

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 2nd May, 2007

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

Mr. Deputy Speaker: Hon. Members, we have only one Question by Private Notice, by the hon. Member for Bahari, Mr. Khamisi!

QUESTION BY PRIVATE NOTICE

INVASION OF BAHARI CONSTITUENCY BY RAIDERS FROM KALOLENI

Mr. Khamisi: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Administration and National Security the following Question by Private Notice.

What action is the Government taking to stop raiders from Kaloleni Constituency from invading villages along the Bahari/Kaloleni boundary, including Kitumbo in Mtwapa Location, Bahari Constituency, where they have destroyed property and taken over farms belonging to villagers?

The Assistant Minister, Office of the President (Mr. Munya): Mr. Deputy Speaker, Sir, I would like to ask the indulgence of the House to answer this Question effectively tomorrow. I have not been able to talk to the Commissioner of Police to seek clarifications on the statement from him.

Mr. Deputy Speaker: Who are these people called "raiders"? As you talk to the Commissioner of Police, you may wish to clarify on that because I do not understand who these people called "raiders" are. Are there raiders from Kaloleni? Mr. Assistant Minister, you need to clarify on this issue because we seem to have so many terminologies for criminals, and this is another one of them.

Mr. Khamisi, would you like to respond to the Assistant Minister's request.

Mr. Khamisi: Certainly, I would not mind, although this is a very serious matter. **Mr. Deputy Speaker:** It is, indeed, and that is why it is under Questions by Private Notice. So, the maximum time I can give is tomorrow, Mr. Assistant Minister! Questions by Private Notice have a maximum of 48 hours, which have already elapsed since this Question was asked. So, we will give you until tomorrow afternoon. Is that okay, Mr. Assistant Minister?

The Assistant Minister, Office of the President (Mr. Munya): Mr. Deputy Speaker, Sir, that is okay.

Mr. Deputy Speaker: Thank you.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.037

NUMBER OF RETURNED/ GROUNDED GOVERNMENT VEHICLES

Mr. Owino asked the Minister for Finance:-

- (a) how many Government vehicles have been returned or grounded as a result of the Minister's directive in the Budget Speech for 2006/2007 Financial Year; and,
(b) how much the Government has saved as a result of the directive

Mr. Deputy Speaker: Is the Minister for Finance not here?

The Assistant Minister, Office of the President (Mr. Munya): On a point of order, Mr. Deputy Speaker, Sir. We have different Order Papers. The Order Paper we received last week has a different Question; Question No.1 by Private Notice by hon. Ochilo-Ayacko, while the Order Paper this morning has a different Question by hon. Khamisi. That is the confusion and that is why we are even unable to give answers!

Mr. Deputy Speaker: I do not understand what you are saying. Do we have two Order Papers for today, this morning?

*(The Clerk-at-the-Table consulted
Mr. Deputy Speaker)*

That is the Order Paper for 2.30 p.m.! We have a Question at 2.30 p.m., and I think the Assistant Minister is looking at the Order Paper for this afternoon, and we are dealing with the Order Paper for this morning. So, Mr. Assistant Minister, what do you have to say about that?

An hon. Member: He is confused!

The Assistant Minister, Office of the President (Mr. Munya): Mr. Deputy Speaker, Sir, it is a mix-up.

Mr. Deputy Speaker: Is the Minister for Finance not here? Mr. Vice-President and Minister for Home Affairs, would you like to respond?

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Deputy Speaker, Sir, it is quite possible that what happened to the Office of the President could also have happened to the Minister for Finance. Normally, we start a week with Questions at 9.00 a.m. and on Wednesdays, we normally have two Order Papers; one for the morning sitting and one for the afternoon sitting. It is possible!

So, Mr. Deputy Speaker, Sir, may I seek your indulgence that we do what we tried to do last week; we go up to the end and hope that the Minister for Finance will be here? I am going to send for him.

Mr. Deputy Speaker: No, your Excellency, Mr. Vice-President and Minister for Home Affairs. Last Wednesday, we allowed that request and we do not want it to become a practice. That was a special day as the weather was very bad but, today, the weather is good. Therefore, we take it that the Minister for Finance is absent.

Now, Mr. Owino!

Mr. Owino: Mr. Deputy Speaker, Sir, I will wait for your ruling because he is not here and I need the answer.

Mr. Deputy Speaker: I order that this Question be put on the Order Paper tomorrow

afternoon and the Minister for Finance had better be there!

(Question deferred)

Next Question by the hon. Member for Samburu West, Mr. Lesrima!

Question No.038

INCREASE OF KENYATTA HOUSE
LAND ACREAGE IN MARALAL

Mr. Lesrima asked the Minister of State for National Heritage:-

(a) why he increased the land acreage occupied by Kenyatta House in Maralal from five acres to 28 acres;

(b) whether he is aware of the constraints the increase is putting on Maralal Town's expansion; and,

(c) when he will reduce the size of the land to five acres or less.

The Minister of State for National Heritage (Mr. Shakombo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that the acreage occupied by Kenyatta House in Maralal was increased from five acres to 28 acres. But I am aware that the National Museums of Kenya was allocated eight hectares vide allotment letter Ref.No.30581/V/82 of 13th January, 2000.

Subsequently, a title was issued for the same acreage, Title No.LR.N5963/1 of 1st October, 2001.

(b) I am not aware that there is any constraint to Maralal Township in terms of expansion.

(c) There is no intention of reducing the acreage as what was allocated is within the international guidelines on space required for museum establishment. This was done well within the regulations of alienation of land in Kenya.

Thank you.

Mr. Lesrima: Mr. Deputy Speaker, Sir, I thank the Minister for this answer. I believe that eight hectares translate to the same, 28.5 acres. I am wondering whether the Minister accepts that. The late hon. Jomo Kenyatta was detained in Maralal through the last stages and occupied that House and we do not see any reason why you require 28 acres. The 28 acres takes away so much grazing land from our people, and that is the reason I am asking this Question. Why is it important to accept international regulations requiring 28 acres even when there is no space? Why---

Mr. Deputy Speaker: Order! That is enough now.

Proceed, Mr. Minister!

Mr. Shakombo: Mr. Deputy Speaker, Sir, Maralal District has got vast lands. It is also very sparsely populated. I do not know why that township cannot be expanded. The area where Kenyatta House is situated is just one section of the town. So, why should we not follow the laid down international guidelines, acquire such areas and put up a museum?

Capt. Nakitare: Mr. Deputy Speaker, Sir, could the Minister tell us what development plans he has to utilise the 28 acres of land?

Mr. Shakombo: Mr. Deputy Speaker, Sir, we have plans to construct a museum and build a library so that the young people of Maralal District could, in future, learn more about their heroes and heroines. Those are the people who sacrificed their pleasures to make Kenya independent.

Mr. Deputy Speaker: Last question, Mr. Lesrima!

Mr. Lesrima: Mr. Deputy Speaker, Sir, could the Minister assure the people of Samburu

that whatever is being developed on the Kenyatta House land is not for the interest of a group of people working under a rotary club? They are interested in setting up a business and cultural centre on the spot! Could he ensure that there are consultations before something is developed there? Could he ensure that whatever is developed there is a museum to honour the late Jomo Kenyatta and not a private business for some people?

Mr. Deputy Speaker: Could the Minister assure the people of Maralal District through the House!

Mr. Shakombo: Indeed, Mr. Deputy Speaker, Sir, I want to assure the people of Maralal District, through this House, that whatever we will put up there will be for their own interest. Our aim is to empower local people both economically and historically.

Mr. Deputy Speaker: Next Question, Mr. Ojaamong!

Question No.065

PLANS TO ASSIST ORPHANS/
WIDOWS/WIDOWERS IN TESO DISTRICT

Mr. Deputy Speaker: Is Mr. Ojaamong not here? Mr. Ojaamong is absent, therefore, his Question is dropped.

(Question dropped)

Question No.074

TERMINATION OF SERVICES OF
KNH PROCUREMENT OFFICERS

Mr. Deputy Speaker: Hon. Members, the Chair received a call from Prof. Olweny requesting that the Question be deferred until tomorrow. But I leave it to the Minister.

Hon. Members, the procedure is that, when an hon. Member is unable to come to this House for any reason other than illness or being out of the country, he should request a colleague to ask the Question on his behalf. He or she should not simply say: "I am tied in the constituency." If we go on like that, every hon. Member will be tied in the constituency. We will never finish the Questions that are before us. Therefore, I urge hon. Members to use their colleagues in this House to ask the Questions on their behalf. One should not simply say: "I am tied up in my constituency." I, too, would have liked to be in my constituency today.

Dr. Machage, what do you have to say?

The Assistant Minister for Health (Dr. Machage): Mr. Deputy Speaker, Sir, I would like to request you to drop this Question. That is because I had to rush from my constituency to be here on time to answer this Question. I also have a constituency!

Mr. Deputy Speaker: But the Chair would like to be magnanimous because we have already deferred a Question because the Assistant Minister, Office of the President, did not have an answer. Mr. Khamisi's Question was also deferred because the Minister for Finance is not here. Prof. Olweny is also absent. So, I would like to strike a balance. But let it be a warning to hon. Members that, if one is unable to come, he or she should not just call. You can call your colleague and your Question will be dealt with in that manner.

The Assistant Minister for Health (Dr. Machage): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Yes, Dr. Machage!

The Assistant Minister for Health (Dr. Machage): Mr. Deputy Speaker, Sir, would I be in order to request that you use Standing Order No.1 and order that another hon. Member asks this Question so that I can answer it? I may not be available to answer this Question tomorrow.

Mr. Deputy Speaker: That is at the discretion of the Chair. The Chair has already directed that the Question be deferred until tomorrow afternoon.

(Question deferred)

Question No.123

NON-DISBURSEMENT OF FPE MONEY
TO KALYAMBEU PRIMARY SCHOOL

Mr. C. Kilonzo asked the Minister for Education:-

- (a) whether he is aware that Kalyambeu Primary School, Account No.166124382, has not received money under the Free Primary Education Programme (FPEP) amounting to Kshs163,540; and,
- (b) what action he is taking to ensure that those funds are disbursed to the school account.

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

(a) I am aware that Kalyambeu Primary School has not received the free primary education money amounting to Kshs81,955 in Account No.2 on one occasion only; that is in October, 2006. The problem arose because the school submitted wrong bank details to the Ministry.

The other Kshs77,515, which the school claims not to have received, was credited to the school account in June, 2005, as per the attached payment schedule. The total, therefore, is Kshs159,470 and not Kshs163,540.

(b) The mistake has been rectified and the above sum of Kshs81,955 will be credited to the school account No.166124382 at the Kenya Commercial Bank (KCB), Matuu Branch, through an electronic funds transfer on or before 4th May, 2007.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, Questions of this nature have been brought to this House on very many occasions. What is the problem? Is the Ministry lacking officers who can pursue those payments or must a Question be brought to this House for the Minister to instruct his officers to release those funds to the schools?

Dr. Mwiria: Mr. Deputy Speaker, Sir, it is true that we have dealt with several Questions of this nature. But I have just explained that we do not know there is a problem when schools give us wrong bank accounts. If the schools give the wrong information, it is very difficult not to have those kinds of problems. Therefore, they should do their bit and ensure that the account numbers they submit to the Ministry are correct. If that does not happen, it has to, unfortunately, take an hon. Member to realise that, that has happened. But, usually, we respond immediately.

Mr. Mwanicha: Mr. Deputy Speaker, Sir, funds released for FPEP are doing a good job in most schools. But in some schools, that money has not been utilised for the intended purposes like buying water tanks and repairing classrooms. Only one person audits all the schools in a district. There are 55 secondary schools in my constituency. What system has the Ministry put in place to ensure that those funds are utilised for the intended purposes every year?

Dr. Mwiria: Mr. Deputy Speaker, Sir, we ensure that officers at the district headquarters follow up the use of those monies. Unfortunately, we do not have many officers to ensure that every school is visited as frequently as we would like. But where we find irregularities, we deal

with them.

Let me also say that there are many schools that have not utilised money for sanitation facilities and water tanks. But, again, it is also up to hon. Members and other people to assist us to notice those anomalies. But every effort is made to audit and ensure that, that money is used for the intended purposes. It does not always happen, but we try.

Mr. Ochilo-Ayacko: Mr. Deputy Speaker, Sir, last week, the Ministry of Planning and National Development indicated that 720,000 pupils have dropped out of school. Primary education is compulsory and free. Is the Assistant Minister aware that the Government also defaults and can, therefore, not punish parents for not taking their children to school? Under the Children's Act, parents are liable for punishment if they do not take their children to school. When the Government defaults, is the Assistant Minister aware that it is negating the very law that it is supposed to enforce? It should give out money on time!

Dr. Mwiria: Mr. Deputy Speaker, Sir, we are operating under very difficult circumstances. The issue of children going to school being compulsory, really, is true, despite the limited resources with which we have to operate. It is up to all of us to ensure that we support this Government's directive by co-sharing with it and communities, to ensure that we put up facilities, in addition to what the Government is putting in by way of support for infrastructural development. Next year, there will be some money for infrastructural development. Some of the problems that we have to deal with, with regard to limited classrooms, especially in the most remote parts of this country, will hopefully be addressed.

Mr. Manoti: Mr. Deputy Speaker, Sir, free primary education has assisted quite a number of parents who were not able to take their children to school. The money which is being released to various districts, in most cases, does not reach the schools it is intended to. Could the Ministry appoint somebody, specifically in the district education offices, to follow up this money, instead of secondary school heads, individually, having to follow up the money at the Ministry headquarters?

Dr. Mwiria: Mr. Deputy Speaker, Sir, first of all, it is an exaggeration to say that money does not reach most schools. There are only a few cases where money does not reach schools. These are the cases which we talk about from time to time in Parliament. It is not the headmasters of schools also who follow up this money. We have asked the District Education Officers (DEOs) and other officers within the district headquarters to ensure that they give us an update with regard to which schools have or have not received money for both free primary school education or secondary school grants.

Mr. Deputy Speaker: Last question, Mr. C. Kilonzo!

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, in some cases, it takes over one year, when there is a problem, for this money to reach the schools. Could the Assistant Minister put measures in place to ensure that the maximum time, when there is a problem, for a school to receive money is not more than two months?

Dr. Mwiria: Mr. Deputy Speaker, Sir, in fact, we would like to do better than two months. That is why the hon. Member's case is going to be addressed by the end of this week. We would like to do better, but, again, we have to know where there are problems. It is better to resolve the problems quickly because schools do not have to stay without using the money that has already been voted for their use.

Mr. Deputy Speaker: The next Question is by hon. Ochilo-Ayacko!

Mr. Ochilo-Ayacko, before you ask your Question, I have a request from the Attorney-General. According to his office, the special prosecutors were hired by the Ministry of Justice and Constitutional Affairs. Therefore, the Question has been re-directed to that Ministry and it has to wait for the Ministry of Justice and Constitutional Affairs to be able to receive it and respond. So, it will take approximately a week before we know when we are getting an answer from that Ministry.

Mr. Maore: On a point of information, Mr. Deputy Speaker, Sir. The administration of justice, when it comes to prosecutors, is the work of the Attorney-General. Have they disagreed? Why would he bring up that issue on the Floor of the House?

Mr. Deputy Speaker: I am not aware, Mr. Maore! But that would be a very appropriate question to ask when the Question is asked on the Floor. I was also baffled by that kind of arrangement. But, again, it is not the responsibility of the Chair to arrange the manner in which the Government runs.

So, Mr. Ochilo-Ayacko, you will need to be a little bit patient until we hear from the Ministry of Justice and Constitutional Affairs. But the Ministry is already preparing to answer the Question.

Mr. Ochilo-Ayacko: Mr. Deputy Speaker, Sir, pursuant to Section 26 of the Constitution, the Attorney-General, when discharging his powers to prosecute, does not consult anybody. So, basically, what I am asking is that if the Attorney-General is ready, we be given a definite time, so that we do not suffer from this ping-pong between the Attorney-General's Office and the Ministry of Justice and Constitutional Affairs.

Mr. Deputy Speaker: What I want to assure you, Mr. Ochilo-Ayacko, is that the Office of the Clerk is following up the issue with the Ministry of Justice and Constitutional Affairs. I think, by next week, the Question will be on the Order Paper. But you will be informed. So, be comforted!

Question No.146

REMUNERATION/QUALIFICATIONS
OF SPECIAL PROSECUTORS

(Question deferred)

Question No.172

PROTECTION OF HORTICULTURAL
EXPORTS FROM EU REGULATIONS

Mr. Ndambuki asked the Minister for Trade and Industry what steps the Ministry has taken to ensure that horticultural exports from Kenya to the European Union are not affected by the new EU regulations.

The Minister for Trade and Industry (Dr. Kituyi): Mr. Deputy Speaker, Sir, first of all, I want to thank the hon. Member who has shown a substantial concern, beyond the call of duty, on matters relating to Kenya accessing markets in Europe.

On the Question he has asked formerly, I am expected to give steps taken according to what regulations have come out of the European Union (EU). I have that answer, but I was not quite sure whether the hon. Member meant this or new inhibitions to market access, like carbon miles, which I cannot talk about.

I beg to reply.

Basically, there have been four broad regulations that have come out of the EU, which have an impact on limiting market access for Kenya's horticultural products. I have them enumerated, both regulations and the date they came into force, which will take very long for me to present.

In summary, I would say that we have been taking the following measures in dealing with the EU regulations that affect market access for the Kenyan horticultural produce:

Training farmers on issues related to the EU regulations and how to be compliant; putting into place export regulations that outline the minimum standards for horticultural export producers; establishing a national task force on horticulture that meets regularly with all relevant stakeholders, to discuss the issues related to the horticultural sub-sector; creating protective measures against the introduction of the EU organisms harmful to plants and plant products; and, designing lobbying mechanisms through which Kenya seeks to protect its interests in the EU.

I have the comprehensive statement of each of the regulations and what specific actions we have taken. But I was late in getting this answer ready.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, first of all, I do not have a written answer to my Question.

There are so many things that have been going on involving the EU and African countries as far as trade is concerned. Kenya is living under the mercy of a few lobby groups. I would like the Minister to tell this House what he has done to make sure that all that is going on will not lead to our horticultural produce being denied entry into the EU market.

Dr. Kituyi: Mr. Deputy Speaker, Sir, I do not think that I understand clearly what is "all that is going on." But let me hazard a guess, that if we are talking about the new fad about carbon and flight miles, which is particularly making Marks and Spencer and TESCO to start labelling products that have been flown into Europe as a way of saying that they have been polluting the environment, a matter that is a major threat to this country; I agree that although this is not an EU regulation, the fact that some of the main consumers of Kenyan horticultural produce have stated labelling products imported by air, in a way to suggest that they are adding the carbon dioxide in the outer space, we have taken some measures.

At my initiative, on 11th April, 2007, we sent a delegation from my Ministry, Ministry of Agriculture, Kenya Plant Health Inspectorate Services (KEPHIS), Kenya Bureau of Standards (KEBS) and Export Promotion Council to London. Jointly, with our High Commissioner in London, they held meetings with the management of TESCO and Marks and Spencer to go over the specifics of what is at issue. I have personally lobbied the Minister in charge of Development Co-operation in Britain, who has made a personal and very public commitment to help show the truth; that there is no damage to the ozone done by keeping short-season produce of horticulture from Europe in freezers throughout the year, than in flying fresh Kenyan produce, particularly on passenger flights.

We are engaged towards establishing a standing committee domiciled at the Ministry of Agriculture, to deal specifically with all the issues that are being raised on the carbon miles debate. The specific things that we have done include the following:

(i) We are seeking a buy-in by the Kenya Government into the promotion of horticulture into Britain which has been done prior to now by industry lobbies.

(ii) Secondly, Kenya is mounting a standing initiative through the National Economic and Social Council to continue promoting Kenyan expanded horticultural exports particularly in the United Kingdom which has been the main area where there has been this problem.

(iii) We are initiating more debate and public awareness both in Kenya and Britain on the mode of the debate about carbon footprints and the dangers it poses particularly to the vulnerable poor who are dependent on this market for their livelihoods. On matters of the European Union market, our Ministry substantially with the Ministry of Agriculture have worked in strengthening particularly the weaker producers of horticulture to be compliant with the requirement of traceability; that there has not been any significant erosion of market share because of this new regulation.

Prof. Ojiambo: Mr. Deputy Speaker, Sir, the horticultural industry in this country has been affected by export regulations especially in the area of chemical residues. Chemicals are used to

spray flowers or vegetables that are consumed. Their residues are found sometimes to be on the higher side than the dose that is expected in the countries where it is exported to. Has the Minister looked into this area so that he can tell us whether there is any regulation in the importation of the various chemicals that are found in the market here that horticultural farmers are using and are causing them problems? Their goods are found to be sub-standard because of the residues in them.

Dr. Kituyi: Mr. Deputy Speaker, Sir, it would be very dangerous if an hon. Member of this House, who is an authority on culinary issues, raises the spectre that there is insufficient attention to chemical and pesticide residue in food-related produce of this country. It will hurt us very badly if certain sceptics towards Kenya heard that Prof. Ojiambo had said so. I would like to reassure the gracious lady of the following:

On 23rd November, 1976, the European Union started its first regulation on pesticide residues in horticultural and food-related imports into Europe. These regulations were amended and came into effect on 23rd February, 2005.

In Kenya, my Ministry and the Agrochemical Association of Kenya under the Ministry of Agriculture and the Pest Control Product Board, have worked on establishing mechanisms of checking on pesticide residues as a way of satisfying compliance with the European Union requirements. To the best of our efforts, we have been able to secure concurrence by the main importers that Kenya is in compliance with the minimal pesticide residue in food exports into the European Union.

Mr. Kipchumba: Mr. Deputy Speaker, Sir, while appreciating the answer that has been given by the Minister, I would like him to give us tangible steps. He has talked of a committee that has been formed, but we have learned scientists in the Ministry of Agriculture and various other sectors in this country. These scientists should be able to prove that there is not a lot of harm that has been caused by our flowers than most of the other activities that are undertaken in those European countries.

Dr. Kituyi: Mr. Deputy Speaker, Sir, the most tangible evidence of success that you can give when there is a threat to market access is the demonstration of increased market access. Since the carbon footprints debate started, Kenya's horticultural exports to Europe have increased. That is the best evidence.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, the Minister has talked a lot on this issue, but there is still a lot which he is not telling Kenyans. There are a lot of people outside there who are living in fear that tomorrow they might not access the European Union market. The big markets in United Kingdom had indicated that they will not receive any vegetables or agricultural produce from Kenya

until last week when a lobby group which was led by a former Member of Parliament from the United Kingdom went out with other lobby groups to talk to these supermarkets to tell them to go slow on this issue. What measures has the Minister put in place to assure Kenyan exporters that their products will access the market?

Dr. Kituyi: Mr. Deputy Speaker, Sir, I appreciate the role of the former MP who has been a good friend and lobbyist for Kenya, but it is not true that there had been any interruption of our market access until he intervened. It is not true at all! TESCO have never stopped importing Kenyan horticultural produce. All they did was to start putting the symbol of an aeroplane on all horticultural produce that had been imported by air because a certain activist lobby group was demanding so. What has happened is---

Capt. Nakitare: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: There is nothing out of order! Let the Minister answer the question!

Dr. Kituyi: Mr. Deputy Speaker, Sir, both the Ministry of Agriculture and my Ministry

have engaged the management of Marks and Spencer and TESCO which are the two companies that started labelling our country's produce with an aeroplane as a sign that those were products that were brought there with additional carbon dioxide into the atmosphere. They have agreed that we work on industry-friendly methods of reducing any such advertisement that can threaten current and future market access of our horticultural produce. We have a list of activities and I am sorry that I did not get to give you the written reply. I do not want to read out all of them. I have the whole list. If the Chair obliges me I can read out 15 steps that we are taking to heighten the debate on this issue and to enhance co-operation and more understanding with the European Union market particularly the United Kingdom on the flight mile debate that he is talking about.

Mr. Deputy Speaker: The hon. Member said he did not get a written reply. Mr. Minister, could you make a point of giving the hon. Member the written reply because I am sure he would like to see those 15 steps you have taken?

Dr. Kituyi: Mr. Deputy Speaker, Sir, as soon as I have finished answering, I will give him my written reply.

Mr. Deputy Speaker: Please, ensure that in future the hon. Members get the replies in advance.

What was your point of order, Capt. Nakitare?

Capt. Nakitare: Mr. Deputy Speaker, Sir, is the Minister in order to tell this House about the concerns of the Europeans and introducing bio-diversity and bio-chemistry into this country without bio-safety? Is he in order to tell us that Kenya is properly framed, in terms of production and exportation of horticulture? The safety of the produce that goes---

Mr. Deputy Speaker: Order! Order, Capt. Nakitare! You are out of order!

Next Question by Mr. Mwanacha!

Question No.246

NATURE OF MARKETING CONTRACT
BETWEEN KTDA AND LIPTON

Mr. Mwanacha asked the Minister for Agriculture:-

(a) whether he is aware that the Kenya Tea Development Agency signed a tea marketing agreement with Lipton Tea of London; and,

(b) whether he could enlighten the House on the exact nature of the agreement, stating how much money was paid to Lipton, and the anticipated benefit to the tea farmers.

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

(a) I am aware that the Kenya Tea Development Agency signed a marketing agreement with Lipton Tea of London early this year.

(b) This is a standard tea purchasing agreement between Lipton and all its suppliers internationally. There is no financial involvement until the weekly contract is signed, whose prices are pegged on the prevailing tea auction price.

The anticipated benefit to the tea farmer is that it gives an assured market of tea at a price not less than the auction price.

Mr. Mwanacha: Mr. Deputy Speaker, Sir, Lipton is the chief buyer of Kenyan tea. How would the chief buyer of Kenyan tea be given an agency to market the commodity? My understanding of a marketing agent is that such an agent markets to everybody, including new areas where there is no tea. How could the chief buyer of Kenyan tea get this kind of a contract if there is nothing fishy about that contract?

Mr. Kirwa: Mr. Deputy Speaker, Sir, so far, I have not found anything fishy about the agreement. What happens is that Lipton, for its own internal mechanisms, enters into this kind of agreement with all the companies they buy tea from. This, therefore, does not, in any way, mean that they have been conferred any special status. When the tea goes to the auction, it can still be sold to any person other than Lipton, whenever that person offers a better price. What happens is that if there is any tea that Lipton buys under the contractual agreement, it has to be paid for at three cents above the auction price of the prevailing auction arrangement.

Mr. Syongo: Mr. Deputy Speaker, Sir, I would like to start by saying that Lipton is Unilever. As an ex-employee of Unilever, I would like to ask the Minister whether he is aware that by bestowing on Lipton tea this special status, he is virtually handing over monopoly status to Unilever in the tea industry? Without Kenyan tea, nobody else can sell tea in the world market, because it is only our tea which is used to blend and enhance the quality of tea from elsewhere. Given the special situation in which we are, could the Minister, seriously, consider revoking this agreement in order to give back to Kenya its competitive advantage in the world market?

Mr. Kirwa: Mr. Deputy Speaker, Sir, I do not know how I can be clearer than I have been. I have said that we are not, in any way, conferring on any individual any special status. The tea goes to the auction. I have been to the auction. Any person who bids a price higher than that of Lipton, or any other company, gets the tea. With regard to this agreement, I do not have the benefit of being a lawyer, but I have perused through it and there is nothing that confers any special status on Lipton. It is only an internal arrangement by Lipton with its suppliers of tea internationally. They require this kind arrangement to be made. This is not the first time they have done this. They have done it before, and it was just a renewal of the said agreement.

Prof. Oniang'o: Mr. Deputy Speaker, Sir, could the Minister tell us how the issue of intellectual property rights has been taken care of to ensure that wherever the tea goes, everybody knows that it is Kenyan tea, because Kenya tea is special?

Mr. Kirwa: Mr. Deputy Speaker, Sir, that is tied to the issue of value addition. That is the only way in which we can ensure that our tea remains special. Otherwise, under the current arrangement, even at the Mombasa Tea Auction, tea is blended with tea from the region and other parts of the world. When they go to Dubai, they do the same. But we have certain market niches like that of Southern Sudan, Sudan and some parts of Pakistan, where our tea gets to the market as Kenyan tea. Whenever we sell a 50-kilogramme bag, our tea is blended with other teas. Therefore, the only thing that we can do is to ensure that we do add value here and configure the market, so as to be able to transact business with the buyer directly.

Mr. Deputy Speaker: Hon. Members, I will allow two more supplementary questions on this Question from Messrs. Masanya and Keter.

Mr. Masanya: Mr. Deputy Speaker, Sir, all the tea offered to the world market is supposed to be competitive. All the buyers compete to buy this tea. How come that one of the competitors is given this kind of treatment?

Mr. Kirwa: Mr. Deputy Speaker, Sir, that question was answered earlier on.

Mr. Keter: Mr. Deputy Speaker, Sir, since Lipton is part of Unilever, and it is our major tea buyer at Mombasa Tea Auction, how sure are we that tea prices, hence the small-scale farmer, will not be affected? Lipton is a major tea buyer and the KTDA manages 54 factories owned by small-scale tea farmers. How sure are we that the prices will not be lowered, having entered into a contract with a major competitor to market our tea?

Mr. Kirwa: Mr. Deputy Speaker, Sir, in all the articles of the agreement, we have not conferred any special status to Lipton to market our tea. My understanding of the agreement is that Lipton and the KTDA have agreed that whenever Lipton wants certain quantities of tea, the KTDA

will provide it but not at a price below the auction price.

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

Mr. Deputy Speaker: Order! Order! Hon. Members, it is not right that whenever one does not like what a Minister says in response to a question, one raises a point of order. What did you not like about what the Minister said, Mr. Syongo?

Mr. Syongo: Mr. Deputy Speaker, Sir, that contract, as a legal document, may not have bestowed on Lipton Tea a monopoly status. However, by the forces of market dynamics, Lipton Tea being part of Unilever, one of the biggest growers of tea and buyers at Mombasa Tea Auction. It is what was actually Brooke Bond, which is now Unilever Tea.

By giving them this additional opportunity to market KTDA tea through this agreement, we are bestowing on Lipton, or Unilever, monopoly control over Kenyan tea! This may not have been stipulated in the agreement but, obviously, that is what will happen.

Mr. Deputy Speaker: Mr. Kirwa, you have got the hon. Members' concern about Lipton getting into this contract with KTDA. These are already the biggest tea growers in the country. This contract will give them monopoly over Kenyan tea. That is the concern of hon. Members.

Mr. Kirwa: Mr. Deputy Speaker, Sir, unless my statistics are wrong, they are not the biggest grower or the largest buyer of tea by any stretch of imagination. I do not know whether my colleagues have this agreement. It may be interesting to just lay it on the Table of the House for every hon. Member to have a copy of it. In case there are any contentious issues in this agreement, I am willing to have further discussion over it and, if necessary, issue a Ministerial Statement on the status of this arrangement.

*(Mr. Kirwa laid the document
on the Table)*

Mr. Deputy Speaker: Thank you, Mr. Minister. That is very fair!

Mr. Mwanicha: Mr. Deputy Speaker, Sir, the Minister should have said when he is going to bring that Ministerial Statement. That is a good way of putting it. Secondly, many times, I have said that Kenyan farmers would have uprooted the tea if it was not for the fact that it is a perennial crop. If it was an annual crop like pyrethrum, they would have uprooted it.

This is my last question: Like Prof. Oniang'o has said on intellectual property, I think the Minister is confusing it with value addition. Like Mr. Syongo has said, Kenyan tea is used to blend with other teas in the world. Therefore, the higher prices they get by blending the poor teas from the other parts of the world makes them get a higher price. That is a premium payment! How do we, as Kenyans, benefit from our tea blending the other teas?

(Applause)

Mr. Kirwa: Mr. Deputy Speaker, Sir, I think this is an issue that needs a lot discussion. The knowledge I have as far as blending of tea is concerned, it is just to attain a certain taste. However, it is in no way going to confer any special quality to other teas. This, therefore, means, as far as we are concerned, the only way we can capture that market niche is for us to be able to control the way we market our tea. However, as long as we are allowing our tea to be bought by anybody at the auction, without configuring an arrangement with the buyers, it will not be possible for us to have control over what happens to our tea beyond the auction.

Mr. Deputy Speaker: Very well! The Chair would want to assure Mr. Mwanicha that after reading the agreement the Minister has laid on the Table of the House, if you wish to request for a Ministerial Statement, I will give you an opportunity to do so. The Minister will accordingly

oblige. So, we will rest the matter at that.

Mr. Mwancha: Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Thank you very much, Mr. Minister!

(Applause)

Prof. Mango: Mr. Deputy Speaker, Sir, I have not received the answer to the Question.

Mr. Deputy Speaker: Ask it first!

Prof. Mango: Mr. Deputy Speaker, Sir, that leaves me disadvantaged!

Question No.249

WAIVER OF MARKET FEES
FOR WOMEN TRADERS

Prof. Mango asked the Minister for Local Government:-

(a) whether he is aware that poor women selling less than 5 kilogrammes of maize are charged market entry fees; and,

(b) whether he could waive the fees for market women selling less than a bag of maize.

Mr. Deputy Speaker: It should be the other way round: You first ask it and then complain about the answer.

Mr. Minister, will you address yourself to the Question and also the hon. Member's complaint?

The Minister for Local Government (Mr. Kombo): Mr. Deputy Speaker, Sir, indeed, there is no written reply because I did not know which market the hon. Member was talking about.

(Applause)

However, I beg to reply.

The hon. Member knows that for any country to develop, people have to pay rates and taxes in order to get services. So, I am aware that anybody who uses the market must pay some fee.

Prof. Mango: Mr. Deputy Speaker, Sir, while the Minister is saying that he does not know the particular market, he is well aware that in the African context, the women sell their wares in open-air markets which are not like the supermarkets. Even when they do not sell, the next day they go back with their wares they are charged a fee. In my constituency, the market women are the poorest people. When they sell their wares, it is because they are trying to eke a living. Could the Minister waive these fees or have a mechanism whereby if the woman has not sold her wares, which is less than a bag, she could go back the next day and get in using the same---

Mr. Deputy Speaker: Order, Prof. Mango! You are really giving us a lecture!

Prof. Mango: No, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, Prof. Mango!

Prof. Mango: Mr. Deputy Speaker, Sir, could the Minister waive the fee the next day when the woman has not sold her little wares?

Mr. Kombo: Mr. Deputy Speaker, Sir, I really do not know what to waive and where to waive it. The rates vary from place to place throughout the country. So, I really do not know what the hon. Member is talking about.

Mr. Midiwo: Mr. Deputy Speaker, Sir, this is a Question which the Minister needs to address. Maybe, it is not framed properly. However, all around the country in the little markets, somebody can bring their *mboga* or maize, however little, but the standard charge is the same. Sometimes they are charged more than they can make from what they are trying to sell. Could the Minister just get into this and give a general policy? This is the only way--- The local councils are fleecing our citizens!

Mr. Kombo: Mr. Deputy Speaker, Sir, the charges are based on the usage of the space in the markets and not on the basis of how much you are going to sell.

An hon. Member: You are right!

Mr. Deputy Speaker: Last question, Prof. Mango! I have only five minutes and I have one more Question!

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

Mr. Deputy Speaker: Prof. Mango, please! Order! You wanted to ask a question? There is no point of order, Mr Mwancha!

Prof. Mango: Mr. Deputy Speaker, Sir, these charges should be based on the quantity and the value of the commodity. The Minister has said that it is based on the space which varies according to the commodity. Could he standardise the charges according to the value instead of space?

Mr. Kombo: Mr. Deputy Speaker, Sir, logistically, it is impossible.

Mr. Deputy Speaker: Next Question, Mr. Syongo!

(Mr. Raila stood up in his place)

Yes, Mr. Raila!

Mr. Raila: On a point of order, Mr. Deputy Speaker, Sir. The Minister is not really answering the question. In a situation where the council has not put up a fence, no toilet or water, what are the people paying for?

(Applause)

An hon. Member: The land!

Mr. Deputy Speaker: Sorry, Mr. Minister! I do not want to work for you. Go ahead!

Mr. Kombo: Mr. Deputy Speaker, Sir, I am answering on the basis of the Question that I have been asked. If you had asked me why there are no facilities, then I would give you a different answer.

(Applause)

Question No.252

PUBLICATION OF KENYA FISHERIES
DEVELOPMENT AUTHORITY BILL

Mr. Syongo asked the Minister for Livestock and Fisheries Development when he would publish and introduce in the House the Kenya Fisheries Development Authority Bill.

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Deputy

Speaker, Sir, I beg to reply.

I will publish and introduce in the House, the Kenya Fisheries Development Authority Bill after the approval by the Cabinet of the Sessional Paper on National Fisheries Policy which will be tabled before June, 2007. The said policy, hitherto, will be the precursor to the Bill.

Mr. Syongo: Mr. Deputy Speaker, Sir, at the outset, I want to say that the Minister is a good friend of mine. However, in 2003, the Minister and I toured Seychelles and South Africa. At the end of it, a policy Paper was developed and approved by stakeholders. That is more than three years ago. When, specifically, will the Minister table this particular Paper to the Cabinet for approval?

Mr. Munyao: Mr. Deputy Speaker, Sir, it is true that in 2003, the Private Members' Motion was passed. However, the Ministry embarked on the inclusive process to develop a national fisheries policy, lay the foundation of drafting or revision of the current Fisheries Act, which will give way to this other provision.

Mr. Khamisi: Mr. Deputy Speaker, Sir, this Minister is not being sincere! He is talking about an approval by the Cabinet and yet he knows very well that the Cabinet has not met for the last three months.

Mr. Munyao: Mr. Deputy Speaker, Sir, how is that relevant to this Question? I have just said that the Bill will be ready before June, 2007.

Mr. Deputy Speaker: But you are the one who said that the Cabinet will approve it and that is why it is relevant!

Mr. Munyao: Mr. Deputy Speaker, Sir, I am saying that it will be ready before June, 2007. Today is 2nd May, 2007.

Prof. Oniang'o: Mr. Deputy Speaker, Sir, Kenya's fish is one of the best in the world and the rest of the world now wants fish because it is one of the best kind of meat in terms of human health. Could the Minister, truly, tell us when he is going to position Kenya to give these very good fish to the rest of the world by bringing this Bill as soon as possible?

Mr. Munyao: Mr. Deputy Speaker, Sir, the hon. Member is preaching to the converted. I put value on our fish. When we took over, people were not keen on eating our fish. However, I have been able to convince the world that our fish is good and that is why it is on demand even in the European Union (EU) countries.

Mr. Raila: Mr. Deputy Speaker, Sir, the Ministry under which livestock falls is also charged with the responsibility of developing fisheries in this country. The Minister is now admitting in this House that he has been in charge of this Ministry for over three years, but he has not been able to bring legislation to deal with fisheries. He is now in injury time because within a short time, he will be going home. Could the Minister agree with me that in the period that he has been in charge of the Ministry of Livestock and Fisheries Development, he has failed to give priority to fisheries, hence facilitating extreme exploitation of fishermen by shylocks?

Mr. Munyao: Mr. Deputy Speaker, Sir, that is not true and the hon. Member knows so. I have held several meetings with stakeholders in the fishing industry, including one meeting which was held at Tom Mboya Labour College in Kisumu. In fact, hon. Members, who know how to eat meat, were all invited. I have also had two or three Ministers attending those meetings. All this is happening because of my own efforts. I have, in fact, revived the only existing fishing boat which had stalled in Lake Victoria. The hon. Members know that fact.

Mr. Syongo: Mr. Deputy Speaker, Sir, what the Minister has discussed relates to the fisheries in Lake Victoria which account for 98 per cent of Kenya's fish exports. The entire 200 nautical miles exclusive economic zone in the Indian Ocean is entirely in the hands of foreign fishing vessels numbering an average of 100 at any given time. This exploitation of our Indian Ocean resources by foreign fishermen is as a result of lack of legislation and an institutional framework. Could the Minister tell this House approximately when the Bill will be brought on the

Floor of this House?

Mr. Munyao: Mr. Deputy Speaker, Sir, the Questioner, Mr. Syongo, who has served as a Deputy Minister in this Ministry, knows a lot. He helped us so much in drafting the Kenya Fisheries Development Authority Bill.

(Mr. Syongo stood up in his place)

Mr. Deputy Speaker: No, Mr. Syongo! No! What is it?

Mr. Syongo: On a point of order, Mr. Deputy Speaker. The Minister is deceiving the House. I have never served as a Deputy Minister in that Ministry, but I thank him for his good wishes.

(Laughter)

Mr. Deputy Speaker: Mr. Minister, why are you misleading the House?

Mr. Munyao: Mr. Deputy Speaker, Sir, because of what we have done with Mr. Syongo on matters to do with fish here and elsewhere, it is all the time in my mind that we have always been at par in running these affairs.

(Laughter)

Mr. Deputy Speaker, Sir, as I said earlier, I appreciate the concern raised by the hon. Member. It is true that fisheries is an important area. In fact, we are now negotiating to extend the borders from the 200 nautical miles to 350 nautical miles; that is, by another 150 nautical miles. It is because of that, that we need to be ready to do whatever is required when we effect some of these things. So, he should be a little bit patient. The month of June is not very far. When the Sessional Paper on Kenya Fisheries Development Authority comes to this House for discussion, please, let us pass it so that the Bill can come, at least, before June, 2007.

Mr. Deputy Speaker: Hon. Members, that is the end of Question Time!
Next Order!

MOTIONS

WAIVER OF TITLE DEED FEES FOR PUBLIC INSTITUTIONS

THAT, in view of the Government's policy that all government institutions acquire title documents for the land upon which they are erected; and considering that these titles attract fees from the Department of Lands and other government departments; this House urges the Government to waive all fees/charges payable to these departments for titles held by public primary and secondary schools, public dispensaries, health centres, hospitals, village polytechnics and other public facilities in rural Kenya.

(Mr. Ochilo-Ayacko on 25.4.2007)

*(Resumption of Debate
interrupted on 25.4.2007)*

Mr. Deputy Speaker: Who was on the Floor? Mr. Ochilo-Ayacko had completed moving the Motion. Mr. Angwenyi seconded the Motion and he also concluded his contribution. I will, therefore, now propose the Question so that hon. Members can have the opportunity to debate.

(Question proposed)

The Assistant Minister for East African Community (Dr. Khalwale): Thank you, Mr. Deputy Speaker, Sir. I would like to start by saying how important this particular Motion is. I would also like to take this opportunity to pass my compliments to my brother hon. Ochilo-Ayacko and, of course, to you for giving me this opportunity.

Mr. Deputy Speaker, Sir, if this Motion goes through, we will be able to protect our schools among other institutions. Since this Motion is meant to protect schools, may I also take this opportunity to thank His Excellency the President for scrapping tuition fees in our secondary schools with effect from January, 2008.

Mr. Deputy Speaker, Sir, if we manage to pass this Motion, which I support, then we will be addressing a special ill that has led to the death and loss of property of our institutions. This is the ill known as land grabbing. Most hon. Members know that land belonging to most of our institutions in this country has been grabbed by powerful individuals and, unfortunately, even by people who had an opportunity to serve in Government. It is, therefore, important that we pass this particular Motion to ensure that the issue of grabbed land is addressed. I hope that it is still not too late for us to legislate that any land which originally belonged to a public institution, and which is now privately owned, should be repossessed so that it reverts back to its original use.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, when I say this, I am forced to remember what is happening at the Western University of Science and Technology in Kakamega.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order, Members! Please, consult in low tones!

The Assistant Minister for East African Community (Dr. Khalwalwe): Mr. Temporary Deputy Speaker, Sir, at the Western University of Science and Technology, there is land that used to be called old Kakamega Show Grounds. However, the Agricultural Society of Kenya (ASK) moved to a new site. This particular land was grabbed by politicians, former Members of Parliament and councillors. The university is now experiencing very serious problems with regard to expansion to the extent that the university has been forced to bypass the old Kakamega Show Grounds. They have now purchased Star Primary Academy simply because their land was grabbed. It is not yet too late and the Government should order that the land belonging to the old Kakamega Show Grounds be repossessed and passed over to the Western University of Science and Technology for purposes of utilisation by the public.

Mr. Temporary Deputy Speaker, Sir, another directive that would be very useful is the role of land surveyors. A particular deadline should be given to request land surveyors to make sure that they survey all the land that belongs public institutions with a view to making sure that boundaries are re-defined. One cannot opt to leave this issue open-ended because land surveyors in Kenya are

very corrupt. When members of school Boards of Governors (BoGs) approach these people to survey their land, they will pretend they do not have vehicles and petrol---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! It is very clear that the hon. Member who is contributing is beginning to raise his voice in order to be heard! It is important that we listen to him! Those of you who want to consult, if you cannot consult in low tones, you are free to make your way out of this Chamber! Please, withdraw quietly and discuss your issues somewhere else. We are here to listen and the hon. Member has a right of protection!

Dr. Khalwale, please, proceed!

The Assistant Minister for East African Community (Dr. Khalwale): Mr. Temporary Deputy Speaker, Sir, I was saying that land surveyors are extremely corrupt. When left undirected, they make it very difficult for various BoG members to get their services. Therefore, a proper deadline for surveying public institution lands, should be put in place.

Mr. Temporary Deputy Speaker, Sir, there is the issue of creation of national monuments in this country. I am not too sure whether when public land was set aside, it was meant for specific national monuments. It is important that the respective Ministries be directed to have a policy on which pieces of land can be utilised for purposes of creating national monuments.

Hon. Members will recall that about three years ago, the former Vice-President; the late Michael Kijana Wamalwa, passed on. There was a lot of debate in the country about the creation of a special site for interment of national heroes. Probably, time has come when the Ministry responsible should tell Kenyans exactly how it is decided who a national hero is. The Ministry should also give the procedure one needs to go through to make sure the person is rested on the site. This is very important because some African cultures do not condone the issue of having one of their dead, even if one is a national hero, to be buried away from home. This legislation should be put in place to make it clear.

Mr. Temporary Deputy Speaker, Sir, I am reminded by recent news that there is an effort to create a second monument for the late Koitalel after the one of Field Marshall Dedan Kimathi. This is very welcome. However, I think it is not enough for us to celebrate that we are creating this second monument in the country. We should now decide who the other heroes are. We have other heroes in this country whose heroism has not necessarily got anything to do with the issue of freedom fighting. We have heroes like King Nabongo Mumia who was a hero in his own right. He might not have been a freedom fighter but probably the people from his community would be happy to see the Government recognise him as the first king found here when the white man came to rule our country.

Mr. Temporary Deputy Speaker, Sir, it is not fair to see the Government utilise public funds on creation of Dedan Kimathi and Koitalel monuments; which I support, and then when it comes to that of Nabongo Mumia we are left begging for funds from Mumias Sugar Company to do the same. It is important that the Government takes up the initiative of creating the monument so that the people can feel they are also respected.

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

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I stand to support this Motion. I would like to recall that when I was the Chairman of the Public Investment Committee (PIC) in the mid-1990s, we went round various public institutions to find out the problems they had, especially where cases of corruption had been mentioned. It was a very common feature, that almost everywhere we went, we found that public institutions were suffering as a result of their land being grabbed. That was done by all kinds of individuals. The problem was; how do you

determine the extent of the land that belongs to the institution and how do you hold some of the people who had grabbed the land responsible for grabbing the land? A legal issue then ensued and more so, because most of the institutions did not have title deeds to the land. It was not very clear to them how to get the title deeds. Even in situations where they had initiated the process of getting the title deeds, it was very difficult to get them from the Ministry of Lands.

Mr. Temporary Deputy Speaker, Sir, I have the problem of trying to gain title deeds for primary schools and churches in my constituency. I think all this mischief can be cured by the Ministry implementing the proposals in this Motion. Rather than require the institutions to pay a fee to get their title deeds, the Government can get the money by charging institutions land rates once they get their title deeds. The revenue accrued by getting annual land rates---

(Mr. Wanjala consulted loudly)

Mr. Temporary Deputy Speaker, Sir, I cannot compete with the Assistant Minister for Water and Irrigation who should be in a marketplace rather than Parliament! There he can talk freely without disturbing me.

Mr. Temporary Deputy Speaker, Sir, if the Government charges these institutions annual land rates, they can be paid to local authorities. The rationale behind the institutions paying land rates is that local authorities can then get the revenue to serve these institutions with other services. These include, maintaining roads, supplying water, inspecting health facilities and so on. However, local authorities cannot charge land rates if the institutions do not have legal entitlements to the land they occupy.

Therefore, I really think that this Motion is very timely, useful and rational. It is something that the Ministry should have thought of a long time ago. It would be used to avoid the mischief of land grabbers taking land belonging to public institutions and secondly, the Government not having any source of revenue from the public institutions using the land.

Mr. Temporary Deputy Speaker, Sir, the second thing that should follow is that once an institution is paying land rates for the land it occupies, it will be challenged to get some revenue from the physical facilities they develop in these institutions. For example, there is absolutely no reason why schools cannot be allowed to charge individuals and communities who use their facilities for meeting, weddings and whatever.

At the moment, many public facilities like schools and churches, although churches are private institutions, are used by the public without generating any revenue for those institutions. But once the institutions know that they are paying a price for having those facilities sit on some land, they will have the challenge and the incentive to get some revenue by renting their facilities to individuals and groups that use those facilities when schools are not on.

Mr. Temporary Deputy Speaker, Sir, all these are ways and means by which we can use our institutions, and cost-effectively, rather than let hon. Members introduce Motions like this one which are then passed ceremonially and then the Government does not get the ideas and implement them. It would be much better - since my grey-haired Minister for Lands is here, my dear friend Prof. Kibwana, - to put that hair to use by making sure that these proposals here are implemented immediately. That would be good for the Government and would protect our institutions' land from being grabbed.

I will give an example: We once went to a county council in Wajir, and found that the land on which the county council hall sits, had actually been grabbed and people had acquired title deeds. There were two title deeds that had been acquired, not by the county council, but by other people. The hall was sitting on two different title deeds. If the right for those title deeds were implemented, the hall could be sub-divided into two; one half going this way and the other half that

way; whereas, in reality, those title deeds combined together belong to the county council. But the county council had never seen it necessary to acquire the title deed for their own land. This is how serious it is in most institutions.

Then we went to Kitale where some research institution had a good chunk of its land taken by Government officials. The problem is that, that institution did not have a title deed to its own land. I think this is a very serious matter. So, rather than delay the process by imposing heavy acquisition fees, speed up the process by abolishing the fees and establishing land rates which will give the Government even more revenue over a period of time.

Mr. Temporary Deputy Speaker, Sir, that reminds me that even with regard to ordinary title deeds at home, this old crisis of lack of title deeds is because of these prohibitive entry fees for acquiring a title deed. I remember when I acquired my own title deed several years ago, it was free. I only paid negligible fees because the Government had a window of opportunity, that if you get your title deed within this time, you get it for free. I got mine for free many years ago. But for now, when people are trying to get their title deeds from the Ministry of Lands, they have to pay fees which is prohibitive considering their income. It is much better to allow them to have the title deed, make productive use of the land and recover whatever fees they want from their revenue or from their earnings from the land. That makes a lot of economic sense. Therefore, I think this is one good Motion that has come to this House and should be implemented.

Mr. Temporary Deputy Speaker, Sir, the other most important thing is the whole issue of double accounting by the Government; the whole idea of charging land rates and land rent. I have never understood where this thing came from. If you own land in Nairobi, for example, you will receive two bills every year; one called land rates and the other one called land rent. I do not know from whom we are renting the land and whom we are paying the rates. Is it the same Government or two different Governments? Quite often the penalty for paying late, either the land rates or the land rent, is quite prohibitive.

Given the fact that physical facilities take long to develop to certain land and properties, especially in a town like Nairobi, people who buy land with the idea that they will develop it in future, the future sometimes takes very long because you find that a road going to that particular facility, for example, in Nairobi the roads are supposed to be built by the Nairobi City Council (NCC) and it takes ages to be built. You find that you continue paying land rates and land rent without getting revenue from your land. I think the Government should think twice. If we have to promote the productive use of land, let us not penalise land-owners that way.

With those few remarks, I beg to support.

The Assistant Minister for Planning and National Development (Mr. Serut): Mr. Temporary Deputy Speaker, Sir, let me say from the outset that I support this Motion because I feel that this Motion should have been there yesterday and not today. This Motion is about land on which public institutions sit. It is about land which was donated by either individuals or communities. It is about land which was acquired by the Government for purposes of public utility. I am using the words "public utility" because whatever institutions this Motion is targeting are for public use. I say so because all the institutions like schools, health centres and dispensaries fall within a Ministry. These institutions are faced by one major problem which the other hon. Members have mentioned; the issue of land grabbing.

Mr. Temporary Deputy Speaker, Sir, in the 1990s, most of the land belonging to those institutions was grabbed by powerful people in this country, including those who are today saying that they are "holier than thou" when it comes to corruption. Since those institutions fall either within departments or Ministries, they belong to the Government. If they belong to the Government, then why should the Government take that money with its right hand and still give back that money to those institutions?

I feel it is high time the Government decided to waive the fees that is charged. This fees is not necessarily what the Ministry of Lands charges. The major fees which these institutions pay is the survey fees. What the Ministry of Lands charges is conveyancing fees which is very little money. My humble request to the Minister is that, instead of asking schools and other public institutions to hire private surveyors, let us use the Government surveyors who are paid a salary every end of the month from the Consolidated Fund to do the work. Mr. Temporary Deputy Speaker, Sir, another issue that is facing these institutions is the issue of repossession by the communities that donated that land. Kenyans have now become enlightened and some of them are saying that they were not consulted by their own families before they donated the land and, therefore, they require compensation. This has arisen because of the delay in acquisition of title deeds. So, we are talking of land which was donated by individuals or communities to the institutions but the land is still in their names. If that case is taken to court, it is not easy for those institutions to win because the land is still on the original title deeds. Therefore, as a country, the issue of processing title deeds should be tackled very fast.

I want to add that the same Government that is charging fees to issue title deeds does not charge stamp duty. Why are we not charging stamp duty? We are saying that these are Government institutions. On the other hand, we are charging fees because these are schools. I think this is an anomaly that should be corrected, and the Ministry of Lands should move very fast, use Government surveyors, have this land surveyed and title deeds issued.

Mr. Temporary Deputy Speaker, Sir, another issue is that of ownership. In my constituency, I have been confronted with a lot of questions as to how title deeds are going to be held. The communities have been told that for title deeds, they have to come up with trusts. They have to register a trust so that they can appoint trustees. In the country-side, the people have no money with which to register trusts. Therefore, I want to take this opportunity to request the AG's Chambers to assist in the drafting of trusts, so that this property can be held in trust for the community.

With those remarks, I want to support this Motion and urge my colleagues to support it too, so that we have our institutions getting their title deeds as fast as possible free of any payment to the Government.

Mr. Wamunyinyi: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion, which is very important.

I would like to begin by congratulating the hon. Ochilo-Ayacko, who has brought this Motion to the House. We all have experienced problems in our respective areas related to the issue of land grabbing. Institutions, schools included, have lost land. This problem in ownership of land has been in existence for many years. It is now time the Government took action to ensure that the ownership of public land is regularised to ensure that institutions like schools own their land and have title deeds for the same.

Mr. Temporary Deputy Speaker, Sir, there is a case in point in my constituency. Sometime during the last Parliament, you remember some individuals took land which had been earmarked for Namachanja High School in Bungoma Town. They sub-divided the same and allocated it to themselves. It was a difficult case because when I fought to ensure that the school was built, I was arrested and locked up. But, eventually, we managed to secure the land and the school was built. Another recent case is the land set aside for Bungoma Medical Training College, and hon. Dr. Kibunguchy knows about this case. Officers of Government, including District Commissioners, Provincial Commissioners and some politicians in the past regime allocated themselves a total of 87 plots of the land earmarked for Bungoma MTC. You remember that recently I was arrested again and charged in a Mumias court. I have not stopped fighting against those who have grabbed land. I will continue the fight. I wish to appeal that we all join hands and urge this Government to ensure, upon our passing of this Motion, that public institutions' land, where it has not been

surveyed and title deeds issued, it is surveyed and title deeds for it issued freely. There are some schools, for example, where parents have contributed towards the purchase of land. How else can the Government appreciate such effort by parents? Some poor parents have come up, contributed money and secured land for the schools. The Government has a responsibility to ensure that such schools are given title deeds to legally own that land. The Government has surveyors and land offices everywhere. Those surveyors should be used to survey school land in the country and ensure that all schools are given title deeds.

Mr. Temporary Deputy Speaker, Sir, so that school administrators and teachers are able to give quality education, sufficient land is required. To achieve this, we should support their efforts by making sure that if there is something we can do to expand facilities, particularly available land, we do it. In some cases, there is not even enough land for schools on which children can play football, engage in athletics and so on. These activities are very important in nurturing children. We need to ensure that if a school does not have sufficient land, we help the its community to secure enough land for it.

Mr. Temporary Deputy Speaker, Sir, I know that we want to move on to other Motions, and also that other hon. Members may want to contribute. I want to conclude by saying that I also strongly support this very important Motion.

With those few remarks, I beg to support.

Mr. Khamisi: Ahsante, Bw. Naibu Spika wa Muda. Ninasimama kuunga mkono Hoja hii iliyoletwa na mhe. Ochilo-Ayacko, ambayo hasa inauliza kuondolewa kwa ada ambazo zinalipiwa stakabadhi za ardhi, hasa kuhusiana na shule na taasisi nyingine za umma.

Bw. Naibu Spika wa Muda, ningependa kwanza kusema kwamba mbali na kwamba kuna hili jambo la *title deeds*, au stakabadhi za kumiliki ardhi, tunazo taasisi nyingi za Serikali na umma katika Mkoa wa Pwani, and ambazo kwa kusema kweli hazijapimwa na wala hazina title deeds.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghio): Order, Members! There are some consultations at the back that are interfering with the contribution of the hon. Member!

Proceed!

Mr. Khamisi: Bw. Naibu Spika wa Muda, sababu ya kwamba taasisi hizo hazijapimwa wala kupewa stakabadhi za ardhi ni kuwa baadhi yake ziko katika ardhi za watu binafsi, ambao tunawaita "*absentee landlords*". Baadhi yake kuna shule nyingi. Nimewahi kuleta katika Bunge hili Hoja au masuala katika kutaka kuziwezesha shule hizi au hospitali hizo kupewa stakabadhi za kumiliki ardhi. Kila mara tumepewa ahadi kutoka kwa Serikali kwamba hivyo ndivyo ingefanya. Lakini ninasikitika kwamba miaka minne tangu Serikali hii ichukue uongozi, hatujaona dalili yoyote kwamba kutatolewa stakabadhi za kuziwezesha taasisi hizo za umma kumiliki ardhi.

Bw. Naibu Spika wa Muda, ni jambo la kusikitisha sana kuona kwamba hata vituo vya polisi katika sehemu yangu ya uwakilishi Bungeni vinakaa katika ardhi zisizokuwa zao. Hii ni kusema kwamba vituo hivyo vya polisi ni maskwota! Kwa kuwa ni maskwota, hawana *title deeds* za kuweza kumiliki sehemu hizo. Hivi majuzi katika stesheni ya polisi ya Mtwapa, ilibidi wananchi waliokuwa wanakaa kando ya stesheni ya polisi ile kuhamishwa kwa nguvu, kwa sababu pahali pale panawekwa bunduki na silaha za Serikali. Hivyo basi, kunahitajika kuwe na usalama wa kutosha kuwezesha kituo kile kifanye kazi kama inavyotakikana. Lakini hiyo imekuwa haiwezekani na hata ile ardhi ambayo kituo kile cha polisi kimepata haiwezi kukaliwa na inawabidi polisi wakae katika sehemu ndogo pale Mtwapa kwa sababu ardhi ambayo wangekwenda kuchukua haina stakabadhi za Serikali.

Bw. Naibu Spika wa Muda, jambo hili pia linahusu kituo cha polisi cha Kijipwa katika

sehemu yangu, na hata kile kituo cha polisi cha Kilifi, ambapo ekari saba zinazosemekana ni za polisi zina maskwota na *title deeds* hazimo! Kwa hivyo, Hoja hii ni muhimu sana kwa sababu itaweka umiliki wa taasisi hizi mikononi mwa wananchi wenyewe, badala ya kuwa mikononi mwa watu binafsi ambao hila zao hazijulikani katika siku zinazokuja.

Bw. Naibu Spika wa Muda, tuko na shule ambazo, vile vile, zina shida. Mwisho wa wiki iliyopita, nilikwenda katika shule moja inayoitwa Kararacha Primary School, na huko pia kuna shida kubwa ya wananchi kuingia katika eneo lile la shule kwa sababu hamna stakabadhi za shule ile. Kwa hivyo, naweza kusema kwa uthabiti kabisa kwamba shule nyingi, zaidi ya asili mia 80 ya shule za sehemu yangu ya Bahari hazina stakabadhi. Nina hakika kwamba tukiangalia katika hospitali, vyyo vya ufundi vijijini na haya mambo mengine ambayo yametajwa hapa, tutaona kwamba hali hiyo iko vile vile. Hii ndio sababu inanifanya niunge mkono Hoja hii; ili kwamba ikiwa watapimiwa ardhi ile, basi itawezekana kwamba sehemu zile zipewe stakabadhi zao ili ziweze kuzimiliki.

Bw. Naibu Spika wa Muda, ajabu ya jambo hili ni kwamba wengi ambao wanaingia katika ardhi hizi za shule sio tu wale wanaotoka nje, lakini hata maskwota pia. Kwa sababu hakujakuwa na mipaka ya kutosha, maskwota wanaingia katika ardhi hizi na kuleta bughudha kwa wasimamizi wa shule hizi. Katika shule fulani, tumejaribu kutumia pesa za Constituencies Development Fund (CDF) kujenga ua au *fence* ili kuzuia watu hawa, lakini hili ni jambo la muda tu. Ukweli ni kwamba, stakabadhi hizi zinahitajika, na zinahitajika haraka sana, ili uvamizi wa ardhi kama tunavyouona katika sehemu zetu ukomeshwe mara moja!

Bw. Naibu Spika wa Muda, Hoja hii inazungumzia kutolewa kwa *fees* ama ada zinazolipwa na shule kwa idara za Serikali. Hivi majuzi, tunaishukuru Serikali ilipokuja na ikajaribu kutoa stakabadhi hizi kwa kuondoa ile riba au *interest* iliyokuweco katika miaka yote hiyo. Sioni kuna shida gani au shida kubwa katika kuondoa hii pia, haswa kuhusu hizi taasisi ambazo tunazitungumzia hivi leo.

Bw. Naibu Spika wa Muda, katika enzi hii ya Uhuru wa nchi hii, ni muhimu kwamba Serikali iwajibike katika kazi zake inazofanya. Mimi siamini kwamba, baada ya miaka 45 ya Uhuru, tutakuwa na Serikali ambayo haitilii maanani mali ya umma. Sielewi kwa nini inakuwa hivi, hali wakijua vizuri kwamba taasisi hizi ni za wananchi; kuna wananchi wanaokwenda katika shule na hospitali hizi, lakini inaonekana Serikali haitilii maanani uzima au umiliki wa ardhi hizi kwa sababu ambazo hazijulikani. Mimi naona kwamba wakati umefika kwamba Hoja hii ipitishwe, na ikipitishwa, tunataka iweze kutekelezwa upesi iwezekanavyo. Ikiwezekana, kabla ya uchaguzi, kwa sababu inaonekana kuwa Serikali hii inatia ndoano ya kuvuta watu kwa namna mbali mbali. Kwa hivyo, ikiwa ni kutia ndoano kwa kuvuta watu kwa jambo hili, mimi nitalikaribisha vizuri na tutaweza kuunga ndoano hiyo mkono ili kwamba mali hii iweze kuhifadhiwa kwa manufaa yetu na ya watu wanaokuja.

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

The Assistant Minister for Agriculture (Mr. Kaindi): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this important Motion. On the outset, this Motion presupposes that all Government institutions will abide by the policy to acquire title deeds. In the same breath, it also directs that all institutions of the Government and of public nature be allowed to access their title deeds, and monies accrued be waived subsequently.

Mr. Temporary Deputy Speaker, Sir, one of the reasons why public institutions have no title deeds is the very process that the Government has put in place; the question of survey. Survey for Government institutions is cumbersome, tedious and, indeed, it is ridiculous. It is easier for surveyors to survey private land because there is money to be derived from those services, but when it comes to survey for public institutions, the process takes a very long time. This problem is compounded further by the Government directive under the Physical Planning Act, which says that,

if you subdivide your land, you must surrender pieces of land for public utilities for schools, hospitals, churches, mosques and other such facilities. Yet the same Government, after you surrender the said pieces of land, it goes back and reallocates the same land to individuals for private use. It is high time the Minister for Lands put the record straight; that, land being surrendered for public good be maintained for such purposes. In fact, there was a time when I almost told the Minister for Lands, and I recommended to him: Why do you not draw a long list and gazette all public utilities if the process of acquisition by title deeds is taking so long? Because those public utilities are still at the mercy of private people who want to grab the land.

Mr. Temporary Deputy Speaker, Sir, under the current land law, all land is vested to the Government. Indeed, it is said that the Government has eminent powers, or what we call "Powers of eminent domain" over all land in this country. Any land that you must own is either through a lease or a title deed by the Government for a particular time. Therefore, the Government has police powers over your land. If this is so, what is so difficult in ensuring that public utility lands, which are for the future generations, are not only maintained, but also preserved? We look at the fees, be it rates or rent, that is paid for these institutions; is it very necessary? When the white men came here, so that they could authenticate ownership of huge tracts of land that they took, they paid something called "paper conveyance", which was a pittance and, really, a big joke, towards the ownership of those big parcels of land. It was five cents per acre, *et cetera, et cetera*. That conferred ownership to them.

Mr. Temporary Deputy Speaker, Sir, even from the outset, due consideration was not made to ensure that public utilities were preserved. The Government has issued directives over and over again. But some Government officials have contradicted and flouted the rules governing ownership of public utilities. It is the height of hypocrisy to say on one hand: "Surrender this land", and on the other, take the same piece of land! The Minister for Lands must be categorical and implement the Ndung'u Report. That report has spelt out public utilities that must be preserved for public good.

Mr. Temporary Deputy Speaker, Sir, today, the Ministry of Lands officials have continued to ignore the recommendations of the Ndung'u Report. They have continued to sub-divide public land. I say that with bitterness because 800 acres of land that was set aside for a university in Athi River has been grabbed by Government officials. I am requesting the Minister for Lands to revoke that allocation. That is because with the influx of students at the University of Nairobi (UoN), Kenyatta University (KU) and the Jomo Kenyatta University of Agriculture and Technology (JKUAT), we do not have any other land set aside for the expansion of our universities. We have 800 acres of land set aside in Athi River for that purpose. I am requesting the Minister for Lands to repossess that land and cancel the title deeds. That way, we will have an opportunity to put up another university where students who want to pursue parallel degrees would do so with ease.

Mr. Temporary Deputy Speaker, Sir, there is mushrooming of many public utilities in Athi River for education purposes. That is because of proximity. If we lose the 800 acres, we will be doing a lot of de-service to this country. I hope the Minister for Lands will take cue, revoke that allocation and confer that land for the purpose that it was meant for - to put up a university within the precincts of Nairobi.

Mr. Temporary Deputy Speaker, Sir, it is important to address the question of land comprehensively, so that we can determine what we need. There are parameters set aside. As a country, how much land do we need for public institutions? How much land do we need for schools? How much land do we need for a city like Nairobi? Is it not time for this Government to acquire more land, if we do not have sufficient land? The size of land being set aside for construction of schools is between one to two acres. The minimum requirement under the Physical Planning Act is five to ten acres. Today, schools are being put up in one acre because of lack of land. The land that was set aside for those utilities has already been taken. The Minister needs to

take tally of the land that is available in Nairobi, municipalities, urban centre and so on, and determine whether that land, compared to the population, is sufficient to accommodate the needs for that population. If not, he should be bold enough, set aside funds to acquire sufficient land that is commensurate to the needs of the people of those areas.

Mr. Temporary Deputy Speaker, Sir, finally, like the rest of my colleagues, let me say that we must put in place a mechanism to waive fees. It is a burden and a problem to schools and parents. We hope the Minister will take charge.

With those few remarks, I beg to support.

Mr. Omingo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to contribute to this Motion. This Motion has come at an appropriate time. We know that from time immemorial, since Kenya attained its Independence, Kenyans focused their sights on land. They wanted to grab it from the colonial masters. It was quite appetizing for people to target prime land for purposes of personal gain. To that extent, open land, to the powers or the administration that existed then, was quite juicy. Somebody cracked a joke and said that the Kenyan leadership suffered from land "*grabbiosis*"! Any open land was up to their own possession. That happened in the past and it must be stopped.

Public institutions have suffered a great deal. We know that private investors have always encroached on public institutions. They have done that with impunity because they have the protection from the powers that be. If we cannot protect public utility land, it will be open to abuse. We saw that in the newspapers last week. A Minister in the Government has threatened to forcefully acquire land meant for a university and distribute it to squatters. It is not that we do not care about the squatters, but can we put our priorities right? If somebody has no passion for education because, maybe, he has no value for it or he never attained it, he should also care about those who are concerned about education. This Government must also reckon that it is not our problem that somebody did not attain some level of education to the extent that he or she wants to compromise a facility that is meant for higher education, because he or she thinks education is valueless. It is important to pass this Motion as it is, so that we can protect our institutions.

In Kisii District, for example, we have a serious land shortage. We do not have title deeds for the little land that we have. Some people are encroaching on land that is meant for institutions. One such case is Rigana Primary School where the land issue is in total confusion. The title deed for that land is registered in Migoro District. The board of governors contributes money to go and address the matter in different jurisdictions. At the end of the day, that compromises their thinking and that land has remained without a title deed. It is on the verge of being grabbed. I liked the contribution by the Assistant Minister for Agriculture. He has a passion for that land because he understands what it takes. It is from the agricultural land that we produce the food that we enjoy.

Mr. Temporary Deputy Speaker, Sir, it is important to address our land policy exhaustively. We should re-look at the selective way in which we deal with land matters. For example, we have not implemented the recommendations of the Ndung'u Report in full because they touch on some of the great boys and women. It is important that, that Report is implemented in full. That report was done using Kenyan taxpayers' money. The Ndung'u Report identified utility land. Some of that land has titles deeds. Before we get back to the issue of claiming land, let us keep the one that we have safely for the purposes for which it was intended. The Government is offering free primary education. His Excellency the President has promised Kenyans that his Government will waive tuition fees for secondary education next year, when he is out of office! That is interesting! We need to protect the children of this country from that kind of mess. The people who pay rates and land adjudication charges are the same poor parents who the Government has chosen to help.

Mr. Temporary Deputy Speaker, Sir, I had an occasion to travel to the Kenya Revenue Authority (KRA) Training School in Mombasa. That facility is located on prime land. But there are

private developers who are occupying that land. The terminology "private developers" is only known to the issuers of title deeds in Prof. Kibwana's office. We must now demystify and understand who those private developers are. Is it a private developer like that of the Njabini case? Is it a private developer because he or she is closer to the powers that be? Is it a private developer because he is raising funds for the general elections for this Government to survive? We must address that. At the end of the day, those who need land, and legitimately so, have it.

With those few remarks, I beg to support.

The Minister for Environment and Natural Resources (Prof. Kibwana): Thank you, Mr. Temporary Deputy Speaker, Sir. From the outset, I want to thank my colleagues who have, very eloquently, supported this Motion. I also want to thank Mr. Ochilo-Ayacko for bringing this Motion before the House.

I also want to admit, as a matter of public record, that from the Ministry of Lands, where I also sit, I know that public land, over the years, has been encroached upon by undeserving people.

This Motion, therefore, is important because its spirit is to protect public land. I am in complete agreement with all my colleagues who have contributed without an exception and said that public land; whether it belongs to primary or secondary schools, village polytechnics, hospitals, health centre, religious institutions, *et cetera*, should be sacred, so that people do not go beyond owning private land and privatize public land. As an Acting Minister for Lands, I must emphasize that we must reverse privatized public land, so that it is used for the purposes that it was intended for, initially.

Indeed, we have reversed the privatization of land, especially in settled schemes. We have ensured that those who took public land within settlement schemes, do not own it. That land must go back to the appropriate users, because one cannot use the law to illegally take over public land and then say that the law has vested to him or her a legitimate right, because in the first instance, private land cannot be enjoyed if it is not supported by public utilities.

Therefore, I want to say today to all Kenyans, that where there is public land that has been taken over by certain people and made private, it will not matter that those people have title deeds, because public land is intended for the public and it supports those who have private land in a particular given area. Therefore, I am giving notice that public utilities can be reclaimed by communities in any part of Kenya, because they belong to the public and no individual can go beyond what has been allocated as private land. My Ministry is going to enforce this directive, because it is decent for people to know that they must have public utilities, so that we do not stay in places where there are no schools or health facilities.

Mr. Temporary Deputy Speaker, Sir, I listened to hon. Khamisi and hon. Kaindi as they gave a chronology of episodes of public land which was taken away from a primary school or a university in Mlolongo. In the same spirit, like my foregoing remarks, all the people who took land belonging to the public university will be told that they acquired it irregularly, because it is public land. The same applies to the land grabbed from primary schools. In my constituency, for example, some people stopped a primary school from being built in a place called Nguu. Actually, they demolished it because they claimed that it was their land, yet, initially it was public land. So, we can see how daring land grabbers are.

Mr. Temporary Deputy Speaker, Sir, the reason for the Government also charging public entities before they can get titles is because this same august House, has told us that the Ministry must collect monies by way of Appropriations-in-Aid. These are in the Printed Estimates. For example, this year we have to collect Kshs141,664,908. Parliament agreed that we should collect that money from the public, including levying appropriate fees on public utilities, particularly, when we are doing planning, registration, survey, conveyance and approval.

So, I hope that Parliament, itself, will give us this money, so that we do not have to get it

from Appropriations-in-Aid. If Parliament does that, we will have no problem, whatsoever, in terms of implementing a Motion of this kind. But I want to plead with this august House, to know that currently we have been asked to raise money through Appropriations-in-Aid, so that we can provide certain services within the Ministry. If this money is not available, then we will not be able to do this kind of work. But this does not mean that we are not going to address the issue of plundering of public land by unscrupulous individuals. I will attempt to offer the solution, which I have discussed with hon. Ochilo-Ayacko.

Mr. Temporary Deputy Speaker, Sir, because of the rampant nature of theft of public land, the Ministry is in the process of establishing an *in situ* Criminal Investigations Department (CID) unit, within the Ministry, so that it helps us in terms investigating issues of theft of land, which happens in many forms. This unit will help us identify cases of double registration of land and those who are involved. I must say that my Ministry officials have not been weaned from the culture that used to exist before, of aiding and abetting those who steal land. This is something that we are trying to resolve. That is why often we sack such officials who are part and parcel of this bad habit.

Secondly, we also have the national symposium on land policy. Many of the issues to do with land problems are going to be resolved through that policy. When the proposed land policy is brought to Parliament for debate, I will seek the support of the hon. Members. Even if there are some issues that they are not happy with, they should be amended because we are very open, as a Ministry. The proposed land policy does not say that certain things must happen. It is open to debate, negotiation and compromise, so that for the first time since Independence, we can have a land policy that will assist us.

Hon. Omingo talked about the university land at Kibwezi. The history of that, is that the natives or local people were removed from an area of over 12,000 hectares, so that, that land would be reserved for the university. The truth of the matter is that 12,000 hectares is a huge piece of land.

During the past regime, land would be set aside for public purposes and then there would be change of users, and hence, some of the land would go into private ownership. That is why it has been seen that if 6,000 hectares are reserved for the university, then the people who were originally landless in that region can occupy 6,000. So, there is no insensitivity to the fact that a university is being established and having 6,000 hectares. There is no university so far which has that kind of land within Kenya. So, we are very sensitive when we balance the interest of a university and that of our people. This matter is being politicised because it is being seen as a way of courting voters and not promoting the welfare of the squatters. We are used to politicisation of many things.

I do promise that in my watch in the Ministry we will make sure that public utilities are protected. That is why I would like to propose an amendment to this Motion that I have discussed with the hon. Member who graciously brought this Motion before the august House. The amendment reads as follows---

The Temporary Deputy Speaker (Mr. Poghio): Is there time to debate that amendment and pass it?

The Minister for Environment and Natural Resources (Prof. Kibwana): I will be concluding my speech in two minutes because it is something that we have discussed with the hon. Member.

On the fourth and fifth lines I propose that we delete all the words between the word "to" and "public" and insert the words "with immediate effect, process titles" in place thereof. On the last line delete the word "rural" and insert the words "only to be collected upon payment of appropriate Government fees" after the word "Kenya" as appearing on the last line. The Motion therefore, will read as follows:-

THAT, in view of the Government policy that all Government institutions acquire title documents for the land upon which they are erected; and considering that these titles attract fees from the Department of Lands and other Government departments; this House urges the Government to with immediate effect, process titles for public primary and secondary schools, public dispensaries, health centres, hospitals, village polytechnics and other public facilities in Kenya, only to be collected upon payment of appropriate Government fees.

Mr. Temporary Deputy Speaker, Sir, the intention of these amendments is to make sure that after this Motion is passed the Ministry will instruct all registries in the country to prepare title deeds for all public utilities upon application, but those titles will be kept in the registries until the appropriate fees are paid meaning that nobody else can subsequently grab that public utility because the public utility will have a title deed. That will help us in terms of the appropriations we need for the time being, until such a time as this money will be provided for in the budget and therefore, we can even go a step further and waive the fees. Before titles are collected, we shall have secured the public utilities by making sure that titles are processed immediately and, therefore nobody else can come and claim them. With that amendment I fully support this noble Motion.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Owino: Mr. Temporary Deputy Speaker, Sir, if the amendment introduced by the Minister is accepted, I think the intention of this Motion will be completely lost and defeated. Could we have the Chair's guidance on this matter?

The Temporary Deputy Speaker (Mr. Poghiso): There is no amendment yet. We need to propose the Question first. Mr. Minister, did you move the amendment?

The Minister for Environment and Natural Resources (Prof. Kibwana): Mr. Temporary Deputy Speaker, Sir, I moved the amendment when I read it.

The Assistant Minister for Education (Dr. Mwiria) seconded.

The Temporary Deputy Speaker (Mr. Poghiso): Appropriately as Mr. Owino has asked, before I can even propose the Question, one of the things that you cannot do with a Motion is to negate the spirit of the Motion through an amendment. You cannot reverse or make it lose what it asks to do. I agree with Mr. Owino that in asking that the fees be waived the amendment is reversing or negating the spirit of the Motion. Therefore, I cannot allow the amendment to proceed.

The Minister for Environment and Natural Resources (Prof. Kibwana): Mr. Deputy Speaker, Sir, there is an element of waiver because under normal circumstances we do not process any title deed before somebody pays for it. Here, we are saying that even without paying a single cent we shall process the title deed. The title deed will be kept until the person or institution pays for it. The problem that we have is---

Mr. Oloo-Aringo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Chair has ruled that moving the amendment will negate the spirit of the Motion. I do not think it will serve any further useful purpose for us to discuss the amendment. The Minister should not even try to justify the amendment because we completely concur with your ruling. I think it will take a lot of our time to try and force an amendment which will negate the substance of the Motion.

The Temporary Deputy Speaker (Mr. Poghiso): That has been ruled on. Mr. Minister, just in case you did not see it the way I see it, the Motion urges this House to waive all fees and charges payable. That means no fees are to be paid at all. The amendment says you pay afterwards and that amounts to payment of fees. That is where the conflict is coming in. You still have time to proceed with the Motion as it is.

The Minister for Environment and Natural Resources (Prof. Kibwana): Mr. Deputy Speaker, Sir, the question that prompted the discussion with the hon. Member and, of course, I

defer to your ruling, was that currently this House has voted that the Ministry will get money to the tune of Kshs141,664,908 through charging such fees. It means that even with the best of intentions, the Ministry will have a problem in terms of being faithful to this Motion when it is passed because before Parliament replaces that amount, it means that the Ministry will have to seek that particular amount. If this august House was to make that money available, the Ministry will very gladly accept that those fees should be waived. There is also that technical aspect of what happens if a Motion is passed. Where will the money that will be used in implementing what the Motion is seeking come from since Parliament has passed our estimates of the Appropriations-in-Aid? It is already included in the printed estimates. We have no other problem. Our problem is simply that this Parliament has already passed that we should raise such money from activities such as planning, registration, survey and conveyancing.

The Temporary Deputy Speaker (Mr. Poghismo): Prof. Kibwana, in a few minutes' time, your time will be up. You are, basically, the Government Responder. Just imagine that, that amendment is not there. You are basically responding to the Motion. So, we need to know, as you finish, what your position is on the Motion, as it is on the Order Paper.

The Minister for Environment and Natural Resources (Prof. Kibwana): Mr. Temporary Deputy Speaker, Sir, from my contribution, it is clear that I want to protect public utilities. That is why I went ahead to say that I would like to process these title deeds even without any payment of money.

Of course, I support the Motion. I withdraw the amendment, which was pragmatic.

(Amendment withdrawn)

Mr. Temporary Deputy Speaker, Sir, I have to say that if the Motion is carried, Parliament will have to give me money, so that I can implement it. I cannot implement it without the money. I am in agreement that we must protect public utilities. That is why I have said that from now henceforth, we have put on notice anybody, including Members of Parliament, who may have taken public utilities to know that they must return them. My Ministry must be very candid. Subject to the availability of Kshs141,066,908, my Ministry will implement this Motion. We do not want to support Motions which we will not be able to implement. That has been a bad practice in the past.

Mr. Temporary Deputy Speaker, Sir, for avoidance of doubt, as far as the Government is concerned, public utilities must be protected, and we shall protect them. We are now saying that anybody---

The Temporary Deputy Speaker (Mr. Poghismo): I agree with you on that one. Even the Mover of this Motion and the House are seeking, through this Motion, a waiver of all fees payable. That is what you need to address. As to whether you will go to the Ministry of Finance and then come to this House for approval, that will come later. So, you need to address yourself to the gist of the matter. Is the fees going to be waived?

The Minister for Environment and Natural Resources (Prof. Kibwana): Mr. Temporary Deputy Speaker, Sir, we have said that as a Government---

The Temporary Deputy Speaker (Mr. Poghismo): Quite different from protecting public land, which you want to do, there is an issue here.

The Minister for Environment and Natural Resources (Prof. Kibwana): Mr. Temporary Deputy Speaker, Sir, I want to be very pragmatic on this issue. This is a Motion which requires money to be made available for it to be implemented. So, if money is made available to the Ministry, I will be very happy to implement this Motion once it is passed.

The Temporary Deputy Speaker (Mr. Poghismo) Hon. Members, it is now time to call

upon the Mover to reply.

Mr. Ochilo-Ayacko: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I want to thank all the hon. Members who have been very supportive of this Motion. In fact, I must admit and confess that all the hon. Members who spoke did so in support of the Motion. There is just the money issue, about which the Minister is concerned. This Parliament has been very magnanimous to the Government. If he asks for money from Parliament--- I am yet to know of an occasion when Parliament declined to approve money to the Government. So, if he wants money to bridge the shortfall that he anticipates, it is for his Ministry to ask for it and Parliament, in its usual magnanimity, will agree to the request.

Mr. Temporary Deputy Speaker, Sir, the Minister talked about the university land at Kibwezi that is being given out to squatters. He said that, that land was taken away from people who previously occupied it. I want to be of the view that such persons had been compensated, and it is hard to understand the context in which they are now being given back the land, unless---

The Minister for Environment and Natural Resources (Prof. Kibwana): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to say that people were compensated when, factually, they were not?

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order! Actually, there is nothing out of order about saying something. He is either misleading the House or doing something that kind of breaches our Standing Orders.

Anyway, you may address the issue raised by the Minister, Mr. Ochilo-Ayacko.

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Speaker, Sir, my point is very serious. We are very supportive. The Minister has said that his Ministry is eager to protect public land. In the same breath, public land is being given out to people. So, that in itself, is contradictory. If these people had not been compensated, I think there is legal redress. They can go to court and seek that compensation. As far as the public is concerned, Kibwezi needs to have a big university that can educate all Kenyans. So, the land that is available, be it 12 or 100 acres, should have been intended for that purpose. So, Members of Parliament should preoccupy themselves with mobilizing money to put up universities to educate Kenyans, be they in Kibwezi or elsewhere, instead of giving away land intended for learning purposes. If we give out land in Kibwezi, we will be denying posterity land that the Government would otherwise avail to it for construction of universities.

Mr. Temporary Deputy Speaker, Sir, Mr. Kaindi captured some other difficulties not related to the issue of payment of fees and charges to this Department. There are very serious procedural difficulties in the issuance of title deeds for parcels of land that are supposed to house public institutions. Prof. Kibwana was my very able teacher. That is why I did not want to have a confrontation with him. He taught me constitutional law and family law at the university. I believe that he should do more than going for the waiver of the fees. I want to also, humbly, pray for him that he gets the job of the Minister for Lands instead of continuing to act as one. He is a good lawyer, and he should be able to protect public lands and waive these fees.

I want to conclude by saying that, basically, these institutions are owned by the Government. I do not understand from where the Government expects money for payment of these charges. If you own the institutions, then pay the charges or waive them altogether, because asking the institutions to pay the charges would be like robbing Paul to pay Peter, which is rather paradoxical. If the institutions are owned by the Government, the Government should be responsible for the issuance of the titles deeds without visiting payments on other persons, who do not have ownership.

With those very many remarks, I want to conclude by thanking everybody for supporting this Motion.

I beg to Move.

(Question put and agreed to)

The Temporary Deputy Speaker (Mr. Poghisio): Next Order! Mr. Oloo-Aringo!

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, Sir, before I move the Motion, with your permission, may I draw your attention to, and seek to correct, an error in line seven of the Motion, where it reads "Chapter 212". This should read "Chapter 211". So, this was just a typographical error, which needs to be corrected.

A BILL TO AMEND THE EDUCATION ACT

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, I beg to move:-

THAT, this House notes with appreciation the implementation of the free primary education in Kenya since 2003, and observes with regret that the majority of the pupils who sit for the Kenya Certificate of Primary Education (KCPE) examination do not proceed to secondary or higher education and lack opportunity to acquire proficiency, artisan, craft and other requisite technical skills, this House therefore grants leave to introduce a Bill for an Act of Parliament to amend the Education Act, Chapter 211, Laws of Kenya, to provide for 12 years of free and compulsory elementary and secondary education for all children in Kenya.

Mr. Temporary Deputy Speaker, Sir, first of all, let me congratulate the President for his Statement yesterday; that the Government would waive fees for public secondary schools in Kenya. That was an important Statement, though it is too little and it has come too late. This is so because it simply talks about waiving school fees. It does not address, therefore, the core issues which this Motion raises.

First of all, my Motion is premised on a philosophical basis that education is a human right alongside other social and economic rights such as food, housing, social security, water and so forth. So, the fundamental principle which this Motion raises is to identify the philosophical premise of education that will lead to the overhauling of the education system. Secondly, we are talking about education being both free and compulsory from Standard 1 to Form IV; 12 years of primary and secondary education being provided free to all children in Kenya. The President's Statement, therefore, did not address that one. It took the short cut of waiving school fees. It was dealing, therefore, with a very small part of the entire problem of this Motion.

Mr. Temporary Deputy Speaker, Sir, every person has a right to functional literacy. This is so vital that it gives the individual access to data and information which is necessary for personal development. It is equally important that people have functional numeracy; not just the teaching of basic arithmetic, but to enable them to read and understand data. These are vital for personal development. So, we are saying that just as water and shelter is vital for us, education is equally vital to the individual for personal development. I am trying to distinguish between education and the school systems that we operate today in Kenya. The school systems in Kenya today are operating what is like examination factories where we are producing large numbers of people and count our success in the number of those who proceed to Form I or those who proceed to the universities. They do not address at all the issue of large numbers who do not proceed to high school and who do not find accommodation anywhere else within the society. Each year, for example, we have approximately 700,000 who sit the Kenya Certificate of Primary Education (KCPE). True enough, we know that about 300,000 go to high school and find places in all sorts of other small training opportunities that still exist. What about the remaining 300,000? Year in, year out, we are throwing out over 300,000 so that in every three years, we have a million Kenyans

whose fate we do not know and nobody talks about them. If you take into account that the youth polytechnics and vocational training centres have to, a large extent collapsed, you have condemned this large percentage of our population into illiteracy. You have also denied them opportunity for self development. This is the question which I have in mind in this Motion.

Mr. Temporary Deputy Speaker, Sir, the second one is about those who graduate at primary school now who are, to a large extent, between the age of 13, 14 and 15. They cannot be meaningfully employed. In fact, that would be child labour; so, they do not get employment. They do not get opportunity for additional sellable skills; like I said, proficiency, artisan, craft or technical skills for them to acquire sellable skills for self employment. So, what we have done in a society such as ours, is to condemn, therefore, large numbers of those who have graduated from primary school and who will have no opportunity but to relapse into illiteracy in our country.

As I said, the premise of this Motion is that education is a human right. I have distinguished between education and school systems. The school systems that we have today, as I repeat, are simply examination factories. We are concentrating on those numbers that proceed on to universities, ignoring that large numbers will never see the university. This is probably one of our biggest problems.

I must say that we spent a lot of time at the Bomas of Kenya discussing the draft Constitution. One of the things that came out of the Bomas of Kenya which was very salutary was that we were able to address what is called human rights, and the question of social and economic rights of people; and place education as one of the rights. Article 62 of that draft Constitution--- The draft Constitution was very good and I know that whatever we do in the near future, any group that will try to re-draft this Constitution will have to address the issues which we raised at the Bomas of Kenya and which had been discussed everywhere else in the country.

Article 62 of that draft Constitution says as follows:-

"(i) Every person has the right to education.

(ii) The State shall institute a programme to implement the right of every child to free and compulsory pre-primary and primary education and in so doing shall pay particular attention to children with special needs. The State shall take measures to make secondary school and post-secondary school available and accessible."

So, the spirit of the Motion is already enshrined in the Bomas Constitution, which I am sure one day we shall implement in this House. However, what we are saying is that we have not yet, since the Education Act of 1968, made any changes in the philosophy of education in this country. What we have tried to do is to provide the education that we inherited from our colonial experience, in spite of the many commissions that have studied this subject and have made recommendations to the Government and to the people of this country. In fact, just to give you an example, if you take the Education Act, it does not recognise, the role which Parents Teachers Associations (PTAs) are now playing in education. They have become vital parts and machinery of our educational system yet the law does not recognise them. If we, therefore, revise this Act, it will have to accommodate the PTAs as part of our development in this area.

Mr. Temporary Deputy Speaker, Sir, the purpose of this, therefore, is to provide for the overhaul of the curriculum. Let us face it! I, personally, as you know, have served in the Ministry of Education. I served for seven years but I also know that the 8-4-4 system of education did not succeed. It did not succeed because we did not provide the practical aspects of education. We did not provide facilities for workshops and laboratories, and so the practical aspect of this education was not implemented. We have continued with theoretical education where our children pass through various examinations such as KCPE and KCSE without paying attention to whether or not the education which we are giving them is relevant.

Mr. Temporary Deputy Speaker, Sir, we, therefore, need to overhaul the curriculum to be

able to provide what is a twin approach to education, which will provide both the practical and theoretical sides of education. The academic and practical sides of education must go hand in hand as is done in many developed countries. The reason why countries like Germany and Japan have been successful is because of their focus on vocational and technical skills. They have also made sure that practical and theory go hand in hand at all levels of education. We are talking at a time when, through initiatives of Members of Parliament, we have made a breakthrough in terms of capacity. With the Constituencies Development Fund (CDF) now, it is possible for us to provide the infrastructure of education such as classrooms, laboratories, workshops and so on. With the availability of this infrastructure, we will not only be able to provide practical education, but also equipment and other tools which will enable students to benefit from this education.

Therefore, among the policies I am suggesting is to overhaul the secondary education in promoting social equity through provision of education to all Kenyans. It is only at the age of 18, for example, that many people graduate from secondary school that they can now be eligible for training in our middle level colleges. So, instead of talking about, say, 10,000 people joining public universities and, perhaps, another 30,000 joining private universities, we should talk about the number of people who would join middle level colleges. To a large extent, we have actually killed not only the youth polytechnics, but also vocational institutions in the search for the 10,000 or 1,000 places in our public universities. Why is this the case? It is because we have tied university admission to bed space and that has limited the number of people who can go to our universities. We cannot tackle poverty if we do not have functionally literate people. These people can easily be secured only after we have put our children through 12 years of elementary and secondary education. However, I am not saying that this is unique to Kenya.

Mr. Temporary Deputy Speaker, Sir, you know very well, because of your wide experience, that in the entire Europe, in nearly all member nations of the European Union (EU), education is both free and compulsory. In fact, in the case of Germany, it is free and compulsory all the way to the university. Indeed, it is part and parcel of the human rights of the people. The reason, for example, why the industrialised countries have made progress is because they have identified this problem and made education both free and compulsory.

We know pretty well that Reports which have already been put together by various commissions in this country have recommended that we take the next bold step and create a Kenya where everybody can access 12 years of free and compulsory primary and secondary education. Indeed, we can say, without fear, that the money is available. We worked out, with our Budget Officers, how much it would cost. As you know, we now have a Budget Office with competent officers. We found out that, indeed, to implement free and compulsory secondary education, we need about Kshs20 billion. Now, that money is less than what was stolen in the Anglo "Fleecing" or Anglo Leasing, as you call it. If the money which was stolen in Anglo Leasing had been spent for this purpose, we would now be offering free and compulsory secondary school education to our children.

Mr. Temporary Deputy Speaker, Sir, if you can recall, this money is far much less than the money we lost in the Goldenberg scandal. As Kenyans, if we will stop theft and corruption, we will be able, therefore, to provide this particular basic human right of giving people education all the way, for 12 years, in primary and secondary schools. It is for this reason, therefore, that I support the Koech Report which candidly pointed out that the Education Act was not a suitable vehicle for the provision of quality education in Kenya. The Report specifically explains that the Education Act does not address the key issues of access, completion, transition and wastage at all the subsectors of education, and especially at the secondary school level.

The Koech Report further pointed out that the Education Act offers no mechanism for the systematic formulation, review and monitoring of appropriate national and sectoral policies on

education and little guidance regarding the development and management of resources from the public and private sector for quality education. All these things need to be addressed if the country's Education Act is to remain relevant to the country's educational development.

Finally, there is need, therefore, to provide opportunities for all citizens to get access to secondary education by making it free. Unless this advice is taken seriously, we risk making the country proud of primary school graduates and instead becoming a shining example of failure to cope and translate the international countries commitment on matters of education. The current system, therefore, where we have to pay for secondary education has excluded the majority of poor children, including HIV/AIDS orphans. We are talking about disadvantaged and vulnerable children. These are issues that are addressed in Motions which have been passed by this House over the last one year.

Mr. Temporary Deputy Speaker, Sir, currently, therefore, there is rapid expansion in secondary schools through the CDF so that Members of Parliament can oversee the expansion of infrastructure of education. Enrolment, therefore, in secondary schools should be encouraged. This Motion would easily abolish the concept of the bursary as it is today. Bursaries are very badly handled not only by the Constituencies Development Committees (CDCs), but also by the schools themselves. If you have free and compulsory education, then you have solved one of the major problems, that is, the problem of ensuring equity in the country.

Mr. Temporary Deputy Speaker, Sir, I know you know very well the problems that are experienced in arid and semi-arid areas. This Motion will solve the problems in those areas. Similarly, the problem which was raised by Prof. Mango about the girl-child education would be solved. I agree with her with regard to some of the problems that girl-children have faced in this country. However, let us not discriminate between the girl-child and the boy-child. Sometimes we take gender issues too far. We must treat boys and girls equally. If this Motion is passed and the Bill is brought before this House, we will have addressed equity as well as equality of opportunities for both men and women in this country. Therefore, let us have a holistic approach by committing this country to provide free elementary and secondary education. There are several examples worldwide that I can give like the UK. In the USA, you cannot leave school until you have completed your secondary education. Indeed, we should be strict on this and insist that parents must make sure that their children go to school. When we draft the Bill, we will provide penalties so that those who do not take their children to school will be penalised for not doing so.

Mr. Temporary Deputy Speaker, Sir, I would like to thank the House for listening to me and also ask my friend, Mr. C. Kilonzo, to second this Motion.

The Temporary Deputy Speaker (Mr. Poghio): Mr. Oloo-Aringo, you have not moved the Motion.

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, Sir, I thought I had moved at the beginning, but let me do so. I beg to move.

Mr. C. Kilonzo: Thank you, Mr. Temporary Deputy Speaker, Sir. Let me thank my colleague for having brought this important Motion to the House. I, personally, look forward to the day when this country will be able to introduce free secondary education.

Yesterday was Labour Day and the President, in his Speech, mentioned that the Government was going to scrap tuition fees in secondary education. I know that there has been a lot of excitement about this matter. However, we need to know exactly the true implication of this. The President said that tuition fees in secondary schools will be abolished from January, 2008. The amount which has been set aside to cater for this is Kshs4.3 billion and the number of schools to be affected is 4,000.

Mr. Temporary Deputy Speaker, Sir, what is the implication of this? In the first place, tuition fees forms only 50 per cent of the school fees paid in a day school.

The Temporary Deputy Speaker (Mr. Poghisio): What percentage?

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, it forms 50 per cent of fees paid in a day school. Not a boarding school. We are talking about approximately a million students. Take an average of Kshs9,000 to be the fees paid in a day school. To comfortably offer free secondary education, we require Kshs9 billion. The deficit is Kshs4.7 billion. If we go back to the number of students, it means we will require Kshs4,700 per student in a day school. This still implies that many poor parents will not afford to pay for secondary education. We have been giving students bursaries of Kshs5,000 each, per year, per student in day school. However, that is still not adequate. These students are still being sent home for lack of school fees. It also means that orphans will still be locked out of school.

Mr. Temporary Deputy Speaker, Sir, parents have been asked to cater for other costs like those of water, electricity bills and salaries for non-teaching staff. As I said, this forms the remaining 50 per cent which is almost about Kshs5,000 in a day school. The Government should introduce free secondary education in day schools without hesitation. We are not very keen about boarding schools.

Mr. Temporary Deputy Speaker, Sir, for the Government to say they will impose strict guidelines after scrapping tuition fees, it is not realistic. The Government has not been able to control and implement the current fees guidelines. In essence, the Government has only lowered the cost of secondary education. However, we are looking for introduction of free secondary education.

Mr. Temporary Deputy Speaker, Sir, I want to look at the budget. In the year 2002, the Government collected taxes amounting to about Kshs178 billion. This year, we are talking about a collection of Kshs340 billion. On the other hand we only need Kshs9 billion in order to implement free secondary education in day schools. It can even run to Kshs10 billion. Are we saying that we cannot afford that? The issue is, we have not made our priorities right.

Mr. Temporary Deputy Speaker, Sir, we are not restricting ourselves to free secondary education only. We are also talking about youth polytechnics. When you look at the transition rate from primary to secondary schools, this year, there was a lot of excitement that we achieved a 60 per cent transition rate. However, if you look at the dropout rates--- After four years, we have a completion rate of 30 per cent. These are the students who join form one and complete form four. That is why we have a very small number of students in secondary schools; one million! We should be talking of 2.2 million or 2.5 million students in secondary schools.

Mr. Temporary Deputy Speaker, Sir, in this country, the gap between the rich and the poor is very wide. What makes a person poor? A person is poor when he or she cannot feed himself or herself. A person is said to be poor if he or she has no shelter. A person is poor if he or she cannot access health care. Most importantly, a person is poor if he or she cannot access education. There is nothing as painful as having neighbours who are rich and can afford to take children to secondary schools and a poor one who cannot afford the same. We want a country where we have equal opportunities and the children of the poor have the same rights as those of able parents.

Mr. Temporary Deputy Speaker, Sir, we are not the first ones in this region to provide free secondary education. We have seen weaker economies, for example our neighbour Uganda, comfortably affording free secondary education. I am told our neighbours Tanzania are in the process of implementing free secondary education. Are we saying that Kenya cannot afford to provide Kshs10 billion for this programme? I do not think so.

Mr. Temporary Deputy Speaker, Sir, if indeed the economy has grown, we need to see it translate directly to the people. One way of doing so is by introducing free secondary education.

(Applause)

In that way, a poor person in the village will understand when we say the economy has grown. However, as we are today, you cannot convince anybody that the economy has grown. We need to see direct benefits to the citizens. One easy way of making everyone understand that the economy has grown is by introducing free secondary education.

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

The Temporary Deputy Speaker (Mr. Poghisio): Did you second the Motion?

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I beg to second.

(Question proposed)

Capt. Nakitare: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to contribute on this Motion. I also thank Mr. Oloo-Aringo for introducing the Motion in this House.

Mr. Temporary Deputy Speaker, Sir, education in our country needs a total overhaul. There is a lot of overlap in the education system. This has created enormous lapses in grading students. When you look at children from primary schools sitting comprehensive examination and then we abolished the other examination after standard eight, this created a very big gap in education. In the past, a form six student went directly to the university. They forgot that there are other colleges. In this country, when we talk about polytechnics, we do not have the language to emphasise this. Diploma courses are taken in colleges. When you go outside this country, students are very proud to say they are in college, university or elementary school. Therefore, Mr. Oloo-Aringo's Motion is a conduit for smooth education.

Mr. Temporary Deputy Speaker, Sir, when we look at provision of free education, it is a relief to parents. It is not free because the parents still pay taxes and contribute to the budget. This allows the Government to allocate money. It is the Government which should come up with a method of budgeting properly, but as we say, the Government should take a census of pregnant women who will bear children tomorrow, so that they can plan ahead, having known how many children are going to be in Standard One and how many are going to finish Standard Eight. That will also enable them to know how many students need to go to colleges and universities. There has been a lot of emphasis about room space in the universities. This is a burden. We have not been able to open doors for private accommodation for university students. That is where the Government is going to get into trouble with this populous country. The population explosion in Kenya is horrendous.

I do not think that our Government is doing proper planning for our youths because we look at them like a flowing river. It is not fair to have 400,000 pupils sitting the Kenya Certificate of Primary Education (KCPE) in one year. This year it was 400,000 pupils and next year it will be 500,000 and the number continues to increase. Where shall we find the top cream which goes to university? There are those students who should join middle level colleges for diploma courses. That is why you find teachers stuck at the tertiary level, because they may have gone half-way to school; he or she was not able to complete schooling because of financial constraints. That was not a short-cut because education has no boundaries. In any case, this particular teacher has to divide his salary between education and looking after his large family in the home. If we had free education, that particular person would have gone to school.

Mr. Temporary Deputy Speaker, Sir, we do not have a proper career system in this country. A child goes to school, finishes Form Four and does not know his future. Most of us who did Cambridge School Certificate had colleges to go to. There was Egerton College where I went and pursued my agricultural engineering course and got married late because I pursued further

education in other areas. Presently, a Form Four graduate is too young to be exposed to the world. As the saying goes: "You will be taught by the world." You are exposing that Form Four graduate into a situation where he will be forced to get married before he is 25 years old. We should set smooth education standards.

I have never understood the purpose of the 8-4-4 system of education. It beats me. I have never known why we did not maintain the 12-year system of education in this country, because it was a delaying factor for a person to mature. By the time we went to university, we were grown up and we could make decisions. A child at this time who is doing, for example, a Phd degree is unemployable because he or she cannot even face the panel of interviewers. He or she looks inferior and does not even have the personality. Therefore, we should create a system which gives relief to the parents because they are over-burdened, not that they have big families, but the financial constraints are enormous.

Mr. Temporary Deputy Speaker, Sir, let us look at development. Development comes with proper planning. The Ministry of Planning and National Development should not wait for ten years in order to give us a population census. Planning must be based on a blue-print for a population census done every five years. In fact, I am surprised that international organisations like the International Monetary Fund (IMF) and World Bank know our population more than we ourselves know. Therefore, they work out a system where they can force us to borrow money from them with conditions, and yet, we do not have the purchasing power. We do not have proper planning. We had teacher training colleges where we refined teachers to teach in primary and secondary schools. It is embarrassing that a person who pursues a doctor of philosophy (PHD) degree will be above 55 years of age. When he comes back home with all those degrees, he is told to retire. What a system we have! This Motion is actually a warning to Kenyans of tomorrow. Let us look at Kenya 50 years from now. We must not look at Kenya with the free primary education of yesterday, because tomorrow we are going to have a flux; we are going to be swamped by literally lowly educated people in this country, who will be unemployable for lack of skills.

With those remarks, I beg to support.

Mr. Sambu: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me time to contribute to this Motion. I wish to support it wholly. Universal education, as I understand it, is education from Standard One to Form Four. When we were growing up, you would go up to Standard Four and do an examination called "Common Entrance Examination", and it prevented a lot of students of our generation from continuing to Standard Five. The consequence was that the colonialists managed to keep a lot of people away from being educated.

Therefore, when we have an examination at Standard Eight which prevents a lot of young people from continuing to secondary schools, then we are doing a lot of injustice to them. Somebody leaving school at Standard Eight may be 14 or 16 years of age, and still needs a lot of guidance in life. If we supported young people to continue up to Form Four, at that level, even if they do an examination and do not continue with further education, they can join youth polytechnics when they are mature, while those who are academically able will pursue their chosen disciplines at universities. When they join polytechnics they can decide whether they want to be mechanics, tailors, welders and so on. They will graduate with diplomas or certificates and become technicians. I have always said on the Floor of this House that nations are built by technicians, guided by professionals with degrees. You cannot expect the professors to come and do welding and mechanical jobs or tailoring. So, I support this Motion, that we have to offer free education up to Form Four.

I support what His Excellency the President declared yesterday. But we have to make it clear, because people have misunderstood it to mean the tuition that is done during the school holidays. Usually, when the Ministry prepares school fees guidelines, 40 to 50 per cent of school

fees is tuition fees. Therefore, it means that next year, if Kenyans re-elect President Kibaki, we will have people who have been paying Kshs9,000 as day scholars paying only pay Kshs5,400. That is more than 50 per cent reduction in school fees. What else do Kenyans want? I support this Motion, but this is a process towards the final. You cannot start from final; you have to start gradually, as my colleagues have said. Saying that it cannot be done--- We used to pay 18 per cent Value Added Tax (VAT) to the previous Government. I used to sit there, and we never got any free education! So, let us support what is right.

Mr. Temporary Deputy Speaker, Sir, I support this Motion and what was said yesterday, but we should make sure that the school boards and head teachers are not going to dictate to the parents, like they are now dictating. The Government has said, and the Minister has also said here, that the Government supports the opening of day streams in boarding schools. In a situation where all the students are day scholars, the fees they pay is a maximum of Kshs9,000 and, maybe, Kshs1,000 for their lunch. In high potential areas where the primary schools are close by, why do we need boarding schools? Boarding schools are only meant for collecting money to be misappropriated by the Board of Governors (BoGs) and the head teachers. In fact, it is not all the BoGs, they have got what they call the "Executives", which is composed of two or three people sitting together with the head teacher. We have many a case; it is only that--- In fact, a majority of them would be--- If auditors from the Ministry were strict enough, many of them would be found to be misappropriating this money.

Mr. Temporary Deputy Speaker, Sir, we want as many day secondary schools as possible. Let us build them with the Constituencies Development Fund (CDF) in the high potential areas. Yes, I understand that it is only in the Arid and Semi-Arid Lands (ASALs) where there is a need, because the parents are pastoralists or nomadic people and the children cannot go to one school because the parents are travelling around. But in high potential areas like Mosop, why do I need boarding schools? It is a very serious affair, because many of us went to day secondary schools and we passed! I mean, the fact that the child goes to a boarding school and yet it is only a kilometre, two kilometres or three kilometres from home, what do they get? This is where they only get to riot! These things are practical, and you get the parents paying Kshs25,000 to Kshs30,000 and what is the difference? The food is not different! So, what are we doing? Let us save the parents these huge amounts they are paying. Let us start with what the President has said, hoping that, God-willing, he will be re-elected and, next year, he will give us this 50 per cent reprieve off the school fees. So, we will get more children going to form four. As I said earlier, this should only be the basis or the groundwork for eventual free secondary education.

Mr. Temporary Deputy Speaker, Sir, Polytechnics should also be supported. I am pleading with the Government to do this. It was discussed this morning. There are people who have taken title deeds for schools and village polytechnics, and I want to urge the Government to take action on Government land. The Government should make sure that school land is not held by the sponsor. In many cases, sponsors and the churches hold the titles. Titles should be held by the Government on behalf of the schools. I support this Motion because we want our children to proceed from form one to form four, uninhibited by costs.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Poghisio): Hon. Members, I will now give this opportunity to the Official Government Responder.

The Assistant Minister for Education (Dr. Mwiria): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this Motion or, at least, give some direction. As a Government, we are not against it. The Government cannot be against such a good idea as this one. I would like to congratulate Mr. Aringo for coming up with this good idea. I would like to challenge him for not coming up with it many years ago. He could have implemented it because he

had more money when he was the Minister for Education. However, I must give him credit because when he was the Minister for Education in those difficult days, I was doing a research project on universities. He granted me an opportunity to interview him even though I had been thrown out of the university. The then Vice-Chancellor of the university, who was under him, could not grant me an interview. Although he operated in a system where he found it very difficult to get out, he was still a democrat.

Mr. Temporary Deputy Speaker, Sir, it goes without saying that, as a Government, we support this Motion. His Excellency the President spoke about it yesterday. We have spoken about this issue before. Sessional Paper No.1 of 2005 is very clear about it. Our parents want it. Most of our parents are poor. About 60 per cent of our population is in trouble. Therefore, affording expensive education is a real problem. It is also in keeping with our commitment to development through Vision 2030. All the things that we have been talking about will not be accomplished if we do not educate our people beyond primary education. Countries that have made a difference are those that have embraced secondary education in terms of development. We have examples of Japan and the Asian "tigers". Those countries have put more money beyond primary education to support secondary education institutions. Already, even in terms of practice, we are headed in that direction. The idea of day schools that have improved transition to secondary education to almost 70 per cent now, is an indication of our commitment to ensure that many young people benefit from secondary school education. Other interventions like the bursary school programme are also supposed to make it easier for our children to go through secondary schools. But we have to do more. It will not be a reality unless we do more.

Mr. Temporary Deputy Speaker, Sir, the Free Primary Education Programme (FPEP) is a good thing. But it is only basic education. In many countries of the world now, the new basic education level is secondary education. Therefore, that should be our target.

Secondly, secondary school education is a real bottle-neck for many Kenyans. Most of our children can go through primary school education because it is free. University education is affordable because there is a lot of support from the Government. But the real bottle-neck is to move from primary level to university level. In many ways, it is a contradiction! We would like to support FPEP, support university education to make it affordable, but make it difficult for children to graduate from primary level to university level. We must support secondary education to bridge that gap and enable our students to benefit from actual university education. We cannot benefit from it unless we go through secondary education. Obviously, issues to do with boarding schools have to be discussed. That is where most of the expenses are.

Mr. Temporary Deputy Speaker, Sir, saying and getting committed is one thing. Yes! We may say that education is every child's right. The Bomas Constitution may say: "Yes, we need to educate our children. It is a right that they be educated up to 12 years." But that is not enough. The Constitution does not provide the money. We must go beyond signing United Nations (UN) charters and so on. That is not where the money is. The money has to be provided. The real challenge is to implement all the good theoretical ideas that we put in paper. It is true that Germany, America, Japan and other countries are doing much better than us in terms of supporting secondary education. They have a highly subsidized university education. But are we well placed in terms of resources to do that? Is that comparison a very fair one, given the kind of circumstances which we are in? Therefore, we need to come up with modalities to make this idea practicable.

The critical action that we need to take has got to do with money. In fact, we attend many seminars on education and we have a long list of the things that we need to do. People talk and give recommendations and so on. At one time, there was a participant who summarised all the issues and said that the real problem is money. He said that if we can provide money we can accomplish many of the good things that we want to do.

So, soon, as a Ministry, we will be calling all the key actors in the educational sector, so that we can think together about how best we can implement this new programme. Among those to be invited will be hon. Members of Parliament, secondary school head teachers, donor organisations and the private sector, so that we can chart a way forward. It is not just going to be the business of the Government. The Government needs to be supported by all those who have a vested interest in this. For this reason, in the next two weeks or so, we will be calling upon stakeholders to come and think with us, on the best way to implement this programme, because we need their support.

All of us, including Ministries of Government, have a vested interest in this. What is it that we can get from specific Ministries to support this idea? We do not just need the Ministry of Science and Technology from where we have to come up with resources to invest in technical institutions or the Ministry of Youth Affairs for investment in youth polytechnics, but also other Ministries. There must be resources to support education that we could come up with. We also need religious groups, including the Catholics, Protestants, Muslims and others, who have invested in education. There are also resources from the Constituencies Development Fund (CDF) and the private sector. The donor organizations should also insist that it is not enough for them to support us in terms of basic education, because many of them think that all that we need in Africa is primary education. They should understand that even secondary school education, for us, has become basic education, and that there is no way we can think of development--- If they have to support us, therefore, they must allocate more money for secondary education than in primary education.

Mr. Temporary Deputy Speaker, Sir, we also have to call upon our parents to put in something; after all, it is their children. Other than children it implies also other responsibilities. So, cost-sharing from parents will have to be expected if we have to move ahead in terms of that accord. But also in terms of closing the loopholes that will enable us to cut costs---

Mr. Odoyo: On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the time element and the fact that the Government side has completely acceded and agreed to this particular Motion, will it be in order for me to request the Chair to ask the Mover of the Motion to respond?

The Temporary Deputy Speaker (Mr. Poghio): Order! Proceed, Mr. Assistant Minister!

The Assistant Minister for Education (Dr. Mwiria): Mr. Temporary Deputy Speaker, Sir, part of the reason for discussing Motions in Parliament is not just to pass them without thinking how to implement them. So, we need to get other Members of Parliament to talk, so that---

The Temporary Deputy Speaker (Mr. Poghio): Order! That is not for you to respond to. I am looking at the interest of this Motion. So, the Chair will eventually have to say something about it, but you do not have to do it!

The Assistant Minister for Education (Dr. Mwiria): Thank you, Mr. Temporary Deputy Speaker, Sir. Basically, the reason for calling a meeting of stakeholders in the next two weeks is for us to chart a way forward, and one way of consulting stakeholders is through discussions in Parliament.

Mr. Temporary Deputy Speaker, Sir, as we expand that, we need to worry about content, like the hon. Members have said. If it is just academic, then there are problems. This is because, like it has already been said, we need people with practical skills to contribute. There are many opportunities out there for those with vocational and technical education skills. Therefore, we need to think about a content that will be relevant and how well we can get resources and support other Ministries that are supportive of education in general, including the Ministry of Science and Technology, because that is where technical and vocational institutions are based.

In terms of supporting other possible options, yes, it is true that much of this expansion will be possible through day schools. It is not enough to just build day schools if parents and the

students in those schools do not realise that they can be as competitive as those who go to other schools. It is up to us to begin to think very, very seriously how we can strengthen day schools by way of providing facilities such as science laboratories, libraries, computer laboratories and ensure that they have got enough teachers to make them competitive. It is one thing to have thousands of children in day schools, but quite another and very frustrating if a lot of them will not be able to join university but also competitive programs in our universities. Issues of admission to universities and programmes must form part of discussions related to how we implement this very important Motion on expanding secondary school access.

Mr. Temporary Deputy Speaker, Sir, I would like to call on hon. Members of Parliament to support better utilisation of resources in Ministries and schools. They should vote for more resources to support this initiative. They should commit themselves to the country's development as opposed to us just talking politics. If we develop this country then we will have the resources to support quality secondary school education as well as technical and vocational institutions of value. We should support affirmative action programmes simultaneously with these changes. Affirmative action should be there in terms of admission. A lot of our children are going to day schools. We must come up with a policy of ensuring that they benefit by getting university places, even if it means coming up with an affirmative action programme to ensure that we convince parents that these schools are worth going to.

This is an important political issue and Members of Parliament must be prepared to pass that Motion. We should popularise day schools to parents because they are usually against them. We have more boarding schools because it is the parents who insist on having them. Our parents are so irresponsible that they want to send their children to boarding primary schools and some to boarding nursery schools. They want to get rid of their responsibilities. We have a responsibility to convince parents that it is up to them to bring up their children. It is not the responsibility of school teachers and head teachers to bring up their children. This is the only way day schools will be accepted.

In terms of consensus building with regard to votes, I would like all of us to sit down and discuss this Budget when it is being proposed. I would like all of us to sit down and look through votes of various Ministries. We can then say that we will get a billion from a certain Ministry and allocate it to the Ministry of Education. Unless we borrow from various votes it will be very difficult for the Ministry of Education which is already very well funded to come up with the billions that are required. What about the CDF? I would like to propose that instead of asking that we get an additional 2 per cent or 5 per cent, this money gets voted to support free secondary education as part of the budget for the Ministry of Education. This is our biggest headache as hon. Members of Parliament. Let us think more seriously about whether or not this money will not be better used if we put it in this kind of vote.

Mr. Temporary Deputy Speaker, Sir, I am saying this because I would like us to look at this as our business for all of us to make it possible because it is a headache for all of us. If we want secondary school education not to go through the same criticism that we have subjected free primary education to, we need to be involved in designing the programme that will make a difference. This should be a programme whereby hon. Members have ownership of. That will also require making certain sacrifices in terms of the resources that we want to give ourselves as MPs representing constituencies.

We support this very noble idea.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghisio): We will continue, but I do not think

there is time for any one person to start. You can see the interest. So, we will not have a termination. We will continue from there.

Hon. Members, it is time to interrupt the business of the House. This House, therefore, stands adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.