hilo, Diwani Maitha angekuwa nje tu. Hiyo ili~~ku~~wa kinyume cha sheria na hali tuna Mkuu wa Sheria katika nchi hii.

Jambo lingine la kuonyesha kwamba sheria za nchi hii zimevunjwa ni kuwa kufuatana na Cap. 504 ya Sheria za Kenya, Waziri wa Fedha anapotoa makadirio ya matumizi ya pesa za Serikali katika Bunge hili, anahitajika kuchapisha gazeti la kuonyesha bei ya bidhaa na kuliweka juu ya Meza hii siku ifuatayo. Kwa mfano, mwaka huu, makadirio hayo yalisomwa mmamo tarehe 11 mwezi wa Juni, kwa hivyo, alitakiwa kuleta gazeti hilo tarehe 12 mwezi wa Juni, yaani siku iliyofuata. Hakufanya hivyo na hivyo, wananchi walipunjwa ~~na~~ mpaka tarehe 6 mwezi wa Oktoba. Sheria inasema kwamba gazeti hilo likiwasilishwa hapa Bungeni lichukue siku 20, kama hakuna Mbunge atakayelipinga, <sup>litakuwa</sup> ~~litakuwa~~ ni sheria. Kwa vile Waziri hakuweza kufanya hivyo, wale maafisa wake walipompata mtu akiuza bia kwa bei ya juu, hawakuweza kumshtaki kwa sababu hakuwa na gazeti rasmi. Ndipo wakamwandikia Waziri barua naye akaliwasilisha Gazeti hilo tarehe 6 mwezi wa Oktoba. Wakati huo, wananchi walikuwa wamepunjwa kwa sababu wafanyabiashara walikuwa wamepandisha bei za bidhaa na hawangeshtakiwa kwa sababu hakukuwa na sheria. Kwa hivyo Cap. 504 ya Sheria za Kenya ilivunjwa. Hii ni kwa sababu watu wanaohusika ~~wana~~ wanaangalia biashara zao; hawafanyi kazi. M Shikuku akisema, anaambiwa ati ni mtu mbaya, lakini huu ndio ukweli mchungu.

END I

MR. SHIKUKU (CTD.):

Bw. Naibu Spika wa Muda, n mimi x nilitoa Hoja yangu na <sup>na</sup>ikaipoleka kwa ofisi ya Bw. Spika, nikasema kwamba nataka hilo gazeti lililowasilishwa tarehe 6.10.85 na ambalo lingewasilishwa tarehe 12.6.87 lisiruhisiwe. Hoja hiyo haikuletwa hapa na <sup>mpaka</sup>mpaka sasa haijaonekana kwa Order Paper. Na hata sukari---. Niliambiwa nidhibitisha kwamba sheria zinavunjwa.

MR. TEMPORARY DEPUTY SPEAKER (Mr. Karauri): That is enough.

One substantiation is enough.

MR. SHIKUKU: Nitaendelea kudhibitisha. Kuvunja sheria ndio kutaivunja nchi hii. Mimi siwezi kukubali kua kukaa hapa kama sheria zinavunjwa; nilikula kiapo ili nilinde sheria na Katiba za nchi hii. Siwezi kukaa hapa kama sheria zinavunjwa na Mkuu wa Sheria anakaa pale.

THE ATTORNEY-GENERAL (Mr. Muli): On a point ~~of~~ of ~~the~~ order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member implying that I am allowing people to break the law, or is he saying those who are <sup>charged</sup> charged with the administration of a particular Act are not diligent enough to enforce what they have been given. I want to know whether he is accusing the Attorney-General of allowing ~~the~~ the law to be broken?

MR. SHIKUKU: Bw. Naibu Spika wa Muda, nafahamu kuwa Mkuu wa Sheria havezi kuona kila mahali kwa sababu kama mimi, yeye si Mungu. Lakini mambo kama haya yakiletwa mbele yake hafanyi chochote. Hata hajawashitaki wale watu wa Butere waliokula pesa ijapokuwa Bw. Waziri wa Nchi, Ofisi ya Rais, amekubali kwamba wamekula. Je, anafanya kazi gani? Hata ~~ya~~ yule Mzungu anayepeleka pesa ng'ambo hajashikwa na hata yule mwenye kupelekewa pesa pia hajashikwa. Lakini kama ingekuwa Shikuku angekuwa kortini. Sheria hii ya Kenya imekuwa kama wewe mkubwa, mambo yako yanaangaliwa kwa ukubwa.



MR. SHIKUKU (CTD.):

kama wewe ni mtu mdogo, unashitakiwa mara moja na kupigwa kiboko.

Wahe. Wabunge wenzangu wa Viti vya Mbele watachoka kwa ukweli kwa sababu mimi hudhibitisha lolote ninalosema. Mimi sina roho baya wala nia baya. Nataka haki ifanywe kufuatana na Wimbo wa Taifa 'Haki iwe ngao na mlinzi kwa zote' na isiwe ngao kwa wakubwa. Sasa Bw. Naibu Spika wa Muda, nataka kuongea juu ya huu Mswada kifungu kwa kifungu, lakini kama kuna wahe. Wabunge wengine wanaotaka kutoa maoni yao, basi wainuke, na mimi nitaketi.

(hon. Angatia stood up)

Nimeona mhe. Angatia anataka kuongea, na kwa hivyo sitaujadili kifungu kwa kifungu/ <sup>ile</sup> Wahe. Wabunge wengine wapate nafasi ya kuongea. Nitachukuwa mambo machache tu, kwa sababu nimeshitakiwa kuwa huchukuwa muda wote. Lakini ubaya ni kwamba naisoma h sana hii miswada kwa vile sina kazi nyingine. ~~Waz~~ Wengine wanafanya kazi ya Bunge kama part time, lakini mimi huifanya full time.

AN. HON. MEMBER: Kama mhe. Thuo

MR. SHIKUKU: Ndiyo, kama mhe. Thuo.

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo): Mhe. Shikuku usiniingilie. Nimetoka ofisini sasa.

MR. SHIKUKU: Bw. Naibu Spika wa Muda, kifungu cha Mswada huu ukurasa wa 314 kinasema hivi:-

"This Act shall <sup>not</sup> apply only in respect of land held on ~~the~~ freehold title or on a leasehold title where the unexpired residue of the term is not less than forty five years"

Mimi ningependa kifungu hicho kiangaliwe. Kwa nini iwe miaka arubaini na tano? Naona kuna mabadiliko mengi katika Mswada huu lakini katika hayo mabadiliko sioni kama kifungu cha 2 kiko. Kama h kiko, niko tayari kumpa Mkuu wa Sheria nafasi ili anieleze. Tunataka kujua ni kwa nini iwe miaka arubaini na tano, na kwa nini ~~ixix~~ isiwe ~~zaxx~~ zaidi au chini ya hiyo? Ningetaka Bw. Waziri

MR. SHIKUKU (CTD.):

atakapoji ~~bu~~ ~~ata~~ atueleze ni kwa nini iwe miaka 45.

Pia ningetaka u kuangalia maelezo ambayo yako katika kifungu cha 3 ambayo yanasema hivi:-

"building" means one or ~~more~~ more structures on the same ~~p~~ parcel";

Ninakubaliana na hii, lakini "by-laws" wanasema:-

"by-laws, in relation to a Corporation, means the by-laws of the Corporation as amended ~~for~~ from time to time and includes by-laws made in ~~substitution~~ substitution for them".

Sasa, Bw. Naibu Spika wa Muda, ni nani atakayetengeza hizi by-laws?

Nataka hizo by-laws ziletwe katika Bunge hili. Haifai hizi by-laws ziwe zitatengenezwa na Waziri na wafanakazi wa Serikali peke yao. Tunataka kuletewa hizi by-laws na ~~ku~~ tukubaliane ili ziwe sheria. Nataka hizo by-laws ~~katika Bunge~~ ziletwe hapa katika Bunge zifanywe ~~flats~~ sheria ili wale wahuni watakaokuwa katika flats wasiwapunje watu.

Bw. Naibu Spika wa Muda, sasa nataka kuongea juu ya section 17 ambayo inasema:-

"PART III - ESTABLISHMENT OF THE CORPORATION

On the registration of a sectional plan there shall be constituted a Corporation under the name "The Owners Sectional Plan No----- (the number to be specified being the number given to the plan on registration)

- (2) ~~a~~ A Corporation shall consist of all those persons.
  - (a) who are ~~more~~ owners of units in the parcel of which the sectional plan relates, or
  - (b) who ~~x~~ are entitled to the parcel ~~at~~ when the sectional arrangement is terminated under this Act.
- (3) The Corporation shall have perpetual succession and a common seal.
- (4) The provisions of the ~~Company~~ Companies Act shall not apply to the Corporation."

MR. SHIKUKU (contd.):

Sasa, Bw. Naibu Spika wa Muda, hapa wanaposema habari ya succession, kutakuwa na fujo kubwa. Hata Bw. Mkuu wa Sheria anajua kwamba mtu anapokufa ----

THE ATTORNEY-GENERAL (Mr. Muli): On a point of information and order, all that combined if that is allowed, Mr. Temporary Deputy Speaker, Sir. I did say that this Bill is of a technical nature. The word perpetual succession does not, in any way, mean the succession like that which we have under the Law of Succession. It means the Corporation will never die. That is all it means. I think that is <sup>the</sup> best definition I can give. It will <sup>live</sup> perpetually.

MR. SHIKUKU: Hayo maneno nimeyasikia na nimeyafahamu. Sasa mhe. Shikuku ameelewa maneno ya Mkuu wa Sheria. Lakini hayo maneno yameandikwa katika Mswada huu? Mswada huu ndio utakaokuwa sheria bali si hayo maneno. Hayo maneno aliyosema sasa ~~ku~~ hivi yatakuwa katika HANSARD, na ukitoa HANSARD kortini, watakuambia HANSARD is not Law. Kitu ninachouliza ni hiki: kwa nini mhe. Mkuu wa Sheria hawezi kueleza hayo maneno katika kifungu cha 2 "Perpetual" maana yake ni nini?

End J.....

MR. SHUKUKU (ctd.):

Watu walio werevu watakuwa wengi siku zijazo, na pia kutakuwa na watu wengine ambao hawajasoma.

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): The Attorney-General has said that whenever clarification is needed, it will always be given.

MR. SHIKUKU: Hatutaki hakikisho la aina hiyo. Hata wakati wa Bw. Njonjo tulikataa hakikisho kama hilo kwa sababu linaweza kutolewa hapa lakini liwe halikuandikwa katika sheria. Unapoenda mahakamani na kusema kwamba hakikisho la aina hiyo lilitolewa Bungeni, unaambiwa kwamba aliyelitoa alikuwa anatoa maoni yake au alitaka Mswada upite tu. Ni kwa nini hakikisho hilo haliwezi kuwekwa hapa katika Mswada huu? Kuna wajanja wengi sana katika nchi hii. The more people you educate the more crooks you get. Mimi siwezi kuwaacha watu waliowadogo wapunjwe na walio wakubwa. Nataka ielezwe katika Mswada huu maana ya perpetual succession.

Maelezo yaliyopetianwa hapa ya 'High Court' tunakubaliana nayo kwa sababu ikiwa mtu atafikiri ameonewa ataweza kwenda mahakamani. Lakini ukweli ni kwamba watu wengi katika Kenya, hasa wale wadogo, hawajapata haki yao kwa sababu hawana pesa za kushtaki kesi katika mahakama. Kusema tu mtu akikosewa anaweza kwenda mahakamani ni sawasawa, lakini ni mhe. Shikuku, mhe. Angatia, Prof. Ng'eno na watu wengine walio na pesa ambao wanaweza kumpa hupeleka kesi mahakamani kwa sababu wana pesa. Lakini sheria hii haitengenezwi mhe. Shikuku na mhe. Mkuu wa Sheria ambao wanajiweza; tunawatengenezea akina yakhe.

AN HON. MEMBER: Hao ni akina nani?

MR. SHIKUKU: Yakhe ni watu wa kawaida. Si watu wenye tai kama wewe na mimi. Akina yakhe ndio wengi kushinda watu wakubwa.

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Order, hon. Shikuku! What language is that?

MR. SHIKUKU: Ni Kiswahili lakini kimechanganyika na Kiarabu kidogo.

THE ATTORNEY-GENERAL (Mr. Muli): Mr. Temporary Deputy Speaker, Sir, in Hebrew, the word "yakhe" means God.

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MR. SHIKUKU: Bw. Naibu Spika wa Muda, pengine Mkuu wa Sheria amesoma Kiibrania. Hata hivyo, ninavyojua ni kwamba neno "yakhe" kwa Kiswahili lina maana ya watu wenye mapato ya chini. Sijui neno hilo lina maana gani katika lugha ya Kiibrania; linaweza kuwa na maana ya Mungu au Shetani, lakini sijui.

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo): Hata mimi naelewa maana ya neno "yakhe".

MR. SHIKUKU: Hata mhe. Thuo anaelewa kwamba yakhe ni mtu wa mapato ya chini Sheria tunazotunga katika Bunge hili zinawahusu watu walio wadogo ambao ndio wengi zaidi. Nikiuangalia Mswada huu, nataka kuona ni faida gani itakuwa nayo kwa mtu mdogo. Tunapongea juu ya mahakama kuu, tunamaanisha kwamba mtu akifikiria ameonewa anaweza kupeleka kesi mahakamani. Lakini hata mhe. Mkuu wa Sheria anajua mwenyewe kwamba kesi nyingi sana zimekatwa vibaya na watu wamenyang'anywa mashamba kwa ~~xxx~~ sababu hawana pesa za kupeleka kesi yake mahakamani. Mtu akisema hana pesa anaambiwa atasaidiwa. Ukweli ni kwamba maskini hawasaidiwi kisheria. Ni kweli kwamba mtu mdogo hawezi kupeleka kesi ~~xxxx~~ mahakamani kwa sababu hana pesa za kumwezesha kufanjiwa hivyo. Watu wakubwa watakuwa wakiwapunjia wadogo katika mahakama.

Bw. Naibu ~~Spk~~ Spika wa Muda, hapo chini Mswada huu unaendelea kusema hivi:

"developer" means a person who, whether alone or in conjunction with another person, sells or offers for sale to the public units or proposed units that have not previously been sold to the public".

Nina ushahidi wa kutosha kuonyesha kwamba kuna ulafi ~~nikawez~~ utakaoweza kutokea. Kuna wale wanaoitwa estate agents - na ninataka wasikie - ambao wamefanya maisha ya wananchi kuwa magumu sana. Mtu anaweza kujenga nyumba na akasema kwamba chumba kimoja kitakuwa ~~kilipiw~~ <sup>Kikilipiwa</sup> kodi ya KShs.200/-. Lakini akitaka kupata ~~estate agent~~ watu wa kukodi hiyo nyumba, ~~ataenda~~ ataenda kwa estate agent. Sasa, badala ya ile KShs.200/- kwa chumba kimoja kwa mwezi, estate agent anaongeza kodi ya hicho chumba hadi KShs.500/-. Ikiwa estate agent amekusaidia kupata nyumba, kodi ya mwezi wa kwanza inaenda ~~kazi~~ kwake. Kwa hivyo, tunataka sheria iletwe hapa ili tujaribu ~~wax~~ kuwaweka hawa estate agents katika sheria. Estate agents wana uhuru mwingi sana.

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MR. SHIKUKU (ctd):

na hiyo ndiyo sababu kodi za nyumba katika Jiji la Nairobi zimekuwa ghali sana. Hawa estate agents wameharibu mambo kabisa hata ingawa wenye nyumba pia ~~hi~~ huongeza kodi za nyumba. Yafaa tupitishie ~~hi~~ sheria ya kuwafanya hawa estate agents kukomesha huo mtindo wao. Hata ~~ny~~ nyumba tunazoongea juu yake hapa zitakapojengwa zitakuwa ghali sana kwa mtu wa kawaida kwa sababu z estate agents wataongeza bei.

Kwa mfano, tuliambiwa kwamba tulikuwa tunajenga nyumbaa za ~~ghorofa~~ katika Mtaa wa ~~p~~ Pumwani ili watu wenye mapato ya chini wazipatiwe. Je, ni akina nani waliopatiwa hizo nyumba? Ni wale watu wa Majengo waliokuwa wakikaa katika nyumba za mabati? Hata meh. Wanjigi angekuwa hapa ningemwuliza swali hilo. Watu wadogo hawakuweza kuingia katika nyumba zilizojengwa katika Mtaa wa Pumwani; watu wakubwa ndio waliingia. Huku tunaambiwa "we want low cost housing", lakini nyumba za aina hiyo zinapojengwa wakubwa ndio wanaozichukua. Tumeambiwa "we want to settle poor people", lakini mwishowe unapata kwamba watu wakubwa ndio huchukua ploti zote. Je, ni siku gani mtu ~~mt~~ mdogo atakapofikiriwa na ni siku gani watu wakubwa watakoma kuwa walafi? Uhuru tuliopigania haukumaanisha kwamba wakubwa wana haki ya kuwanyanyasa watu wadogo. Je, kwani watu wakubwa wanataka vita? That can happen here; it happened in France. Ikiwa ulafi wa wakubwa huwezi kupunguzwa, basi tunaweza kuwa na French Revolution. Watu wakubwa wamekuwa walafi mno hivi kwamba hata wanataka kula kokote. Hawaac hi kitu hata kile kidogo zaidi. Hawa estate agents watatunzia mpango huu na nyumba tunazotaka zijengwe hazitaingiwa na watu wadogo. Ajabu ni kwamba watu wadogo wakijenga vibanda vinabomolewa. Je, mnataka watu wadogo waende wapi?

Katika kifungu hicho hicho, ukurasa wa 315, inasemekana hivi:-

"Sectional plan means a plan registered in a land registry ~~ni~~ which complies with section 5 and includes a plan of a subdivision registered under section 12".

"Special resolution" means a resolution -

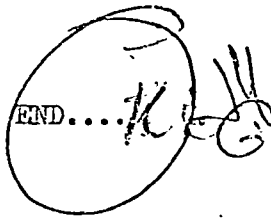
- (a) passed at a proerly convened meeting of a Corporation by a majority of not less than seventy-five per centum of all the persons entitled to exercise the voting powers conferred by this Act or the by-laws and representing not less than seventy-five per centum of the total unit factors for all the units; or

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MR. SHIKUKU (ctd.):

Hapo, Bw. Naibu Spika wa Muda, hatuambiwi hizi kura zitakuwa zikipigwa namna gani. Je, watakuwa wakipiga kura za mgongo au itakuwa kura ya aina gani. Tunataka kuelezwa kura zitapigwa kwa kutumia secret ballot au zitapigwa namna gani kwa sababu watu wengine wanaweza kukaa pamoja na ~~kufany~~ kufanya maneno.

END... 

MR. SHIKUKU (CTD):

Katika sehemu ya 4 (1), juu ya sub-division of buildings into units, Mswada unasema hivi:

"An existing or planned structure may be designated a building containing a unit or part of a unit or divided into two or more units by the registration of a sectional ~~na~~ plan under this ~~par~~ Act."

Na pia sehemu (2) inasema:-

"The registrar shall not register a sectional plan unless-

(a) the sectional plan describes two or more units in it;--"

Units; labda nimesahau; nafikiria ni zile ambazo huelekea juu. Lakini mtu akijenga nyumba ndefu ya kama futi 40, hiyo ~~inawe~~ itakuwa unit? Yaani akigawa kuwe na chumba kimoja sehemu moja na sehemu nyingine kuwe na chumba kingine, itakuwa ni unit? Mimi najua kuwa unit huelekea juu. Sijui kama units humanisha zile nyumba ndefu kama zile zinajulikana kama mansions kwa kiingereza na ~~na~~ ambazo hufuatana na ni za mtu mmoja.

AN HON. MEMBER: Kuna maelezo hapo katika Mswada.

MR. ~~SHK~~ SHIKUKU: Bw. ~~Spika~~ Naibu Spika wa Muda, ninajua maelezo yako hapa. Lakini inasema hapa ~~ji~~ kuwa msajili hataandikisha-- Sehemu hii inasema ~~na~~ hivi:

"The registrar shall not register a sectional plan unless--

(a) the sectional plan describes two or more units in it;"

Hiyo ndiyo taabu yangu. Mkuu wa Sheria anaweza kunieleza ikiwa mtu anajenga chini na yule anaenda ~~u~~ juu-- Kwa sababu, wakati huu wote akili yangu iko kwa ~~na~~ nyumba ~~za~~ zinazojengwa kwenda juu. Hizo ndizo huitwa units. Na ~~sax~~ sasa ikiwa mtu atajenga mansions, hizo pia zitakuwa katika hali moja?

THE ATTORNEY-GENERAL (Mr. Muli): Thank you Mr. Temporary Deputy Speaker, Sir. As I explained earlier on, in this Bill, we ~~are~~ are concerned with the <sup>vertical</sup> strata, but not horizontal strata.



THE ATTORNEY-GENERAL EITZ (ctd):

For example, in an acre, a person may like to build four houses having sub-divided one acre into one quarter-acre plots. If he is building on those quarter-acre plots, those will, for the purpose of this Act be free-hold titles in respect of each quarter-acre plot. For the purpose of this Act, each free hold title may go up vertically up to whatever floor one may like. Therefore, the units will be each floor going up vertically, but not horizontally. The registrar will register one unit but two or three units in each sectional unit. One has to have a sectional plan. Vertically, there should be a building and a sectional plan for each floor, but you should not register one unit in that section; there must be one, or two or three or four units.

MR. SHIKUKU: M Nimeelewa hayo maelezo sasa, lakini jambo nililokuwa nikisema ni hili. Kama Mkuu wa Sheria alivyosema, mtu anaweza kugawanya ekari moja katika sehemu vinne na ajenge nyumba kando kando na kwa hivyo nyumba iliyo kando kando na nyumba nyingine itakayojengwa itakuwa na free hold title yake. Hata zikiwa kumi zitakuwa na free hold titles zake?

MR. AN HON. MEMBER: Ndio.

MR. SHIKUKU: Thank you. Bw. Naibu Spika wa Muda, kwa vile niliwaahidi waheshimiwa wabunge wenzangu kwamba nitakwenda haraka ili niwape nafasi na wao waseme maoni yao, ningependa kwenda kwa ukurasa wa 324 katika sehemu ya 18 - Actions by or against the Corporation - ambayo inasema:-

"(1) The Corporation shall be capable of suing and being sued in its corporate name subject to section 21. of doing anything that a body corporate may do."

Jambo ambalo ningetaka kujua kutoka kwa Mkuu wa Sheria ni hili; shirika linashtaki ama linashtakiwa? Shirika litakuwa la watu wanaokaa katika nyumba moja?

MR. SHIKUKU (CTD):

Ikiwa mmoja wa hawa wanaoishi katika orofa hiyo anashtaki shirika na ni mmoja wa shirika hilo, jambo hilo litawezekana? Kwa sababu, shirika ni kama kitu kimoja ambacho kinaweza kushtaki au kushtakiwa. Ikiwa mimi ni mwanachama wa shirika na ninakaa katika orofa hiyo, uhuru wangu wa kushtaki shirika hilo uko wapi? Hii ni kwa sababu mimi ni mwanachama mmoja wa shirika ambalo linaweza kushtaki au kushtakiwa. Nitawezaje kushtaki shirika likinienea kwa sababu Mswada unasema hivi:

"The Corporation shall be capable of suing ~~the~~ and being sued in its corporate name subject to section 21,--"

Na, ukiangalia sehemu ya 21 inataja:-

"Subject to this Act, the Corporation shall have all such powers as are reasonably necessary to enable it to carry out the duties imposed on it by ~~the~~ this Act and by by-laws;

Provided that the Corporation shall not have power to carry on any trading activities."

Lakini hapa sioni mwanachama akiwakilishwa.

THE ATTORNEY-GENERAL (Mr. Nuli): Mr. Temporary Deputy Speaker Sir, I am not tired of replying, because I said that the Bill is technical. The co-operation of all the owners of the units, the one who will be holding certificates of sectional property within the building will form the Corporation. The Corporation now, will be a body corporate; in other words, a legal body which is able to sue and be sued. Now, take an example; if a stranger wishes to interfere with that corporate body of ~~that~~ that building which would perhaps be called corporate building "x" or "y" or to interfere with that building, each individual need not go and defend that Corporation, the Corporation will do it for him because, that is their Corporation. I think that is clear.

If, on the other hand, the Corporation, although it is yours wishes to evict you from that building, and, you are living on the tenth floor in your plot with your title deed and the Corporation says, "We shall block hon. Shikuku, he will never use the lifts or

MR. SHIKUKU (CTD):

stairs to reach his flat"-- The lift and stairs are yours by right and you have access to your place to and from. You have a right as an individual to sue that Corporation of yours because it is a legal body owned by many people. You should tell them ~~that~~ that they have no right to you and that right will not be denied.

END L.....

## THE ATTORNEY-GENERAL (contd.):

That one is there and will not be put in the Act, just the same as you do not put it in the Memorandum of Companies. Where a company is registered and there are shareholders, if the other members of the company want to kick one member with only one share out of the company, that member has a right to go to court; and tell the rest of the shareholders no matter how many shares they are holding, "You must not interfere with my shareholding although it is one. I can go to court, and the court will defend me and uphold my right against so many of you although we belong to the same company". That is how it always is.

MR. SHIKUKU: Nasema ahsante sana kwa Mkuu wa Sheria. Bw. Naibu Spika wa Muda, kungali kuna swali moja ambalo pengine angeweza kujibu. Ukitazama Kifungu cha 19 - liability in tort - utaona kwamba mtu yeyote atakaye kuwa katika orofa hii atakuwa mwanachama wa shirika. Kama unahitaji nyumba na hutaki kuwa mwanachama wa shirika itakuwaje? Ni lazima uwe mwanachama wa shirika ili upate nyumba? Haya ni maswali muhimu na tukifika nyumbani ni lazima tuulizwe, "Ni lazima ukienda kununua chumba katika hii orofa, uwe mwanachama wa shirika fulani na kama si hivyo, huwezi kuinunua? Lazima isemwe katika kifungu hiki kwamba ukitaka nyumba ni lazima uwe mwanachama wa shirika moja. Lakini hilo ni jambo la kushangaza sana. Mimi mwenyewe nina nyumba kule Mariakani, D 45, lakini kabla ya kupata nyumba hiyo - ina orofa karibu sita - sikuulizwa niwe mwanachama. Niliingia bila kuwekewa kanuni kama hiyo. Mswada huu ukipita, nikitaka kuinunua nitainunua. Je kama hutaki kuwa mwanachama wa shirika lolote - hii ni sawa kabisa kwa sababu kuna uhuru wa ushirikiano. Unaweza kukataa kushirikiana na watu wengine katika shirika lao. Hali ya mtu kama huyu itakuwa namna gani? Atanyimwa haki ya kupata nyumba kwa sababu yeye si mwanachama wa shirika? Ikiwa ni hivyo,

MR. SHIKUKU (contd.):

basi hiyo ni kuvunja kifungu No. 80 cha Katiba ambayo ina kubaliana na mtu ---

THE ATTORNEY-GENERAL: (Mr. Muli): You are referring to page 324.

MR. SHIKUKU: Dw. Naibu Spika wa Muda nimeambiwa kifungu ambacho nimekuwa nikitafuta. Kifungu No. 17(2)(a), kinasema,

"Shall consist of all those persons who are owners of units".

Lakini hawasemi kabla ya kuwa mwenye nyumba ni lazima uwe mwanachama wa shirika hilo. Hawasemi hivyo hapa na kwa sababu hiyo ninayaleta maneno haya. Kile kifungu hiki kinasema ni hivi:-

Corporation shall consist of all those persons:-

(a) Who are owners of units in the parcel to which the sectional plan relates.

Hawasemi ni lazima uwe mwanachama ili upewe nyumba.

Kwa hivyo ningetaka wakati Mhe. Waziri atakapojibu aniambie kama ninaweza kununua chumba kimoja katika nyumba hiyo lakini nisiwe mwanachama wa shirika hilo. Lakini kama inanibidi niwe mwanachama wa shirika basi badiliko lazima liletwe linalosema kwamba,

"Before you buy a unit in the Corporation you must be a member or agree to be a member of the Corporation".

Kwa sasa mtu anaweza kununua nyumba na akuambie, "Mimi sitaki kusikia hayo maneno ya Corporation". Kuna watu wangapi hata mpaka leo hawajakuwa wanachama wa Kanu? Kanu ndiyo inayotawala, na ndiyo ilileta Uhuru na watu wengine hawataki kuwa wanachama. Kwa hivyo, ni lazima badiliko liletwe linalosema kwamba kabla ya ~~kununua~~ kununua chumba katika orofa lolote unakubaliwa usiwe mwanachama. Kama sivyo, kutakuwako na ~~ishe~~ kelele nyingi.

MR. SHIKUKU (Ctd.):

Kwa hivyo, kwenye ukurasa wa 327, kuhusiana na  
Registration of transfers of common property, wanasema hivi:

"So much of a person as is not comprised  
in all units shown in the sectional plan."

Hapa wanazungumza juu ya Registration of transfers. Ukitaka  
kutoka katika nyumba hiyo ili mwingine achukue nafasi yako, naye  
huyo mtu akatae kuwa mwanachama wa shirika, ni kitu gani  
kitakachofanyika? Au pengine mimi niseme kuwa nawachia mtoto wangu  
nyumba hii naye huyo mtoto wangu aseme "Mimi sitaki maneno yako  
baba. We uliingia katika shirika hilo, na sitaki hayo maneno ya  
shirika"; ni kitu gani kitakachofanyika? Haya ni maswali ambayo  
~~yaki~~ yafaa Waziri atakapoketi chini ayafikirie aone tutafanya  
nini na atakaposimama kujibu, anieleze.

Nikienda kwa ukurasa wa 329 - wanasema hivi kuhusu  
Board of management:-

"A Corporation shall have a board of  
management that shall be constituted  
as provided by the by-laws of the Cor-  
poration."

Hatujui hizi by-laws ni zipi. Hizi sheria ziko wapi? Ningependa  
Waziri atakapokuja kujibu atueleze hizi sheria ni zipi na  
ziletwe hapa. It should be an appendix to this Bill ili tusome  
na tujue hizo sheria ni zipi kwa sababu zinaweza kuwa sheria  
zitazowadhuru watu wadogo. Tunataka kuona hizo sheria. Halafu  
Clause 26 (2) inasema:

"A Corporation shall, within fifteen days  
of a person becoming or ceasing to be a  
member of the board, file at the land  
registry office in the prescribed form  
stating the name and address of that  
person and the day that the person became  
a member of the board."

MR. SHIKUKU (Ctd.):

No. 2.....2.12.87

Nayo Clause 26 (3) inasema:

"The powers and duties of a Corporation shall, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the board of the Corporation."

Nayo Clause 26 (4) wanasema;

"All acts done in good faith---"

Uteuzi wa baraza uko katika fungu gani? Ba Bodi ya Shirika inachaguliwa na nani na itaundwa kufuatana na fungu gani? Niko tayari kumpa Mkuu wa Sheria nafasi ya kumieleza iko katika fungu gani. Wanateua au wanafanya uchaguzi wa bodi ya shirika hili? Kama ni kufuatana na uchaguzi, tuelezwe uchaguzi unafanywa namna gani; na kama ni kwa kuteuliwa, tuelezwe ni nani atakayeiteua.

Nikiendelea mbele haraka, ukurasa wa 330 - fungu 29 (1):

"The board shall, not more than twenty-eight days after its election, appoint an institutional manager for the management of the units comprised in a sectional plan."

Nayo 29 (2) inasema:

"The person appointed as an institutional manager under subsection (1) shall be an accountant----"

Hii habari ya accountant---Nakubaliana na yale uliyoyasema - sio accountant bali ni mtu ambaye anafahamu mambo ya pesa. Na tunaweza kumuajiri accountant wa kuangalia hesabu; mtu ambaye anafahamu mambo ya nyumba na wapangaji ili aweze kuwasaidia wananchi watakoishi ndani ya hizo nyumba.

Nimemwona Mbunge mwingine moja tu ambaye anataka kuzungumza - mhe. Angatia - lakini sijui kama kunaye mwingine na kwa hivyo nitaendelea kidogo kwa sababu ni yeye pekee ambaye anataka kuzungumza juu ya Mswada huu.

AN HON. MEMBER: Una hakika?

MR. SHIKUKU: Ni mmoja tu; na nikimaliza, mhe. Angatia pengine atachukua nusu saa na mambo yatakwishwa. Niacheni niendele-

AND HON. MEMBER: Lakini yafaa uwape wengine nafasi.

MR. SHIKUKU: Bw. Naibu Spika wa Muda, nataka kuwapa Wabunge wengine nafasi, na nikimaliza---

AN HON. MEMBER: Na baada ya huyo kuna mwingine pia.

MR. SHIKUKU: Hakuna mwingine. Kwa hivyo, Clause 29 (2) inasema kwamba huyu mtu atakuwa accountant na sioni haja ya huyu mtu <sup>Kuna</sup> hivyo. Tunataka mtu ambaye anajua mambo ya utawala - mtu ambaye amesomea mambo ya public relations kwa sababu tutakuwa na watu wa aina mbali mbali. Wengine watakuwa walevi, wengine wanasayansi ambao hawapendi kusema na watu; hata kusema "habari ya asubuhi" hataki, wala hataki kwenda kwa watu wengine. Utakuwa mchanganyiko hatari na accountant hawezi kutatua mambo mengine. Lazima tumpate mtu anayejua mambo ya utawala kwa sababu atakuwa akishughulika na watu wa aina tofauti tofauti; watu wa viwango mbali mbali. Lazima huyu mtu awe amesomea kazi ya public relations na kazi ya utawala ili aweze kufuatana na watu ~~wavyo ambao hawajikuwa wakijua mambo ya utawala~~ na kujua vile anaweza kuwasimamia watu. Hatumtaki mtu atakayekuwa akija kuwachokoza watu kwa sababu anaweza kuleta matata mengi kati ya watu hawa wote wanaokaa katika orofa fulani.

Kwa mfano, nilipokwenda huko ~~ni~~ Malaysia juzi, tulienda katika nyumba moja ambayo huitwa "long house". Long house ambayo tulienda kutembelea ilikuwa na watu 360 wanaoishi humo. Nimejifunza kitu kimoja huko. Hawa watu 360 ~~watikira~~ <sup>walikuwa</sup> watu wa familia moja na pia walikuwa na shida. Kwa mfano, kama mimi ni baba wa watoto - kama sasa ninao watoto 16 - mtoto wangu wa kwanza akitaka kuoja anajenga nyumba yake karibu na yangu - kuta zina <sup>shikana</sup>. Maelezo ya "long house" ni kwamba nyumba ya baba ikiwa hapa inafuatiwa na nyumba ya mtoto wa kwanza; na ile ya mtoto wa ~~pili~~ kwanza inafuatiwa na nyumba ya mtoto wa pili wa kiume; halafu wa tatu na zinaendelea hivyo na zinaweza kuchukua umbali wa nusu maili. Nilijifunza kuwa hapo kuna nidhamu kubwa kwa sababu huko



MR. SHIKUKU (Ctd.):

wanafuata mila na nidhamu za kwao ili wawe na uhusiano mwema. Hii ikikosekana kunaweza kutokea vita vikali - na <sup>wasu</sup> ~~hasu~~ baina ya wanawake. Pengine mke wa ndugu yangu hapendani na mke wa yule ndugu mwingine. Pengine mtoto wa ndugu mmoja amempiga mtoto wa ndugu huyo mwingine wangu na vita vinatokea hapo. Hii ndiyo sababu yangu ya kusema kwamba katika nyumba hizi za orofa, lazima tutafute mtu ambaye anaweza kutawala na pia kuweko na mpango-- na jambo hii haliko katika Mswada huu - ambao unawezesha watu kuwa na kamati na ushirikiano mwema wa kuiendesha kazi hiyo vizuri.

Pengine hapa tena - kwa sababu huu ni Mswada wa ~~kwa~~ kwanza wa aina hii kuja katika Bunge hili - Waziri angechukua fursa hii kutembelea nchi kama Sweden na mahali kwingineko ili aweze kujua watu wengine katika nyumba moja ya orofa huweza kishirikiana kwa namna gani. Yafaa ~~ny~~ tuyachukue maarifa hayo tuyalete hapa ili ~~tu~~ tuone ---

AN HON. MEMBER: Unarudia.

MR. SHIKUKU: Sikusikia Mbunge huyo amesema nini. Nataka Waziri aliangalie jambo hili linalohusu accountant. Tuelewe kwamba accountant anaweza kuwako lakini hajui kutawala na hajui kukaa na watu.

AN HON. MEMBER: Atafundishwa.

MR. SHIKUKU: Ndio, atafundishwa lakini matata yatakuwa yameshatokea. Twataka Waziri aende kwa watu ambao <sup>wana</sup> ~~wan~~ nyumba za orofa kama huko Sweden ili wanwambie ni kitu gani wanachofanya ili kuishi bila ya matatizo.

AN HON. MEMBER: Au amtume huyu mhe. Anyumba, ambaye ni sorofea.

MR. SHIKUKU: Mhe. Anyumba ni sorofea, kama kuna mahali ambapo mtu wa aina yake <sup>anahitajika</sup> ~~anahitajika~~ tutamwambia. Lakini ninazungumzia juu ya habari ya accountant. Niko na ubishi na huu ujuzi wa accountant.

END ~~N~~.....

MR. SHIKUKU (ctd.);

Bw. Naibu Spika wa Muda, utaona kwamba sehemu ya 30 ya Mswada huu inasema hivi:

"Clause 30(1):

The Corporation may make by-laws to provide for the control, management and administration of units, the movable and immovable property of the Corporation and the common property"

"Clause 30(2):

Any by-law may be amended, repealed or replaced by a special resolution."

Bw. Naibu Spika wa Muda, kwa vile tutakuwa na nyumba nyingi zenye orofa nyingi ni kwa nini Waziri havezi kuleta general regulations ambazo zitatumika kila mahali? Yafaa regulations kama hizo zijadiliwe na kupitishwa na Bunge hili. Hii ni kwa sababu regulations hizo zikipitishwa kama sheria watu wote watazifuata kikamilifu. Haifai kumpa uwezo mtu mmoja ambaye anaweza kutunga by-laws zake ambazo zinaweza kuwaudhi watu wale wengine. Jambo kama hilo linaweza ku sababisha matata mengi. Ni matumaini kwamba Waziri atatayarisha general by-laws na kuzileta katika Bunge hili ili tupate nafasi ya kuziangalia na pengine kuzifanyia marekebisho na hatimaye tuzipitisha kama sheria ili kusije kukazuka matata. Hii ni kwa sababu watu wengine wanaweza kutengeneza by-laws ambazo zinaweza kuw adhuru wenzao. Kwa hi hivi ni wajibu wetu kama Wabunge kuona kwamba sheria ambazo zinatungwa katika nchi hii ni kwa manufaa na ulinzi wa watu wote; wakubwa na wadogo. Lakini sheria za siku hizi ni za wakubwa; wadogo hawana haki.

AN HON. MEMBER: Hivyo si kweli.

MR. SHIKUKU: Sasa, Bw. Naibu Spika wa Muda, nitazungumza juu ya penalties katika Clause 31. Sehemu hii ya 31(1) inasema hivi:

"If an owner, tenant or other person residing in a residential unit contravenes a by-law, the Corporation may take proceedings in the Court to recover from the owner or tenant or both a penalty of not more than twenty-five thousand shillings in respect of that contravention."

Je, unaweza kuliona vumbi litakalokuwa hapa? Huenda ikawa mtu kama huyo hawezi kupata KShs.25,000/-. Huyu mtu atakuwa mgeni wa nani?

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): On a point of information, Mr. Temporary Deputy Speaker, Sir. That is the maximum fine that can be imposed on a person in respect of that contravention.

MR. SHIKUKU: Bw. Naibu Spika wa Muda, Waziri anasema kwamba hicho ndicho kiwango cha juu zaidi ambacho mtu anaweza kutozwa kama faini kwa kuvunja sheria hiyo. Lakini kuna wengine ambao hawajawahi kuona Shs.10,000/- kwa macho yao. Je, mtu wa aina hiyo atailipaje faini kama hiyo? Pengine mimi simwelewi vizuri bw. Waziri. Nadhani nyumba hizi zitakuwa za watu wadogo.

THE ASSISTANT MINISTER FOR INFORMATION AND BROADCASTING (Mr. Khasakhala): Those who can afford.

MR. SHIKUKU: Bw. Naibu Spika wa Muda, mhe. Khasakhala ameniambia ukweli. Lakini hawa wengine hawaniambii ukweli. Yeye anasema "Those who can afford", yaani yeye na mimi; anewasahau watu wadogo. Huo ni ukweli na ningependa kumshukuru mhe. Khasakhala kwa kuniambia ukweli. Lakini utaona kwamba Mkuu wa Sheria na Waziri wa Ardhi na Makao hawataki kuniambia ukweli. Ukweli ni kwamba nyumba hizi zimekusudiwa kwa wale wanaoweza kuzinunua. Watu wakubwa ndio wanaoweza kuzinunua. Huu ndio ukweli. Lakini tumeambiwa hapa kwamba sheria hii itawasaidia wananchi wasio na nyumba kupata nyumba; kumbe maana yake ni "those who can afford."

Mimi na mhe. Khasakhala tunajiweza kifedha. Lakini wale walio-tuchagua watafanya nini?

AN HON. MEMBER: They cannot afford!

MR. SHIKUKU: Kwa hivyo wao wataendelea kuishi kwenye zile nyumba za karatasi kule Korongocho. Je, ni kwa nini tunaambiana uwongo? Ni kwa nini tunasema kwamba Mswada huu utawasaidia wananchi? Yafaa tuseme kwamba huu ni Mswada wa wananchi wakubwa; "those who can afford". Yafaa tuseme ukweli. Haifai kusema kwamba wananchi wa kawaida watafaidika.

AN HON. MEMBER: What is your suggestion.

MR. SHIKUKU: Bw. Naibu Spika wa Muda, ningependa kusema kwamba hii faini ni kubwa na ~~imafika~~ imeifichua siri moja; kwamba Mswada huu ni kwa manufaa ya "those who can afford." Mimi sina haja na wale wanaojimudu kifedha. Nina haja na wale wadogo ambao hawawezi kulipa faini kubwa kama hii. Tungependekeza kiwango cha chini kama vile Shs.2,000/- au Shs.3,000/-. Lakini utaona kwamba hapa wamependekeza kiwango cha juu kabisa cha Shs.25,000/-.

THE ATTORNEY-GENERAL(Mr. Muli): Mr. Temporary Deputy Speaker, Sir, I will give an example of a by-law which, if it is breached, will warrant such a penalty. If you an occupant of a unit in a section of a building and the Corporation says "Do not ~~x~~ bring explosives into this buildings which carries about 200 to 500 people, because the explosives may destroy the building and the ~~peix~~ people--- " Or if the Corporation says do not bring in fire into this building because it may harm a lot of ~~people~~ people" and notwithstanding that by-law you do so and because of that breach there is an explosion and all the people die, is a fine of KShs.25,000/- not too small?

MR. SHIKUKU: Bw. Naibu Spika wa Muda, jambo kama hilo huenda lisitendeke. Ukweli ni kwamba Shs.25,000/- si kiasi kidogo cha pesa. Lakini ikiwa hizi ni nyumba za wale wenye pesa mimi nakubali kwamba faini kama hiyo inafaa. Lakini nilikuwa nikidhani kwamba nyumba hizi zitakuwa za watu wadogo. Je, ni kwa nini siwezi kuambiwa ukweli mara moja ili niache kusema juu ya watu wadogo kuhusiana na Mswada huu? I can abandon the question of small people. Sikujua kwamba hizi zitakuwa nyumba za watu wakubwa "who can afford." Je, ni kwa nini Mkuu wa Sheria hawezi kuniieleza vizuri ili niweze kuwaambia watu wa Butere ukweli; kwamba nyumba hizi ni za watu wakubwa?

AN HON. MEMBER: Si watu wa Butere peke yake.

MR. SHIKUKU: Mimi nazungumza juu ya watu wa Butere. ~~Kwani~~ Je, mimi nimekuwa Mbunge wa Kenya nzima? Yafaa hata watu wa Mosop waambiwe kwamba hizi nyumba hazitakuwa za watu wadogo. Kwa hivyo si kweli kusema kwamba Mswada huu umeletwa hapa kwa manufaa ya watu wote wa Kenya; ni kwa manufaa ya watu wakubwa wa Kenya "who can afford."

AN HON. MEMBER: Wale wanaoweza kuzinunua.

MR. SHIKUKU: Basi, semeni hivyo ili nikome kuzungumza juu ya watu wadogo.

Bw. Naibu ~~Spika~~ Spika wa Muda, ningependa tuangalie kwenye ukurasa wa 332---

AN HON. MEMBER: Maliza.

MR. SHIKUKU: Sehemu hii ya 32 ya Mswada huu inazungumza juu ya control ~~na~~ and management. Maneno mengi yamesemwa hapa. Pia tumeambiwa kwamba shirika hili litakuwa na jukumu la kutunga ~~by-laws~~ by-laws. Hatuwezi kusema cho chote juu ya hizi by-laws kwa sababu hatujaziona. Kwa hivyo ~~Waziri~~ Waziri akikubali kuleta sheria hizo hapa tunaweza kumsaidia kuzifanyia marekebisho mpaka ziwe haziwezi kuwaumiza watu w<sub>a</sub>asiojiweza kifedha.

Kwa hivyo ni lazima Mkuu wa Sheria ajaribu kumsaidia Waziri ili kuzileta sheria hizo hapa ili tuwe<sub>ze</sub> kuzijadili na kufanya masahihisho ili watu wetu wasiumie bure. Hiyo ndiyo kazi yetu kama Wabunge.

AN HON . MEMBER: Next year.

MR. SHIKUKU: Mungu yuko; atatuwezesha kuuona mwaka ujao.

Jambo lingine ni kuhusu interest on outstanding accounts. Sehemu inayofuata inasema hivi:

"The Corporation may, if permitted to do so by the by-laws, charge interest at a rate to be set out in the by-laws, on any unpaid balance of a contribution owing to it by an ~~i~~ owner."

Hatujui hizi by-laws zitakuwa za aina gani. Watu wana-weza kufanya cho chote wakitumia hizi by-laws. We are more or ~~less~~ giving a blank cheque here. Hundi ya haina hiyo haionyeshi ni kiasi gani cha pesa kitakachotolewa benki. Kazi ya watu hawa itakuwa ni kutengeneza by-laws baada ya Bunge hili kuwapa kibali.

Sehemu ya 35 inasema hivi:

"If any interest referred to in section 34 or a deposit referred to in section 50(3) is owing by an owner to a Corporation, the Corporation, <sup>in</sup> addition to any rights of recovery it has in law, recover that amount in the same manner as a contribution under section 23."

BND.O.O.

Amay

MR. SHIKUKU (CTD.):

Bw. Naibu Spika wa Muda, jambo ambalo ningetaka Mkuu wa Sheria anieleze ni hili. Nafikiri kwamba corporation hii itakuwa ya watu wale ambao wamemumua flats. Hivi ndivyo ninavyodhani. Mwenye kununua flat atakuwa akimlipa yule aliyeijenga flat hiyo, yaani developer.

Sijui kama Waziri ananisikiliza.

Ikiwa nimemumua flat katika orofa fulani, contribution hii ni ya nini au flat hiyo itakuwa imenunuliwa kwa hire-purchase na ukichelewa kulipa, faida inaanza kuhesabiwa? Pengine huenda hata ukanyang'anywa flat hiyo. Jambo hili linafaa kuelezwa. Ikiwa umeweza kuinunua flat yote mara moja, contributions hizi zitakuwa zikilipwa za nini? Kama nimenunua flat yangu yote mara moja kwa Shs.20,000/=, 30,000/= au 40,000/= huku nikiwa nimechukua mkopo na nikamlipa developer Shs.25,000/= au 50,000/=, contribution hii itakuwa ya nini? Nitakuwa nikiilipa benki mkopo, na sielewi contribution hii ni ya nini?

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): May I answer that question?

MR. SHIKUKU: Yes, you may do so.

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): I will answer it later.

MR. SHIKUKU: Bw. Naibu Spika<sup>wa Muda</sup> Waziri anasema kwamba atanjibu baadaye. Ingefaa Waziri ajibu kila swali tunalouliza hapa ili tuweze kuwaeleza watu wetu jinsi mambo yalivyo. Hiki ni kitu kipya wala si badilisho. Kwa hivyo, ni lazima tuulize maswali juu yake na tukijibiwa, tutawaeleza wananchi ni kitu gani kinachofanyika.

Huku nikimaliza hotuba yangu, Bw. Naibu Spika wa Muda, ningependa kusema kwamba sheria tunazotunga katika Bunge hili ni lazima ziheshimiwe. Hazifai kuvunjwa. Tutakuwa tukiupoteza wakati wetu ikiwa tutazungunza juu ya Miswada, kama huu ambayo itakuwa sheria baadaye halafu sheria hizi zinavunjwa. Hiki ndicho kitakachotuvunja sisi wenyewe. Sheria ikiishapitishwa, tungetaka ifanye kazi kwa watu wote. Haifai kufanya kazi juu ya watu fulani tu.

Katiba ya Kenya pia inafaa kuheshimiwa kwa sababu kutokana nayo ndipo

MR. SHIKUKU (CTD.):

sheria zinaundwa. Hakuna sheria yoyote katika Kenya iliyo juu ya Katiba. Sheria zote ziko chini ya Katiba kwa kuwa Katiba ndiyo sheria iliyo kubwa zaidi ya nyingine zote.

THE ATTORNEY-GENERAL (Mr. Muli): You are right.

MR. SHIKUKU: Namshukuru mhe. Mkuu wa Sheria kwa kusema kwamba ninasema haki. Absante. Ningetaka Katiba iheshimiwe. Hatufai kuzichukua sheria tulizopitisha hapa na kuzitumia kuwanyanyasa wananchi. Hatufai kuwatumia askari, wakuu wa mikoa, wakuu wa wilaya na wakuu wa tarafa kuwanyanyasa, kuwachokoza na kuwakoroga wananchi, na huku wakikataa mambo hayo polisi, General Service Unit, mkuu wa mkoa, mkuu wa wilaya na mkuu wa tarafa wanafika kuwakomesha wananchi hao. Hii ni hatari. Kifungu cha 80 cha sheria za nchi hii hakifanyi kazi, na nimekwishasema hivyo hapo awali.

Jumamosi ijayo, mkutano utafanywa kule Butere, lakini sikuulizwa kuuhudhuria. Hata hivyo sitaupinga mkutano huo; bali nimewaambia wananchi wahudhurie. Michango ya Harambee imeletwa huko bila ya kumwuliza Mbunge wa mahali panapohusika jambo lo lote. Ninajua kwamba hii ni siasa. Mkuu wa Mkoa, Mkuu wa Wilaya na Waziri anayehusika wote watafika huko ndani ya vifaru na magari mengine ili kuwakalia watu wa Butere.

THE MINISTER FOR COMMERCE (Prof. Ng'eno): On a point of order, Mr. Temporary Deputy Speaker, Sir. I have heard this speech so many times. Is this not repetition? Is it allowed under our Standing Orders to repeat oneself? Every time the hon. Member speaks, he mentions the Provincial Commissioner, the District Commissioner and the Minister going to his constituency. Is this allowed under our Standing Orders?

MR. SHIKUKU: Bw. Naibu Spika wa Muda, sirudii cho chote. Wakati ule mwingine nilisema hivyo, na sasa nimesema hivyo tena. Ninazungumzia <sup>Kuhusu</sup> Jumapili hii ijayo. Maofisa hao watakuja huko kwa nguvu, nasi tumesema inafaa tuwafache waje ili tuweze kupata pesa zao. Wananchi wa Butere hawatafanya fujo, lakini nataka tukomeshe jambo hili la mtu fulani kwenda kuwaingilia wengine katika mawakilisho yao eti kwa sababu yeye ni Waziri. My foot! Sheria inafaa kuwekwa.



MR. SHIKUKU (CTD.):

Waziri anafaa kujua kwamba Mbunge wa Butere yuko na ingefaa aonane naye ili wafanye kazi pamoja. Waziri hafai kuja kwangu akiandamana na Mkuu wa Mkoa na polisi kuwakalia watu wa Butere. We are not in a police state.

MR. arap KOSKE: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute to this Bill. First of all---

MR. arap NG'ENY: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not know whether you are going to allow hon. Shikuku to get away with that remark. We only swear once when we come here on the first day of a new Parliament. Did you hear hon. Shikuku say, "My foot!" In English terminology, this is swearing. Are you going to allow that to happen here?

MR. SHIKUKU: Bw. Naibu Spika wa Muda, kwanza, sikumsikia mhe. Mbunge vizuri aliposema kwamba niliapa. Nilikuwa nikizungumza kwa Kiswahili, naye mhe. rafiki yangu anazungumza kwa Kingereza na hata sikusikia alisema nini. Sasa nitaugeza ubongo wangu usikilize Kingereza ikiwa mhe. Mbunge atarudia vile alivyosema ili niweze kumsikia vizuri. Sikuapa kwa cho chote. Sijui kama atakubali kuyarudia maneno yake.

THE ATTORNEY-GENERAL (Mr. Muli): On a point of order, Mr. Temporary Deputy Speaker, Sir, the ~~hon.~~ hon. Member said, "My foot!" This is swearing, and swearing is not a good language in this House.

MR. SHIKUKU: Bw. Naibu Spika wa Muda, nilisema kwamba maafisa hao niliotaja watakuja Butere kwa nguvu. Huko ni kuapa kweli? Watakuja kwa nguvu kwa sababu hawakualikwa. Mbunge wa Butere hayajui haya kwa <sup>sababu</sup> Mkuu wa Wilaya ndiye anayetengeneza mipango hii. Mkuu wa Mkoa, Mkuu wa Wilaya na Mkuu wa Tarafa watakuja huko hata ingawa hawakuitwa kuhudhuria mkutano na watu wa Butere. Huku si ni kutumia nguvu? Tuna police state huko Butere.

THE MINISTER FOR COMMERCE (Prof. Ng'eno): Bw. Naibu Spika wa Muda, mhe. Mbunge alisema kwamba maafisa hao watakuja huko kwa sababu watakuwa na Waziri na akaongeza kusema, "My foot!" These last two words amount to swearing, and the hon. Member should <sup>withdraw</sup> ~~remove~~ them.

MR. SHIKUKU: Bw. Naibu Spika wa Muda, Prof. Ng'eno amenisaidia kweli.

MR. SHIKUKU (CTD.):

Mianeno "My foot!" si kiapo, lakini kama ni kiapo kwa Kingereza, basi nayaondoa.

MR. arap KOSKE: Mr. Temporary Deputy Speaker, Sir, while contributing to this Bill, I would also like to thank the Attorney-General and his entire staff for preparing this Bill at the right time. As land becomes more and more scarce, I think Bills of this nature will be appropriate.

I would also like to support this Bill because it also urges that the owners of such houses be issued with title deeds. I would still like to urge the Government to see to it that all wananchi who have land and houses are issued with title deeds. Quite a number of wananchi who own either houses or land, but who have not been issued with title deeds, have not been able to develop such property because of the lack of the necessary security for loans. This idea deserves support because it provides a very wise way of utilising land. It will save us flooding land with a lot of huts. Roads, too, will not be too many because when several people live together, they will share the same road.

This kind of idea will also make planning easy because it is easier to plan for one large unit than to plan for several small units. I would like to repeat what has been said to the effect that this development will also give room for agriculture on the remaining part of our land. This idea should be extended to cover market places in order to create room for other purposes on the land.

This Bill will also reduce the cost of security.

END P

*(Signature)*

MR. arap KOSKE (ctd.):

← Mr. Temporary Deputy Speaker, Sir, one fence would just be enough for <sup>a</sup>the whole storey building instead of several houses having a fence each. People living together in one place <sup>are secure</sup> ~~is a security~~ by itself. Infrastructure would also be easier to construct as it is cheaper to construct one large water project for a people who are staying together, <sup>the same</sup> instead of having small projects for various people in different places. When it comes to electricity, this would also be very cheap. <sup>Several</sup> People would be able to share one electrical transformer, instead of having many transformers for different people.

While still supporting this Bill, I would also like to suggest that before we begin <sup>building</sup> ~~beginning~~ upwards, we should begin from underground. We would have more room that way before we decide to go vertical. This kind of idea will also make other facilities cheaper. For example, it would cheaper to have one or two schools with enough facilities and teachers instead of, say, having several schools with most of them being understaffed. We also have hospitals which do not have enough members of staff. Although they may be many they would not be very useful if they ~~would~~ lack staff and various facilities. In a plan like this ~~one~~, we may manage to have one good health centre with enough facilities to be shared by all these people in one place. It would also be helpful to have many people living in the same building as <sup>they</sup> ~~there~~ would share a several things, including roads. It would ~~be~~ also <sup>be</sup> cheaper for the Government to maintain <sup>a</sup> ~~few~~ roads, instead of constructing very many roads leading into various places.

I only wanted ~~it~~ wanted to <sup>make</sup> ~~point~~ out these few points, ~~therefore~~, with these few remarks, I would like to support the Bill very strongly.

MR. ANGATIA: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for allowing me (to also) make my contribution to this Bill.

MR. ANGATIA (ctd.):

Mr. Temporary Deputy Speaker, Sir, I will first start by thanking the Minister for bringing in this Bill. Many of hon. Members have already said that it is very timely. I would also like to say that it was moved in a very factual manner without taking too much <sup>time</sup> ~~elaborating~~ <sup>the reason why</sup> where it ~~was~~ necessary and giving it to us to read on our own. I would also like the Attorney-General to explain some of the points that were slightly obscure. Thus, I would like to thank the Minister concerned and the Attorney-General.

I would like to ask the Minister and the Attorney-General to look at certain clauses, that I personally <sup>to</sup> would like further explanation upon. The first one is clause (1) where it appears that a word is missing. But, if a word is not missing there, then I would just invite the Minister, when it comes to the Committee Stage, ~~he~~ <sup>to</sup> should have prepared the necessary amendment. Clause (1) reads:

"This Act may cited"

I am assuming the words "may be" <sup>is</sup> are missing. I hope that this is going to be ~~x~~ brought <sup>up</sup> as an amendment when we come to the Committee Stage.

On Clause (2), it is puzzling ~~that~~ <sup>in</sup> that this property ~~that~~ we are talking about can only fall under this Section. It states:

"This Act shall apply only in respect of land held on freehold title or on a leasehold title ~~x~~ where the unexpired residue of the term is not less than forty five years."

I do not know what is going to happen to people who want to own properties that are on plots whose leasehold titles ~~x~~ are of shorter terms or some parts of the leasehold title <sup>are</sup> ~~is~~ of a shorter term than the ~~forty~~ <sup>45</sup> five years. We would like the Minister to do us the favour of explaining this when he come to reply.

On page 333---

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo):

On a point of order, Mr. Temporary Deputy Speaker, Sir, Hon. Angatia asked me to explain a certain point, but it escaped me. I did not get the clause that he was referring to.

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): The Minister did not hear what you said. I also did not hear what you said. Could you repeat what you have just said?

MR. ANGATIA: Mr. Temporary Deputy Speaker, Sir, I was referring to Clauses (1) and (2). On Clause (1), I said the word "be" is missing. That is straightforward. On Clause (2), I said that we would like to have further explanation from the Minister. The Clause states:

"This Act shall apply only in respect of land held on freehold title or leasehold title where the unexpired residue of the term is not less than forty five years."

Suppose the property was on a land whose term does not expire in less than 45 years and people want to bring it under the protection of this Act, what provisions will the Minister make? It is not fair to exclude properties which people may want to use in the manner referred to in this Act, but which happen to be on land whose leasehold is shorter than 45 years. I wanted the Minister to explain that when he comes to reply. I hope that that has helped.

I would like to look at page 316. The definitions here are not numbered. I do not know how I will refer you to them. In the middle of that page, there are definitions of units. The first definition of 'unit' is okay, but the second one is not. I hope the Minister is with me. In the 'unit factor' it says:

"'unit factor' means the unit factor for a unit as specified or apportioned in accordance with section 6 (c)."

I have looked through this Bill, but I do not see section 6 (c).

(The Minister for Lands and Settlement (Mr. Nyakiamo) nodded to Mr. Angatia)

MR. ANCATIA (ctd.):

Mr. Temporary Deputy Speaker, Sir, the Minister has signified to me that he is aware of what I am talking about.

On page 317, sub-section 4 (3) states:

"For the purpose of the Registered Land Act, a sectional plan shall be deemed on registration to be embodied in the register."

Could we not ensure that it is embodied in the register instead of just assuming that it is in the register. This is an expression of lawyers which I would like to have been made simpler. Instead of leaving it as "deemed", why can we not say "it must be"?

On page 317, section 5 (1) it states:

"On the registration of a sectional plan the Registrar -

(b) shall open a separate register for each unit described in the plan;"

I hope that a whole block of flats will be commonly owned. I know that the corporation part of it will later on in the Bill describe how some sections of the properties will be owned commonly by a group of people and not just one particular unit. I want to say that, whereas, a person owning a particular unit will have a right over that unit, I feel that we should also have an interest in the rest of the unit as it stands as one block. You cannot take one portion of a unit and leave the rest of the block standing.

END Q.....

MR. ANGATIA (ctd):

This is why hon . Munyao said that you cannot tell someone to hold his flat while you re-modify or remove yours.

Mr. Temporary Deputy Speaker, Sir, I am hoping that whereas people will hold interest in particular units, they will also have an interest in the whole unit. An individual cannot just come up and say that he wants to do this and that with his unit without having fair consideration for other people. Hawezi kuwa Abunwasi; tunataka kumzuia.

I have already referred to sub-<sup>clause</sup>section(5) of Clause (4) and I hope that the Minister will reply accordingly. Clause 5(6) on page 317 states as follows:-

"After a register for a unit is opened pursuant to subsection (1) the unit may devolve or be transferred, leased, charged or otherwise dealt with in the same manner and form as land held under the Registered Land Act and the provisions of that Act shall apply to those dealings in as far as ~~far~~ those provisions do not conflict within this Act or regulations made thereunder."

Supposing a person wants to do some renovations to essential structures, would he be allowed to carry out these renovations in the whole unit when other people are likely to be endangered by the main structure which is being disturbed? If somebody is exercising a right only on his ~~own~~ own unit - this is a continuation of what I was saying earlier - then there must be provisions which forbid certain degrees and types of renovations on a given unit within the main property. Land and -----

THE ATTORNEY-GENERAL (Mr. Muli): On a point of information, Mr. Temporary Deputy Speaker, Sir. Take the context in this way, Sir. This whole block is owned by a corporation and the corporation is owned by all the owners of those units. I am just giving an example; it is like a company. These people will sit down and make regulations which we call by-laws. Those by-laws will cater for all the matters which can be done and which cannot be done. In this way, everyone will know that a flat will have to be painted

once a year or once in every five years. Those regulations will be available. For instance, you cannot do anything to interfere with the rights of others. In other words, you cannot touch the main pillars of the house ~~in~~ so as to shake the building and endanger the others. You cannot do that. That is a right to everybody. The main beams are an easement as well. It is just like light coming to them. You cannot block them and this will be controlled by way of by-laws.

MR. ANGIATIA: Mr. Temporary Deputy Speaker, Sir, I am grateful to the explanations of the Attorney-General because I was just coming to Clause 10 ~~in~~ which talks of an attempt similar to what he is talking about. This Clause says that parts of a building like doors, stair-cases, windows and so on will be of a common design. According to Clause 10, if we attempt to define the boundaries of a given unit, the load bearing wall is excluded. I do not know whether a person who owns a given unit does not have a right to object to anyone interfering with the load bearing walls of a given structure. I was disturbed by Clause 10(1) which says:-

"Unless otherwise stipulated in the sectional plan  
if

(a) a boundary of a unit is described by reference to a floor, wall or ~~ceiling~~ ceiling; or

(b) a wall located within a unit is a load bearing wall,

the only portion of that floor, wall or ceiling, as the case may be, that forms part of the unit, is the finishing material that is in the interior of that unit, including any lath and plaster, panelling,...."

In this particular definition, the load bearing wall or beam is excluded. I ~~can~~ consider that we need a little explanation. This is because an individual could easily interfere with this one also.

I will not, like hon. Shikuku, ~~go~~ look at every section of the Bill because it is a very long Bill. I would like to leave some sections to other hon. Members to comment upon. I do, nevertheless, want to look at page 352 Clause 63. There seems to be permission for access to the houses which is



unlimited. I am a bit worried that anybody who is authorised has access to one's unit at any time. Can there not be a time limit? Why can it not be specified that one can come to these units during only? This is not a security matter; it is not like a police case. It is just these other people who are interested in civil matters being given the right of access at any time without ~~it~~ being limited. I am a bit worried about this one and I hope that the Attorney-General will look at it again and tell us whether it is right. For example, if somebody has committed an offence and he is in the house, you cannot limit the times when the police may come. These ~~are~~ people who are referred to under Clause 63, should they really have the right to enter into these units at any time? I think that this will need some limitation. They should be allowed to enter into these units at certain times. If somebody is coming to ask me to pay water or electricity bills, they should only come during working hours. They should not have the right to come that unit at any time of the day.

I would also like to comment generally on the Attorney-General's efforts at the moment. He should bring necessary Bills and provide necessary Acts ~~with~~ which will deal with various matters that have been disturbing us. For example, Sir, there is a terrible shortage of land in towns for the construction of houses for residential purposes and industries and other development projects. I do not know what is so difficult about the Commissioner of Lands acquiring necessary land in market centres, town ~~like~~ like Nairobi and even in smaller towns like Kakamega. Hon. Lugonzo talked at length about the difficulties people are experiencing in Kakamega. For example, when one wants to put a ~~map~~ a building even a a jua kali shed, one cannot find space at all. A town like Kakamega sh\_ould have run short of land at the moment. We would like the Minister to look into this matter seriously.

If people want to put ~~p~~ up industries in Nairobi, why should they be hindered from doing so because of shortage of land? We had assumed - and I think it is right to assume - that the Government has access to land and that it has enough land to carry out necessary development for the people of Kenya.

ANGATIA (ctd):

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Some of these industries create jobs for our people and some are out to increase wealth in our country. I do not see the reason why anyone who wants to put up a factory or an office block for business and so on should be hindered. This is also applying in the construction of residential houses. This is not right and we shall not be serving Kenya's interests fully if we put restrictions where, in fact, there is really no proper cause for such restrictions.

END R

MR. ANGATIA (Contd.):

Mr. Temporary Deputy Speaker, Sir, the next point I want to talk about is the idea of building houses for sale. On this point, I would like to thank His Excellency the President when he intervened on an estate called Rubia Estate which had been built for tenant purchase or for sale, and intervened to say that civil servants were short of houses. So, he did not want a few individuals to buy those houses while there were so many civil servants who did not have houses

Sir, the whole idea of tenant purchase or site and service housing schemes need to be looked at again. Is it fair that a few people be assisted by State funds or State resources or facilities to buy houses, and after they have bought them to either live in them very comfortably compared to their colleagues, or rent them out at extraordinarily high rents? The idea that the State put up houses, sells at economic prices, and then the individual who take those houses rents them at most uneconomic prices, ~~this~~ is not fair. I do not think the State should be involved in matters of this kind.

Sir, I would have thought that the Minister would be looking for a policy where we can build houses for rent - as many houses as possible for rent - so that we can see to it that all people are reasonably accommodated, or they are living in reasonable accommodation. Again, Sir, anyone who has lived in a house beyond a given period, be it 10 or 12 years, or whatever period the Minister thinks is suitable, those people be given the opportunity to purchase those houses. That is more logical because somebody has lived in that house. He has paid rent for that house, and probably he has even paid enough money to meet what it cost to put up that house. Now, such a person is justified to buy that house. He has shared in the investment with either the Government, a local authority or whatever. However, when the Government puts up nice buildings and then they

MR. ANGATIA (Condt.):

just offer those who can afford to go and buy them, and the Government also extends loans to them, this is helping those who can help themselves grow more richer, and leaving out those who cannot help themselves and, therefore, who deserve more help from the Government leaving them stranded.

Sir, this seems to be an inversion of the tenets and the principles of this country. This is because we want to house all our people as decently as we can. We also to be fair to everybody. We want to teach other people to be mindful of other people's welfare as much as they mind about their own welfare. But to find that we are using State resources to aid those who are able to aid themselves I consider this to be very unfair, and I want to invite the Minister to have a look at it.

We have said it before and we shall not be tired of saying it again because the Holy Bible keeps on saying it. But we should not necessarily implement this saying: "That those who have shall be added, and those who do not have, even the little that they have will be taken away from them and be given to those who have". Those who do not have anything have to rely on the State. They rely on the social security of the State, or the welfare of the State. So, if the little that the State has given them is taken away from them and added to those who can afford to build those houses, I consider this to be very unfair.

Sir, my next point is the worry about Kenyans. We seem not to be able to look after common properties adequately. For instance, if you go to various flats, be it California, Madaraka, or any of the flats, or take our co-operative societies, or take properties that are owned by greater numbers than limited companies, more people than in the limited companies, you will see that these properties are not looked after properly at all. I am just wondering whether it is a

MR. ANGATIA (Contd.):

weakness in the society or what? I am just wondering whether the Kenyans cannot look after their common property adequately for their own comfort and benefit? If you go to these flats that I have just mentioned you will find that it is appalling to look at the staircases. They are extremely dirty. The flats in which people <sup>live</sup> are looked after very well, but when you walk outside to what may be a common ground, either the staircase or any floors that are common or the grounds around the flats that are common, you will find that these areas are very dirty; they are neglected, and so on. In fact, they are not just neglected. The people who live in the flats help to make those places even dirtier, filthy, and smelly. Yet one would have expected that these areas are jointly owned by these people, and these people would want to mind, not the welfare of other people, but their own.

Sir, I do not know whether this corporation that the Minister has written in this Bill can be extended to those flats which may not necessarily be owned in the manner described in this Bill so that these people can have some common cake in the flat, not just the flat where they live, but the total block on which their flat happens to be

So, the town is dirty because the people want to make it so, and the town can be clean if the people want to make it clean. This is like it was said before. You cannot expect the City Commission it does not matter how many employees they have, ~~you cannot expect them~~ to keep this City clean unless the people of Nairobi themselves want to keep the City clean. The same applies to flats which are commonly owned by many people. If a block of flats <sup>is</sup> in Madaraka, if the people want it to be clean, it is not the City Commission people who can keep it clean, but the owners. It is of no use blaming the people from the City Commission because they will not come to clean every stair <sup>case</sup> and every square foot on common floors and the surrounding areas. They will do it once in a while, but why make it dirty

MR. ANGATIA (Contd.);

expecting the City Commission to come and clean it? This is because if we were to keep those flats ~~clean~~<sup>cleaned</sup> by the City Commission people, or this town to be kept ~~clean~~<sup>clean</sup> by the City Commission people, then it would mean that we employ a cleaner for every citizen of this City so that he can keep following him. When that citizen drops a piece of paper, then that cleaner picks it up. It should be the other way round: That if the citizens of Nairobi want to be clean, they want also to be healthy and also a healthy environment, then they themselves should avoid dropping pieces of papers.

Sir, it seems, generally speaking, that we are unable to manage common property. Here I want to extend it to our laws. Even our laws, regulations and principles by which we have declared that we want to live in society, people are still neglecting them. Many times they neglect them at their own peril, or at the peril of the neighbour, or even at the peril of the whole State. Some of those things we have been talking about <sup>are about</sup> people breaking the law and so on. <sup>There is a</sup> ~~like the~~ common case which I quote here all the time <sup>concerning</sup> of Kakamega, and I know it happens also in Kirinyaga and in a lot of other places, when you get the District Officer (D.O.) himself breaking the law with impunity, or you get the District Commissioner (D.C.) himself also breaking the law, <sup>If this is happening</sup> then we are getting into a situation where there will be nothing common that people can cherish because those who are supposed to keep the law are the ones who are breaking it. Sir, I want us to understand that when a D.C. or a D.O. disregards or breaks the law, he is teaching other people - children and every citizen of that area - that the law can be broken and with impunity. When a Question ~~was~~<sup>is</sup> raised here about a D.O. or a chief who has misbehaved, and instead of the Minister coming here to defend the law he goes to defend the law-breaker, then you associate this House - the Minister and us - with the people who are breaking the law.

MR. ANGATIA (Contd.):

Sir, there have been a few sad cases in Lurambi North where the Secretary-General of Kanu, Mr. Burudi Nabwera, has been allowed to address various meetings. At one such meeting, he talked about Kanu, comparing his own position in Kanu and that of the Head of the State, in a manner that the wananchi found unacceptable. But if the wananchi found it unacceptable for the Secretary-General of Kanu to compare his position in Kanu to that of the Head of the State, and seeing his own position to look as if he has better rights over Kanu than the Head of the State, it is serious. I cannot quote the exact words he used because I do not think I am allowed to discuss a matter including the Head of the State. But I am just questioning that. If an individual does that kind of thing and wananchi feel indignant, disturbed, and yet he gets away with it because the D.C. has given him a licence and the D.O. is also there and nothing happens, what are the wananchi of this country supposed to do in such situations? This can be checked and confirmed by the Special Branch people in Kakamega at Kongoni in August where Mr. Burudi was talking about his position in Kanu - how powerful it is - and how the "President is a late comer to the Party. What was that calculated to mean? What was it supposed to imply to wananchi who were listening?

Also, at another meeting he asked wananchi why they could not stone a certain Minister who passes through a certain area to visit a certain person. The wananchi knew the people he was talking about. But why should he, Burudi Nabwera, Secretary-General, Kanu, ask the wananchi why they could not stone a Minister who was <sup>is</sup> passing over a certain road to go to a certain home?

End S.

MR. ANGATIA (Ct):

Mr. Temporary Deputy Speaker, Sir, when the Secretary General talks like that and the district officer, the police and everybody else is present, are we teaching our children the right behaviour? Are we teaching our people - - -

THE MINISTER FOR CO-OPERATIVE DEVELOPMENT (Mr. Wanjigi): On a point of order, Mr. Temporary Deputy Speaker, Sir. I am sorry to interrupt my good friend, hon. Angatia, because I really thought he was contributing very well to the debate on this Bill. However, what he has now brought out about the district officer's issue is irrelevant to this Bill. The district officer himself was thanking the Minister yesterday and, to me, this issue <sup>is</sup> not in anyway relevant to this Bill that we are now discussing here. The district officer was satisfied with what the Minister had done yesterday and, apparently, this is now being used to introduce what I would consider, subject to your ruling, Sir, quite an irrelevant issue.

MR. SHIKUKU: On a point of order, Mr. Temporary Deputy Speaker, Sir. I thought I heard the hon. Angatia talking about a law. What we are doing here, Sir, is discussing the Bill which is going to mature into law. In the course of his contribution to this Bill, hon. Angatia went on to explain that when this Bill becomes law, it should be kept and not broken. He was probably trying to substantiate that the laws can be broken, violated or rather flouted, which is the order of the day today.

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Hon. Angatia, ~~in~~ <sup>he</sup> has been trying to give an example, ~~he~~ has really gone too far into another matter which is not contained in this Bill. When giving an example, think it suffices to mention one or two points and then move on to the Bill.

MR. ANGATIA: Mr. Temporary Deputy Speaker, Sir, I agree with your ruling, but I wanted to inform the Minister that it is a big problem in ~~xxx~~ this country to look after our common property properly. This common property is not limited to the units we are talking about in this Bill but it also applies to the rule of law in this country and to everything else that we stand for in this country. This is our common heritage and all of us here must look after it zealously. This is



not only the responsibility of the Ministers, the Assistant Ministers, the provincial commissioner, the district officer, the police and so on. It is also our responsibility as Members of ~~par~~ Parliament. It is a sad matter, Sir, to note that when we are trying to correct those who are misleading our country & by misusing their office ~~S~~ <sup>the Minister</sup> does not seem to support us. The Minister should be the first person to support me. He should say that I am right and that if that person did that kind of thing, he was wrong. The Minister should not appear to stop me from castigating those who are endangering our lives by spoiling what we commonly own. These units will run ~~tin~~ into a lot of problems because they are going to be a common property to a given number of people. We are going to start with a small number, but I am saying that we in Kenya have failed to make it. We have not done it properly and I am saying that those who have taken the leadership in this country, have failed as leaders and I am going ~~to lead~~ <sup>ahead</sup> to quote examples of ~~th~~ leaders who are a perpetual problem to the people of Kakamega- --

MR. SHIKUKU: And in Butere too!

MR. ANGATIA: Mr. Temporary Deputy Speaker, Sir, if we can correct this mistake in Kakamega, maybe we can correct it in other places as well. Maybe we can correct it in Kirinyaga and so on. Therefore, Sir, let me hit hard at this problem and ask the Minister to support me in saying that those people are wrong. He cannot stand and tell me that those people are right. Surely, can he say that the things which those people are saying are right? They are not and I am sure the Minister agrees with me and, <sup>to see</sup> therefore, he being my friend is happy/that I can proceed.

(applause)

Mr. Temporary Deputy Speaker, Sir, it is our duty at a every opportunity to rectify things which appear to be going wrong. The hon. Shikuku has talked about planned meetings. Sir, the District Commissioner, Kakamega, has given Mr. Burundi Nambwera licences to hold meetings and he is now able to hold meetings everyday. There was a meeting yesterday in my constituency. This meeting was convened while I was here in Parliament and he is now holding meetings out there with the district commissioner everyday. The district commissioner ~~ix~~ is asking everybody he thinks is my supporter to stand up so that the whole public can ~~rx~~ ridicule him <sup>by asking</sup>

him why he supports a person who is not fit to be an hon. Member of Parliament. Mr. Nabwera addresses the people and tells them that he is the one fit to be an hon. Member of Parliament for the area. This is a terrible thing which is going on while we are here discussing serious business. So, there are some people in the "backyard" who are misleading the wananchi and doing things which are totall illegal. However, the district commissioner has licensed these meetings. In fact, this gentleman is moving around with the district officer and doing all those things.

Mr. Temporary Deputy Speaker, Sir, where is the logic in this matter? The gentleman in question has indicated that he is going to hold a meeting in my own village so that he can demonstrate to my mother, my wife and my brothers how ~~useless~~ useless I am and how good he is. Sir, I did not defeat this man. How can my one vote defeat anybody in an election? It is wananchi who vote a person into this Parliament and it is ~~not~~ of no use making hatred with your opponent in politics just because he ~~had~~ had defeated you all the times. I have never been defeated, so I do not know how it feels like to be ~~defeat~~ defeated. However, this gentleman ought really to be told - --- I am appealing to the Minister concerned, and to hon. Maina Wanjigi here if he can help me to ~~curb~~ curb these cases in Kakamega. Therefore, it is the duty of all of us here to defend our common heritage. We should not stand by and ask ~~where~~ "where are the police" or "where is the district commissioner" or "where is the Member of Parliament". ~~It~~ This is not a ~~laughing~~ laughing matter. This is a serious matter and all of us ~~should~~ should be concerned about it and this is why I am personally concerned.

Mr. Temporary Deputy Speaker, Sir, when Mr. Nabwera was holding that Harambee meeting yesterday, the district commissioner was parading some people. However, this was not a Harambee meeting for any development. I am saying this because if a Harambee meeting organized by the Secretary-General of Manu in this country can raise only Shs.10,000/-, then it is not a Harambee meeting worthy of its salt; it is an avenue for attacking the hon. Member of Parliament for the area who happened to be in Nairobi attending Parliamentary business. Sir, this country belongs to all of us whether we are big, small, fat or thin and when we see somebody doing something wrong, all of us must stand up and be counted with the right thing. I donot think we should really be

MR. ANGATIA (Ctd.):

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counted with the President and with the right thing. We should not be engaged in ~~xxxx~~ illegal actions. Sir, there are people who are having a "heaven" ~~xxxxxxx~~ down in Kakamega, particularly in Kabras Division. Whom shall we ask? I have asked the Minister but nothing has been done.

*AT*  
Mr. Temporary Deputy Speaker, Sir, co-operative societies in this country are the <sup>greatest</sup> ~~grated~~ organizations, especially when one considers: the amount <sup>of</sup> wealth ~~money~~ they hold for us. These are the greatest organizations <sup>s</sup> we have ever ~~thought~~ thought of establishing. However, there are very many co-operative societies which have been mismanaged and money belonging to wananchi, who are members of these co-operative societies, has been swindled. I am not saying that the Minister is not doing anything about this. I know he is doing something and fighting very ~~hardly~~ hard against people who are enemies of our common heritage. People who are enemies of our ~~xxxx~~ common heritage are enemies of all of us and, therefore, all of us should regard them as our ~~enemies~~ enemies and treat them ~~like~~ as such. We should not treat them as friends when they are doing the work of enemies. We lock up people in prisons because they are a danger to us but, <sup>why</sup> do we leave these people free when we know they are much more dangerous to us. <sup>?</sup> Leaders like those I have been talking about in ~~Kakamega~~ <sup>Kakamega</sup> mislead the public in what they talk about and in what they educate the public and so on. Eventually, many wananchi begin to wonder why we talk of one thing and practice totally a different <sup>one</sup> ~~thing~~ thing altogether. They wonder whether there are two laws in this country, one for the leaders ~~and~~ so that they can get away with whatever they like and another one for the small people such as students, teachers, farmers and so on, who are normally locked up when they commit an offence. ~~But~~ The people in this country are getting tired of this, especially in Kabras - - -

MR. SHIKUKU: And Butere!

*AT*  
MR. ANGATIA: Mr. Temporary Deputy Speaker, Sir, what is supposed to be our recourse. <sup>?</sup>

MR. SHIKUKU: On a point of order, Mr. Temporary Deputy Speaker, Sir, <sup>I am sorry to have risen</sup> ~~to have risen~~ on a point of order. I really meant to stand on a point of information and so, I will resume my seat, but if the hon. Member can give me a chance to give him information, I will gladly do so.

MR. ANGATIA: Mr. Temporary Deputy Speaker, Sir, I will allow him to inform ~~you~~ me ..

MR. SHIKUKU: Thank you very much, Mr. Temporary Deputy Speaker. kuhusu jambo jili  
Ningetaka kumshukuru mhe. Angatia kwa kunipatia nafasi ili nimjulishe/asije ili wa akafikiria kwamba watu wa Kabras ndio wako katika taabu hii/asije akajinyonga. Nasema hivyo kwa sababu taabu hiyo ka iko katika Butere, Kirinyaga na kashalika. Lakini ukweli ni kwamba heshima ya Bunge haiko tena. Mhe. Mbunge yeyote anachaguliwa kufan kufuatana na Katiba na yeye ndiye mwakilishi halisi kisheria katika ~~sehemu~~ sehemu yake. Ikiwa kuna watu wengine ambao w hawakuchaguliwa, au wawe walichaguliwa, wanawatumia polisi, wakuu wa wilaya, wakuu wa mikoa na wakuu wa tarafa kwenda kuivamia sehemu ya Kabras, Butere na kwingineko, jambo hili ni la hatari kubwa na litaleta madhara makubwa katika Kenya. Nasema hivyo kwa sababu jambo hili halifuati sheria. Kwa hivyo, yafaa Bunge hili lisicheke kwa sababu hili ni jambo ~~mbaya~~ mbaya kwa sababu linaweza kutuletea taabu. Ni lazima sisi so te tusiname na kuungana pamoja na kusema kwamba ni lazima mambo hayo yaishie hapo kwa ~~sababu~~ sababu ni lazima Mbunge ~~hxx~~ apewe heshima yake. Katika sehemu yangu ya Butere, nilisema kwamba Jumapili inayokuja - - -

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Order! Order Mr. Shikuku!

MR. SHIKUKU: I am just giving him information.

END T



MR. TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Order, Mr. Shikuku; you <sup>should</sup> ~~do~~ not take the opportunity of giving a point of ~~or~~ information to start a debate.

MR. ANGATIA: I will thank you for that, intervention because ~~it~~ <sup>it</sup> is not doing me any good if I am suffering to say that I am suffering with hon. Keriri or hon. Shikuku. I ~~t~~ does not lighten the pain. The suffering is still there; the danger to Kenya is still there.

I beg to support.

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Order! I am not satisfied that the matter we are discussing now is relevant to the Bill. You have said enough about what you should have said. There are other opportunities when you can raise this matter, but now you will either stick to the Bill or you support it and finish with it.

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo): Thank you Mr. Temporary Deputy Speaker for giving me, also, a chance to contribute to this very important Bill. I hope I will not be drawn ~~to~~ into discussing the problems there are in my constituency, as hon. Angatia and hon. Shikuku did, but I do sympathise with them.

At the outset, I would like to congratulate the Minister for bringing this Bill. Like the other speakers have said, this is a very important Bill because it deals with property and, more so, with the ownership of residential houses whereby many people will be legally recognized through the ownership of the certificates. This trend of joint ~~or~~ ownership of property is not new and since it is practised elsewhere, it is very timely especially when one considers the <sup>rate of</sup> ~~or~~ population growth in this country. This country has over 20 million people and ~~new~~ urban areas like Nairobi, Mombasa, Kisumu, Nyeri and others are growing. As a

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo)(ctd.):

result, we will have many inhabitants in those urban areas, the majority of whom have no land back in their original places. To elaborate this, I would say that there are some people here in Nairobi who are from Kigumo but are now resident in Nairobi. These people, due to the scarcity of land back home, find it sensible to stay in Nairobi and consider Nairobi their ~~new~~ homes, just like those people living in London, New York, Tokyo and other cities in the developed world. We are heading to that stage, and, therefore, the legal ownership of small ~~pr~~ portions of property is very important.

Mr. Temporary Deputy Speaker, Sir, that is why we have gone to the extent of thinking that the people who work in the local companies, together with the consumers of their products, should be given the opportunity to own a portion ~~with~~ of those companies through shareholding. I feel very strongly that that is thinking in the right direction because one finds it difficult if he does not have land. Where does such a person go to build a house; where does he go to cultivate and to do this and the other? Therefore, we are killing <sup>people's</sup> the incentive of ~~the~~ ~~people~~ to invest. Therefore, the question of owning ~~property~~ property sectionally, like ~~we~~ is now being proposed, is a very good thing for our people. The land is a gone case; you cannot ~~re~~ resettle people. Therefore, we must find ways by which these people's ~~savings~~ savings can be channeled. I feel that this is one way of achieving that objective. The question of companies being owned through shareholding and marketable securities, which can be quoted on the stock exchange whereby people can buy and sell, should be allowed so that people can own the shares instead of using that money for drinking. These are incentives we must give to our people.

I was just saying that at the outset, that I do congr-

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo)(ctd.):

the Minister for having brought this Bill which, I think, is very important.

Now going into the Bill itself, I feel that the Minister should have a close look at clause 2. Clause 2 says that this Act shall apply in respect of ~~an~~ land held <sup>on</sup> freehold title or on leasehold title where the unexpired residue of the term is not less ~~is~~ than 40 years. I do not think there should be any limitation, and I think many ~~p~~ speakers have spoken about this. I would rather it be looked at again when the Minister comes to reply. I think 45 years is not a period that is very clear to us.

While still talking about the number of years, we have freehold and leasehold. There are houses even ~~a~~ today, whereby you find that the period left for the leasehold could be 10, 15 or 20 years. It should be the responsibility of the Ministry, under this Land Act, to allow the owners of this property to know in good time that they can increase the period of leasehold. I am saying this because some of the ~~m~~ people may now be knowing how much time they have left. If a little period of time is left, you will find that even the value of the property, when the property is to be sold, is taken into consideration. Therefore, there should be reminders notifying the property owners the period remaining for their freehold or leasehold, and, therefore, they should apply for more time instead of waiting until time expires. That is very important.

The other thing I think is important is the question of the corporation owning the block. The block ~~is~~ can be owned by a group of people who can later sell the flats ~~to~~ to individual people. But it does not seem very clear where one must agree to the number of rooms he is buying or the conditions

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attached to the sale. I think there should be a kind of caution there so that whoever intends to buy property knows clearly what he is buying.

END U. 



JMK

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo)(ctd.):

I am talking about this realising that some of our people are very much misinformed and advantage could be taken of them by the ~~xxx~~ so-called property developers.

The other point that I would like to raise is that we are talking about putting up houses which will be collectively owned by people. We know that developers can put up cheap or expensive structures and, therefore, I thought that rather than allow the developers to make money from other people by putting up very cheap structures, there should be specifications by the developer as to what ~~he~~ kind of a structure he is putting up. In other words, if there are several floors, the number of years should also bear consideration so that people do not just invest in structures which, after a few years, will be seen to collapse. It should be stated that the foundation of these flats should be strong and the material used should be strong too, so that people are not taken for a ride. Of course, this is the responsibility of the quantity surveyors, but it is an important point to make.

Mr. Temporary Deputy Speaker, Sir, I would also like to talk about the question of ~~the~~ the transfer of the property. We have seen that even today, as I speak in Parliament now, the ownership of land is disturbing some people due to the transfer aspect. You will find that if somebody has inherited some property from his father and he has not obtained a legal title due to the time being taken to obtain one----- I hope the Minister concerned, whom I can see here, is going to speed this matter up. The question of ownership should be taken care of because if hon. Thuo gives hon. Wanjigi a portion of land and it takes a long time before that portion of land is transferred to ~~M~~ hon. Wanjigi's ownership, hon. Wanjigi cannot transfer it to anybody else. In the rural areas - and I am ~~talki~~ talking about this ~~xxxx~~ because of the problems created by surveyors - it is ~~xxxx~~ taking a lot of time to transfer land. In some cases, you ~~may~~ have four or five people waiting for the same piece of land to be transferred to them. I think the Department of Survey should be ~~six~~ strengthened with personnel so that our people do not suffer. I know ~~xxxx~~ that there are very many people in Murang'a who have complained

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo)(ctd.):

to the district development committee that it is ~~not~~ taking a lot of time for people to ~~take title~~ be issued with land title deeds. I think this issue is very important at the moment when we are discussing ownership of property and saying that people should not, legally, own things for which they cannot produce certificates of ownership.

Sir, we are talking about owning the residential houses, and we are saying that towns ~~have~~ are growing and, therefore, many people need to be given an opportunity to invest their savings. I know, for certain, that even in developed countries cities are eating into the land ~~outside~~ in the outskirts. In fact, many acres are being taken by cities every year. Therefore, our towns should also be planned in such a way that the land that is not covered should earmarked for use by those towns in future. It should be understood that whether hon. Thuo owns land in the outskirts of a town or it is owned by anybody else, one day that land will be taken by the town. Therefore, proper planning of the areas ~~in~~ in the outskirts of towns and what ~~kind~~ the land would be used for - whether for commercial buildings or residential buildings - should be seen many years in advance because we are moving fast. We should not think of ownership of residential houses only; we should think of ownership of even a market. One can develop a market like Kariakor and rent out the stalls as long as all the necessary by-laws have been taken into account. ~~That~~ Even the <sup>it is</sup> people who have rented the stalls should be issued with ownership certificates. If a Jua Kali man, he should know that he owns that ~~part~~ portion of land from where ~~he~~ he operates in the market.

Mr. Temporary Deputy Speaker, Sir, the ~~same~~ same would apply to office accommodation. Most of the houses we use for commercial purposes are rented. Therefore, when thinking of residential ownership, we should also think of office accommodation. A certain building can be owned by the people who want to run their businesses from there and they can get certificates to that effect. I think ~~it~~ this would also be a move in the right direction. If we rely very heavily on what

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo) (ctd.):

individuals or corporations can develop, we may not achieve very much because the money factor comes in and hinders the so-called developers cannot do much. This is why I am saying that collective ownership should be encouraged so that a group of people can form a company to do the development of properties and then ~~sell~~ sell them. Although this is a Bill and we are trying to think about the legal implications of it, I think these are ideas that spring from it.

Lastly, Sir, I would like to touch on something that has been spoken on before, and this is the question of people neglecting the buildings where they live. This is a very valid point, where you find people blaming one another for various things. For instance, in the City of Nairobi we take it ~~that~~ that it is only the City Commission that is supposed to clean all the place. I think conscience should really bite at us. It is true that places which are used by people commonly are filthy. That includes offices and residential areas.

MR. SHIKUKU: On a point of order, Mr. Temporary Deputy Speaker, Sir. Whereas I do not want to interrupt my hon. friend, I thought I ~~heard~~ heard him talk of 'conscience'. If he used that word, does he not realise that we no longer have conscience here, starting with the Government itself? If you do something wrong, your conscience should bite you and leave the job. But in Kenya we no longer have conscience.

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo): Mr. Temporary Deputy Speaker, Sir, I ~~do not~~ do not know what Standing Order my hon. ~~friend~~ friend has used to raise that point of order, but ~~but~~ I want to say that if there is no conscience, as he says, it does not mean that we ~~cannot~~ cannot talk about it and start asking people to create and cultivate it. I think it is our responsibility to move with the world.

Mr. Temporary Deputy Speaker, Sir, to cite a case of what I was saying, when I was in Singapore 11 years ago, to drop a cigarette butt is a crime that sends the offender to jail for six months.

END.....V.

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo)(ctd);

This, Mr. Temporary Deputy Speaker, Sir, is because they say they cannot sacrifice the health of their people. Although that is a law enacted in that country to deal with that particular aspect of their life, there is nothing wrong even in this country to have such a law if we see things going wrong. There should be laws to straighten us. We spend a lot of money on the construction of buildings but these buildings are not well maintained. You will even find that Government offices are not looked after properly. If you rent a private property you must take care of that property. When you rent a house the landlord will tell you "We will look after your ~~comfort~~ comfort." You must also look ~~at~~ after that house you are living in although you are paying rent.

Hon. Angatia had ~~very~~ commented on that issue and I just wanted to strengthen that point. It is our ~~only~~ duty to treat the property we have in this country as our own property. Do not call it hon. Shikuku's or hon. Khasakhala's property. This is because if you are staying in my house I would like you to live in comfort. Therefore, you should look after the place by for example planting ~~x~~ flowers, trees and so on. You should look after the house instead of saying "Wazungu ndio hufanya mambo kama haya." There is no difference between you and a Mzungu; the colour ~~of~~ of the skin does not matter. So, I t\_hink we have been going wrong in this regard and I think it is time that we looked after our property. We should realise that our ~~or~~ property is really ours. Government property does not belong to Mr. Kamau or Odhiambo; it belongs to this nation.

With those remarks, I beg to support the Bill.

## THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT

(Mr. Kariuki): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to join my colleagues in supporting this very important Bill. I say this is an important Bill because one of the problems we are having in this country and which has caused a lot of suffering to our ~~people~~ people is shortage of houses. If you try to look at the causes of this shortage of houses, you will find that one of the reasons why we do not have adequate housing in the country is probably because the conditions that exist at the moment for developers are so difficult that sometimes when a developer thinks of developing a piece of property it may take up to five years, from the time he designs the houses to getting the ~~sub-division~~ sub-division approvals contracting for the work and the construction of the houses.

How is this Bill going to help ~~us~~ us, Mr. Temporary Deputy Speaker, Sir? This Bill is going to help us because when it becomes a law it will no longer be necessary for developers holding small lots of plots to sub-di\_vide them before they can develop them into individual units. This means that a developer will be able to develop a piece of ~~property~~ property without, first of all, sub-dividing it and then being able to sell the units as individual parcels. This is going to add to our s\_tock of of available ~~house~~ houses in the country. There will be more houses in the markets and we hope that this is also going to bring down rents. There have been a lot of complaints about high rents in this country. We all do agree that indeed the house rents charged in this country and particularly in the urban areas are very high.

END. W. 2.



THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT (Mr. Kariuki)(Ctd.):

However, rents are like any other commodity. You cannot bring them down merely by legislating against high rents, nor can you do so by enforcing artificial rents. The only thing that can bring rents down is to have a large stock of housing units. If we have more houses in the market, it will not be necessary to legislate against high rents. They will come down automatically because of the forces of the market - the forces of demand and supply. I am glad to say that this is what this Bill seems to be intending to do.

Mr. Temporary Deputy Speaker, Sir, I note from the proposed amendments that the owners of a unit will not get what is generally known as a title deed or a land certificate. Instead, they will get something new, called the certificate of sectional property. This is something new to Kenyans. We have never had anything like this before. What I am afraid of is that, knowing that Kenyan financiers are very conservative, when you submit to them the certificate of sectional property they may start treating it as something that is inferior to a title deed or a land certificate. So, our financiers, banks, building societies and other private institutions, have to be educated to understand that a certificate of sectional property is as good as a title deed and a land certificate. If the financiers do not recognise this certificate as being equivalent to a title deed, this will nullify the proposed effect of the enactment of this Bill because they might refuse to lend money or, if they lend, they just lend a small proportion of the value of the property. So, I hope that those who are responsible for finances will take note of this point and treat this certificate of sectional property as being equivalent to any title deed or land certificate.

This Act will also create employment in some way. The Act to come will provide that in every unit, a management company is going to be formed which will select the managers of the property who will be accountants. I am glad to see that the Minister is bringing in amendments so that these managers are not accountants. In this country, we have professional managers who can manage property. <sup>Accounting</sup> ~~Accounting~~ is not generally regarded as a profession, property management is. We have people training in the University of Nairobi

THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT (Mr. Kariuki)(Ctd.):

who hold degrees in land economics and are specialising in estate management.

I am glad to see that, as a second thought, the Minister actually included estate managers or estate agents among those who are qualified to manage these properties. All I hope is that those accountants and advocates who are also included in this Bill as qualified property managers will employ qualified property managers to look after these properties.

END X 

THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT (Mr. Kariuki) Ctd:

Mr. Temporary Deputy Speaker, Sir, I would like to join my hon. colleague who has just spoken ----

MR. SHIKUKU: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not think the hon. Member means it but I think he ~~forgot~~ forgot what he was going to say. Can I remind him? I though I understand he is one of the people who <sup>KNOW</sup> something about property management, and valuation. Could he not declare his interests under Standing Order No. 85?

THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT (Mr. Kariuki): Mr. Temporary Deputy Speaker, Sir, I do admit that I used to be an estate manager or a property valuer before I became a politician. I do not know whether politicians are still included in that category these days.

If I can continue, I ~~am~~ was just saying that I would like to emphasize a point which was made <sup>by</sup> my hon. colleague, hon. Thuo. He said that we should look at this Bill ~~with~~ with all its <sup>entirety</sup> ~~entity~~. We should not be narrow minded. We should not only think of it in terms of owning residential properties because there are other properties which should be included in this Act. I hope that whoever drafted the Bill did take into consideration that this was not just ----

MR. SHIKUKU: On a point of order, Mr. Temporary Deputy Speaker, Sir. I wish to correct the records of this House. I do recall when I stood on a previous point of order, I asked the hon. Member to declare his interests in accordance with <sup>the</sup> Standing Orders of this House. I referred to Standing Order No. 85 and I wish to correct it that it is Standing Order No. 75.

THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT (Mr. Kariuki): Thank you. What I ~~is~~ was saying before I was interrupted, Sir, was that the Bill should be looked at in its <sup>entirety</sup> ~~entity~~. That is, we should not c<sub>o</sub>nfine ourselves to just residential properties but also take into consideration industrial properties. When talking about industrial properties, I have in view the development of industrial estates. A number of industrial plots can



THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT (Mr. Kariuki) Ctd:

be developed into units and under the Sectional Property Act, these units can be sold to individual owners. This will make it cheaper to develop these industrial estates and the transactions will also be made much more simpler. I also agree that the office blocks should also be included. There are people who have rented offices in this city for 20 to 30 years. I am sure that these people would like to own the little space that they do occupy. I hope that there will be a way in which these people who own offices can also take ~~the~~ advantage of this Act so that they sell out the interest they have in particular spaces in the office blocks.

If I may address this point to the Ministry of Co-operative Development, I do hope that this Ministry will also take advantage of this Act to encourage the formation of housing co-operative societies. In this way when people join together as a co-operative society, they can develop condominiums and blocks of flats, which, instead of having them owned by co-operative societies as it is the case these days, they can have these units given out to the members on the basis of the sectional property units.

END Y



THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT (Mr. Kariuki)(Contd.)

It will enable very many people who are currently houseless and also people who have no hope in this country of ever owning a house of their own to realise the dreams of their life; owning a property.

Thank you, Sir.

THE MINISTER FOR LABOUR (Mr. Okendo): Thank you very much, Sir for giving me an opportunity to comment very briefly on this Bill. I think it is a very well-thought out Bill, and it should give us an easiness on the supply of housing accommodation in this country. It will now enable our developers to go ahead at a much faster rate to ~~produce~~ <sup>develop</sup> housing units that are small enough for the people in the <sup>Group</sup> lower income <sup>to purchase</sup>.

Sir, I have seen organisations that have been unable to develop homes on pieces of land because the cost of holding the <sup>for a long time</sup> property was beyond their capacity. They could only be able to develop it if they could subdivide it in such a way that they could sell it after development. Now, this Bill does give that opportunity, and I have no doubt that the result of it would be an upsurge in the supply of house accommodation.

Sir, this Bill is like the system that works in the United States of America called the "Condominiums". In the same Bill, it creates a corporation, a body corporate of owners of flats, or whatever units you call them, in a building. Those owners form a corporation through which the various units are managed. I have had a number of hon. Members addressing us, and I am just wondering how the corporation will work. They have been under the impression that the corporation is separate from the owners, but it is not. It is the organisation through which the various owners of the units can manage the units that they are owning in common. That is why it is a sort of a condominium, and I would like to make this point very clear. It is the means through which the various members that own the units come

THE MINISTER FOR LABOUR (Contd.):

together to manage and to run their various units together.

Now, in this respect, I think, the Minister will have to look at certain clauses carefully because some of the clauses create a situation in which the corporation is anticipated before the owners have come into being. That is a difficult position which I think the Minister should have a look at and see how to ease it. I think it is important to really consider that situation especially when you look at Clause 39. We do have a situation in which we are anticipating a corporation before the ownership of the units has taken place. Also in Clause 46(b), we are also in a way anticipating and I would like the Minister to have a second look at this and possibly remove the anomaly there. I do not think it is a big problem. But surely, if you expect the seller of a building or property to give the corporation - name of the corporation - and regulations and rules of the corporation which is to be formed by the prospective owners of that building, then I think we are running into some difficulties. But I can also see the question that a proposed corporation or proposed rules can be made available by the developer to make this a possibility. Now, this is a point which I would like the Minister to look at carefully just in case we come up with problems in that field of transfer of property.

End Z

## THE MINISTER FOR LABOUR (Ctd.):

Mr. Temporary Deputy Speaker, Sir, there is another area which I would like the Minister to pay a little more attention to. The way we live in flats at present, sometimes leaves a lot to be desired. These flats tend to get very untidy, with rubbish all over the place and the staircases become barely passable. This is because everybody dumps rubbish on the staircase or out through the windows and the whole wall gets dirty, and may God help you if you are living downstairs and are putting your head out of the window while this rubbish is being dumped. I would like the Minister to have a look at this position because this could possibly mar the whole operation of condominiums and make them inhabitable. So, I think the Minister should look at this and probably put in a section in the Bill to say that each building condominium or block of flats that is owned in common should provide specifically for the disposal of refuse in such a way that it does not interfere with the other occupants. Usually, this would be done by either having an incinerator included in the building where the rubbish is dumped, or by having a chute to take the rubbish down. This cannot wait until the building has been put up when the owners form the by-laws, that that has to be incorporated in the construction of the building. So, before a building is registered as a sectional building, I think, one of the conditions should be that this kind of facility is incorporated and included in the building at the construction stage.

I am saying this because unless a rubbish chute is provided, you will find that all the rubbish finds its way onto the staircase and the building will be inhabitable. As I have suggested, the solution of this problem is to have a chute and an incinerator so that the chute takes the rubbish right down and the incinerator can burn it out. There are also, in this particular area, questions of sanitation in general and all that sort of thing. We have to consider these things because once you begin to live in a confined state, nature fails to look after these things. Therefore, human ingenuity is required to answer for this situation of disposal of refuse.

Again, Mr. Temporary Deputy Speaker, Sir, I have found that ablution of clothing, dishes and things like that is better provided for in some common place. This does not include personal ablution. If that sort of arrangement is not included in the Bill anticipating these buildings, it means that the buildings will not provide for them. It ~~is~~ also means that the local authorities approving the plans will not look for these things and we shall find ourselves with the kind of condominiums that cannot be lived in because of the stench resulting from this kind of rubbish ~~is~~ being laid about.

These are the things which I believe the Minister ought to really look into very seriously; otherwise, we shall have a lot of buildings in the City which will remain unused because nobody can live in them for the various reasons which I have indicated. This is very good idea, but it also means that we are going to have more people living together in large groups. This is a change from the way we live in the rural areas, where people live in certain instances apart and the nature looks after refuse disposal. I cannot over-~~ex~~ emphasize this point because I have seen this happening. If, today, you go to Madaraka Estate in ~~Nairobi~~ Nairobi West and look at the flats in that place, they look terrible and they are ~~not~~ just not habitable at the moment because of lack of refuse disposal facilities. If you go to Jamburi Estate and look at what is taking place there - - -

## ADJOURNMENT

THE TEMPORARY DEPUTY SPEAKER (Mr. Karauri): Hon. Members, it is time for the interruption of business and the House is therefore adjourned until tomorrow Thursday, the ~~x~~ 3rd of December, at ~~2.30~~ 2.30 p.m.

The House rose at thirty minutes past Six o'clock

R E P U B L I C   O F   K E N Y A  
T H E   N A T I O N A L  
A S S E M B L Y  
O F F I C I A L   R E P O R T

Thursday, 3rd March, 1987.

ORAL ANSWERS TO QUESTIONS

Questions Nos. 707, 743, 774, 772 and 759

QUESTIONS BY PRIVATE NOTICE

Shooting Dead of Mr. Iemail Ahmed Abdow by Police (Mr. Noor)

Murder of Mr. Raphael Nyanga by Gangsters (Mr. Mwachofi)

Loss of KShs. 10,250,000 by Mathira Farmers Co-operative Union  
(Mr. Wamae)

Declaring Redundant 29 Employees of M/s Sapa Industries (K) Ltd.  
(Mr. Quido)

Lack of Medicine at Yatia Dispensary, Baringo District (Mr. Twarit)

Lack of Ambulance and Serviceable Vehicles in Olkalau Sub-District  
Hospital (Mr. Wagura)

Post-mortem Examination on Late Stephen Mbithi (Mr. Mutiso) -  
Referred

Cutting Down Cashew Nut Trees and Low Price of the Crop Paid by  
the National Cereals and Produce Board (Mr. Tuva)

Counting of Votes Unit by Unit During the Next General Elections  
to Eliminate Irregularities (Mrs. Asiyo) - Withdrawn

MINISTERIAL STATEMENTS

Formation of Parliamentary Savings and Credit Co-operative  
Society

Provision of Teachers and Teaching Tools to Kiangende,  
Enchoro and Mango-Orutuba Harambee Youth Polytechnics.

POINTS OF ORDER

Failure to Pay an Employees' Salaries

Thanks to His Excellency for the Way he Conducted a Harambee  
Funds Drive Although V.O.K. and Local Dailies did not Report  
the Attendance of the Member for the Area - Wundanyi, Nor the  
Money he Contributed from Himself and Friends

Whereabouts of Prisoners who Escaped Recently at the High Court -  
The Vice-President and Minister for Home Affairs Requested  
to Make a Statement.

Misreporting by The Standard.

Misquoting a Members' Speech by a Minister but the Minister  
Insists that what he said was Correct.

BILLS

In the Committee, Report and Third Reading

The Constitution of Kenya Amendment Bill - Agreed to in  
Committee - Reported without Amendments - Read the Third  
Time and Passed.

Second Reading

The Sectional Properties Bill - The Minister for Lands and  
Settlement on 2-12-87 - Question Proposed - Resumption of  
Debate interrupted on 2-12-87 - Agreed to with Amendments.

In the Committee, Report and Third Report and Third Reading

The Sectional Properties Bill - Agreed to In Committee - Reported with Amendments - Read the Third Time and Passed.

Second Reading

The Statute Law (Miscellaneous Amendments) Bill - The Bill was not Moved Due to Lack of Time.

H A N S A R D

Thursday, 3rd December, 1987

The House met at thirty minutes past Two o'clock.Mr. Speaker in the Chair

## PRAYERS

## ORAL ANSWERS TO QUESTIONS

Question No.707

MR. KIKUYU asked the Minister for Local Government:-

- (a) whether he is aware that local authorities in Machakos District are heavily interfering with water sources and catchment areas by allowing scooping of the sand; and
- (b) what steps he is taking to save the situation.

THE ASSISTANT MINISTER FOR LOCAL GOVERNMENT (Mr. Marita):

Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the Machakos District Development Committee (DDC) has already set up a sub-committee to look into ways of controlling sand harvesting as well as determining which rivers could offer sand without causing damage to water sources.

(b) The situation has been taken care of and the Member should wait <sup>for</sup> the outcome of the sub-committee findings.

MR. KIKUYU: Mr. Speaker, Sir, before the findings <sup>are</sup> of this sub-committee <sup>are</sup> given to the leaders of Machakos, can the Assistant Minister in the meantime order the Council to stop collecting sand from useful sections of rivers and collect <sup>it</sup> from the old sections of the rivers where erosion is not as <sup>active</sup> abrupt as it is in the useful sections?



MR. MARITA: Mr. Speaker, Sir, I agree with the hon. Member because if soil erosion is taking place somewhere, it will affect the fertility of the soil in that area. So, I will ~~ask~~ request the District Commissioner. ~~(DC)~~, who is also the chairman of the DDC, as well as ~~the members of~~ the members of that committee to take care of this.

MR. OMIDO: Mr. Speaker, Sir, the question of scooping of sand in Machakos ~~is~~ has been a subject of discussion in the local newspapers for quite some time now. Is the Assistant Minister not aware that his Ministry has failed to take action on this, and that unless action is taken immediately, a lot of harm will be done to the water resources in that particular area; taking into account that that is a dry area in the country?

MR. MARITA: Mr. Speaker, Sir, I <sup>do</sup> ~~shall~~ not agree with the hon. Member who has said that my Ministry has failed. There is no such failure as far as I am concerned. But, we are trying <sup>our best</sup> ~~with all our efforts~~ to see that something good will be done.

Question No.743

MR. SPEAKER: Mr. Muthura not in? Next Question.

Question No. 759

MR. SPEAKER: Mr. <sup>arap Koske</sup> ~~Muthura~~ not in? Next Question.

Question No.774

MR. MBORI asked the Minister for Education:-

- (a) whether he is aware that the next of kin of the late Justus Onyango Ogaga, T.S.C. No.197820, who died on 3rd June, 1986 have not been paid any benefits; and
- (b) whether he could order the release of any benefits to the family of the deceased with immediate effect.

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Kisiero):

Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the next of kin of the late Justus Onyango Ogaga, TSC/No. 197820, who died on 3rd June, 1986 have not been paid their benefits because the widow has not submitted the required documents such as, declaration forms, certified copy of her identity card and the original death certificate, to the Treasury.

(b) I cannot order the release of the death gratuity benefits, until the documents mentioned in (a) above are submitted to the Treasury. I wish to appeal to my hon. friend of mine - Member for Kasipul Kabondo to assist us solve this issue by advising the <sup>widow</sup> ~~widow~~ to submit the required documents to enable the Treasury process the benefits forthwith.

MR. MBORI: Mr. Speaker, Sir, while thanking the Assistant Minister for that reply, one wonders why the Ministry does not take the initiative, particularly when such a lady remains a widow living somewhere in a remote place. The Ministry has got its agents; why does the Ministry not inform its agents to take care of such widows?

MR. KISIERO: Mr. Speaker, Sir, the Ministry has already done ~~that~~ its best on the side of its duty by submitting to the Treasury all the information with the Ministry. We ~~z~~ have submitted such things like the letter of Permanent Appointment, the letter of Confirmation and so on. On our side, we have submitted all the information that is <sup>normally</sup> required by the Treasury. There is nothing we can do about the other side; the family of the deceased must also submit information that has to come from them. To that end, I am <sup>again</sup> ~~also~~ appealing to my colleague and friend ~~and~~ Since the deceased came from his area, he should assist to get ~~the~~ that information to the Treasury.

A.4.....3.12.87

MR. MBORI: Mr. Speaker, Sir, all that is very well said by the Assistant Minister. I am ~~ask~~ only asking him to ensure that this information does reach the widow of the deceased. At this time that I am standing here and since the time I submitted this Question to his office, I assure the Assistant Minister that this information had not reached the widow. What steps is he going to take to ensure that this information actually reaches the widow, not just the Member for Kasipul Kabondo?

MR. KISIERO: Mr. Speaker, Sir, the widow has already been informed about these problems in a letter dated 28th August, 1987, addressed to the widow - care of P.O. Box, 99, Oyugis. She was requested to submit the information that I have already mentioned. In case she has did not get that letter, I am quite willing to give a copy of this letter to the hon. Member so that he may take it to her personally.

END A.....

S.K.

Question No.772

MR. HASSAN asked the Minister for Tourism and Wildlife:-

- (a) why the Ministry has not paid compensation to the family of the late Mr. Dokota Kote who was killed by a hippo at Bakambala, Tana River District in 1984;
- (b) what action he has taken to effect payment as per his letters Ref. D9.08/16/17 dated 27th April, 1984, D9.08/16/22 dated 27th August, 1984; and
- (c) when the family of the deceased will be paid.

THE MINISTER FOR TOURISM AND WILDLIFE(Mr. Muhoho): Mr. Speaker, Sir, I beg to reply.

(a) The Ministry has not paid compensation to the family of the late Mr. Dokota Kote who was killed by a hippo at Bakambala in Tana River District because the claim has not been considered by the District Wildlife Compensation Committee.

(b) My office's letters Ref. D9 08/16/17 dated 27th April, 1984 and D9 08/16/22 dated 27th August, 1984, were in response to enquiries made by the deceased's son, Mohammed Dokota Kote. It was presumed at the time that the compensation claims had been submitted to and processed by the relevant District Wildlife Compensation Committee. It has since transpired that the claim was in fact never considered by the District Wildlife Compensation Committee. The family of the deceased will be advised to complete compensation claim forms to enable their relevant District Wildlife Compensation Committee to process the claim.

(c) The family of the deceased will be paid as soon as the recommendations of the D.W.C.C. are received subject, of course, to availability of funds.

MR. HASSAN: Mr. Speaker, Sir, I am surprised to get that kind of reply from the Minister. Would the Minister deny or confirm that the contents of the letters referred to in the Question— Would he deny or confirm that these letters were instructing the claimants to wait until the Ministry gets funds from the Treasury? The Minister has said that the District Wildlife Compensation Committee in Tana River did not consider that claim. If that is the case, how come that his Ministry was urging the claimant to wait until the Ministry gets money from the Treasury?

MR. MUHOHO: Mr. Speaker, Sir, as I said in the reply, the son of the deceased took the initiative to approach the Ministry. He wrote to the Ministry looking for the date when the compensation could be effected. The Ministry's headquarters assumed, at that time, 1984, that the relevant documents had been processed by the District Wildlife Compensation Committee. It was on that assumption that they wrote back saying that they were waiting for funds to be made available for them to pay. But it has transpired since then, Mr. Speaker, Sir, <sup>that</sup> in fact that claim has never been processed. That is why we are asking the relatives of the deceased to collect forms, have them processed by the District Wildlife Compensation Committee, which is the legal body to do that, and it is on the recommendation of that body that we will be able to consider the payment of compensation to the family of the deceased.

MR. SPEAKER: Let us go back to Mr. Muthura's Question.

MR. HASSAN: ON a point of order, Mr. Speaker, Sir. The Minister has said that that claim has never been processed by the District Wildlife Compensation Committee. But I have the relevant letters - although I do not have them with me in the Chamber now - showing that the District Wildlife Compensation Committee made its recommendations to the Ministry. Perhaps the Ministry's officials at the Ministry's headquarters have misplaced those papers.

MR. HASSAN (ctd);

B.3. 3.12.87

Would the Minister take up this matter and direct <sup>officer in</sup> his Ministry to pay compensation to the claimants?

MR. MUHOHO: Mr. Speaker, Sir, I have not denied that we wrote the letter. We did write the letter but we did not at any stage say that the District Wildlife Compensation Committee had actually approved the claim. If the hon. Member can prove that it has happened--- We have telephoned the District Commissioner office just to ascertain this and they have told us that they have no record at all of having considered this case. So, if the hon. Member has any documents that can assist us in this matter we will of course be very grateful to him.

MR. MATE: On a point of order, Mr. Speaker, Sir. I would like the Minister to accept that he is misleading the House. This is because about two weeks he told the House that the money available to his Ministry can only pay compensation up to 1982. He has now told the hon. Member that if he receives the forms he will pay this compensation claim which dates back to 1984. If you look at the HANSARD you will find that the Minister stated here that the funds available to ~~his~~ his Ministry do not allow him to go beyond 1982. Can he now agree with me that he has misled this House?

MR. MUHOHO: Mr. Speaker, Sir, I will not allow anybody to put words in my mouth. This is because at no time did I say that I am going to pay compensation. I just said that as soon as we get the forms processed by the relevant authorities we will then pay compensation subject to availability of funds. That is what I said, Mr. Speaker, Sir.

~~MR. SPEAKER:~~ Let us go back to Mr. Koske's Question.

~~MR. KOSKE:~~ Mr. Speaker, Sir, before I ask my Question

I beg to apologise to the House for coming late.

~~MR. KARURI:~~ On a point of order, Mr. Speaker, Sir. When you called Mr. Muthura's Question hon. Hassan rose on a point of order and as a result of that I was not given an opportunity to ask this Question on behalf of hon. Muthura. I am talking about Question No.743.

~~MR. SPEAKER:~~ But I called that Question several times but nobody did anything. We have just gone back to find out whether Mr. Muthura has come back. He is still not here.

~~MR. KARURI:~~ Mr. Speaker, Sir, I wish to apologise to the House for coming late. I also wish to ask this Question on behalf of Mr. Muthura. He has requested me to ask this Question on his behalf, Mr. Speaker, Sir.

~~MR. SPEAKER:~~ Okay. You may ask the Question.

Question No.743

MR. KARURI, on behalf of Mr. Muthura, asked the Minister for Lands and Settlement:-

- (a) why the Ministry does not maintain the roads serving Kalalu Settlement Scheme; and
- (b) who is responsible for maintaining these roads.

THE MINISTER FOR LANDS AND SETTLEMENT(Mr. Nyakiamo):

Mr. Speaker, Sir, I beg to reply.

(a) My Ministry is not responsible for maintaining the roads serving Kalalu Settlement Scheme. Occasionally, however, my Ministry has been assisting in the maintenance of roads in all the settlement schemes in the area depending on the availability of funds and the priority agreed upon by the Sub-District Development Committee and the District Development Committee.

(b) It is the responsibility of the Ministry of Transport and Communications (Rural Access Roads Section) and the Local Authority to maintain these roads.

By way of clarification, Mr. Speaker, Sir, at the beginning of a settlement scheme the Ministry ~~responsible for~~ ~~construction and~~ of Lands and Settlement is responsible for construction and maintenance of access roads. However, after a certain stage, in the development of the scheme, this responsibility passes on the ~~x~~ relevant authorities - the Ministry of Transport and Communications and the relevant local authority and the District Development Committee.

Mr. Speaker, Sir, Kalalu Settlement Scheme is already registered and, therefore, our role is very minimal - loans collection only. The Ministry of Lands and Settlement does not deal with classified roads or those which are under the Rural Access Roads Programme.

END.B..



MR. KARAUURI: Mr. Speaker, Sir, I would like to thank the Minister for that answer. However, he has said that in the early stages of the settlement scheme, his Ministry is responsible for maintaining the roads in the scheme. Could he tell us whether he officially handed these roads to the Ministry of Transport and Communications? I am sure this responsibility does not pass over by itself, and that it is the Minister who says, "We have officially handed this over to you. We leave our responsibility to the Ministry of Transport and Communications." Did he do that?

MR. NYAKIANG: Mr. Speaker, Sir, in my reply, I said that Kalalu Settlement Scheme is already registered. Therefore, our role is very minimal, that is, loan collection. This means that the responsibility for the roads has already been passed to the Ministry concerned.

MR. SPEAKER: Let us go on to Mr. arap Koske's Question.

Question No. 759

MR. arap KOSKE asked the Minister for Education:-

(a) whether he is aware that a Mr. Mohamed Ikaba, of P. O. Box 63, Kipkelyon, a former employee of Migori Teachers Training College, was sacked with effect from 26th February, 1987; and

(b) why he was sacked.

THE ASSISTANT MINISTER FOR EDUCATION (Mr. M'Maitzi): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Mr. Mohamed Ikaba Chege, of P. O. Box 63, Kipkelyon, a former employee of Migori Teachers Training College, was sacked with effect from 26th February, 1987.

(b) Mr. Mohamed Ikaba Chege was sacked on the grounds of negligence of duty and failure to report to work without a reasonable cause on several days, that is, 20th November, 1985, 7th January, 1986, 3rd April, 1986 and 23rd December, 1986.

MR. arap KOSKE: Mr. Speaker, Sir, arising from the answer given by the Assistant Minister, I would like to say that the termination letter written to this complainant only shows that he was absent from work for <sup>two and a half</sup> 2½ days on

MR. arap KOSKE (CTD.):

health grounds. If this fellow had been working effectively and efficiently all the time, is the Assistant Minister satisfied that the <sup>two and a half</sup> 2½ days when the man was sick justify his being laid off after having worked for many years?

MR. M'MAITSI: Mr. Speaker, Sir, it would be very abnormal for any reasonable person to sack a worker just because he fails to come to work for <sup>two and a half</sup> only 2½ days. However, on several occasions this gentleman was warned to take his work seriously, but he did not do so. His first warning in writing came on 21st November, 1985. He got a second written warning on 8th January, 1986. He was also requested in a letter to explain why he was absent from duty on 3rd April, 1986, but <sup>he</sup> Mr. Chege did not reply to the letter. On 30th December, 1986, a letter was written to him requesting him to explain why he was absent from duty for a week, from 23rd December, 1986 to 30th December, 1986. Mr. Chege explained that he was sick, but he failed to produce any medical certificate to that effect. On 5th January, 1987, Mr. Chege was reminded to produce a medical certificate from Kipkelyon Health Centre to show that he had been given sick off <sup>from</sup> duty for a week, but he was unable to do so. A letter of interdiction with effect from 16th January, 1987 was issued, and his services were finally terminated on 26th February, 1987. He got all his benefits.

MR. SPEAKER: Let us go on to Questions by Private Notice, Mr. Nooru.

#### QUESTIONS BY PRIVATE NOTICE

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

(a) Is he aware that Mr. Ismail Ahmed Abdow, an employee of Deen's Breakdown Services, was shot dead by police officers on 11th December, 1986 at Mutomo along Kitui Road?

(b) Were the police officers involved prosecuted and charged in any court of law?

(c) When is he going to compensate the family of the deceased?

THE ASSISTANT MINISTER, OFFICE OF THE PRESIDENT (Mr. Maiyani):

Mr. Speaker, Sir, I beg to reply.

THE ASSISTANT MINISTER, OFFICE OF THE PRESIDENT (Mr. Maiyani)(Ctd.):

(a) Yes, I am aware that Mr. Ismail Ahmed Abdow was shot dead by the police on 11th December, 1986 at Mutomo along Kitui Road.

(b) The police officers involved were not prosecuted, but a public inquest to look into the incident is being held at Kitui Resident Magistrate's Court, ~~file~~ <sup>vide</sup> court file No. 9/86. A ruling has not yet been given on the matter.

(c) The question of compensation can only be considered after the outcome of the inquest is made known.

MR. NOORU: Mr. Speaker, Sir, it is really surprising to hear that somebody was shot dead on sight. Could the Assistant Minister tell the House under what section of the Laws of Kenya somebody should be shot on sight?

MR. MUTISO: On a point of order, Mr. Speaker, Sir. The other day, we had a similar Question here and the Attorney-General objected to its being discussed, saying that the matter was sub judice because a file for an inquest had been opened. Will we be in order to proceed with this Question as the Assistant Minister intends?

MR. SPEAKER: Are these two Questions the same?

MR. MUTISO: No, Mr. Speaker, Sir, this is a different Question, but the Assistant Minister says that the inquest in this case is on and that a file has been opened for that reason.

MR. WAMAE: On a point of order, Mr. Speaker, Sir.

MR. MUTISO: I am still on a point of order, Mr. Speaker, Sir.

MR. SPEAKER: You have already made your point of order, Mr. Mutiso, so let us hear what hon. Wamae has to say now.

MR. WAMAE: On a point of order, Mr. Speaker, Sir. When that issue was raised by the hon. Attorney-General, we told him that when an inquest file has been opened, that does not place the matter in question before the court. Therefore, that matter cannot be sub judice. I think he agreed to that point because he did not pursue the matter.

THE ASSISTANT MINISTER, OFFICE OF THE PRESIDENT (Mr. Onyancha): On a point of order, Mr. Speaker, Sir.

MR. SPEAKER: If there is any argument in respect of this Question,

MR. SPEAKER (CTD.):

we will postpone it and stop dealing with it now. There seems to be some discrepancy somewhere.

THE ASSISTANT MINISTER, OFFICE OF THE PRESIDENT (Mr. Onyancha): On a point of order, Mr. Speaker, Sir. This matter is actually before a magistrate, so it is indeed sub judice.

MR. SPEAKER: Let us move on to the next Question.

AN HON. MEMBER: On a point of order, Mr. Speaker, Sir.

MR. SPEAKER: No, I accept what was suggested.

MR. MWACHOFI: Bw. Spika, naomba kumwuliza Waziri wa Nchi, Ofisi ya Rais Swali Maalum lifuatalo.

(a) Anafahamu kwamba usiku wa tarehe 19 Desemba, 1986, pale Mkombezi Coffee Factory, Taita Taveta, mlinzi Raphael Nyange aliuawa kikatili na majambazi?

(b) Ni watuhumiwa wangapi walioshikwa na polisi kutokana na kisa hiki?

(c) Ni kwa nini hadi sasa hapana hata mtu mmoja aliyeshitakiwa kutokana na mauaji haya?

THE ASSISTANT MINISTER, OFFICE OF THE PRESIDENT (Mr. Onyancha): Bw. Spika, naomba kujibu.

(a) Ni kweli kwamba usiku wa tarehe 19 Desemba, 1986 mlinzi Raphael Nyange aliuawa kikatili na majambazi wasiojulikana.

(b) Kutokana na kisa hiki, watuhumiwa wafuatao walishikwa na kuhojiwa na polisi: Magoride Chaio Mulekenyi, Anthony Kilakitu, Amongusti Langali Malula, Nderitwa Mwandowo, P na Panziri Nyambu Matthias. Uchunguzi mkali ulifanywa, lakini ushahidi wa kuwawezesha watuhumiwa hao kufikishwa mbele ya mahakama ulikosekana. Hii ilibidi wote waachiliwe huru.

(c) Hii ni kwa sababu ushahidi ulioko kutokana na uchunguzi uliofanywa hadi sasa haujathibitisha hasa ni akina nani waliohusika na mauji hayo. Hata hivyo, uchunguzi bado unaendelea na yote anayeweza kuwa na habari ambazo zinaweza kuusaidia uchunguzi huu, anaweza kupeleka habari hizo

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THE ASSISTANT MINISTER, OFFICE OF THE PRESIDENT (Mr. Onyancha)(Ctd.):

katika kituo cho chote cha polisi kilicho karibu naye au kituo cho chote cha  
utawala.

END C



MR. MWACHOFI: Bw. Spika, wakati ninapomshukuru Waziri Msaidizi kwa kutoa jibu refu, ningependa aliambie Bunge hili ni kwa nini katika muda wa miaka mitano visa hivi vya aina hii vimekuwapo ambapo watu wanauawa na hakuna anayepeleka kortini? Kwa nini kwa wakati huu visa vya aina hii vinazidi kuongezeka katika Wilaya ya Taita/Taveta? Polisi wanafanya kazi gani?

MR. ONYANCHA: Bw. Spika, swali kama hili haliweza kujibika wale ambao hufanya mauaji kama hayo huwa hawajulikani. Pia labda huwa ni watu werevu sana. Huhakikisha kuwa hawa (<sup>( )</sup>)chi ushahidi wote nyuma yao wanapofanya visa kama hivyo. Hivyo, polisi wanapofanya uchunguzi, hukosa ushahidi. Basi, polisi huwa hawawezi kufanya chochote, bali hujaribu kuendelea na uchunguzi wao kuona kuwa watu hawa wameshikwa.

MR. MWACHOFI: Bw. Spika, kutokana na jibu la Waziri Msaidizi la sehemu ya (b) ambapo kwa kweli ameh (<sup>( )</sup>)jaribu kueleza jambo hili sana, ningependa aliahidi Bunge hili kwamba wiki ijayo atakuja hapa aeleze (<sup>( )</sup>)ni kwa nini tangu watu wawatao waliuawa hakuna chochote kilichofanyika:

<u>Tarehe</u>	<u>Jina</u>	<u>Mahali</u>
18 Februari, 1986	Teresiah Ingoje Wamwandu	Bura
1984	Francis Kirigha	Kighombo
1984	John Magenda	Mwanda
1983	Mwaisaka Mwasi	Wumingu

Ningependa Waziri Msaidizi atakapokuwa akieleza vizuri juu ya swali tuliloliuliza, wiki ijayo, aeleze pia imekuwaje watu hawa wote wameuawa na polisi wanawachukua watu kwenda kuwahoji lakini wanawachilia baada ya wiki moja au mbili hivi, na hakuna lo lote linalofanyika?

MR. ONYANCHA: Bw. Spika, kama nilivyosema, Serikali hufanya kila juhudi kutafuta ushahidi wa kuwashika wale wanaotenda maovu kama haya. Ushahidi usipokatikana kabisa, hakuna chochote ambacho Serikali inaweza kufanya. Lakini kila wakati (<sup>serikali</sup>) hufanya juhudi kutafuta ushahidi. Hii ndiyo sababu niliuliza ikiwa kunaye

MR. ONYANCHA (ctd.):

*tr.* <sup>mitu yete</sup> ~~mitu~~ ye <sup>yebo</sup> ~~yebo~~, hata mhe. Mbunge mwenyewe, <sup>aliye na ushahidi</sup> ~~kama anaushahidi~~ wo wote ambao unaweza kutusaidia ili hawa/waovu washikwe, <sup>aliambie.</sup> ~~anaweza kutuambia.~~ Tunawauliza wananchi ~~wote~~ wote ambao wana ushahidi wo wote watusaidie ili tuwashike hawa/wahalifu. Nitaendelea kusema kuwa Serikali hufanya kila <sup>kinachoweza kama</sup> ~~kinachoweza~~ kuwashika hawa/watu wanaofanya uhalifu kama huu.

MR. SPEAKER: Let us go on now.

*tr.*  
*tr.*  
*tr.* MR. MWACHOFI: Jambo la nidhamu, Bw. Spika. Nilimwuliza Waziri Msaidizi kama ataahidi kufanya uchunguzi ili aje na jawabu lililo sawa. Yeye ananendelea kulipotisha Bunge hili kwa kusema kwamba huwa wanajaribu. Tunajua kuwa kote huko mashambani polisi ni wengi sana. Hata makachero pia ni wengi sana. Kukiwa kuna mambo yanayohusiana na ulevi huwa wako kuwashika walevi wengi. Inakuwaje wakati vitendo vya jinai kama uaji <sup>vinapotokoa</sup> huwa hawafanyi lo lote? Badaa ya kulijibu swali, Waziri Msaidizi analizungukazunguka tu! Anaweza kuliashidi Bunge hili kwamba juma lijalo atakuja na jibu kamili kuelezea kwa nini <sup>hapa</sup> ~~hapa~~ hasa huko Wundanyi, watu wanaendelea kuuawa na hakuna lo lote ambalo polisi wanafanya?

MR. ONYANCHA: Bw. Spika, si kweli kwamba polisi huwa ~~hwa~~ hawafanyi cho chote kutafuta ushahidi wa mauaji kama hayo. Polisi hufanya kila kinachoweza kutafuta ushahidi ambao ungeweza kutusaidia. Kama ushahidi ~~kama~~ huo haupatikani, basi hakuna lo lote tunaloweza kufanya. <sup>Katika</sup> ~~Kwa~~ kila kisa ambacho kimetajwa, polisi wamefanya uchunguzi kutafuta ushahidi. Siwezi kuahidi kuwa nitakuja kueleza <sup>cho chote</sup> ~~cho chote~~ kama hatuna ushahidi wo wote wa kutusaidia.

MR. WAMAE: Mr. Speaker, Sir, I beg to ask the Minister for Co-operative

Development the following Question by Private Notice.

(a) Is he aware that Mathira Farmers & Co-operative Society Limited lost Sh.250,000/= in 1977/78 and Sh.5,000,000/= in 1978/79, making a total loss of Sh.10,250,000/= in two financial years?

MR. WAMAE (ctd.):

(b) How did this loss occur and who was responsible?

(c) What is he planning to do as these amounts have been appearing in the balance sheet of the society every year since 1977 as bonus to members?

THE ASSISTANT MINISTER FOR CO-OPERATIVE DEVELOPMENT (Mr. Ejore): Mr. Speaker, I beg to reply.

(a) It is not true that Mathari Farmers Co-operative Society made a loss of shs. 10,249,736.05.

(Noise)

MR. SPEAKER: Order! There is far too much noise in the House.

(Dr. Wameyo stood up)

Order! Would you take your seat, Dr. Wameyo?

THE ASSISTANT MINISTER FOR CO-OPERATIVE DEVELOPMENT (Mr. Ejore): Mr. Speaker, Sir, I beg to continue with the reply.

MR. SPEAKER: (More noise)

MR. SHIKUKU: On a point of order, Mr. Speaker, Sir. Despite your calling the House to order, the noiser it has become. Is it in order for hon. Members not to listen to the Chair? Hon. Members are far too noisy.

HON. MEMBERS: It is the Front Bench!

MR. SPEAKER: You may now carry on, Mr. Ejore.

THE ASSISTANT MINISTER FOR CO-OPERATIVE DEVELOPMENT (Mr. Ejore): Mr. Speaker, Sir, I beg to reply again.

(a) It is not true that Mathira Farmers Co-operative Society Limited made a loss of shs. 10,249,736.05. The then society officials, without the <sup>members</sup> consent and the Commissioner's authority, undertook several projects on behalf of the ~~the~~ society which include:-

(1) the purchase of pumping units and pipes which were installed at Sagana River for four factories, Kigumbuni, Ngunguru, Karogoto



THE ASSISTANT MINISTER FOR CO-OPERATIVE DEVELOPMENT (Mr. Ejore) (ctd.)  
and Kahiraini, to fight the 1975 <sup>the</sup> and 1977 severe drought,

l.c./ (2) <sup>the</sup> Expansion and construction of factories and other processing facilities to cope with the increased volume of cherry as a result of irrigated farms and increased production,

(3) <sup>the</sup> construction of ~~seepage~~ pits and <sup>the</sup> installation of circulation systems to control increased pollution which came ~~xx~~ about as a of increased cherry production from the irrigated farms,

l.c./ (4) Participation in <sup>the</sup> Government Rural Development Programme with a ~~y~~ hope of being reimbursed <sup>the</sup> money spent by the Government,

l.c./ (5) Purchasing five vehicles ofr different <sup>makes</sup> and capacities for the society to cope with the increased volume of business, and

l.c./ (6) Perimeter fencing of all the compounds of the then existing factory to ensure proper security.

l.c./ (b) No loss ever occurred as such. <sup>The</sup> Members' approval was not sought in advance of spending this money by the society officials which would otherwise have been paid out as bonuses and dividends.

stet In addition, the authority of the Commissioner for Co-operative Development was not obtained as should have been the case with projects of a capital nature. The projects that were undertaken and the assets that were bought using this money, are physically there.

(c) My Ministry intends to ratify the expenditure and capitalise the figure ~~xx~~ which has been appearing in the balance sheet, year after year. Members shares shall go up by the same figure pro-prata each members shares standing in the register at the close of the financial years to which the bonuses and dividends relate.

Rw END D.....  
Byan

MR. WAMAE: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to mislead this House by stating that there are irrigated farms in Mathira owned by ~~Mathira~~ members of Mathira Farmers' Co-operative Society? There are no such farms.

MR. EJORE: Mr. Speaker, Sir, according to our information, these projects exist there.

MR. WAMAE: On a point of order, Mr. Speaker, Sir. I come from Mathira. There is not a single farm owned by the peasant coffee growers, who are members of Mathira Farmers' Co-operative Society, which is irrigated. Unless this expenditure was put into some other people's farm, which is irrigated, there is not a single ~~farm~~ irrigated farm owned by the farmers who are members of the society.

MR. EJORE: Mr. Speaker, Sir, the irrigation was done and it is still there. The true position about the Sh.10.2 million is that the former committee members - and not the officials - were sacked after using this money without calling a meeting of the society members to get their consent. So, that committee was sacked and replaced with a commission. This is the commission which did the irrigating of all those farms, and upto now it is still irrigating them. I do not know <sup>why</sup> whether the hon Member is saying that no ~~irrigation~~ shamba of an individual farmer has been irrigated.

MR. WAMAE: Mr. Speaker, Sir, an expenditure of Sh.10,249,736.05 by 1979 is a lot of money by any standards. The officials of the Ministry of co-operative Development were signatories to all the cheques of the society. If this expenditure was <sup>not</sup> authorised by the members of the society, nor by the Commissioner of co-operative, how did the officials of the Ministry sign these cheques?

MR. EJORE: Mr. Speaker, Sir, the purchase of new pumping units and pipes which were installed at River Sagana for four factories: Kagumoini, Ngunguru, ~~Kar~~ Karogoto and Kahiraini, to fight the 1975 to 1987 drought. All this money was spent on the expansion and construction of these factories. So, all that money was spent on these irrigation schemes.

MR. OMIDO: Mr. Speaker, Sir, the Assistant Minister has told the ~~ka~~ House that some of this money was paid for irrigating the farms of the members of the Mathira Farmers' Co-operative Society Ltd. The hon. Member for Mathira has

MR. OMIDO (CTD):

categorically denied that <sup>no</sup> any such ~~members~~ members' farm was irrigated. Now, can the Assistant Minister table in this House the list of the members of Mathira Farmers' Co-operative Society Ltd whose farms were irrigated, and show the cost of irrigating each farm?

MR. EJORE: Mr. Speaker, Sir, no individual members' farms were irrigated. This money was used on irrigating the co-operators' farms. As I told the hon Member earlier, the former committee of the society ~~was~~ misused the funds and mismanaged the affairs of the society. That is why that committee was sacked.

MR. SHIKUKU: On a point of order, Mr. Speaker, Sir. I am really straining my ears to try and follow what the Assistant Minister is saying, although he is ~~is~~ speaking loudly enough, but there is too much noise. What do we do? Can ~~you~~ we adjourn the House, or ask those who do not want to listen to go out? I cannot hear what the Assistant Minister is saying.

MR. SPEAKER: Order! Maybe, the hon. Members are happy, and want to do it that way. But I am afraid I cannot let you do it because it is against our rules!

MR. LOTTIYO: Mr. Speaker, Sir, could the Assistant Minister agree that the Ministry has really failed to give protection to these co-operators? According to his answer, the Ministry is not supervising these societies effectively.

MR. EJORE: Mr. Speaker, Sir, the Ministry has not failed, and it did not fail. If it could fail, it could not have found out the mistakes of the former <sup>Committee</sup> management which misused the co-operators' money. That <sup>is</sup> why the Ministry sacked the whole of that former management committee of the Mathira Farmers' Co-operative Society, and appointed a commission to run the society.

MR. WAMAE: Mr. Speaker, Sir, this issue of Sh.10.2 <sup>million</sup> has come up at every annual meeting of the Mathira Farmers' Co-operative Society for the last five years. <sup>CC</sup> The provincial co-operative officer always says that the matter is with a higher authority in the offices of the Commissioner for Co-operatives and the Minister for Co-operative Development. When will the Ministry explain the issue to the farmers? When are we going to get a breakdown of how much money was used on each of these items?

MR. EJORE: Mr. Speaker, Sir, there is no matter which is still with a higher authority as the hon Member has said; the matter is still within the Ministry. Since this was a <sup>S</sup>Question by Private Notice, and the hon Member knows this is a matter which has taken a long time, we have asked our senior officers in the Ministry to investigate it further. So, if the hon Member would like to come to my office next week, we can sit down with him and the Ministry's senior officers and explain ~~and~~ it further to him.

MR. WAMAE: On a point of order, Mr. Speaker, Sir. This answer has stated that there are irrigated farms in Mathira owned by members of the Mathira Farmers' Co-operative Society; I have refuted that <sup>no</sup> such farms exist. Will the Assistant Minister produce a ~~list~~ list of the irrigated farms, and the names of the members who have irrigated farms in Mathira? He is misleading the House.

MR. EJORE: Mr. Speaker, Sir, I am not misleading the House. That is another question.

MR. SHIKUKU: On a point of order, Mr. Speaker, Sir. The Assistant Minister has been asked to lay on the Table of this House the names of ~~the society~~ those Members of that ~~s~~ society. <sup>on the Table!</sup> Will he promise that he will come and lay ~~that~~ the names of those members? He cannot just sit down.

MR. EJORE: Mr. Speaker, Sir, ~~the society~~ it was not part of the Question that we come and lay on the Table the names of the farmers whose farms were irrigated. ~~s~~ So, this is a different question altogether.

MR. SHIKUKU: On a point of order, Mr. Speaker, Sir. I am still pursuing this point. The hon Member has categorically stated that there is no such a thing as the Assistant Minister is telling this House. The Assistant Minister insists and persists that there is something like that. Now, he had been challenged by hon Omido, and I am also challenging him, to produce the names of those people and lay it on the Table. Now, he says that it is a different question; it is not a different question. Let him lay these names on the Table.

MR. EJORE: Mr. Speaker, Sir, this is a different question. If you look at the Question (a) starts "Is the Minister aware ..... the loss of this money....; (b) How did this loss occur and who was responsible; (c) What is the Minister planning to do....."

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MR. EJORE (CTD):

That <sup>is</sup> all there was. He did not ask us to bring the names of the people whose farms were irrigated.

MR. WAMAE: On a point of order, Mr. Speaker. —

MR. SPEAKER: Order! The Assistant Minister says that there are things in this Question which are taken as the basic truth. Another hon Member says that these things do not exist. So, if you know that it exists, you give <sup>us</sup> ~~a sign~~ some sign of the thing itself.

END E *Ejore*

MR. EJORE: I am going to investigate and bring the correct answer next week, Mr. Speaker.

MR. SPEAKER: Okay. Next Question, Mr. Omido.

MR. OMIDO: Mr. Speaker, Sir, I beg to ask the Minister for Labour the following Question by Private Notice.

(a) Is the Minister aware that 29 employees of M/S Sapa Chemical Industries (K) Ltd. were declared redundant in November, 1980?

(b) Did he approve this redundancy?

(c) Why have they not been paid their redundancy benefits amounting to KSh.400,000/-?

THE ASSISTANT MINISTER FOR LABOUR (Mr. Obure): Mr. Speaker, Sir I beg to reply.

Minister is

(a) The ~~not~~ aware that 29 employees of M/S Sapa Chemical Industries (K) Ltd. were declared redundant in November, 1980.

(b) Due to the company's indebtedness to the National Bank of Kenya, the company was placed under receivership on 5th December, 1980, with instructions to recover the money due to the bank. On 7th January 1981, the receivers applied to the Minister for approval of redundancies which were expected to be carried out between 1st January, 1981, and 30th June, <sup>the</sup> same year. The reason given for the intended redundancies was that investigations had revealed that it was not economical for the company to continue trading under receivership and, as such, it had to cease operating. The assets were, therefore, to be sold to satisfy the bank's debt. However, on 16th January, 1981, while the redundancy application was being processed, the company was put into liquidation and the services of the employees were automatically terminated. Under the circumstances, taking into account the events, the receivers' application for the approval of the redundancy was, therefore, overtake by events.

THE ASSISTANT MINISTER FOR LABOUR (Mr. Obure)(Contd.):

(C) Under Section 311 Paragraph 1(c) of the Companies Act, only salary and wages which have not been paid for the previous four months are classified as preferential creditors. Since those employees had been paid their salaries up to the date of liquidation, their claims for other terminal benefits were treated as unsecured and, therefore, could not be paid immediately.

MR. OMIDO: Mr. Speaker, Sir, under the terms of the laws of this country, whether it is liquidation or receivership, redundancy money is paid to employees because it is a compensation which arises out of the employees losing their jobs ~~for no reason~~ or for reasons beyond their control. Therefore, even under Section 311 Paragraph 1(c) which the Assistant Minister refers to, it talks about salary arrears only. It does not talk about redundancy <sup>pay</sup> paid. So, can he accept that he is misleading the House when he is referring to a Section dealing with salary arrears only, and that he will pursue further the question of workers being paid their redundancy money by the liquidator?

MR. OBURE: Mr. Speaker, Sir, I have not misled this House in any way whatsoever. There <sup>were</sup> no redundancy benefits involved in this Question. What I said in my answer is that the receiver manager applied to the Minister for Labour for approval to declare the 29 employees redundant. But, as the Minister was considering the application, the company was put into liquidation and, therefore, the application for redundancy was overtaken by events. So, the question of redundancy benefits do not arise at all because the employees were never declared redundant.

MR. OMIDO: Mr. Speaker, Sir, the employees become redundant at the time the company ceases to operate. So, when the Assistant Minister is telling the House that the employees were never declared redundant he is definitely misleading the House. The employees become redundant

MR. OMIDO (Contd.):

when the operations of a company cease, or when the services of the employees are not required, ~~and their services are not required because the company has ceased to operate.~~ Therefore, the employees are clearly entitled to redundancy benefits.

THE ATTORNEY-GENERAL (Mr. Muli): On a point of information, Mr. Speaker, Sir. I think the hon. Member wants to mislead this House about payment of redundancy benefits. Redundancy benefits are paid when the employees are declared redundant and the operation continues. But in the event that the operation comes to an end, by way of a receivership or winding up of a company, the question of redundancy benefits does not apply.

MR. SPEAKER: Next Question, Mr. Twarith.

MR. TWARITH: Mr. Speaker, Sir, I beg to ask the Minister for Health the following Question by Private Notice.

(a) Is the Minister aware that Yatia Dispensary Baringo District has no medicine at the moment and, as a result, the wananchi in the area are suffering?

(b) Will the Minister urgently supply medicine to this hospital?

THE ASSISTANT MINISTER FOR HEALTH (Mr. Muthamia): Mr. Speaker, Sir, I beg to reply.

(a) There is no Government dispensary at Yatia to supply medicine to.

(b) In view of (a) above, the question does not arise.

MR. TWARITH: Mr. Speaker, Sir, Yatia Dispensary is in existence. Wananchi built a <sup>three roomed</sup> ~~three-bedroomed~~ house, one staff room, and two toilets. Can the Assistant Minister send a doctor plus medicine there immediately?

MR. MUTHAMIA: Mr. Speaker, Sir, I am saying that there is no dispensary there. However, the local community had put up temporary



MR. MUTHAMIA (Contd.):

structures at Yatia which could not be used as a dispensary. Later on, the walls of those structures were eaten up by ants, and the roof was blown off by the wind. Now, later on, the same people put up --

MR. SHIKUKU: On a point of order, Mr. Speaker, Sir. I will not get tired of standing on a point of order about the noise in the Front Bench. What shall we do? We cannot hear! We are in the House.

MR. SPEAKER: Yes. I think we require some silence. We will soon finish the Questions, and we will not have to suffer so much. But, please, let us make sure that we can at least hear partly what is being said. It is really bad when we have Questions for hon. Member to talk, ~~and they are talking~~ about other things. So, they are really wasting time when doing that. We want that time to be used in accordance with our Questions. Continue, Mr. Muthamia.

MR. MUTHAMIA: Mr. Speaker, Sir, I was answering a supplementary question before I was interrupted by a point of order. I said that the local community had put up temporary structures at Yatia which could not be used as a dispensary. The walls of that structure were eaten up by ants, and later on the roof itself was also blown off by the wind. The same people put up other temporary buildings. These are two small rooms of mud which are completed, but the third one - <sup>and</sup> the bigger one  $\angle$  which those people are intending to use as a dispensary is not complete. That building is roofed, but there are no walls. The Medical Officer of Health (M.O.H.) in Kabarnet is ready or anxious <sup>together with medicine</sup> to send staff there if that temporary structure is finished so as to help the people. So, if the hon. Member can urge his people to complete the building, we are ready to send medicine together with staff <sup>there</sup>  $\angle$  though the building is very temporary.

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MR. TWARITH: Mr. Speaker, Sir, now that the wananchi of that area have roofed the building, will the Assistant Minister consider taking a doctor there as soon as possible? In fact, I do not see the reason why the Assistant Minister ~~is~~ is insisting that there is no building there and yet these people are suffering, <sup>T</sup>they need to be assisted.

MR. MUTHAMIA: Mr. Speaker, Sir, we can neither send medicine nor staff to a place where there is no dispensary. Meanwhile, the area is catered for by the Kipsarem Catholic Mission which sends mobile clinic to Yatia on regular basis. Therefore, right now we cannot send medicine or staff because there are no buildings there.

MR. TWARITH: On a point of order, Mr. Speaker, Sir.

MR. SPEAKER: <sup>on</sup> Now I think that reply is quite satisfactory <sup>and</sup> so let us move <sup>to</sup> the next Question.

MR. WAGURA: Mr. Speaker, Sir, I beg to ask the Minister for Health the following Question by Private Notice:-

(a) Is the Minister aware that Olkalau sub-District Hospital in Nyandarua District has been operating for over 10 years without an ambulance despite several promises?

(b) Is he further aware that the hospital has been running without serviceable vehicles for a long time?

(c) Could the Minister provide an ambulance together with serviceable vehicles to this hospital without further delay?

THE ASSISTANT MINISTER FOR HEALTH (Mr. arap Cheboiwo): Mr. Speaker, Sir, I beg to reply.

(a) Presently there is an ambulance at the hospital, a Land Rover GK AC00 or A300 which is fully serviceable.

(b) Currently there are two vehicles, GK 919T and GK 6897, which are offering constant serviceable service to the people of Ol Kalau.

(c) Therefore, as a result of answers to part (a) and (b) of the Question part (c) does not arise.

MR. WAGURA: I am surprised that the Assistant Minister is telling the House that there are a number of vehicles at Ol Kalau Hospital. Can he tell the House the registration numbers of the ambulance and of other vehicles? Where were they taken there? This hospital has been running without vehicles for a long time and the vehicles which are there keep on breaking down. Can he tell us when these vehicles were sent there initially and their GK numbers?

MR. arap CHEBOIWO: Mr. Speaker, Sir, I have already told the hon. Member and the House that three vehicles were sent there sometime back and they are currently serving that hospital. The vehicles are fairly old, but they are giving the desired services to the satisfaction of the hospital authorities. The fourth vehicle, GK885X has broken down and funds are being sought to have it repaired. So, I confirm to the hon. Member and the House that there are three vehicles which are working at Ol Kalau Sub-District Hospital.

MR. WAGURA: Mr. Speaker, Sir, will the Minister agree with me that since that hospital was opened, the Ministry has neglected it, so much so that sometimes it runs without linen, beddings and vehicles? In fact, there are constant checks at that hospital. Could the Assistant Minister assure the House that the hospital is going to be provided with the necessary equipment including vehicles? I do not agree with the Assistant Minister that the hospital is running properly. It is not running properly since it does not even have beddings. It has been neglected.

MR. arap CHEBOIWO: Mr. Speaker, Sir, the Question was about the vehicles, but now the hon. Member is asking about beddings. That is a different question.

MR. WAGURA: On a point of order, Mr. Speaker, Sir. Will the Assistant Minister assure the House that the hospital is going to be provided with proper medical facilities, because at the moment it does not have them?

MR. SPEAKER: That has already been accepted. What you are doing is to repeat yourself. That is against our rules.

Mr. Mutiso, ask your Question.

MR. MUTISO: Mr. Speaker, Sir, I beg to ask the Minister for Health the following Question by Private Notice:-

(a) Is the Minister aware that the body of the late Mr. Stephen Mbithi who died on 25th May, 1987 is still lying at Machakos General Hospital Mortuary?

(b) Why has the post-mortem not been carried out to establish the cause of his death?

(c) Will the Minister ensure that ~~he~~ the post-mortem is done immediately and the body released to the relatives for burial?

THE ASSISTANT MINISTER FOR HEALTH (Mr. arap Cheboiwo): Mr. Speaker, Sir, the hon. Minister for Health requested the indulgence of the House so that we can <sup>get</sup> more information about this Question. I am also saying the same thing both to the House and the hon. Member, so that we can get them ~~an~~ more information because this issue is very sensitive.

MR. MUTISO: On a point of order, Mr. Speaker, Sir. Sir, you remember this Question first appeared on the Order Paper on Tuesday last week, and the Minister asked for time to get more information. We have given him a whole week, and now we are in the second week, ~~how~~ <sup>he</sup> much time does ~~he~~ need? We are soon going on recess and the body is still there.

MR. arap CHEBOIWO: What I can assure the House, on behalf of the Ministry, ~~is the hon. Member and the House~~ <sup>that he</sup> will get the answer before we go on recess.

MR. SPEAKER: Okay, that question is deferred.

(Question deferred)

MR. TUVA: Mr. Speaker, Sir, I beg to ask the Minister for Supplies and Marketing the following Question by Private Notice:-

(a) Is the Minister aware that many farmers in Kilifi District have cut down their cashew <sup>nut</sup> trees because of the low prices paid for the crop by the National Cereals and Produce Board (N.C.P.B.)?

(b) Is he also aware that there is undue delay in paying the farmers who deliver ~~their~~ their crops to the board?

(c) What steps is he doing to take to ensure that farmers are paid higher prices and on delivery of their produce?

THE MINISTER FOR SUPPLIES AND MARKETING (Mr. Kitele): Mr. Speaker, Sir, I beg to reply.

(a) I am aware and concerned that many ~~fr~~ farmers in Kilifi District are intending to ~~d~~ cut down their cashewnut trees because of the low prices paid for their crops by the National Cereals and Produce Board (N.C.P.B.).

(b) I am also aware that in the first there was undue delay in paying the farmers who delivered their crops to the board. I wish to inform the hon. Member that all the backlog has been paid for and since July, 1987 there ~~was~~ has been no delay in payment.

(c) The Ministry is reviewing the prices of the raw cashewnuts with a view to increasing it soon. Arrangements have been made to pay farmers promptly after delivering their crop.

MR. MWACHOFI: Sir, this is a very important Question which is dealing with production of a product that is very useful to the economy of the country. The Minister admits that ~~that~~ there have been delays/<sup>in</sup>making the payments and now he is saying that they are making arrangements to pay the farmers promptly and to increase the prices. Can he specifically tell the House, how soon the new prices for raw cashewnuts will be announced? How high will they be ~~bx~~ vis a vis the current prices?

MR. KITELE: Mr. Speaker, Sir, I have said that all those farmers have been paid and at present there is nothing pending. I had a meeting with all the farmers in Kilifi which the hon. Questioner attended where I said that the Government is thinking of increasing the prices. I can ~~x~~ assure the House that before the end of ~~this month~~ this month, the prices will be increased.

END G.....

MR. TUVA: Mr. Speaker, Sir, the cashew nut season has already started, and there is a lot of smuggling at the moment by people who are not licensed. I would also like <sup>the Minister</sup> to know that the farmers have not been paid by the handlers of the dry produce co-operative societies. There are very many farmers that still claim money from the co-operative societies. They are claiming a total of KShs.1,200,000/- In order to avoid the on-going smuggling, will the Minister announce the prices now instead of waiting until the end of the month?

MR. KITELE: No, Mr. Speaker, Sir. I am not going to announce the prices now for various reasons which I am going to give to the House. I held a meeting in Kilifi, which the hon. Member attended, and he knows that although the farmers of cashew nuts have not been paid, we have already paid the co-operative societies. The societies which deliver raw cashew nuts to the National Cereals and Produce Board have not paid the ~~fix~~ farmers despite the fact that we have given them the money. The position is now going to be reviewed.

The hon. Member is also aware that on Monday, next week, I will hold a leaders' meeting in Kilifi.

(MRS. ASIYO) to ask the Attorney-General:-

Could the Attorney-General instruct returning officers in the forthcoming general elections to count and record ballot papers unit by unit so as to eliminate any possible irregularities?

MR. SPEAKER: Hon. Members, Mrs. Asiyo's Question has been withdrawn by her.

#### MINISTERIAL STATEMENTS

THE MINISTER FOR CO-OPERATIVE DEVELOPMENT (Mr. Wanjigi): On a point of order, Mr. Speaker, Sir. I would like to make a Ministerial Statement on a matter which, I hope, all hon. Members will be interested in. Those hon. Members who were

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THE MINISTER FOR CO-OPERATIVE DEVELOPMENT (ctd.):

present when His Excellency the President opened the Harambee Plaza will recall that he challenged hon. Members to form a savings and credit society. This matter has been discussed in several Sessional Committee meetings, and I am glad to say that after a lot of deliberations, we have arrived at a position whereby the Sessional Committee has recommended that we should form a Parliamentary Savings and Credit Co-operative Society.

Sir, I wish to say here that we are very glad indeed that His Excellency the President has agreed to be the patron of our society. The society has been registered, and I wish to lay on the Table a copy of the certificate. Our Registration No. is 5000.

(Mr. Wanjigi laid the certificate on the Table)

The other point that hon. Members would be interested to know is that in the wisdom of the Sessional Committee, it was decided by the sponsors that the following hon. Members be the trustees of that society----

HON. MEMBERS: By who? By who?

THE MINISTER FOR CO-OPERATIVE DEVELOPMENT (Mr. Wanjigi): Mr. Speaker, Sir, it was decided that the Speaker of the National Assembly, the Leader of Government Business - His Excellency the Vice-President and Minister for Home Affairs, the Deputy Leader of Government Business, hon. Biwott, be the trustees of the society. I have honourably been elected the chairman of the society.

HON. MEMBERS: By who? By who? Who elected you?

THE MINISTER FOR CO-OPERATIVE DEVELOPMENT (Mr. Wanjigi): I am going to answer that. I do happen to know some of the worries that hon. Members may be having but I am going to answer all their questions.

Sir, the vice-chairman of the society shall be hon. Ng'eny, who is the Deputy Speaker of this National Assembly. The secretary shall be hon. Prof. Indira <sup>and</sup> the treasurer shall be hon. Mweu. Committee members are hon. Muturia, hon. Oyondi and hon. Mutiso.

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## THE MINISTER FOR CO-OPERATIVE DEVELOPMENT (ctd.):

Mr. Speaker, Sir, the entrance fee to be charged to hon. Members who wish to join the society is KShs.100/-. To be a member of the society, you must own at least one share of KShs.20/-.

Sir, I want to explain that it would have been our wish to merge the present Bunge Savings and Credit Co-operative Society but, after a lot of deliberations, it was discovered that there were basic and fundamental differences in the objectives of the two societies. Therefore, in its own wisdom, the Sessional Committee decided that the new society should be exclusively restricted to hon. Members. The main objective of the society will be to save. In so doing, we do hope that as the President gave us the challenge, it will be possible for us to develop ~~xxxx~~ the site opposite Parliament Buildings across the road. I do want to say that there is some urgency in this matter, and that is why I am making this Statement. It is for the same reason that I have circulated to all hon. Members the by-laws of the new society. I have also written a letter appealing to those hon. Members who want to join the society to pay the entrance fees. There is no force to join the society; it is not obligatory. I would like to appeal to those who wish to join to do so immediately/<sup>before</sup>~~xxxxxx~~ the House is prorogued.

*Thank You Very much indeed.*

END.... H.





MR. SHIKUKU: On a point of order, Mr. Speaker, Sir, - - -

MR. SPEAKER: No. I am not going to allow any point of order on this issue. Hon. Members themselves can choose what to do regarding what has been said. So, we do not want to debate an issue in which hon. Members are absolutely free to do what they want to do.

~~MINISTERIAL STATEMENT~~

THE ASSISTANT MINISTER FOR CULTURE AND SOCIAL SERVICES (Prof. Sumbi):

On a point of order, Mr. Speaker, Sir. Recently, ~~the~~ hon. Abuya-Abuya, the Member for Kitutu East, asked a Question which sought my Ministry's assistance in providing teachers and teaching tools to Kiangende, Enchoro and Manga-Orutuba Harambee youth polytechnics. In my reply, I informed the hon. Member that since July, 1980, Enchoro Youth Polytechnic had received a total amount of KShs.359,000/- in the form of staff salaries. In addition, it had received training tools and equipment worth KShs.112,946/- and a grant of KShs.38,000/- for capital development. It also received KShs.3,100/- for training materials.

Following the hon. Member's claim that the polytechnics he referred to never received such a <sup>the way</sup> assistance, I investigated the matter to verify <sup>the</sup> information. I have now established that the assistance, in fact, was given to a different polytechnic in Majoge-Bassi which is also called Enchoro Youth Polytechnic. I therefore, regret the wrong ~~information~~ impression conveyed by my reply to the Question, that ~~in~~ Enchoro Polytechnic in Kitutu East had received Government assistance. The fact of the matter is that Enchoro Harambee Polytechnic was established in 1981 for ~~extra training of~~ carpentry and home economic <sup>S</sup> courses without prior registration and approval by the Kisii District Development Committee, as required. The polytechnic is <sup>not</sup> ~~not~~ registered in my Ministry and, therefore, it is ~~not~~ not an approved youth polytechnic. Besides, it does not have any physical facilities of its own but uses Enchoro Primary School facilities to conduct its courses. The manager of the polytechnic is also the Chairman of the Enchoro Primary School Committee - - -

MR. SPEAKER: Order! There is too much noise.

THE ASSISTANT MINISTER FOR CULTURE AND SOCIAL SERVICES (Prof.Sumbi):

Unfortunately, its teaching tools were stolen in 1982 and, by 1985, the students had ceased to attend courses. In short, the polytechnic has ceased to operate and I, therefore, appeal to the hon. Member to guide the promoters of the polytechnic to follow the laid down procedures for establishing such an institution, that is, to channel the project's proposals through the district development committee for approval. They will also ~~has~~ have to acquire land on which to construct the required facilities.

For the polytechnic to be considered for the Government assistance, it must be registered with my Ministry and ~~has to~~ merit such an assistance as against other deserving institutions subject to the availability of funds.

Thank you, Mr. Speaker.

MR. MWACHOFI: Jambo la nidhamu, Bw. Spika. Ninasimama kwa jambo la nidhamu kuhusu mambo matatu. Mambo mawili ya kwanza ni mambo yanayohusiana na heshima ya Bunge hili. Leo ni mara/ya tatu kusimama kwa jambo la nidhamu katika Bunge hili kuhusu mtu anayeitwa Stephen Mwaikwasi Mwandime, ambaye hakulipwa mshahara wake wa <sup>Disemba</sup> ~~December~~, 1983. Nilipouliza Swali katika Bunge hili niliambiwa kwamba atalipwa na sasa nimesimama kwa jambo la nidhamu/ <sup>kwa</sup> ~~uz~~ mara mbili. Katika mara ya kwanza, Waziri aliahidi kwamba mtu huyu akienda kule Voi mwisho wa mwezi wa Julai, atalipwa mashahara wake, lakini/mtu huyu alifanya hivyo, <sup>ingawa</sup> ~~uz~~ hakuzipata pesa zake. Nilikuja hapa Bungeni tena na kusimama kwa jambo la nidhamu na Waziri akaahidi kwamba mtu yule atalipwa mshahara wake mwisho wa mwezi wa ~~uz~~ Septemba - - -

AN HON. MEMBER: Waziri gani huyu.

MR. MWACHOFI: Huyu ni Waziri wa <sup>Ustawi wa</sup> ~~My~~ Maji. Bw. Spika, wiki iliyopita, nilikwenda na mtu huyu mpaka kule Voi lakini tuliambiwa kwamba pesa zake hazijafika kule. Sasa hii ndiyo sababu ninasema kwamba Bunge hili linanyimwa heshima yake kwa sababu ahadi inatolewa lakini haitimizwi. Ningependa Waziri aeleze ni kwa nini mambo kama haya yanafanyika.

Jambo la pili, Bw. Spika, linafanana na hilo la kwanza, lakini linaihusu Wizara ya Leba ambayo watu wengine wanazoea kujiita Wizara ya Wafanyakazi. Hili ni/ <sup>jambo</sup>

MR. MWACHOFI (Ctd.):

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likaletwa tena lililoletwa hapa Bungeni kama Swali mwaka wa 1985 na pia katika mwaka wa 1987 / chini ya Swali No.74 kuhusu wafanyakazi wa kituo cha Shell BP kule Voi. Waziri Okondo kwa mara ya mwisho, niliposimama kwa jambo la nidhamu, alisimama na akaliahidia Bunge hili kwamba ~~ta~~ atachukua hatua, lakini tangu mwaka wa 1985 mpaka leo, ~~ku~~ wafanyakazi hawa wa Shell BP petrol station hawajalipwa mishahara yao na Waziri anaendelea kusema kwamba watalipwa. Mwijiri huyu ambaye anaonekana mkubwa kuliko Serikali au kuliko Wizara ni nani? Ni kwa nini Waziri anaendelea kuliahidia Bunge hili kwamba atachukua hatua na hakuna hatua yoyote anayochukua. Ningependa alieleza jambo hili.

Bw. Spika, jambo langu la tatu/inahusiana na mkutano wa Harambee ambao ulifanywa kule nyumbani kwangu jana. Ningetaka kutoa shukrani kwa Mtukufu Rais kwa vile alivyoendesha mtukano mzuri wa harambee ambapo pesa nyingi sana zilichangwa. Lakini jambo ambalo limetushangaza ni kwamba <sup>wawakusika na</sup> vyombo vya utangazaji, yaani, ~~Sh~~auti ya Kenya na magazeti yote, hawakusema kwamba Mbunge wa Wundanyi alikuweco. ~~Ki~~ Kama ungeisikiliza redio au kuyasoma magazeti yote hapa nchini, ungeamini kwamba Mbunge wa Wundanyi hakuweco mkutanoni, ~~jale~~. Katika ripoti yote iliyo tolewa, ~~hizi~~ hawakutaja kwamba mimi, kama mhe. Mbunge wa sehemu ile, nilikuweco. Pengine wale marafiki wangu ambao walinipatia Shs.100/-, Shs.50/- na zote zikafika Shs.2,000/- halafu nikaongezewa Shs.1,000/- nami nikaongeza zangu na sasa zote zikawa Shs.5,300/-, walifikiria kwamba sikuzipeleka zile pesa. Niliutoa ~~ku~~ mchango huo na ningependa <sup>nili fanya</sup> ~~ku~~ vyombo vya habari vieleze/hivyo.

Ahsante, Bw. Spika.

MR. LUKINDO: Jambo la nidhamu, Bw. Spika. Jambo langu la nidhamu <sup>mahabusi</sup> linawahusu wale ~~mahabusi~~ wawili waliotoroka hivi juzi kutoka Korti Kuu ya Kenya. <sup>mahabusi</sup> ~~Kitiambizi~~ Tuliambiwa kwamba ~~mahabusi~~ hawa walitolewa jela na kupelekwa kule kortini na walipokuwa nje ya korti amoja wao alimvamia askari mwenye kubeba bunduki ya aina ya G3, na wote wawili wakatoroka na bunduki hiyo. Lakini mpaka sasa, tunaambiwa kwamba ~~ku~~ <sup>hawa</sup> watu/hawajapatikana. Ningependa Waziri ~~Makamu~~ Makamu wa Rais na Waziri wa Mambo ya Nchini atoe taarifa kamili na kulieleza Bunge hili, na nchi yote kwa jumla, ni hatua gani amechukua kuhusu jambo hili.

MR. LUKINDO (Ctd.):

katika  
 Sisi sote tunafahamu wazi kanuni za jela. Mimi nimekaa/jela kiz kwa miaka mitano  
 na ninafahamu wazi kwamba wahalifu wanapotolewa jela kwenda kortini, hufungwa  
 kwa pingu na kuna njia tatu za kufunga pingu. Kila ~~wahabusi~~ <sup>mahabusi</sup> hufungwa pingu  
 pamoja na askari wa jela na hiyo ni njia moja. Njia nyingine ni ya kufunga ~~wahabusi~~ <sup>mahabusi</sup>  
 pingu akiwa peke yake na ya tatu ni ya kuwafunga ~~wahabusi~~ <sup>mahabusi</sup> pingu wakiwa wawili-wawili  
 Bw. Spika, tunapokichungua sana ~~kiz~~ kisa hiki, tunasikia kwamba ~~wahabusi~~ <sup>mahabusi</sup> wahalifu  
 wale walikuwa wahalifu wakubwa sana lakini wali tolewa kule jela, bila kufungwa na  
 kwa pingu, na kuwoka katika gari la jela. Walipofika kule kortini, kwa sababu  
 walikuwa hawajafungwa kwa pingu, na wakaona kwamba ni ~~askari~~ <sup>askari</sup> mmoja tu ambaye alikuwa  
 walikuwa  
 na bunduki na wale wengine/wamékwenda kutembea, walipata nafasi ya kumvamia yule  
 askari.

END I

J. Lukindo

MR. LUKINDO (ctd.):

Askari hawakuwa na bunduki nao <sup>mahabusu</sup> hawakufungwa pingu, na wangepatikana walikuwa ni wahalifu wakubwa sana ambao <sup>walijua</sup> kwamba <sup>wangepatikana</sup> na hatia, wangehukumiwa kunyongwa, kwa hivyo wangepanya chochote.

Kwa hivyo, Bw. Spika, ningependa taarifa kamili itolewe na Ofisi ya Makamu wa Rais na Wizara ya <sup>Mambo</sup> ~~Ma~~ Nchini kwa sababu huenda ikawa kuna hila fulani iliyotungwa ~~na~~ hapo mbeleni ili hao <sup>mahabusu</sup> watoroke waende ~~na~~ zao. Mpaka leo, tunasikia hawajashikwa. Kwa hivyo, tuna hofu.

MR. SPEAKER: You have said that many times, and I am sure the Ministry concerned ~~has~~ has heard it.

(The Vice-President and Minister for Home Affairs (Mr. Kibaki) continued to sit)

MR. SHIKUKU: Bw. Spika, nilikuwa nafikiria kwamba Waziri anayehusika angejibu. Kama hajibu, ningependa kutoa jambo langu la nidhamu.

MR. SPEAKER: All right, you can go ahead.

MR. SHIKUKU: Jambo la nidhamu, Bw. Spika. Jambo langu la nidhamu ni kuhusiana na ripoti iliyotolewa na gazeti la The Standard ~~na~~ yenye kichwa "Meeting 'secretly planned'. Mambo waliyoyasema ni ~~na~~ sawa ingawa kuna jambo moja walilosema ambalo halikuwa la sawa. Jambo hilo ni kwamba, na nitalinukuu:-

"The alleged meeting will be held at a hotel where the unnamed Minister and the two administrators would conduct the funds drive, he claimed."

Bw. Spika, nina HANSARD ya jana hapa na hakuna mahali popote inapoonyesha kwamba nilisema habari kuhusiana na mkutano katika hoteli. Sijui hawa ndugu zangu wanaofanya kazi kwa The Standard waliyatoa wapi maneno hayo, pengine walikuwa na mambo mengine. Sikuyasema hayo, na si haki kwao kuandika mambo ambayo sikusema.

MR. SHIKUKU (ctd.):

Jambo & nililosema ni kwamba kutakuwa na mkutano Jumapili na nimewaomba watu wa Butere, ijapokuwa ni uchokozi, waje kwa wingi na waje na pesa <sup>zika</sup> ~~cha~~ kuchanga. Lakini sikusema z habari ya mkutano katika hoteli.

Jambo langu la pili ni kuhusu mazungumzo yetu ya jana humu Bungeni ambapo ~~Waziri~~ Waziri katika Ofisi ya Rais, Bw. ole Tipis, alipokuwa akijibu Swali langu, alisema kwamba mimi nilisema ~~ka~~ kwamba Mzungu aitwaye Bw. Moens Roel Victor anafanya kazi bila kibali. Sikusema hivyo, na nilisema nitaiteta HANSARD ya tarehe 25 Novemba 1987 ~~axixa~~ iliyo na maneno niliyoyasema.

Kulingana na HANSARD hiyo, nilisema:-

"Jambo la nidhamu, Bw. Spika. Nina jambo hapa ambalo niliuliza katika Bunge ~~ka~~ hili, na <sup>Kuwasilisha</sup> ~~kwakilisha~~ makaratasi katika Bunge hili kuhusiana na Mzungu mmoja ambaye anafanya kazi katika Sabena Airlines, ambaye anaitwa Mr. Robert Moens Victor aliyepatikana na hatia ya kufanya kazi katika nchi hii bila kuwa na kibali cha kazi, yaani, work permit."

Katika HANSARD ya tarehe 25 Novemba, 1987, nilisema kwamba Mzungu huyo alipatikana na hatia na akapigwa faini ya Sh.3,000/- alipopatikana akifanya kazi bila work permit. Sikusema 'angali anaendelea kufanya kazi'. Kwa hivyo, Bw. ole Tipis hakuliambia Bunge ukweli. Nilisema tu kwamba alipatikana akifanya kazi bila work permit. Hivyo ndivyo nilivyosema, sikusema 'anaendelea kufanya kazi bila work permit'. Hayo ni makosa ya Bw. ole Tipis kusema kwamba nilisema maneno ambayo sikuyasema. Nilivyosema ni kwamba alikuwa amepatikana akifanya kazi bila work permit hapo zamani; sikusema anaendelea kufanya kazi bila work permit. Vile vile, nilimtaka Mkuu wa Sheria atwambie ni kwa nini mtu huyo hajashikwa na anapeleka pesa nje; lakini sikusema alikuwa anaendelea kufanya kazi bila work permit. That is not true.

Kuhusu wale Wahindi watatu walio kule Isenya, Waziri

MR. SHIKUKU (ctd.):

mwenyewe alikubali kwamba mmoja wao alikuwa mwananchi na wawili wao hawakuwa wananchi. Mwanamke aliyenipigia simu alisema kwamba walikuwa wanafanya kazi. Waziri alikubali kwamba mmoja wa watu hao alikuwa hana work permit; alikuwa na entry permit peke yake. Vile vile, alisema kwamba mmoja wao amepotea. Ukweli ni upi? Ukweli ni kwamba watu hao walikuwa humu nchini. Kama mmoja wao alitoroka na mmoja wao alikuwa na entry permit peke yake, inaonyesha kwamba walikuwa Isenya. Hakuna jambo lilosemwa ambalo halikuwa la kweli.

Pamoja na hayo, Bw. Spika, Mhe. ole Tipis alisema kwamba mimi huleta 'unauthenticated documents' katika Bunge hili. Mimi sijafanya kitu kama hicho. Mimi nilisema, na husema, na nikaleta authenticated documents. Nia yangu si kuharibu Serikali; nia yangu ni kuuleta ukweli; Serikali iufwate; na ifanye jambo.

~~MR. SPEAKER:~~ Mr. Shikuku, you have said enough.

MR. SHIKUKU: Bw. Spika, mimi ni mtu wa heshima, na huleta ukweli peke yake katika Bunge hili.

(applause)

THE MINISTER OF STATE, OFFICE OF THE PRESIDENT (Mr. ole Tipis): Jambo la nidhamu, Bw. Spika. Ni kweli mhe. Shikuku ni mtu wa heshima kwa sababu ni msheshimiwa. Sisi sote tu watu wa heshima.

Jambo la kwanza ambalo ningependa kusema ni kwamba mambo ambayo Bw. Shikuku anayasema si ukweli kabisa. Anaweza <sup>kuendelea</sup> ~~kuendelea~~ kuisoma hiyo HANSARD. Hata mimi ninayo na nimeisoma, na yale maneno niliyoyasema kuhusiana ~~kuhus~~ na Bw. Moens Roel Victor ni ya kweli, kama tunavyojua. Huyu Mzungu ~~ni~~ yuko hapa na nilisema alipata work permit yake tarehe 8 Januari, 1987.

THE MINISTER FOR STATE, OFFICE OF THE PRESIDENT (Mr. ole Tipis)(ctd.)

Ikiwa nia yako ilikuwa mimi nikubaliane nawe tu mimi si mtu wa kabila hilo.

Jambo la pili ni kuhusiana na simu iliyopigwa na mwanamke Mhindi. Ni nani, waheshimiwa Wabunge mlio ndani ya Bunge hili, asiyejua shida tulizonazo kuhusu fitima baina ya familia zote za kihindi - hata za Wafrika ~~wz~~ wengine, lakini za wale wa Kihindi zimezidi. <sup>Tunaweza</sup> ~~Tunaweza~~ kushtakiwa kama Serikali kwa <sup>Kubaliana</sup> ~~kubaliana~~ na habari za M mwanamke Mhindi aliyepiga simu, kwani huenda akawa ni mmoja ~~x~~ wa wale walio katika famili zisi-zosikizana. Hii ni ~~xp~~ porojo.

Jambo la tatu ni kuhusu 'authenticated documents' An authenticated document ni ~~haya~~ maandiko ambayo yamekuwa certified. Lakini zile tunazopata kutoka kwa mhe. Shikuku ni zile ambazo amenyakua kwa njia zake mwenyewe ambazo hazijakuwa certified true copies of the original. Mtu yeyote anaweza kuandika ~~ku~~barua na ~~ku~~fileta hapa. Tunataka certified true copies za maandiko hayo ambazo zimewekwa sahihi na ~~mk~~ mwandishi wa maandiko hayo rasmi. <sup>Kuingiza</sup> ~~Sitaki~~ Sitaki ~~kuingiza~~ ubishi kati yangu na mhe. Mbunge mwenzangu. Ninayoyasema ni ya haki na sisi, kama Serikali, wajibu wetu mkubwa ni kusema haki wakati wote.

Kuhusu jambo la kupeleka pesa nje ya nchi hii, hata kabla ya mtu yeyote kufanya k jambo lolote, Serikali yenyewe ndiyo iliyoanzisha uchunguzi, na watu ~~kz~~ wakanaswa, na wanaendelea kunaswa mpaka hivi leo. Kwa hivyo si jambo geni. Kama mtu yeyote atachunguliwa na Serikali na apatikane kwamba anapeleka pesa nje, sheria <sup>itafuatwa</sup> ~~itafuatwa~~ bila ubaguzi wowote.

MR. SHIKUKU: On a point of order, Mr. Speaker, Sir.

MR. SPEAKER: We should not have any more of that, Mr. Shikuku. That is enough. We will now move on. We have taken quite a lot of time on that.



## BILL

The ~~Kenya~~ Constitution of Kenya (Amendment) Bill

(The Attorney-General on 17.11.87)

(Resumption of Debate interrupted on 1.12.87)

~~MR.~~ SPEAKER: Order! Order! Sit down at your places.

We shall now go into Division so I hope no hon. Members will leave the Chamber. Ring the ~~Big~~ Division Bell.

(The Division Bell was rung)

Order! Now the next step is to count how many hon. Members ~~are~~ are in. So, I hope hon. Members will not ~~move~~ move from their positions during the ~~z~~ counting.

Now, hon. Members, we shall have the tellers as follows. The tellers for the Ayes will be hon. Karauri and hon. Hassan. The tellers for the Noes will be hon. Kiptanui and hon. Mzee. The Ayes will go to my right and the Noes to the left.


(END.....K)

~~MR. SPEAKER:~~ Order! I would also like to point out that there is an opening for a third group-----

(Noise)

AN HON. MEMBER: Order! Speaker anaongea.

~~MR. SPEAKER:~~ The h\_on. Members who abstain should report to the Clerks so that they can also be recorded.

END L 

## DIVISION

(Question put and the House divided)

(Question carried 123 votes by nil)

AYES: Messrs. Abdi, Abuya-Abuya, Ali, Angaine, Angatia, Ang'elei, Anyumba, Aringo, Awori, Ayah, Barngetuny, Biwott, Bomett, Boru, Cheboiwo, Chepkok, Ddaiddo, Ejore, Ekidor, Gachanja, Dr. Gecaga, Messrs. Goh, Gor, Hassan, Prof. Indire, Messrs. Ivuti, Kamuren, Kanindo, Karauri, Kariuki, Dr. Karanja, Messrs. Karumé, Keriri, Khalif, Khasakhala, Kibaki, Kikuyu, Kiliku, Kiome, Kiptanui, Kipkorir, Kirior, Kisiero, Kitele, Kivuitu, Koech, Korellach, Korir, Kosgey, Koske, Kubai. Leakey, Lotitiyo, Lugonzo, Lukindo, Magugu, Maiyani, Mak'anyengo, Marita, Mate, Mathenge, Matiba, Mbori, Metto, Michuki, M'Maitsi, M'Mbijjiwe, Mohamed, Mudavadi, Muchiri, Muhoho, Muigai, Mungai P.T., Mungai J.N., Munyao, Musyoka, Muthamia, Mutiso, Mutisya, Muturia, Mwachofi, Mwamunga, Mwangale, Mwendwa, Mweu, Mwicigi, Mzamil, Mzee, Ndzai, Ngala, Prof. Ng'eno, Messrs. Ng'eny, Noru, Nyagah, Nyakiamo, Obure, Odupoy, Ogada, Ogle, Mrs Ogot, Messrs. Okondo, Omido, Archbishop Ondiek, Onyancha, Oyondi, Otutu, Otwani, Dr. Ouko, Mr. Saina, Prof. Saitoti, Messrs. Shikuku, Sindano, Soba, Prof. Sumbi, Messrs. Thuo, Tipis, Twarith, Tuva, Wagura, Wakiondo, Wamae, Dr. Wameyo, Mr. Wanjigi.

Tellers of the Ayes: Messrs. Karauri and Hassan.

NOES: Nil.

Tellers of the Noes: Messrs. Mzee and Kiptanui.

ABSTENTIONS: Nil.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

Mr. Speaker left the Chair

IN THE COMMITTEE

Mr. Chairman took the Chair

The Constitution of Kenya (Amendment) Bill

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

THE ATTORNEY-GENERAL (Mr. Muli): Mr. Chairman, Sir,  
I beg to move that the Committee doth report to the House its  
consideration of The Constitution of Kenya (Amendment) Bill and  
its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

Mr. Speaker in the Chair

REPORT AND THIRD READING

MR. arap N'GENY: Mr. Speaker, Sir, I beg to report  
that a Committee of the whole House has considered The Constitution  
of Kenya (Amendment) Bill and approved the same without amendment.

THE ATTORNEY-GENERAL:(Mr. Muli): Mr. Speaker, Sir,  
I beg to move that the House doth agree with the Committee in  
the said Report.

THE VICE-PRESIDENT AND MINISTER FOR HOME AFFAIRS  
(Mr. Kibaki) seconded.

(Question proposed)

(Question put and agreed to)

THE ATTORNEY-GENERAL (Mr. Muli): Mr. Speaker, Sir,  
I beg to move that The Constitution of Kenya (Amendment) Bill  
be now read a Third Time.

THE VICE-PRESIDENT AND MINISTER FOR HOME AFFAIRS  
(Mr. Kibaki) seconded.

(Question proposed)

MR. SHIKUKU: Asante sana, kwa kunipa nafasi.  
Kwa vile sasa Katiba imebadilishwa, ningependa ~~ku~~ Mswada huu  
ambao unaenda kubadilisha---Sijui kama amendment ni kubadilisha  
au ni kurekebisha---

ANIHON. MEMBER: <sup>Ni</sup> /kurekebisha.

MR. SHIKUKU: ~~ku~~ Haya, amendment ni kurekebisha. Kiswahili  
ni kigumu wakati mwingine. Ni matumaini yangu kwamba, kwa vile sasa  
Katiba itakuwa ikisomwa kama vile ilivyorekebisha, naomba  
sheria hii itumiwe kwa kuleta haki na isitumiwe kwa njia mbaya  
na wale ~~ku~~ tutakaowapa madaraka hayo. Yafaa waitumie kwa  
njia nzuri na pia kuweko na uangalifu sana ili haki ionekane.  
Dalili ya mvua ni mawingu. Wakati mwingine, binadamu huwa na  
haraka na hujaribu kuharakisha mambo au kuondoa haki. Hii  
imeonekana katika siku zilizopita ambapo sheria ~~ku~~ inapuuuzwa.  
Hii ni kwa sababu <sup>ya</sup> /mtu fulani kufanya jambo haraka. Hata hivi  
leo, tumeambiwa kuwa kamati imeundwa na chama kimeandikishwa  
na hali sisi hatukuulizwa. <sup>Juzi</sup> tuliambiwa kuwa kuna mishahara  
iliyokatwa na hatukuwa tumeulizwa - na hivyo ni kinyume cha  
sheria. Sheria na Katiba ya Kenya yafaa ziangaliwe sawa sawa,  
na tukivunja au tukicheza na Katiba, tuna cheza na maisha ya  
watu wa nchi hii. Tukicheza na sheria ambayo tumeipitisha  
katika Bunge hili, tunatafuta matata.

MR. SHIKUKU (Ctd.):

Kwa hivyo, nawaomba wale wanaohusika na utekelezaji wa sheria ya nchi hii wasikubali kuchukua njia ya mkato. Tunataka haki na haki ndiyoungao na <sup>Mlinzi</sup> ~~alizi~~, vile wimbo wetu wa taifa unavyosema.

END 0.....

MR. SHIKUKU (ctd);

Kwa hivyo, Bw. Spika, ningependa maneno yafuatayo yaandikwe: Katiba na haki ni ngao yetu. Ni lazima watu wote katika nchi hii watendewe haki. Ukiwa mdogo ni lazima upate haki na vile vile ukiwa mtu mkubwa ni lazima utendewe haki. Jambo hilo likifanyika haki itadumu katika nchi hii. Lakini ikiwa wale ambao wamepewa jukumu la kuzitekeleza sheria za nchi hii na kuilinda Katiba ya nchi hii wanataka kuchukua njia ya mkato basi wataleta madhara katika Kenya hii. Sote tunataka amani na amani itaandamana na haki. Ni lazima haki iwe ngao na mlinzi kwa ~~wote~~ wote na wala si kwa wakubwa peke yao.

Naomba kuunga mkono.

MR. MWACHOFI: Nakushukuru sana mhe. Spika kwa kunipa nafasi ili nitaje jambo moja hapa na kulitilia mkazo. Kwa vile Bunge hili limekubali kuifanyia rekebisho Katiba yetu yafaa Mkuu wa Sheria achukue fursa kuiangalia Katiba yetu; kifungu baada ya kifungu na hasa sehemu zile ambazo zilirekebisha hivi majuzi. Nina-sema hivi kwa sababu ~~Mkuu~~ Mkuu wa Sheria akiviangalia hivi vifungu atakuta kwamba kuna sehemu ambazo zimefanyiwa marekebisha ambayo yanahusiana na sehemu nyingine ambazo hazijarekebisha. Utaona kwamba kunakuwa na aina fulani ya mchanganyiko wa vifungu katika Katiba yetu. Ni lazima Katiba iwe inaeleweka kabisa. Mfano mmoja ni kwamba tulipitisha Mswada hapa wa kuanzisha cheo cha ~~Auditor~~ Auditor-General (Corporations). Kulingana na Katiba yetu kuna ofisi ya Controller and Auditor-General. Kwa hivyo kuanzishwa kwa ofisi ya Auditor-General (Corporations) hakungekuwa kitu muhimu. Hii ndiyo sababu ninasema kwamba ni lazima Mkuu wa Sheria aende na kuyaangalia haya mambo ili anapoleta miscellaneous amendments awe amehakikisha kwamba marekebisha yote yanayohusika yamefanywa. Hii ni kwa sababu Katiba ndiyo sheria ya msingi na sheria nyingine

yo yote ambayo inakuwa kinyume na Katiba si sheria kamwe.

Naomba kuunga mkono.

MR. ANGATIA: Thank you very much, Mr. Speaker, Sir, for giving me this chance so ~~that~~ that I also add a word or two on this Bill at this stage. I do not want to repeat the debate. I just want to emphasise that the laws and the Constitution of this country will only operate, function and make sense if ~~absolutely~~ ~~every~~ every Kenyan takes it upon himself to make sure that this Constitution is protected and that the laws of this land are protected. There should not be any people who would appear to be above the law; who would appear to be too big to <sup>obey</sup> ~~follow~~ the rules and the Constitution of this country.

Mr. Speaker, Sir, the moment anyone tries to bend the laws and the Constitution of this country, that will be the beginning of problems. I see it as the duty of everybody; duty of Members of Parliament, Ministers and Kenyans in general, to ensure that nobody is tampering with our Constitution and that nobody is tampering with our laws. Misuse of office or official excesses should also be curbed. When we talk about Kenyans and their good behaviour and their love ~~the~~ peace and unity, we are talking about even those in big offices; that they should not use their <sup>official</sup> positions to do anything that could jeopardize the peace, love and the unity we have in this country. Therefore, we support our Constitution and we will always defend it. When we ask Questions about the Constitution or about the laws of this land, we are not opposing the Government. But are only criticising those who are tampering with our Constitution or with our laws. It is should not matter whether it is a Minister. If he is tampering with ~~the~~ the laws of this country he should be stopped. Anybody including Members of Parliament and ~~wise~~ old men in this country should resist anyone who tries to tamper with our Constitution. When we see ~~the~~ evil



we should all attack it. No one should share a bed with evil. No one should share a chair with evil. When we see evil we must realise that it is evil; there are no other names we can give to it. All of us are supposed to attack evil to make sure that our countries & continues to be under the rule of law. We must ensure that this country continues to enjoy the peace, love and the unity that we are enjoying today under the ~~leadership~~ leadership of His Excellency President Daniel arap Moi.

With those few remarks, I beg to support.

THE ASSISTANT MINISTER FOR WORKS, HOUSING AND PHYSICAL PLANNING(Mr. Musyoka): On a point of order, Mr. Speaker, Sir. In view of the fact that ~~this particular amendment Bill has~~ ~~the~~ The Constitution of Kenya (Amendment) Bill has been, in my opinion, exhaustively discussed I beg to move that the Mover be now called upon to reply.

(Question that the Mover be now called upon to reply, put and agreed to)

THE ATTORNEY-GENERAL(Mr. Muli): Mr. Speaker, Sir, I beg to move.

MR. SPEAKER: We will now proceed on to the second Division. Please remain inside the Chamber. Ring the Division Bell.

DIVISION

(Question put and the House divided)

END.P.

DIVISION

(Question put and the House divided)

(Question carried by 124 votes to nil)

AYES: Messrs. Abuya-Abuya, Ali, Angaine, Angatia, Ang'elei, Anyumba, Aringo, Awori, Ayah, Barngetuny, Biwott, Boru, Cheboiwo, Daidido, Deghow, Ejore, Edidor, Gecaga, Gor, Galgalo, Hassan, Prof. Indire, Messrs. Ivuti, Jaldesa, Kamuren, Kanindo, Karauri, Kariuki, Dr. Karanja, Messrs. Karume, Katurkana, Keriri, Khalif, Khasakhala, Kibaki, Kikuyu, Kiliku, Kiondo wa, Kiome, Kipkorir, Kiptanui, Kirior, Kisiero, Kitele, Kivuitu, Koech, Korelach, Korir, Koske, Kosgey, Kubai, Leakey, Lotitiyo, Lugonzo, Lukindo, Magugu, Maiyani, Mak'aryengo, Dr. Mango, Messrs. Marita, Mate, Mathenge, Matiba, Mohamed, Hbori, Metto, Michuki, M'maitzi, M'mbijiwe, Mučavadi, Muhoho, Muhuri, Mungai, Mungai, Munyao, Musyoka, Muthamia, Mutiso, Mutisya, Mutura, Mwachofi, Mwamunga, Mwangale, Mwaruwa, Mwendwa, Mweu, Mwicigi, Mwita, Mzamil, Mzee, Ndzai, Ngala, Ng'eno, Ng'eny, N. D. Mungai, Njuno, Noru, Nyagah, Nyakjano, Obure, Odupoy, Otieno, Ogada, Ogle, Mrs. Ogot, Messrs. Okondo, Omido, Ondiek, Oyondi, Otutu, Dr. Ouko, Mr. Sainā, Prof. Saitoti, Messrs. Sheikh, Shikuku, Sindano, Soba, Prof. Sumbi, Messrs. Thuo, Tipis, Tuva Wagura, Wamae, Dr. Wameyo, Mr. Wanjigi.

NOES: Nil

ABSTENTIONS: Nil

Tellers of the Ayes: Messrs. Karauri and Hassan

Tellers of Noes: Messrs. Kiptanui and Mzee

(The Bill was accordingly read the Third Time and passed)

Second Reading

The Sectional Properties Bill

(The Minister for Lands and Settlement on 1.12.87)(Resumption of Debate interrupted on 2.12.87)

THE MINISTER FOR LABOUR (Mr. Okondo): Mr. Speaker, Sir, when the House adjourned last night I was saying that one of the aspects the Minister <sup>ought</sup> to look at in this Bill is the public health aspect of the sectional properties. If this is not properly looked ~~after~~ after, we could be building terrible slum areas that may be impossible to live in, unless that action is taken and all attention paid to this ~~possibility~~ <sup>possibility</sup>. If this is to be effective, I think it should be in the Bill. It should not be left to local authorities to think about. ~~It~~ If it is left to a local authorities, some may do so, others may be slow in doing so while others may not do it at all. The result will be that we may have sectional property owned by a number of people that will remain almost uninhabitable. This is why I request the Minister <sup>to consider</sup> putting this amendment in the Bill so that every contractor, local authority and organisation that is constructing a building of this kind will make sure that this provision is allowed for in this respect.

Mr. Speaker, Sir, the position is that throughout Kenya today there is still a shortage of housing. If you go up to the valley, you will find that virtually everyday tens of new units of paper and similar <sup>Material</sup> are coming up in different places. Most of them are on somebody else's land or some other local authority's land. This thing is <sup>virtually</sup> multiplying, and I must say literally, unchecked. I think it is time the Minister, in implementing this Bill, also saw to it that this kind of multiplication of unauthorised development is restricted according to the regulations. I do not think that it is happening ~~because~~ only because the poor do not have places to live in. I think most of those sub-standard buildings that are coming up are built by rich people, who have the means. But who do not want to spend money to construct decent housing because they make a lot of money out of slums. This is an aspect that every local authority ought to look into. Since it concerns land, I urge the Minister to take this opportunity to also look into this abuse in which people are being more or less forced to live in sub-standard accommodation. Some

THE MINISTER FOR LABOUR (CTD):

rich are constructing these things and letting them to supposedly poor people, some of whom do not want to live in this kind of thing.

Mr. Speaker, Sir, I think there is no provision in the Bill for the construction of this kind of sectional property on a horizontal basis. All that we are talking about at present is perpendicular development. But we also have to consider the feasibility of doing it on a horizontal basis. This is because it may be easy to start ~~with~~ with in that way, in that perpendicular building requires a certain amount of structural reinforcement. That cannot be done unless there is a considerable <sup>amount</sup> of money and engineering. But on the horizontal basis a ~~person~~ person ought to be able to develop four or five flats on his piece of land.

QUORUM

MR. KHALIF: On a point of order, Mr. Speaker, Sir. There is no Quorum in the House.

MR. SPEAKER: Yes; ring the Division Bell.

(The Division Bell was rung)

END S

MR. SPEAKER: We have a quorum now. You may continue Mr. Okondo.

THE MINISTER FOR LABOUR (Mr. Okondo): This is a point that the Minister should give a measure of consideration because when you own property by use of a corporation, the corporation can help in maintaining the place clean and smart, and making it tenantable. The result of one of these situations is that, today, practically, all the public places in the municipalities like that of Nairobi, the areas which have been left in the estates for the recreation of children have become rubbish dumps. This<sup>is</sup> really a terrible thing because there is no way in which at present you can force the house owners to treat rubbish in a way that is acceptable to the local authorities. This is why I am suggesting that development should also take place in small plots horizontally so that people living there can form a corporation and keep their unit clean and smart.

These are some of the things that experience has taught me. We deal with these ~~th~~ kinds of problems frequently. When you bring them up they should be ~~is~~ solved. Unless they are solved, we will continue to encounter many difficulties.

With those few remarks, Mr./<sup>Deputy</sup>Speaker, Sir, I beg to support.

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Deputy Speaker, Sir, I beg to reply.

I will first of all take this opportunity to thank Members for their contributions. As I said earlier on when I was moving the Bill, this Bill was overdue. From the comments which the Members have made, I can see that they did agree with my sentiments. They also agreed that the Bill will give a larger scope to fast developers to increase houses or units. It will also be of great help, particularly to young people who have graduated from universities or ~~are~~ elsewhere and who cannot buy houses and have units of their own.

T.2.....3.12.87

THE MINISTER FOR LANDS AND SETTLEMENT (Ctd.):

Members expressed fears about certain clauses starting with clause 1. Hon. Angatia did say that the one part of the Bill was left out. I agree with him, there was a part which was left out. Under Clause 1, that is the only one mistake I noted. In clause 2, a lot of hon. Members queried the basis for saying that 45 years should be maximum for the leasehold. This requirement is very simple. The financiers want a longer period before they can give out money. It was suggested that we make it 33 years, but 45 years was arrived at because it will also give the buyer a much longer period to raise security, there is no magic about that.

A lot of hon. Members were not so sure as to what the Corporation was going to do. The Corporation is really for the owners, it is a service body which is going to carry out what the owners want. It is as simple as that. It was also said that there should have been some standard by-laws to govern the corporation.

Mr. Speaker, Sir, the House will be pleased to know that the drafters have prepared the by-laws. It would not have been possible to attach it to the Bill, but we agree that there should be standard by-laws. They will be made available as soon as the Bill is passed.

END T.....

THE MINISTER FOR LANDS AND SETTLEMENT (contd.):

From there they came to the question of acquiring land for development. I agree that my Ministry should look further into this, and a provision should be made by Government for my Ministry to be given money to acquire land on yearly basis all over Kenya to cater for future development.

Mr. Speaker, Sir, from there we came to the question on how the Corporation should be looking for certain common interests like insurance and so forth.

The question of paying of insurance premiums where a buyer has not met his commitment also arose. The question of paying it in instalments also arose. This led us to think about the by-laws again. The hon. Member for Butere wanted to know how this will be implemented, and how the law of the Corporation will be applied. This is very simple. The owners of the units are the owners of the Corporation and they are the people who form the board.

Mr. Speaker, Sir the most important thing about this Bill is that it does not only refer to residential property alone. If you look at part Two Section 4 to 16, you will see that the Bill covers all structures. You can convert the current ones to sectional properties to allow the traders in a market to own something. All in all, if properly utilised, this Bill will give a large scope for development.

Mr. Speaker, Sir, I will now refer to the Memorandum of Objects and Reasons at the end.

U.2.....3.12.87

THE MINISTER FOR LANDS AND SETTLEMENT (Ctd.):

In part IV, Clause 46 contains provisions relating to the question of renting residential units. Here respective rights of the developer and the purchaser are clearly defined. I would like to mention that before a developer can enter into an agreement to sell a building it will be necessary to ensure that the deposit is not paid directly to the developer; it should be deposited into an account until the developer is in a position to finish the unit. This is a very important point because it looks after the interest of the purchaser. A point was raised here about the question of looking after the property and common interests. Hon. Okondo made very good points. By-laws should provide conditions on how to look after the property, and on how dispose of rubbish, so that we do not end up having dirty units. It came out very clearly that the greatest weakness that we have in the country is that people have not learnt on how to look after the common ~~prop~~ property; be it Government property or rented ones.

END U....



## THE MINISTER FOR LANDS AND SETTLEMENT (Contd.):

Mr. Speaker, Sir, the aim of this Bill is to teach the people who own the units that they are in one property for the common good, and it is important to look after it. I think I have touched on most important points, and I take this opportunity to thank the hon. Members for their contribution.

Mr. Speaker, Sir, I beg to move.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House today by leave of the House)

## COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

Mr. Speaker left the Chair

## IN THE COMMITTEE

Mr. Chairman took the Chair

The Sectional Properties Bill

(Clause 2 agreed to)

## QUORUM.

MR. SHIKUKU: On a point of order, Mr. Chairman, Sir. I would like to draw your attention to the fact that we have only 23 hon. Members here instead of 30, according to Standing Order No.24.

MR. CHAIRMAN: <sup>yes</sup> ~~ok~~ there is no quorum. Ring the Division Bell.

(The Division Bell was rung)

MR. CHAIRMAN: Okay. We have a quorum now. Let us continue.

Clause 3

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir, I beg to move:-

That Clause 3 be amended by -

- (a) deleting the definition of "landlord" and inserting the following -

THE MINISTER FOR LANDS AND SETTLEMENT (Contd.):

"landlord" means the owner of a unit which is being rented and includes a person acting on behalf of the owner;

(b) deleting the definition of "unit factor".

(Question of the amendment proposed)

MR. ANGATIA: Mr. Chairman, Sir, I want to draw the attention of the Minister to Clause 3: definition on "common property".

MR. CHAIRMAN: But I have already put the question.

MR. ANGATIA: Mr. Chairman, I am sure you are going to put the question again.

MR. CHAIRMAN: I have already put the question and acceded to.

MR. ANGATIA: No, the amendment on Clause 3 is not yet acceded to, Mr. Chairman.

MR. CHAIRMAN: But I have already put the question.

MR. ANGATIA: Mr. Chairman, I am not disputing or debating the amendment brought in by the Minister, but I am questioning another part of Clause 3.

MR. CHAIRMAN: Okay. Go ahead.

MR. ANGATIA: Mr. Chairman, the part of Clause 3 that I wanted to ask the Minister to explain again is the definition on "common property". It reads and I quote:-

"means so much of a parcel as is not comprised in a unit shown in a sectional plan;"

I thought the sectional plan and the unit were within the common property, or is it the other way round?

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir, common property gives room to sectional property. You cannot have a sectional property unless you have a common property. It is within it.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 3 as amended agreed to)

(Clause 4 agreed to)

Clause 5.

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir, I beg to move:-

That Clause 5 be amended by deleting the expression "land certificate" wherever it occurs and inserting "certificate of sectional property".

(Question of the amendment proposed)

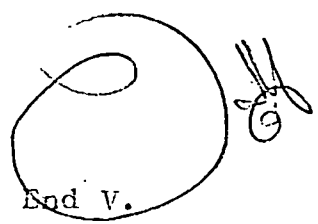
MR. SHIKUKU: On a point of order, Mr. Chairman, Sir. The hon. Minister is developing a habit of saying "as it appears on the Order Paper", and he also does not even try to explain the reasons why he is doing whatever he is doing.

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir, that is being very specific to a unit.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 5 as amended agreed to)

  
End V.

Clause 6

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir,

I beg to move:-

THAT, Clause 6(1) be amended by deleting the expression "land certificate" appearing in the fifth line and inserting "certificate of sectional property".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 6 as amended agreed to)

(Clauses 7 and 8 agreed to)

Clause 9

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir,

I beg to move:-

THAT, Clause 9 be amended by:-

- (a) deleting the expression "Section 65" appearing in sub-clause (1) (i) and inserting "Section 64; and
- (b) in sub-clause 2, by deleting the expression "as a sectional plan" appearing in the first and second lines.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 9 as amended agreed to)

(Clause 10 agreed to)

Clause 11

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir,

I beg to move:-

THAT, Clause 11(1) be amended by deleting the words "the building" appearing in the second line of paragraph (b) and inserting "the structure".

(Question of the amendment proposed)

THE CHAIRMAN (ctd.):

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 11 as amended agreed to)

(Clauses 12 and 13 agreed to)

Clause 14

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir,  
I beg to move:-

THAT, Clause 14 be amended by deleting the words  
"in it" appearing in the second line and inserting  
the words "on the sectional plan".

(Question of the amendment proposed)

MR. SHIKUKU: Mr. Chairman, Sir, can the Minister explain to the House the  
purpose of deleting the words "in it" and inserting in place thereof the words "on  
the sectional plan?"

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir,  
the purpose of the amendment is very clear. We want to be specific that we are  
referring to the sectional plan.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 14 as amended agreed to)

(Clauses 15, 16, 17, 18 and 19 agreed to)

Clause 20

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir,  
I beg to move:-

THAT, Clause 20 be amended in sub-clauses (4) and  
(5) by deleting the word "land" wherever it appears  
and inserting the word "parcel".

(Question of the amendment proposed)

MR. SHIKUKU: Mr. Chairman, Sir, if you look at Clause 3 on page 315, it  
is said that "parcel" means the land comprised in a sectional plan. I do not

MR. SHIKUKU (ctd.):

understand, therefore, why the Minister is telling us to delete the word "land" and substitute it with the word "parcel". Can he explain to me?

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir, the reason for this amendment is that the Corporation looks after the interests of the owners, and the owners refer to units which, indeed, ~~mean~~ mean parcels.

(Question, that the word to be left out be left out, put and agreed to)

(Question, that the word to be inserted in place thereof be inserted, put and agreed to)

(Clause 20 as amended agreed to)

(Clauses 21 and 22 agreed to)

Clause 23

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir, I beg to move:-

(2)  
THAT, Clause 23 be amended by deleting the word "mortgage" wherever it occurs.

(Question of the amendment proposed)

MR. ANGATIA: Mr. Chairman, Sir, if you look at page 327, the third line from the bottom, the word "mortgage" occurs and it is followed by the word "or". If you delete the word "mortgage" only, how does it read?

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir, the hon. Member is correct. We should delete the word "mortgage" as well as the word "or" because "charge" and "mortgage" mean the same thing.

MR. SHIKUKU: Mr. Chairman, Sir, I think you heard me interjecting and asking the Minister why he had to amend this Clause, but he did not explain. He is now appreciating hon. Angatia's remark. I think it is the time Ministers were a bit careful in explaining ~~the~~ things.

THE CHAIRMAN: Anyway, the Minister has conceded to that deletion.

(Question, that the words to be left out be left out, put and agreed to)

(Clause 23 as amended agreed to)

(Clauses 24, 25, 26, 27 and 28 agreed to)

Clause 29

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman,  
Sir, I beg to move:-

THAT, Clause 29 be amended as follows:-

- (a) in subclause (1) by deleting the words "management of the units comprised in a sectional plan" and inserting "management of the units, the movable and immovable property of the Corporation and the common property";
- (b) by deleting sub-clause (2) and inserting the following new ~~clause~~ sub-clause-
- (2) The person appointed as an institutional manager under subsection (1) shall be -
- Cap.531 (a) an accountant registered under the Accountants Act who has held a practising certificate for a period of not less than five years or an accountancy firm that has had an office in Kenya for a period of not less than five years; or
- Cap.533 (b) a person registered as an estate agent under the Estate Agents Act: or
- (c) an advocate.

(Question, that the words to be deleted be deleted, put and agreed to)

(Question, that the words to be inserted in the place thereof be inserted, put and agreed to)

(Clause 29 as amended agreed to)

Clause 30

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir,  
I beg to move:-

THAT, Clause 30 be amended, in sub-clause (4) by deleting the word "mortgage" appearing in the ~~second~~ line.

(Question that the word to be deleted be deleted, put and agreed to)

(Clause 30 as amended agreed to)

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman,

Sir, I beg to move:-

THAT, Clause 31 be amended as follows:-

- (a) in subclause (1) by deleting the word "Court" appearing in the third line and inserting the word "tribunal";
- (b) by deleting subclause (2) and inserting the following new subclause-
  - (2) in order to succeed in an action under subsection (1), the Corporation shall establish to the satisfaction of the tribunal that -
    - (a) the by-law was properly enacted; and
    - (b) the by-law was contravened by the owner, tenant or other person residing in the residential unit;
- (c) in subclause (3) by deleting the expression "judge" and inserting "tribunal";
- (d) by inserting the following new su-clauses (7) and (8) immediately after subclause (6) -
  - (7) in the event of non-compliance with the order of ~~the~~ a tribunal, the aggrieved party may apply to the Resident Magistrate's Court to enforce the order of the tribunal.
  - (8) The tribunal shall make its ruling after a hearing conducted in accordance with the rules of natural justice, and there shall ~~be~~ be no appeal to any court from a ruling of the tribunal except in respect of an error of law.

(Question that the words to be deleted be deleted, put and agreed to)

(Question, that the words to be inserted in the place thereof, be inserted, put and agreed to)

(Clause 31 as amended put and agreed to)

(Clause 32 agreed to)

Clause 33:

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman,

Sir, I beg to move:-

THAT, Clause 33 be amended as follows:-

- (a) in subclauses (5) and (6) by deleting the word, "filing" and inserting the word "registration";



- (b) by renumbering the existing sub-clause (7) as subclause (8) and inserting the following new sub-clause (7) -

- (7) If the Corporation has registered a caution under this section the Corporation shall, on payment to it of the amount of the unpaid contribution, withdraw the caution.

(Question, that the words to be deleted, be deleted, put and agreed to)

(Question, that the words to be inserted in the place thereof, be inserted, put and agreed to)

(Clause 33 as amended agreed to)

(Clauses 34, 35, 36 and 37 agreed to)

Clause 38

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman,

Sir, I beg to move:-

THAT, Clause 38 be amended as follows:-

- (a) in sub-clause (3) be deleting the words, "five hundred per x day" and inserting the words "five hundred shillings per day",
- (b) by deleting sub-clause (5) and inserting the following new clause -
- (5) The Tribunal shall make its order under subsection (4) after a hearing conducted in accordance with the rules of natural justice and there shall be no appeal to any court from a decision of the Tribunal except in respect of an error of law.

(Question, that the words to be deleted, be deleted, put and agreed to)

(Question, that the words to be inserted in the place thereof, be inserted, put and agreed to)

(Clause 38 as amended agreed to)

(Clause 39 agreed to)

Clause 40

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir,

I beg to move:-

THAT, Clause 40 be amended by deleting sub-Clause 9

(Question, that the sub-clause to be deleted be deleted put and agreed to)

(Clause 40 as amended agreed to)

Clause 41

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman,

Sir, I beg to move:-

THAT, Clause 41 be deleted and the following be inserted -

41. A Corporation or an institutional manager, where such a person has been appointed, shall, within twenty days of receiving a request in writing from an owner or a person authorized in writing by an owner or the chargee of a unit, provide to the person making the request, subject to the payment of such charge as is prescribed in the regulations, ~~xx~~ copies of insurance placed by the developer or the body corporate.

(Question, that the Clause to be deleted be deleted, put and agreed to)

(Question, that the Clause to be inserted in the place thereof be inserted, put and agreed to)

(Clause 41 as amended agreed to)

Clause 42

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir,

I beg to move:-

THAT, Clause 42 be amended as follows:-

- (a) in subclause (1) by adding the words "or may grant an easement on the whole or part of the common property" immediately after the words "of it" appearing in the last line;
- (b) in sub-clause (2) by deleting the commas and words, "other than as an undivided share of a unit" appearing in the second line.

(Question, that the words to be added, be added, put and agreed to)

(Question, that the commas and words to be deleted, be deleted, put and agreed to)

(Clause 42 as amended agreed to)

(Clauses 43, 44, and 45 agreed to)

Clause 46

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo): Mr. Chairman, Sir,

I beg to move:-

THAT, Clause 46 (2) be amended by deleting the word, "mortgage" appearing in paragraphs (a) and (b) and inserting the word, "charge".

THE MINISTER FOR LANDS AND SETTLEMENT (Ctd.):

(Question, that the words to be deleted be deleted, put and agreed to)

(Question, that the words to be inserted in the place thereof,  
be inserted, and put and agreed to)

(Clause 46 as amended agreed to)

(Clauses 47, 48, 49 and 50 agreed to)

Clause 51:

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiambo): Mr. Chairman, Sir,

I beg to move:-

THAT, Clause 51 be amended by deleting the words,  
"originating summons or" appearing on the third line of  
paragraph (a).

(Question of the amendment proposed)

MR. SHIKUKU: Mr. Chairman, Sir, in this Clause, we are deleting the  
words, "originating summons or" appearing on the third line of paragraph (a).  
I think there should be a <sup>full stop</sup> ~~full stop~~ after ~~that, that is,~~ after the word, "section".  
When you delete the words, "originating summons or", there must be a comma or  
a <sup>full stop</sup> ~~full stop~~ after that, or are the rest of the words not there, Sir?

THE CHAIRMAN: So that we may save time, may I inform hon. Shikuku that  
the word "or" is after the word, "summons" but this is not the connecting "or".

MR. SHIKUKU: The one at the end, Sir,?

MR. CHAIRMAN: Yes, after the word, "summons" as you can see in the  
printed Bill.

MR. SHIKUKU: We are talking about two "ors". Are we talking about the  
last "or"?

MR. CHAIRMAN: We are talking about the first "or" which is the connecting  
word and which has not been touched by the amendment.

(Question, that the words to be deleted be deleted, put and agreed to)

(Clause 51 as amended agreed to)

END X

(Clauses 52, 53, and 54 agreed to)

Clause 55

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo):

Mr. Chairman, Sir, I beg to move:-

"That clause 55 be amended by deleting the words "rights and interests of the registered chargee and "appearing in the second and third lines of sub-clause (3) and inserting the words "rights and interests of the owners as a whole or a registered chargee or".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 55 as amended agreed to)

Clause 56

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo):

Mr. Chairman, Sir, I beg to move:-

"That clause 56 be amended by deleting the words "when the board is satisfied that the unanimous resolution" appearing in the first line and inserting "on the receipt of the notice referred to in subsection (1)".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 56 as amended agreed to)

(Clauses 57, 58, 59, 60, 61, 62, and 63 agreed to)

Clause 64

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo):

Mr. Chairman, Sir, I beg to move:-

That clause 64 be amended by deleting sub-clause (2) and insterting the following new sub-clause -

## THE MINISTER FOR LANDS AND SETTLEMENT (ctd.):

(2) For the purpose of this section "document" includes a summons, notice, tax notice, order and other legal process.

(Question of the amendment proposed)

(Question that the words to be left out be left out, put and agreed to)

(Question that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 64 as amended agreed to)

Clause 65

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo):

Mr. Chairman, Sir, I beg to move:-

That clause 65 be amended as follows:-

(a) in sub-clause (1) by deleting the expression "notice given under section 51(3) or an originating summons or order referred to in section 52(2) or 52(3)" and inserting "notice given under section 52(3) or an order referred to in section 53(4);

(b) in sub-clause (2) by deleting the words "notice given under section 51(1) or an originating summons or order referred to in section 52(2) or 52(5)" and inserting "notice given under section 53(1) or an order referred to in section 53(3)".

(Question of the amendment proposed)

(Question that the words to be left out be left out, put and agreed to)

(Question that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 65 as amended agreed to)

(Clauses 66, 67, 68, and 69 agreed to)

Clause 70

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo):

Mr. Chairman, Sir, I beg to move:-

That clause 70 be amended by inserting the words "at law" immediately after the words "he has" appearing in the last line.

(Question of the amendment proposed)

MR. SHIKUKU: Mr. Chairman, Sir, it appears like we are just adding the two words "at law" after the words "he has". It will, therefore, read as follows:-

A remedy that the purchaser of a residential unit has under this Act is in addition to any other rights or remedies that he has at law".

h#

I do not know how that English goes.

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo):

It means that it can be done by using the law.

MR. CHAIRMAN: That is a technical expression which has been brought by a barrister-at-law.

(Question that the words to be added be added, put and agreed to)

(Clause 70 as amended agreed to)

(Clause 71 agreed to)

(Title agreed to)

(Clause 1 agreed to)

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo):

Mr. Chairman, I beg to move that the Committee doth report to the House its consideration of The Sectional Properties Bill and its approval thereof with amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

Mr. Speaker in the Chair

REPORT

The Sectional Properties Bill

~~THE VICE-PRESIDENT AND MINISTER FOR HOME AFFAIRS,~~

~~Orap Ng'eny~~

(Mr. Kibaki) Mr. Speaker, Sir, I beg to report that a Committee of the whole House has considered The Sectional Properties Bill and approved the same with amendment.

( )

CONSIDERATION OF REPORT AND THIRD READING

The Sectional Properties Bill

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo):

Mr. Speaker, Sir, a Committee of the whole House has considered The Sectional Properties Bill and has reported the same to the House with amendments. I, therefore, beg to move that the House doth agree with the Committee in the said Report.

THE VICE-PRESIDENT AND MINISTER FOR HOME AFFAIRS  
(Mr. Kibaki) seconded.

(Question proposed)

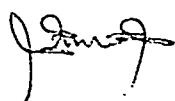
(Question put and agreed to)

THE MINISTER FOR LANDS AND SETTLEMENT (Mr. Nyakiamo):

Mr. Speaker, Sir, I beg to move that The Sectional Properties Bill be now read the Third Time.

THE VICE-PRESIDENT AND MINISTER FOR HOME AFFAIRS  
(Mr. Kibaki) seconded.

END Y.



(Question proposed)

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

Second Reading

The Statute Law (Miscellaneous Amendments) Bill

MR. SPEAKER: I came back because Mr. Munyao was to move a Motion for the Adjournment. I have not seen him but I took it that he will be there.

MR. MUNYAO: I am here, Mr. Speaker, Sir.

MR. SPEAKER: After perusing some documents on elections and remembering that Mr. Munyao will want to raise his Motion for the Adjournment, I thought the best idea would be for him to put aside his intentions until we see how these documents influence what he was going to say. ~~Even though~~ We know that certain things in certain Acts and so on, cannot be argued upon or amended beyond certain limits. That is why it is felt that we put off this thing first to ensure that nothing clashes with another. This is because some documents do carry great weight and they cannot be changed. We are not supposed to go into debate on a matter which is so protected. I would like to ask Mr. Munyao to bear with us so that we sort out the position of those documents.

MR. MUNYAO: Mr. Speaker, Sir, I accept your wise counselling. The Question which you had accepted that I raise in a Motion for the Adjournment, is based on what had earlier been certified by the Office of the President. I brought this Question on 5th November and the Office of the President and the Attorney-General's Chambers confirmed that the recommendations of the Machakos District Development Committee would not be ignored. I later made a personal statement in accordance with Standing Order No. 69. Although the Minister has never responded, I opted to raise this matter on the Motion of the Adjournment because it is an issue ~~which~~ which affects those people



who were left out in Kalawa and who would like to know where they belong. That is why, Sir, you accepted in the first place. This issue came before the Legal Notice and the constituency maps which were laid on the Table by the Attorney-General. What do we do in such a situation?

~~MR. SPEAKER:~~ I was not aware of this until pretty late. I think the Attorney-General would like to say something.

THE ATTORNEY-GENERAL (Mr. Muli): Thank you very much, Mr. Speaker, Sir. Your ruling is in accord with what happened yesterday. You did give hon. Munyao approval of his Motion earlier than yesterday. But yesterday, Sir, I did lay before this House, a Legal Notice dealing with the review of the Constitution and also the constituency maps. The Order of the Electoral Commission was for information and not for debate. If hon. Munyao is allowed to rise on a Motion for the Adjournment, he will be debating on this Order and this is not allowed. Your ruling is correct and Mr. Munyao should accept the situation as his Motion has been overtaken by events.

MR. SHIKUKU: On a point of order, Mr. Speaker, Sir. I would not like to engage myself in this debate but the ~~xxx~~ crux of the matter is that if hon. Munyao's Question was Tabled on the 5th of November and the Attorney-General comes with his maps and the other papers he had yesterday, I was wondering how this could be done. Was this not done purposely to try and overtake the Motion for the Adjournment which had been approved for debate?

Secondly, Sir, when a paper is laid on the Table of this House, - I am not quite sure about that one - can either be challenged, adapted or rejected. I do not know when we ceased to have that power of challenging papers laid on the Table. If ~~zh~~ the Attorney-General laid those documents on the Table yesterday, then any hon. Member has a right to challenge them. I do not know under what Standing Order the Attorney-General is basing his argument that once the paper has been laid on the Table, there will be no debate. It then means that if that matter is not debated, then it automatically

accepted by the House. But if an hon. Member says that he does not want that paper to be adapted or accepted, he has the right to say so. I do not know under what Standing Order the documents which were laid on the Table <sup>by the Attorney-General</sup> cannot be challenged.

THE ATTORNEY-GENERAL (Mr. Muli): Mr. Speaker, Sir, the hon. Member has raised two important questions which I would like to explain now. The first one refers to what is called a positive Motion. If a paper is laid before the House, as there is a need for a positive Motion, then it is debated. There is a nother one called a negative <sup>Motion</sup> ~~position~~. For example, if a law requires that a paper be on the Table of the House for seven days, if no one raises a finger after seven days, then that paper becomes law. If an hon. Member raises an objection, then there is debate and the Motion is-----

MR. CHEPKOK: On a point of order, Mr. Speaker, Sir.

MR. SPEAKER: The Attorney-General is still on a point of order.

THE ATTORNEY-GENERAL (Mr. Muli): There are those provisions which we call the positive Motion and a negative Motion. This one does not fall under that category. That is for information and it may not be laid before the House at all, but it was, nevertheless, laid on the Table.

The second point is that Legal Notice No. 309 was published on 11th November, 1987.

MR. CHEPKOK: On a point of order, Mr. Speaker, Sir.

THE ATTORNEY-GENERAL (Mr. Muli): I am still on a point of order, Mr. Speaker, Sir. Can hon. Chepkok-----

MR. SPEAKER: He is still on a point of order.

THE ATTORNEY-GENERAL (Mr. Muli): Mr. Speaker, Sir, if the hon. Member does not want to have some Constitutional laws explained-----

MR. SHIKUKU: It is time.

END Z

MR. CHEPKOK: On a point of order, Mr. ~~EX~~ Speaker, Sir.

AN HON. MEMBER: Extension of time!

MR. ~~SPEAKER~~: Order! We cannot extend time. I was asking hon. Munyao to give us an opportunity of using this time--- ~~Excessively~~ What I am seriously trying to present to Mr. Munyao is that we shall examine these documents. I request you, hon. Munyao, to give the House an opportunity to do that without a debate which might cause confusion.

MR. MUNYAO: On a point of order, Mr. Speaker, Sir. While I accept your wise counseling it was also my intention to petition the House ~~xxxxxx~~ ~~xxxxxx~~ according to our Standing Orders 163 - 167. We have never used these Standing Orders in this House. If you get 50 hon. Members to sign a document you can lay that document on the Table. I intended to do that next Tuesday, based on the answer that would have been given by the Attorney-General. This issue of Kalawa Location is not my issue; it is ~~the~~ an issue affecting those nyayo people who have complained very much because they have been very unfairly treated. The Machakos District Development Committee which is in charge of ~~the~~ 1.5 million people has recommended that Kalawa Location ~~xxxx~~ should be part of ~~the~~ Mwala Division. So, you will find that because of some funny issues within the offices Kalawa Location is going to be taken to Mbooni Division. There is no road linking this location with Mbooni Division. This is even against the guidelines of the Electoral Commission, which has ~~it~~ categorically stated that geographical features have got to be considered.

THE ATTORNEY-GENERAL(Mr. Muli): On a point of order, Mr. Speaker, Sir.

MR. MUNYAO: I am on a point of order, Mr. ~~Speaker~~ Speaker, Sir.

THE ATTORNEY-GENERAL(Mr. Muli): Hon. Munyao is not on a point of order, Mr. Speaker, Sir.

MR. MUNYAO: I am on a point of order, Mr. Speaker, Sir. The Attorney-General and I come from Machakos District.

Mr. Speaker, Sir, it is true that after a meeting of our D.D.C. somebody came in and---

MR. SPEAKER: Order! All right, with things being as they are I will adjourn the House.

ADJOURNMENT

MR. SPEAKER: Hon. Members, it is now time for the adjournment of the House. The House is therefore adjourned until Tuesday, 8th December, 1987, at 2.30 p.m.

The House rose at thirty-five minutes past Six o'clock.

END.AA... 