

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 5th October, 2005

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

Mr. Deputy Speaker: Hon. Members, the first two Questions by Private Notice by Mr. Mr. J.M. Mutiso and Mr. Khalwale will be deferred. The two hon. Members have said that they will not be available to ask these Questions. I do not know whether the Minister for Education, Science and Technology has anything to say on this.

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Deputy Speaker, Sir, that is fine with us. This Question by Mr. J.M. Mutiso was, indeed, brought to our Ministry after 4.00 p.m yesterday, and we would not have had an answer to it ready, even if it was asked. We want to request that Questions be delivered to us in good time before they are slotted to be answered.

Mr. Deputy Speaker: That is okay, Madam Assistant Minister. I will defer this Question to Tuesday next week, though it is a Question by Private Notice. In view of what hon. Mugo has said, Tuesday will be appropriate.

SCHOOL FEEDING PROGRAMME SUPPLIES FOR MAKUENI DISTRICT

(Mr. J.M. Mutiso) to ask the Minister for Education, Science and Technology:-

- (a) Is the Minister aware that schools in Kilome, Kasikeu and other divisions of Makueni District have not received supplies for the School Feeding Programme from September, 2005?
- (b) Is he further aware that pupils have stopped going to school due to lack of food?
- (c) What urgent measures is the Ministry taking to address the problem?

(Question deferred)

Mr. Deputy Speaker: What about the Minister for Health? She is not here; so, the Question is as well deferred to Tuesday.

SHORTAGE OF STAFF/FACILITIES AT KAKAMEGA PROVINCIAL HOSPITAL

(Dr. Khalwale) to ask the Minister for Health:-

What is the Minister doing to restore normal services at Kakamega Provincial General Hospital, where the delivery of medical services has been paralysed by the

shortage of staff and facilities, putting the lives of thousands of patients at risk?

(Question deferred)

Mr. Deputy Speaker: Now, let us move on to ordinary Questions. The First Question is by the hon. Member for Aldai, Mr. Choge.

ORAL ANSWERS TO QUESTIONS

Question No 330

NON-PAYMENT OF SALARY TO MR. ANDREW K. CHUMO

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

(a) whether he is aware that Mr. Andrew K. Chumo (PF No.87108669) was not paid his salary and other emoluments for the period 1st July, 1998 to 27th January, 1999; and

(b) what he is doing to ensure that the claimant is paid all his dues.

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

(a) Yes, I am aware.

(b) Mr. Chumo does not qualify to be paid for the period in question, because he had already attained the mandatory retirement age of 55 years, and had retired with effect from 1st July, 1998.

Mr. Choge: Mr. Deputy Speaker, Sir, we all know that the District Commissioners (DCs) as well as the Provincial Commissioners (PCs) have powers to retain officers after their mandatory retirement age or otherwise. By a written communication, the District Commissioner of the then Nandi District communicated with his PC in Nakuru seeking to retain this particular chief in service, and that was accordingly done. The chief in question continued rendering service and was entitled to be paid. What will the Assistant Minister do to ensure that this chief is paid for the period he worked on the instructions of the local DC with the approval of the PC, Rift Valley Province?

Mr. M. Kariuki: Mr. Deputy Speaker, Sir, first and foremost, I would like to make it clear that DCs do not have the power to extend the retirement age. That is the function of the Public Service Commission (PSC). All that a DC can do is to make a recommendation to the PSC. In respect of this particular person, he made a written request that he be given two more years. When the request reached the PSC it was turned down. I am surprised to hear that this particular person continued to work for a further period. I undertake to verify if he carried out official duties on the instructions of the DC and will inform the House accordingly. Otherwise, the period in question was after the mandatory retirement age of 55 years, and the PSC was not advised of the chief's continuation in service.

Mr. Waithaka: Mr. Deputy Speaker, Sir, this is not an isolated case. We have similar cases in Nyandarua District, where chiefs were retained in service and they actually worked. In this particular case, the hon. Member has said that there was communication from the PC that the chief continue to be in service. Why does the Assistant Minister doubt that the chief, indeed, continued serving after attaining the retirement age?

Mr. M. Kariuki: Mr. Deputy Speaker, Sir, I have said that the PCs and DCs have no power to increase the retirement age. But in the event that, that was done on the assumption that DCs and PCs had the power, and certain officers continued to discharge their official duties beyond their retirement age, I am prepared to look into that to ensure that their remuneration is paid.

Mr. Deputy Speaker: Very well. Last question, Mr. Choge.

Mr. Choge: Mr. Deputy Speaker, Sir, I am very much contented with the statement made by the Assistant Minister. But could he give the House a specific period within which he will ensure that payments are made? I would also like to table some communication from the then DC, Nandi District, addressed to the PC, Rift Valley Province. It may help the Assistant Minister.

Mr. Deputy Speaker: Mr. Choge, is it not more appropriate for you to sort out the matter with the Assistant Minister now that he has said that he will verify the information you have? Could you show him those documents and try to resolve this matter with him? I think the Assistant Minister is very accommodative. I am sure he will do what he has undertaken to do.

Mr. M. Kariuki: Mr. Deputy Speaker, Sir, I am quite prepared to engage in dialogue, and see any relevant correspondence that the hon. Member may have in his possession.

Question No.632

ESTABLISHMENT OF MILITARY/ NAVAL
BASE IN KISUMU TOWN

Rev. Nyagudi asked the Minister of State, Office of the President:-

(a) whether he is aware that Kisumu Town does not have a military or naval base despite the fact that it is close to the borders of Uganda, Tanzania, Rwanda and Burundi; and,

(b) what steps he is taking to establish a base in Kisumu.

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

(a) It is true that Kenya does not have a military or naval base at Kisumu despite its proximity to the borders with our neighbours, Uganda, Tanzania, Rwanda and Burundi.

(b) The Ministry does not have any plans to establish a military or naval base in Kisumu, because currently there are no sufficient security reasons to justify the establishment of such a facility there. The town's proximity to the international border is a fact and not a security risk.

Rev. Nyagudi: Mr. Deputy Speaker, Sir, Rwanda and Burundi have experienced war before. Since these countries are close to Kisumu, there is a possibility that if these wars recur they can spill over to Kisumu. What plans does the Ministry have in place in case Kenya was to be attacked through Lake Victoria?

Mr. M. Kariuki: Mr. Deputy Speaker, Sir, we have military bases not so far away from Kisumu. I am sure with our capacity to mobilise our military, we will be able to act in time.

Mr. Midiwo: Mr. Deputy Speaker, Sir, I would like the Assistant Minister to address the issue of security patrol on Lake Victoria. More often than not, our fishermen are abducted and arrested by Ugandan security forces. Sometimes they come all the way inland into Bondo or Migori districts. What plans does the Government have to protect fishermen and businessmen along the beaches of Lake Victoria on the Kenyan side?

Mr. M. Kariuki: Mr. Deputy Speaker, Sir, this question has been asked in this House on many occasions. We hope that the newly established authority by the East African Community to deal with the issues of Lake Victoria will be able to resolve this matter once and for all. It is not quite clear where the boundaries are on the waters of Lake Victoria, but I am sure that this matter is being addressed by the newly launched authority.

Mr. Khamisi: Mr. Deputy Speaker, Sir, it appears there is inadequate surveillance of the coastline by the naval forces. Could the Assistant Minister assure this House that there are enough

naval officers and equipment to patrol the coastal line from invasion from the other side?

Mr. M. Kariuki: Mr. Deputy Speaker, Sir, I would like to assure the hon. Member that we have enough patrol boats. In addition to the naval boats, we also have police patrol boats to take care of our coastline.

Rev. Nyagudi: Mr. Deputy Speaker, Sir, we all know that the country is vulnerable to attacks from other countries and also remember the Marsabit massacre. What measures has the Assistant Minister put in place to ensure that such an event does not occur especially along the borders of the western side of Kenya?

Mr. M. Kariuki: Mr. Deputy Speaker, Sir, could the hon. Member rephrase the question? I did not quite get the gist of the question.

Rev. Nyagudi: Mr. Deputy Speaker, Sir, what measures has the Assistant Minister put in place considering the fact that there was a massacre in Marsabit from people who, arguably, came from the Northern side? What plans does the Ministry have to protect the country from attacks from the western side of the country?

Mr. M. Kariuki: Mr. Deputy Speaker, Sir, first it is not true to say that an external factor was involved in whatever happened in Marsabit. We do not have any evidence to that effect. I would like to assure all Kenyans that we have good security along our borders and that there is no cause for alarm from any quarter.

Question No.344

WHEREABOUTS OF MR. MUTUA MATHITU

Mr. Deputy Speaker: I have been made to understand just now from the Vice-President that he has just seen this Question. In any case, Mr. K. Kilonzo had also asked that the Question be deferred. So, we will defer the Question to Tuesday next week.

(Question deferred)

Question No.578

NUMBER OF GOVERNMENT-SUPPORTED
BOARDING PRIMARY SCHOOLS

Mr. Ojaamong asked the Minister for Education, Science and Technology:-

- (a) How many Government-supported boarding primary schools are there in Kenya,
- (b) whether he could table a list of the schools referred to in Part "a" above, for boys and girls in each district; and,
- (c) what measures he is putting in place to ensure that at least every district has a Government-supported boarding primary school.

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) There are 236 low cost boarding primary schools in the country supported by the Government. They have mostly been identified in arid and semi-arid areas and pockets of poverty for Government funding to ensure retention in schools as the parents' nomadic way of life and other problems associated with poverty affect school children, resulting in drop-outs.

I lay on the table the list of those schools.

(Mrs. Mugo laid the document on the table)

(b) These schools are found in 26 districts in the country as follows: Pokot, 23; Kajiado, 10; Narok, 8; Turkana, 41; Samburu, 20; Kericho 1; Baringo, 29; Mandera, 13; Wajir---

Mr. Deputy Speaker: Mrs. Mugo, how long is the list?

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Deputy Speaker, Sir, it is quite long, and I have already laid it on the table.

Mr. Deputy Speaker, Sir, the Government has no plans to establish primary boarding schools in all the districts because these are funded in areas where there is need. In districts where there are no such problems, children should stay with their parents and go to day schools.

Mr. Ojaamong: Mr. Deputy Speaker, Sir, the Assistant Minister has admitted that some of these schools are supported by the Government. In monetary terms, how much do they get per year on average?

Mrs. Mugo: Mr. Deputy Speaker, Sir, that is a different question. When it comes to figures, that is a specific question.

Mr. Rotino: Mr. Deputy Speaker, Sir, this is a very important Question. In most areas, children do not go to school because of this problem. You will also find that in those areas, there are no boarding facilities. What sort of support does the Government give to these particular schools as an incentive for the children to attend school?

Mrs. Mugo: Mr. Deputy Speaker, Sir, is the hon. Member referring to areas where we have boarding schools or the other districts? In areas where we have boarding schools, food and security is provided for these children. Leaders such as hon. Members of Parliament and chiefs are encouraged to hold *barazas* in order to encourage parents to send their children to school. We encourage all children to be enrolled in boarding schools because they have all these facilities.

Maj-Gen. Nkaisserry: Mr. Deputy Speaker, Sir, the Government has been supporting at least 10 boarding schools in each district. However, in Kajiado District, which is one of the largest districts in the country, parents are very poor. They cannot even afford to pay school fees for their children. Now, what criteria does this Ministry use to select the ten Government supported boarding schools in each district?

Mrs. Mugo: Mr. Deputy Speaker, Sir, that is a question which the former regime should answer because those schools were established then. However, we are in the process of establishing more schools. So, when the District Education Officers (DEOs) show that there is need for more schools, we will have to, according to the programme, build more schools. Of course, the criteria is based on poverty alleviation; identification of areas where the poverty index is high. That information comes from the Ministry of Planning and National Development. All the same, my Ministry is interested in making sure we have enough schools all over the Republic. The needs are evaluated as we go on.

Mr. Salat: Mr. Deputy Speaker, Sir, I have just looked at the list that the Assistant Minister has just Tabled and I have not seen Tenwek Boarding Primary School featured in the list. This school also receives Government funding. Why is this school not one of those schools she has listed?

Mrs. Mugo: Mr. Deputy Speaker, Sir, maybe the officer who prepared the list overlooked that school. However, if we are supporting that school, then that is in order. The problem can only arise if we are not supporting the school. However, I will make sure it is included in the list.

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

Mr. Deputy Speaker: What is it, Mr. Rotino?

Mr. Rotino: Mr. Deputy Speaker, Sir, Mr. Ojaamong wanted to know how much money each of those boarding schools receives from the Government. Would I be in order to request the Assistant Minister to come up with an exact list of those schools, so that we know how much money they get per year because this amount varies?

Mr. Deputy Speaker: Mrs. Mugo, did you hear what the hon. Member is requesting you to do?

Mrs. Mugo: Mr. Deputy Speaker, Sir, we can provide the list.

Mr. Deputy Speaker: Hon. Members, without wasting more time, and since the Assistant Minister has said she will prepare the list of those schools showing amounts allocated to each of them, I will defer this Question to Thursday, next week.

(Question deferred)

COMMUNICATION FROM THE CHAIR

QUESTION NO.344 TO BE RE-DIRECTED
TO OFFICE OF THE VICE-PRESIDENT
AND MINISTRY OF HOME AFFAIRS

Mr. Deputy Speaker: Hon. Members, I talked about Question No.344, which is addressed to the Office of the Vice-President and Ministry of Home Affairs. Now, I would like to remind you that this Question had previously been addressed to the Office of the President. When it was answered, the Minister of State, Office of the President said that as far as they were concerned, the person who disappeared did so, in the hands of the Prisons Department. This is why this Question was directed to the Office of the Vice-President and Ministry of Home Affairs.

Now, I am directing the Clerk of the National Assembly to provide HANSARD proceedings of this Question to the Vice-President and Minister for Home Affairs, so that he is in a position to prepare his answer for Thursday, next week.

Let us move on to the next Question!

(Resumption of Oral Answers to Questions)

Question No.494

HARDSHIP ALLOWANCE FOR MR. SALIM FUMU

Mr. Deputy Speaker: Hon. Members, Mr. A.C. Mohammed is not here, his Question is dropped.

(Question dropped)

Next Question, Mr. Munya!

Mr. Deputy Speaker: Is Mr. Munya here? Mr. Munya, I have called out your name three times! What is happening?

Mr. Munya: Mr. Deputy Speaker, Sir, I am sorry for not rising to the occasion immediately. However, I beg to ask my Question.

*Question No.242*POST OFFICES FOR TIGANIA
MARKET CENTRES

Mr. Munya asked the Minister for Information and Communications:-

- (a) if he is aware that Tigania North and Tigania East divisions have no post offices; and,
(b) when he will establish post offices at Muthara and Kunati Market centres to serve the above divisions.

The Assistant Minister for Information and Communications (Mr. Were): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that the Postal Corporation of Kenya (PCK) has established a sub-post office in Muthara Market Centre in Tigania North Constituency and is yet to open a post office in Kunati Market Centre in Tigania East Constituency.

(b) The sub-post office became operational on 15th April, 2005 and offers basic postal services. The business will be monitored closely to determine if there is need to upgrade the outlet to offer the full range of services available. The PCK has also undertaken an evaluation to consider the possibility of establishing a sub-post office at Kunati Market Centre. However, due to logistical and economical considerations, it is not financially viable to open a sub-post office at the moment. This position will be reviewed in the next financial year.

Mr. Munya: Mr. Deputy Speaker, Sir, postal services are basic for the development of any community. The Assistant Minister is misleading this House because there is no sub-post office established at Muthara Market Centre. There has been a private business selling stamps at the market since my primary school days. This has not changed. I do not know where the Assistant Minister got the information that there is a sub-post office established on 15th April, 2005. Why is he misleading this House? Where did he get this information from?

Mr. Were: Mr. Deputy Speaker, Sir, I said that we have a sub-post office in Muthara Market Centre. The sub-post office offers the following services: Sale of postage stamps, acceptance and delivery of registered letters and parcels, private letter boxes and money order services.

Dr. Galgalo: On a point of order, Mr. Deputy Speaker, Sir. Mr. Munya says there is no sub-post office, but the Assistant Minister is insisting there is one. Would I be in order to ask him to give us the names of staff who are manning that sub-post office, so that we are in a position to prove that there are actually services being offered?

Mr. Deputy Speaker: Mr. Were, this is rather interesting because the hon. Member says there is no sub-post office, but you say it is there.

Mr. Were: Mr. Deputy Speaker, Sir, the information that I have indicates that there is a sub-post office.

Mr. Deputy Speaker: Mr. Munya, if the Assistant Minister says there is a sub-post office, what do you have to say?

Mr. Munya: Mr. Deputy Speaker, Sir, this is my village market, this is where I was born. There is no sub-post office in Muthara Market Centre.

Mr. Deputy Speaker: So, Mr. Were, would it not be in order for me to defer this Question, so that you can verify that information?

Mr. Were: Mr. Deputy Speaker, Sir, from the information I have, a sub-post office is operated on contract terms with persons identified in such areas. So, it is not possible for me to give

the names of staff who are there because this is based on contract terms.

Mr. Deputy Speaker: What is the position at the moment? Is the sub-post office currently being managed on contract basis?

Mr. Were: Mr. Deputy Speaker, Sir, the hon. Member confirms that there is an outlet there which sells stamps, accepts and delivers letters and also operates private letter boxes. That is what a sub-post office is. So, unless he is talking of a fully fledged post office, I have confirmed that there is a sub-post office.

Mr. Deputy Speaker: Hon. Members, I think the Assistant Minister is right.

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

Mr. Deputy Speaker: Now, what is it, Mr. Munya?

Mr. Munya: Mr. Deputy Speaker, Sir, the Assistant Minister insists that a sub-post office was established in April, 2005. But it has no private boxes for people to deliver their letters. So, how can he talk of a sub-post office, when it does not exist?

Mr. Deputy Speaker: I think the Assistant Minister addressed that issue. Mr. Assistant Minister, is there a post office or a sub-post office?

Mr. Were: Mr. Deputy Speaker, Sir---

*(Applause as Mr. Mwenje
entered the Chamber)*

Mr. Deputy Speaker: Order, hon. Members! Let us get on with our business.

Mr. Boit: On a point of order, Mr. Deputy Speaker, Sir. I would like to seek the indulgence of the Chair. Would I be in order to ask the Assistant Minister and the hon. Member to visit that market and establish whether there is a post office or not?

Mr. Deputy Speaker: I think the matter has been made clear by the Assistant Minister. There is a sub-post office. But Mr. Munya is asking about a post office. So, Mr. Assistant Minister, could you be clear? Is there a post office? The Question is about a post office and not a sub-post office.

Mr. Were: Mr. Deputy Speaker, Sir, there is no post office.

Mr. Deputy Speaker: Very well. We can now proceed.

Mr. Munya: Mr. Deputy Speaker, Sir, the Assistant Minister insists that there is a sub-post office with private boxes. No sub-post office was opened in Muthara on 15th April, 2005. What has been existing, since I was a little boy, is a place where you can deliver letters and buy stamps. So, I am asking the Assistant Minister: When is he going to open a sub-post office or a post office in Muthara Market?

Mr. Were: Mr. Deputy Speaker, Sir, that will be considered in the next financial year.

Dr. Ali: Mr. Deputy Speaker, Sir, I would like to ask the Assistant Minister how much it would cost to give a franchise to a shop-keeper to collect stamps from the post office around that area, maybe, in Maua? How much would it cost to build a post office in the other market?

Mr. Were: Mr. Deputy Speaker, Sir, I do not have the figures right now. But we consider the following factors to build a post office:-

Population density, economic activities around the area, number of schools, institutions, commercial activities, Government offices and departments. There is also---

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

Mr. Deputy Speaker: What is your point of order, Dr. Ali?

Dr. Ali: Mr. Deputy Speaker, Sir, I asked about a franchise and not a sub-post office. How much would it cost to give a franchise in the other market?

Mr. Deputy Speaker: Did you get it, Mr. Assistant Minister?

Mr. Were: Mr. Deputy Speaker, Sir, I said that I do not have the figures.

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

Mr. Munya: Mr. Deputy Speaker, Sir, the answer the Assistant Minister has given is not definite. He has said that he will consider our request in the next financial year. What prevents him from opening one in this financial year? It does not cost a lot of money to open a sub-post office, or upgrade an existing one to a post office. Could the Assistant Minister commit himself to upgrade the existing service to a post office in this financial year?

Mr. Were: Mr. Deputy Speaker, Sir, I cannot commit myself because a post office must have a budget and plans. There is no way we can put up a post office at this time. As indicated in the answer that I have given, it will be considered in the next financial year.

Mr. Sambu: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House? He says that a post office will be opened in the next financial year. Is he in order to say that and yet, post offices fall under an independent parastatal? Secondly, is he in order to mislead the House that he has no figures and yet, he has said that the post office will be opened in the next financial year? On what basis is he saying that? Is he in order?

He is a banana!

Mr. Were: Mr. Deputy Speaker, Sir, in the answer that I gave earlier--- Maybe, you are an orange, but that does not come here!

In the answer that I read earlier, if the hon. Member was listening, the last sentence read:-

"This position will be reviewed in the next financial year." So, if you were not listening, be attentive next time!

(Mr. Sambu stood up in his place)

Mr. Deputy Speaker: Order, Mr. Sambu! Next Question by the hon. Member for Mandera East.

Question No.190

NEW POWER GENERATOR FOR
MANDERA TOWN

Mr. Deputy Speaker: Is Mr. Shaaban not here? Question dropped.

(Question dropped)

Mr. Owino: On a point of order, Mr. Deputy Speaker, Sir. Did you see Mr. Sambu pointing a fist at the Assistant Minister?

Mr. Deputy Speaker: Order, Mr. Owino! Hon. Members, I think the Chair addressed the issue of hon. Members behaving properly and leaving the campaigns on bananas and oranges outside this House. I have heard some hon. Members referring to others as bananas and oranges. This matter must now come to an end. The Chair has warned hon. Members to refrain from bringing campaigns into this House. That is the only way we can transact our business in an orderly and respectable manner.

Next Question by the hon. Member for Saku.

*Question No.277*PROMOTION OF SOCCER
IN SAKU CONSTITUENCY

Mr. Sasura asked the Minister for Gender, Sports, Culture and Social Services:-

(a) how many soccer clubs registered with the Kenya Football Federation (KFF) are in Saku Constituency; and,

(b) what he is doing to promote the standards of soccer in the constituency.

The Assistant Minister for Gender, Sports, Culture and Social Services (Mrs. Chelaite):

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

(a) There are seven active soccer clubs registered with KFF in Saku Constituency. Those clubs are as follows:-

Magic Boys FC

Babish Boys FC

Township Boys FC

Badasa Boys FC

Sparks Boys FC

Home Boys FC

Babcoban FC

(b) In order to promote the standards of soccer in the constituency, the Ministry, through the District Sports Officer based in Marsabit and, in conjunction with the Marsabit KFF Branch, organises regular tournaments involving the clubs. The Ministry also gives trophies to encourage participation and often, facilitates the transportation of soccer teams in liaison with the area District Commissioner, whenever the teams travel to Embu Provincial Headquarters and other places to participate in tournaments. The Ministry has continuously made appeals and mobilised the business community to sponsor football teams in the area.

Mr. Sasura: Mr. Deputy Speaker, Sir, the Assistant Minister may be surprised to learn that there are very active football teams from Northern Kenya. This Question emphasises the importance of building soccer from the grassroots. Could she explain properly the role of the Ministry in grassroots football support, since the game is fizzling out at the national level? What budgetary support does the Ministry give to the grassroots football clubs to enhance the game of soccer? Trophies alone are not sufficient.

Mrs. Chelaite: Mr. Deputy Speaker, Sir, my Ministry, in conjunction with the Ministry of Education, Science and Technology and the Kenya Football Federation, are working together to encourage football clubs at the grassroots. At the moment, as a Ministry, we do not have the funds to give to these clubs. However, it was just recently that we tabled the Sessional Paper on Sports and it is being published. As soon as we have the legal framework, we shall be able to access funds through the national budgetary allocation.

Mr. Ndolo: Mr. Deputy Speaker, Sir, soccer is the most popular sport in this country, and it is in primary schools that we can tap talent in this game. But the primary schools soccer competitions are no longer there. In fact, primary schools do not even have balls. What is the Ministry doing to make sure that primary schools have facilities to tap those talents?

Mrs. Chelaite: Mr. Deputy Speaker, Sir, I said before that we are working with the Ministry of Education, Science and Technology, which has programmes for games in their curriculum. We encourage the young men and women to participate in sports. Indeed, it is important to encourage young Kenyans to participate in sports and soccer is very important.

Mr. Cheboi: Mr. Deputy Speaker, Sir, just out of curiosity, is the Assistant Minister satisfied that it is legal to use the Constituency Development Fund (CDF) in funding football clubs? If that is so, has she utilised the CDF to support football clubs in her constituency?

Mrs. Chelaite: Mr. Deputy Speaker, Sir, you heard me very well, and I think the Member also heard me. I never mentioned anything about the CDF as I addressed this House. So, I do not know where he got that.

Mr. Sasura: On a point of order, Mr. Deputy Speaker, Sir. The Minister avoided reading that part of the answer that talks about the CDF, but she gave the written answer to me, and it is in the last paragraph. Is she in order to mislead the House?

Mrs. Chelaite: Mr. Deputy Speaker, Sir, I knew very well that it is wrong to use CDF to fund soccer clubs. That is why I avoided it. You know, these answers are given to us by the technocrats, and I knew that was wrong and I avoided reading that part of the answer purposely.

Mr. Deputy Speaker: Order! Mrs. Chelaite, this answer is signed by none other than the hon. Ochillo-Ayacko, who is the Minister. I want to believe that this is the right answer. So, are you telling us that it is a wrong answer? In that case, would you like to withdraw it?

Mrs. Chelaite: Mr. Deputy Speaker, Sir, it is not a wrong answer. What that paragraph meant is that CDF can be used to develop sports facilities, including fields and stadia. But I only avoided reading it because we cannot use CDF on social activities but you can use it for development purposes.

Mr. Deputy Speaker: I am lost!

Mr. Mwandawiro: Bw. Naibu Spika, tatizo lililoko hapa ni kwamba ni mkono wa Wizara kuonekana mashinani ukiendeleza spoti. Tatizo lililoko ni kwamba mipira haonekani kwa vijana wengi, neti za voliboli hazionekani, mipira za vikapu hazionekani. Je, Wizara imependekeza pesa ngapi katika Bajeti ya mwaka huu kuhakikisha kwamba vijana katika mashinani wanapata mipira na vifaa vingine vya kuchezea?

Mrs. Chelaite: Mr. Deputy Speaker, sir, tuko na maofisa--

Mr. Kosgey: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to change from English to Swahili midstream?

Mrs. Chelaite: Mr. Deputy Speaker, Sir, I want your guidance.

Mr. Deputy Speaker: I see nothing wrong with that, because Mr. Mwandawiro asked his question in Swahili. Go ahead, Mrs. Chelaite.

Mrs. Chelaite: Thank you, Mr. Deputy Speaker, Sir, for protecting me.

Nilikuwa nikisema ya kwamba tuna maofisa katika mashinani. Pia, katika kila wilaya, tuna maofisa wa spoti na distirct education officers who normally---

Mr. Deputy Speaker: Order! Mrs. Chelaite, could you continue in Swahili?

Mrs. Chelaite: Bw. Naibu Spika, hao maofisa wanafanya kazi pamoja na maofisa wetu. Kwa hivyo, kama vilabu vya mpira havipati mipira, ni jukumu lao kwenda kuuliza hao maofisa. Lakini ninajua kwamba vilabu vingi havijajiandikisha na Wizara yetu ili tuweze huwahudumia.

Ms. Abdalla: Mr. Deputy Speaker, Sir, in this Ministry's Budget, it is very clear that over 50 per cent of the money goes for salaries, and there is no funding for either sports or gender activities. What is the Assistant Minister doing to make sure that they allocate resources to this Ministry rather than keeping sports officers that are not financed?

Mrs. Chelaite: Mr. Deputy Speaker, Sir, in the Budget this year, we were given very little amount of money. This is because we have not had a sports policy that can back us up and so we have always been marginalised. I want to ask this House to support our Ministry when it comes to the Budget so that we can be able to give services to our people.

Mr. Sasura: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is

confusing the House. If that confusion is anticipated in the stadium, the scoring power would be very low. Could she categorically state that the Ministry has no role of supporting sports like football in this country? She has told us that she is working with the District Commissioner's office and the Ministry of Education, Science and Technology. She has said that the Ministry's role is just to advise. What support is the Ministry giving to Kenyan athletes and footballers rather than confusing the Kenya Football Federation (KFF) at the national level?

Ms. Chelaite: Mr. Deputy Speaker, Sir, my Ministry is doing what it can to support all sporting activities in this country. We brought a Sessional Paper to this House and a Bill to this effect is being published. As soon as the legal framework is put in place, we will be able to support sports more actively. At the moment, sports are being controlled by the KFF and not by the Ministry. As soon as the Bill is passed, we shall be able to control sports in this country.

Question No.543

PREMATURE RETIREMENT OF
MR. FRED O MUTUNYI

Mr. Deputy Speaker: Mr. Marende is not here. His Question is dropped.

(Question dropped)

Question No.106

TERMINAL BENEFITS FOR FORMER
AMREF EMPLOYEES

Mr. Ndile alimuuliza Waziri wa Leba na Ustawi wa Wafanyakazi:-

(a) kama anajua kwamba wafanyakazi wa zamani wa African Medical Research Foundation (AMREF) Bw. Joseph M. Mbavu, Bi. Rosemary Mueni Muli, Bi. Jane Mumbua Nziu na Bi. Josephine Muthoki Matee hawajalipwa marupurupu yao tangu waache kazi mnamo tarehe 1.7.1986; na,

(b) ni lini hao maofisa watalipwa marupurupu yao.

Mr. Deputy Speaker: Waziri wa Leba na Ustawi wa Wafanyakazi hayuko hapa. Bw. Ndile, hakuna mtu wa kujibu Swali lako.

Mr. Ndile: Bw. Naibu Spika, ningomba Swali hili liahirishwe mpaka Waziri apatikane. Sijui kama ameenda kuuza ndizi ama ameenda wapi.

Mr. Deputy Speaker: Swali hili limeahirishwa hadi Jumanne wiki ijayo.

(Question deferred)

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

POINT OF ORDER

ELEPHANTS INVASION IN
BAHARI CONSTITUENCY

Mr. Khamisi: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Tourism and Wildlife on the very serious invasion of elephants in some parts of Bahari Constituency. For the last three weeks, the people of Tezo and Ngerenya wards in Bahari Constituency have been living under constant fear of invasion from elephants which cross from the Tsavo National Park into the Sokoke Forest and into the local villages. I visited some of the villages last week and I witnessed a very massive destruction of property. I would like the Minister to explain what measures the Ministry is taking to deal with the situation and why a strong contingent of *askaris* has not been sent to that area. I would also like to know why the Ministry cannot construct a fence to wade off the elephants from the Tsavo National Park.

The Assistant Minister for Tourism and Wildlife (Mr. Mganga): Mr. Deputy Speaker, Sir, we will issue a Statement to that effect on Tuesday next week.

**NOTICE OF MOTION FOR THE
ADJOURNMENT UNDER
STANDING ORDER NO.20**

USE OF PUBLIC RESOURCES IN
REFERENDUM CAMPAIGNS

Mr. Billow: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek leave to move a Motion of Adjournment under Standing Order No.20 to discuss a matter of urgent national importance, namely, the use of State resources in the campaign for the referendum on the proposed new Constitution.

Mr. Deputy Speaker: Do you have the requisite numbers?

*(Several hon. Members stood
up in their places)*

Hon. Members, you may sit down! I confirm that the Chair did receive this request by hon. Billow to raise this matter, pursuant to Standing Order No.20. Having considered the matter, I am satisfied that it is definitely urgent and of national importance. Therefore, I have decided that this matter be debated today. I, therefore, allocate one-and-a-half hours from 11.00 o'clock this morning. Mr. Billow, you will be allowed to move your Motion at 11.00 o'clock, so that it goes on for one-and-a-half hours up to 12.30 p.m.

MOTION
INTRODUCTION OF NEW LAND
TENURE SYSTEM

THAT, in view of the fact that many Kenyans do not own land; aware that there is a wide disparity that exists in land ownership in this country and conscious that land is the resource based commodity which is an important factor for agricultural, industrial and commercial development of our country, this House urges the Government to review the land policy in order to establish a new land tenure system to fix a ceiling on the amount of land an individual can own depending on the type of land use and where the land is located.

(Dr. Awiti on 28.9.2005)

*(Resumption of Debate
interrupted on 28.9.2005)*

Mr. Deputy Speaker: Mr. Mwandawiro was on the Floor, seconding the Motion and he has a balance of five minutes.

Mr. Mwandawiro: Bw. Naibu Spika, ninaendelea kuafiki na kuunga mkono Hoja hii ambayo iliwasilishwa na Dr. Awiti.

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! May those wishing to withdraw from the Chambers do so quietly? We have to continue with the business of the House!

Mr. Mwandawiro: Bw. Naibu Spika, Hoja hii inalengo la kuhakikisha kwamba kiwango na kiasi cha ardhi ambayo mtu mmoja anaweza kumiliki kinalingana na mahitaji, pahali ambapo hiyo ardhi iko na ni nini anataka kuzalisha. Katika nchi hii, kuna watu ambao wanamiliki ardhi kubwa kupita kiasi ambayo hata hawaitumii. Kuna watu ambao wanamiliki ardhi karibu mkoa mzima ambayo haitumiki. Jambo hili linarudisha nyuma uzalishaji wa mali. Ardhi haifai kumilikiwa tu na watu kupewa vyeti vya umilikaji, lakini inafaa kutumika na kuendeleza uzalishaji wa chakula na migufo. Lengo la Hoja hii ni kuhakikisha kwamba ardhi inamilikiwa kulingana na pahali ambapo inapatikana. Kuna sehemu zingine ambazo ni lazima ardhi imilikiwe kulingana na mahitaji ya kulinda mazingira yaliyomo.

Bw. Naibu Spika, katika Wilaya ya Taita-Taveta, sehemu kubwa ya milima ya Taita-Taveta haitakikani kuwa na kilimo kikubwa kwa sababu hii inadhuru mazingira.

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! Hon. Members, I want to draw your attention to Standing Order No.85 which reads as follows:-

"Except when passing to and from his seat or when speaking, every hon. Member when in the Chamber shall be seated and shall not at any time stand in any of the passages and the gangways".

This is one of the Standing Orders that we have been flouting. I want to urge hon. Members to ensure that if they want to speak, they can walk outside. They should not be standing in the Chamber. When I stopped Mr. Mwandawiro from speaking, I had not less than six hon. Members standing at the passages and the gangways. I want to request the hon. Members to ensure that they obey that order.

(Mr. Mganga stood up in his place)

Hon. Mganga, I am drawing the attention of the Hon. Members to the Standing Order No.85 and I invite you to please go and look at it.

Let us proceed.

Mr. Mwandawiro: Bw. Naibu Spika, swala la ardhi ni muhimu sana, na sioni kwa nini halizingatiwi na kutiwa maanani na Bunge hili. Ndio maana nasema kuwa Hoja hii ni muhimu sana

na imewasilishwa na kuzungumziwa mara nyingi hapa, na wakati umefika kwa Bunge hili kupitisha Hoja hii na kuhakikisha kwamba inazingatiwa na kutendwa. Hoja hii ni muhimu kwa sababu inazingatia uzalishaji unaongezeka kwa matumizi ya ardhi. Vile vile, inalenga kuzingatia kuhakikisha kwamba haki inatendeka kulingana na swala la maskwota ambalo linaendelea miaka nenda, miaka rudi na watu ambao wanaokaa katika mitaa ya mabanda. Yote haya yanatokana kwa sababu ya umiliki mbaya na matumizi mabaya ya ardhi ambapo watu fulani wanamiliki ardhi kubwa ambayo hawaitumii na wakati huo huo, watu wengi hawawezi kutumia ardhi hiyo kwa ajili ya kuzalisha chakula, kuwa na makao au kujenga. Vile vile, kutokana na matumizi mabaya ya ardhi, watu wanawekwa katika hali ambapo wanafinyana pahali pamoja na hata kuleta mmomonyoko wa udongo, kukatwa kwa misitu na kupotea kwa chemi chemi za maji. Mfano mzuri wa mambo hayo ni watu wa Wilaya ya Taita-Taveta ambao wamenyanganywa ardhi na mbuga za hifadhi za wanyama pori na watu binafsi, na wakalazimika kufinyana juu ya milima ya Taita-Taveta. Kwa kuzingatia Hoja hii na umuhimu wake, hii ni Hoja nyeti sana kwa watu wa Wilaya ya Taita-Taveta. Hata wale ambao wanataka kupigiwa kura za "ndio", wanafaa kujua kwamba watu wa Taita-Taveta hawawezi kupigia kura "ndio" kabla swala la ardhi halijasuluhishwa ili waweze kupata matumizi mazuri ya ardhi na wapewe nafasi zaidi katika mbuga za wanyama pori katika Tsavo, ambayo wamenyimwa katika katiba mpya inayokuja. Watu wa Wilaya ya Taita-Taveta wanalalamika kuhusu swala la ardhi kwa sababu watu binafsi bado wanaendelea kuwa na haki ya kumiliki ardhi hiyo wakati asili mia nane wanalazimika kufinyana katika misitu ya juu.

Kwa hivyo, Bw. Naibu Spika, hiyo Hoja ni muhimu. Tunasikitika kwamba Wizara ya ardhi na Nyumba haiko hapa wakati Hoja hii muhimu inapitishwa.

Kwa haya machache, naomba kuiafiki Hoja hii.

(Question proposed)

[Mr. Deputy Speaker left the Chair]

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

The Assistant Minister for Finance (Mr. Katuku): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to make my contribution on this Motion. I want to thank the Mover of the Motion because I support its spirit, in view of the fact that this is what we agreed on in Bomas of Kenya when we were proposing the current draft of the Constitution, which is being debated by Kenyans and which we will vote for. We said that it is important that we as Parliament put a legislation--- In the proposed document, it says that Parliament shall legislate to give limit to this kind of ownership. This is important and that is why, of course, I am supporting the proposed document because we must put a limit. Some people have been owning thousands and thousands of acres, yet others own nothing. Some land has been idle while other Kenyans have nowhere to build a house, to be buried or even to cultivate. In that spirit, I find this Motion valid and I would want to urge Kenyans that, come 21st November, we should pass this proposed document so that we can come here as a House and pass the necessary legislation to capture the spirit of this Motion, whereby we will be able to put a limit on those who should own land.

Mr. Temporary Deputy Speaker, Sir, I find it illogical for somebody to have land which he is not utilizing, yet he is not even paying any rent to the Government. It is time now that the owner of any land which is not being utilized must pay some money or rent to the State for not using the land so that, that money can be used where possible. Even before this Motion is passed or the

proposed Constitution is approved and a new legislation put in place, I find it necessary to ensure that those who have large tracts of land which are not being utilized should be investigated. You will even find that some people have not been paying their rent arrears and even in towns, there are plots which are not developed, yet there are people or developers who have been looking for plots to develop. People have not been paying rent and they are in rent and rates arrears to their respective local councils and authorities. I think it is high time our authorities; the municipal and county councils got up and repossessed some of those plots which are not being utilized. Or else, you will find that we will have uneven distribution of resources, not only in terms of plots but also in terms of where one can do farming.

The issue of environmental degradation must also be taken care of. Just the other day, the Minister for Lands and Housing proposed that the minimum division of land which can be done is 2.5 acres. That was not possible and I want to thank him because he rescinded that decision and now, people can subdivide their land into smaller areas in some areas. But the most critical issue here is the issue of land ownership and use. Where the plots are excessively small, you would find them becoming a disaster to environmental---

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

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Kimeto, before you raise your point of order. You do not just stand and speak!

Mr. Kimeto: When the Assistant Minister was contributing, other hon. Members were---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Kimeto! Who granted you the chance to speak?

Proceed, Mr. Katuku!

The Assistant Minister for Finance (Mr. Katuku): Thank you, Mr. Temporary Deputy Speaker, Sir, and hon. Kimeto for drawing attention of the Chair to the fact that there were people who were almost disturbing my contribution.

Regarding the issue of subdivision of land and environmental degradation, I was saying that we must take into consideration the factors which must be protected, especially by ensuring that our forests and catchment areas are protected, so that we do not mess up our environment.

Mr. Temporary Deputy Speaker, Sir, I would like to thank His Excellency the President and the entire Government for the major decision it took to resettle the people who were evicted from Mau Forest and protect the water catchment area. This should not be taken as a political decision but rather a human consideration. The people should be settled. At the same time, the environment should be protected. I am sure that some people will interpret the resettlement of the people who were evicted from the Mau Forest to mean that we are looking for the "Yes" votes, and yet we are trying to protect the environment. As a Government, we are trying to ensure that every Kenyan is settled. I would like to thank His Excellency the President for directing that the people who had settled on the water catchment area should be resettled elsewhere and those who are not affected should move back to their land. That is what we are saying. However, some people in this country have been out to grab whatever is available. It is high time the culture of grabbing public utilities came to an end. We know some people who grabbed any empty space and even public toilets. We have had many cases of this nature. Some people are now going round the country talking about transparency and accountability, and yet they are the same characters who have grabbed public land.

Without mentioning their names, they should own up and surrender the public utilities back to the public before we take action against them.

Mr. Temporary Deputy Speaker, Sir, a public toilet at the corner of the Haile Sellasie roundabout was grabbed and turned into a petrol station. It is high time that toilet reverted back to the public. The hon. Member who grabbed that toilet should surrender it back to the public. The

same case should apply to the petrol stations which have been put up on road reserves. It does not matter which side of the political divide you belong to, but so long as a property belongs to the public, let it remain so. I find it strange that a person who can afford a plot costing Kshs1 million can grab a road reserve. This does not pay. I appeal to all those people who have grabbed public land to surrender them. The Minister for Lands and Housing should move in and repossess the same without delay. That is very important.

Mr. Temporary Deputy Speaker, Sir, on the people who have land which they do not utilise, it is high time they donated it to the landless. In Mr. Mwandawiro's district, there is a large piece of land which is not being utilised, and yet we have squatters in that district. On several occasions, I have seen Mr. Mwandawiro going around with the Orange Team. He should ask one of the leaders of that team, who owns that piece of land, to give it out to the squatters so that they can get votes. Mr. Mwandawiro should do this when they are in a rally in Taita-Taveta District. That person is none other than the Leader of the Official Opposition.

(Applause)

Mr. Mwandawiro: On a point of order, Mr. Temporary Speaker, Sir. Is it in order for the hon. Member to mislead this House that this Government is there to solve the problem of squatters in Taita-Taveta District, and yet it has protected private property in the Wako Bill? This Government considers title deeds sacred documents.

The Assistant Minister for Finance (Mr. Katuku): Mr. Temporary Deputy Speaker, Sir, I think that is an argument and not a point of order. The hon. Member had a chance, and he should have argued his case then.

I appeal to the hon. Member to get in touch with Mr. Kenyatta to give out that piece of land in Taita-Taveta District to the people of Taita so that they can be resettled there. He should also appeal to Mr. Criticos, who owns---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Katuku! I think you are defying our Standing Orders. You have been discussing hon. Members in this House without bringing a substantive Motion. You know you should not do that without moving a substantive Motion.

The Assistant Minister for Finance (Mr. Katuku): Mr. Temporary Deputy Speaker, Sir, I just cited a case which is well known to everybody. However, if that has offended the Chair, I will leave it.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Katuku! The issue of leaving that issue is not there. The Chair has to draw you to the Standing Orders!

Maj-Gen. Nkaiserry: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Motion.

On the outset, I rise to oppose it. The Mover should have waited until after the referendum because it is meaningless for us to discuss something which has been addressed in the Wako Draft Bill.

I oppose this Motion because I come from a community which values and keeps its land intact. This is the land which is being targeted if this Motion is passed. You cannot put limitations on ownership of land because certain communities were given this resource by God to fill it, transverse it and to do anything they want to do with it. If your community was unfortunate and was given land in the sea, you will live there. You cannot live in the land which belongs to other people. Therefore, we cannot have limitation on ownership of land.

Mr. Ndile: Hoja ya nidhamu, Bw. Naibu Spika wa Muda. Ni Kanuni gani za Bunge zinasema kwamba Mungu alizipa jamii zingine mashamba makubwa na kunyima zingine

mashamba?

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Ndile! That is not a point of order!

Proceed, Maj-Gen. Nkaisserry!

Maj-Gen. Nkaissery: Thank you, Mr. Temporary Deputy Speaker, Sir. Those of us who were new in this House are now almost three years old, but it seems that some of our colleagues do not understand our Standing Orders. Mr. Ndile has asked a question and not a point of order!

Mr. Temporary Deputy Speaker, Sir, I was saying that land is a very important resource. Because Maasai land is being seen as lying idle, an area like Oloirien has been excised to be given out to the Kenya Wildlife Service (KWS). Similarly, the Minister for Lands and Housing went out of his way and allocated a water catchment area which is being targeted by the Wako Draft Bill, if it will ever be passed. That land will be allocated to people who do not even belong to Mau. This will create more problems for this Government. So, we must oppose the idea of putting a limit to the amount of land a person is supposed to own.

Mr. Temporary Deputy Speaker, Sir, thirdly, I support the hon. Member who has said that if you own land which you do not utilise for the purpose it is meant, like agriculture, you must pay taxes for it. I also support the idea that we should target non-citizens who own land in Kenya. We should put a limit to the number of acres they should own. We should not target Kenyan communities. Each community has land which belongs to it. We cannot put a limit to the acreage a community should own because the Government wants to allocate the remaining acres to the landless people. God was not foolish not to give you land. How can you get land from another community just because you are a Kenyan? That cannot work at all. We must address that issue.

Mr. Temporary Deputy Speaker, Sir, this is the only country where leaders keep demanding the impossible. We can set aside land for national interest, like military training, national parks, game reserves and minerals. We can also set aside land for tea, coffee and sugar cane growing. All this can be put under Government ownership. We can also have national parks under Government ownership. However, the people of Western Kenya or Nyanza would go bonkers if they heard that their land would be touched. How can we have land or forests as a national resource that we can put a limitation of acreage? We cannot put a limitation on ownership of land by Kenyan citizens. That is not in the Constitution. We are trying to pre-empt what is likely to come up in the Wako Draft.

Mr. Temporary Deputy Speaker, Sir, I will give this House a very specific example. A few years ago, the Olkejuado County Council gave the Government of Kenya some land for the sake of the Kenya Meat Commission (KMC). Part of that land was converted into Export Processing Zones (EPZs). One-third of that land has been allocated to individuals. That community has been deprived of its rights. The portion that remained, that is, about 10,000 was allocated for the Sheep and Goat Research Project. When the research project ended, that land was sub-divided and allocated to some very senior politicians. The other day, the Minister for Lands and Housing wanted to settle so many people from the Kibera slums in that area. However, when we complained, he withdrew his intentions. So that is the area which is being targeted. I do not know whether the Mover of this Motion had in mind that the only vacant land that can be targeted is Maasailand. That will not happen. That land was given to the community by God and it will remain a Maasai property until doomsday!

With those few remarks, I beg to oppose.

The Assistant Minister, Office of the President (Mr. M. Kariuki): Thank you, Mr. Temporary Deputy Speaker, Sir. I beg to support this Motion.

I must also say that I am shocked by the last speaker in his contribution. The major problem in this country is that we still think like tribes. We never want to think like a nation. When we talk

of community land, we talk about Maasailand yet we know that individual Maasai leaders have title deeds for their land. They do not speak for the Maasai. They cannot, therefore, purport to speak for the Maasai. We must think as Kenyans. We must tell ourselves that land is a limited resource. It does not increase. It will remain what it is unless we are going to build dykes the way the Dutch have done to try and expand the resource. However, limited as it is, we must ask ourselves: How do we make proper utilisation of this limited resource?

If you look at the world history, all the major struggles and the wars across the world have happened as a result of the land; the battle to acquire more territory and others trying to invade others. Land is, therefore, a critical factor that one cannot wish away. We have to address it squarely!

Mr. Temporary Deputy Speaker, Sir, I would like to appreciate that what has been captured in the Draft Constitution is in this particular direction; that Parliament has to legislate and say how much we can say is enough for an individual. We know that land varies from one area to another. Agricultural land, for example, if you are going to go into wheat farming, you would need a reasonable acreage to grow wheat. You probably would need more than 500 acres. However, we have to look at these factors and say: Could we now address the issue of food security? How do we move forward as a country? Unless we are able to regulate land use, maximum and minimum utilisation, we will not be able to tackle the issue of food insecurity, which is a major factor.

Mr. Temporary Deputy Speaker, Sir, Kenyans went to war to fight the British colonialists because they wanted their land back. When they got the land back, it has gone to certain individuals who have the money because it was not given to the people who went to the struggle. The people who went to the struggle are the ones we know as squatters all over the country. They do not have any land! They have not seen the benefit of the struggle which they engaged in to try and wrestle our land back from the British Government. For those who had the money and managed to acquire large chunks of land, it is only fair to say: "Yes, I can manage so much for purposes of this nation. Let other people have a piece." Today, people do not know where they are going to bury their dear ones. Many Kenyans, whether in urban or rural areas do not have a piece of land they can call their own. They are tenants in towns and slums. They are tenants in the rural areas as well as squatters and they are so insecure that they do not know what to do with themselves. After 24 years of Independence, we must be bold enough to address the issue of land squarely on the face and set a maximum and minimum ownership of land.

Mr. Temporary Deputy Speaker, Sir, even in the most capitalistic states like the USA, there is a law on land use. You do not just use land in the manner in which you want. The state regulates you because they appreciate that it is such a critical factor that the survival of a nation depends on the way they are able to utilise their land. The Government, quite often, intervenes to tell farmers: "This is what you will do with your land. You plant or do not plant maize!" Yet it is a capitalistic state that believes in the value of private property. Because of the limited nature of this resource, the state has found a need to make interventions.

Mr. Temporary Deputy Speaker, Sir, happily, five years after the NARC Government has come into power, the land grabbing mania has been brought to an end. I think that what Kenyans are looking forward to is the recovery of the public utility plots that had been grabbed. Much as we celebrated this particular report, there are many public utility plots that the public is looking forward to recovering. I would, therefore, urge the Ministry of Lands and Housing to put proper machinery in place to ensure that all the public utilities for hospitals and schools are recovered. The current position where members of the public are asked to go and recover land is likely to create an element of insecurity. There must be proper procedures where members of the public would know how to

move forward.

Mr. Muturi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I hate to disrupt my good friend, Mr. M. Kariuki. But is it in order for the Assistant Minister to say that land grabbing has stopped when, indeed, there is evidence that it is happening on a daily basis including Government land being given to Sansora Oil Mills of Kisii, which we know the ownership? I want to table this document as evidence that, indeed, the hon. Member is wrong to say that land grabbing has ended. It is going on everyday!

(Mr. Muturi laid the document on the Table)

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, I think this is the wrong platform to try and ambush some hon. Members of this House who are known to be very industrious in terms of their investments. I am not in a position to comment on this particular document. I would have to verify it!

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. M. Kariuki! Mr. Muturi knows that the document has to be verified first by the Chair. Therefore, you should not feel obligated to address it for the time-being.

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, I am sure that the hon. Member, who is concerned about that, will be able to take some time to explain.

I was saying that the mania that we saw in the 1990s where all the public utility land was grabbed has been brought to a stop. We are very happy that we have put sobriety into order of public business in this country. Today, schools feel safe because they have title deeds. Even hospitals have title deeds. We want to repossess land from those few grabbers who still retain public utility land.

Mr. Temporary Deputy Speaker, Sir, the issue of squatters is a major problem in this country.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. M. Kariuki! On the face of this document, it seems to be quite in order. This is a letter of allotment dated 20th July, 2005. It is signed by a Mr. Machuka on behalf of the Commissioner for Lands. You can, therefore, address it!

An hon. Member: Shame!

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, the document is not authentic. It is a photocopy which has not been certified. It is not an original document. So, for the authenticity of this particular document, I would like you to look further. How viable is a photocopy of a document which has not been certified?

The Assistant Minister for Environment and Natural Resources (Mr. Kamama): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is my good friend, Mr. Muturi, in order to trivialise debate in this House by introducing cheap politics? I know that there are many Asian industrialists and many people who have applied to get some industrial plots in this country.

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order, Mr. Kamama! That is not a point of order. You are only arguing. Wait for your chance. For now, let us allow Mr. M. Kariuki to proceed.

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, I said that the allocation has been made to a company. It is not to an hon. Member of this House as implied.

Mr. Rotino: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant

Minister has said that the land has been allocated to Kabansora company. Who are the owners of this Kabansora company? He has just said that they are industrious Kenyans.

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, my time is running out. In this country, a company can own land. A company is a separate person from an individual. So, if you are questioning who the company is, you should be able to tell the House who the owners of this company are.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Ethuro): You are, indeed, right, Mr. M. Kariuki. The company is different from the individuals. That is why it is incorporated.

The Minister for Roads and Public Works (Mr. Raila): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): I have finished with that issue, Mr. Raila. What is it?

The Minister for Roads and Public Works (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, it has been alleged that the document produced here is a photocopy and, therefore, it is not authentic. Is the Assistant Minister in order to mislead the House, when he knows very well that the original of an allotment letter must be with the company and that it cannot be produced to the House? A photocopy is as good as the original!

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, I have the benefit of being a lawyer. If you look at the Evidence Act, a photocopy of a document is not authentic. The Evidence Act applies to this House as well. We are an institution of this House. A photocopy is not the original document to be submitted.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. M. Kariuki, you have made your point.

Mr. Sambu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to turn this House into a court of law? Are we in a court of law? We want to know whether we are in a court of law, because not all of us are lawyers. So, he should stop telling us about certain sections of the law.

The Assistant Minister, Office of the President (Mr. M. Kariuki): But you make laws!

Mr. Sambu: We make laws, but we are not lawyers!

The Temporary Deputy Speaker (Mr. Ethuro): You have made your point, Mr. Sambu.

*(Several hon. Members stood
up in their places)*

Order! Order, hon. Members!

The Minister for Roads and Public Works (Mr. Raila): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Raila! We have heard Mr. M. Kariuki, Mr. Sambu and you. It is now up to the Chair to make a ruling.

The Minister for Roads and Public Works (Mr. Raila): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): It should be the last point of order, Mr. Raila.

The Minister for Road and Public Works (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, the deliberations of this House are guided by the Standing Orders. The issue of substantiating is a ruling by the Speaker about what is admissible and what is not admissible as evidence. We are not a court of law. Mr. M. Kariuki, who is a lawyer, must learn the Standing Orders of this House. He

must know that there are differences in as far as substantiation is concerned.

*(Several hon. Members stood
up in their places)*

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order, hon. Members! You are debating on an issue that is very clear. There is no point making it appear as if it is a duel between hon. Members of this House. Just address yourself to the Chair, and the Chair will make a ruling. In this matter, the ruling is that, indeed, it is true that this is not a court of law. So, the issue of the Evidence Act does not arise. The Chair had already indicated that, on the face of it, the document tabled by Mr. Muturi is admissible. So, let us proceed on that basis.

Mr. Poghisio!

Mr. Poghisio: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to the Motion. I would like to thank the Mover for bringing this Motion which attempts to lead this Government into doing something on land policy. The spirit of this Motion brings us to discuss basically, this Government. It gives us an opportunity to discuss the loopholes that have been allowed by this Government, including land grabbing, which is going on. So, it is very amazing that every time something like that happens, there is a lot of defensiveness on the part of the Government, when it is not necessary to be defensive. If someone is caught grabbing land, let him be caught for grabbing land. It is not the Government that is grabbing land. Why is the Government defending a private company? I do not think it is necessary for the Government to do that.

Mr. Temporary Deputy Speaker, Sir, land in this country does not belong to the Minister for Lands and Housing. As we can see, the Minister of Lands and Housing is now just sitting or standing at will and dishing out land. There is no need for us to discuss policy, when already, we can see that land seems to belong to, and is in the pocket of the Minister. He can stand up and say: "Today, I give to the Pokots or Turkana all the land of Natolot Game Reserve." That is not the way public resources are supposed to be given away to groups of people. So, we are telling this Government to put in place a land policy. The Government is already violating the existing land policy. So, how are we going to make new laws and policies? In view of what I see here, I must say the following---

The Temporary Deputy Speaker (Mr. Ethuro): By the way, hon. Members, have we made the appropriation of any land illegal in this country?

Mr. Poghisio: Mr. Temporary Deputy Speaker, Sir, I am actually talking about the roadside declarations. I must say that this Motion pre-supposes that all Kenyans will be farmers, who will need to be given land to farm. But I think the policy that we should be moving towards is some kind of specialisation where farmers can be free to own land as much as they wish, as long as they farm that land but not try and put limits. How do we put ceilings on land ownership?

There is no point trying to discuss things like putting a ceiling to the amount of land that one can own. This is a capitalist society. We have already said that if somebody can afford to buy land, he or she can do so. We cannot now start saying that you can only buy 100 acres of land, and that if you have the capacity to buy more land, you cannot do so. Where I come from, we do not have much fertile land that can be used for the production of coffee or tea. That seems to be the important land. The land as it is in West Pokot now, especially the land that is under Kacheliba Constituency is trust land. If anybody tries to tamper with that land tenure system he will open up that land for people who have already exhausted their land to come and grab it. So, I feel like it is good if the land remains the way it is, so that it is protected from those people who are all out to come and take

land from wherever there is space. It is very possible, under the review of the current land policy, that people will start saying: "We want to settle the landless, and the only land we have seen open is in Turkana Central or in Turkana South", because it looks open. But is it really open? So, these are the kind of things we want to guard ourselves against, so that we do not find ourselves in problems.

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order, Mr. Poghisio! It will be appreciated if you do not enjoin the Chair in your arguments.

Mr. Poghisio: Mr. Temporary Deputy Speaker, Sir, I did not know that the Chair comes from Turkana Central.

(Laughter)

As I said, the spirit of the Motion is good but there are certain things which need to be looked into. One of them is how to address the land policy now without going back to historical injustices. Whose land is now owned by who? Historically, this land was taken away from some people without them being compensated. We are trying to review the land policy on the basis of who is occupying it now, and not addressing the people from whom that land was taken. So, this is going to be very complicated. It is going to take us back to history. The Pokot, for example, own land in Trans Nzoia District. It is historical and documented. But nobody has the desire or even courage to address that issue as I speak. Documents have been produced and the land number is there, but nobody has addressed that issue. So, we should proceed from here. The hon. Member who brought this Motion is talking about the need to review the land policy and yet, we do not have the capacity to look at history. So, I call upon this Government to, first of all, address the historical injustices. Let it return the land that was taken away from our people. That will be a very acceptable land policy. Then we can talk about setting ceilings. Right now, it will be running away with people's land if we do anything.

Mr. Temporary Deputy Speaker, Sir, I would like to also bring to your attention the fact that public land in this country has not been reserved. If you go to other countries, public recreational utilities are reserved. It is a must to reserve public recreational utilities. Every Local Authority must begin by setting aside land for recreation; land where our children and elderly can walk and relax. Those kinds of things need to be included in future land policy, so that nobody grabs land around certain areas, because they are necessary. An area like Uhuru Park is very useful. We need to replicate those kinds of things, and, of course, for public schools, burial sites and so forth. It is very important that we speak about these issues.

Even as a Motion like this comes I know that the Minister for Lands and Housing is talking about bringing his own land policy. So, it may even have repercussions on this Motion as we discuss it now. As I said, the Motion needs to address the issues of historical injustices and people who do not grow commercial crops. What happens to the land where we do not have coffee or tea? If any resources are found within that land, because we do not grow tea or coffee, they must belong to the people there. The law says that if resources are found there, including oil and minerals, they go to the Government. So, what will be a compensation for land that does not produce coffee or tea? There must be a law that says: "Any resource found there, if necessary, is shared equally with the Government, so that the people in those areas benefit." It is the compensation that nature intended it to have. So, let us not try and cheat people who live in those dry areas. That is what the Government is doing. It is in the business of taking away land from those who do not--- So, land policy needs to be addressed in such a fair way as to please all of us.

Mr. Temporary Deputy Speaker, Sir, on the surface of this Motion, we are assuming that all of us would like to limit the land we have. Although it says here "depending on the land use and where the land is located," that is not possible. This is because we are going to have some kind of

discriminatory law. We have seen the area between Athi River and Kajiado. It is a type of land use which is different. We know where it is found, but it has not been exempted from the grabbing. We have got people who have turned this land which is supposed to be for grazing into something else. So, there is no guarantee that it will depend on the type of land or where it is found. You cannot guarantee that. It depends on the mood of the Government of the day. So, it is difficult for me to support this Motion because it does not seem to have sufficient mechanisms to protect the weak and exploited.

Mr. Temporary Deputy Speaker, Sir, in conclusion, in order to limit land it means that the Government has to give us a list of land owners now. It has to show us who is owning excess land now, but I know it will not do it. It means the Government has to publish a list of people who have more land than is necessary. I know that it will embarrass the Government. So, it will not be published. Therefore, I do not see us going very far with this kind of Private Members' Motion because it will be frustrated by a Government that is bent on taking land and using it to bribe people. We have begun to see that even for a campaign like this on referendum, land is being used to bribe people. It is very much shameful. It is the kind of thing that I wish we had the capacity to protect.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I oppose this Motion.

Mr. Ndile: Asante sana, Bw. Naibu Spika wa Muda. Nasimama hapa kuunga mkono Hoja hii. Tumeongea kwa miaka mitatu sasa tukisisitiza kwamba nchi hii ni ya Wakenya wote. Inahuzunisha kwamba Kenya imekuwa kama ya watu fulani. Mungu alipowaumba watu aliwapa nchi. Tumepewa uwezo na wananchi tuje tuwaakilisha hapa Bungeni. Kwa hivyo, hatuwezi kukubali Kenya iwe ya watu fulani tu.

QUORUM

Capt. Nakitare: On a point of order, Mr. Temporary Deputy Speaker, Sir. Land is life. As much we are debating this Motion, there is no quorum in the House.

The Temporary Deputy Speaker (Mr. Ethuro): We do not have quorum. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Ethuro): We have a quorum now. Proceed, Mr Ndile!

Mr. Ndile: Bw. Naibu Spika wa Muda, nilikuwa nasisitiza ya kwamba Mungu alimwuumba binadamu aishi katika nchi kavu. Imekuwa ni tabia ya viongozi wetu wenye tamaa kujigawia mashamba makubwa. Tabia hii imekuweco tangu tulipopata Uhuru. Kuna familia moja hapa Kenya ambayo ina shamba kiasi cha ekari 500,000. Hii ni karibu mkoa mzima.

An hon. Member: Familia ipi?

Mr. Ndile: Ni familia moja ambayo ni ya baba wa taifa wa kwanza. Tunajua kuwa hata familia ya pili baada ya hiyo ya kwanza ina zaidi ya ekari 108,000.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! It is Mr. Ndile alone who has the Floor now!

Endelea, Bw. Ndile!

Mr. Ndile: Unajua Bw. Mwenje ni mwizi wa mashamba---

The Temporary Deputy Speaker (Mr. Ethuro): Ni nini Bw. Mwenje? Order, Mr. Ndile! Mr. Mwenje has the Floor!

Mr. Mwenje: Bw. Ndile amesema kwamba kuna watu wako na zaidi ya ekari 100. Anaweza kuyataja majina ya hao watu?

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Ethuro): Order, all of you! Mr. Ndile, that is not a point of order because you never mentioned anybody adversely.

Proceed!

Maj. Madoka: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member refereed to Mr. Mwenje as "*mwizi wa mashamba*".

An hon. Member: No!

Hon. Members: Yes! We heard it!

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, may you order him to withdraw those remarks.

Mr. Ndile: Bw. Naibu Spika wa Muda, *nimewithdraw*---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! Mr. Sambu, you can easily come here if you feel I am not doing a good job.

Hon. Members, that is a valid point of order! Mr. Ndile, you are ordered to withdraw and apologise profusely to hon. Mwenje and the House!

Mr. Ndile: Bw. Naibu Spika wa Muda, nimeyaondoa hayo maneno na kuomba msamaha. Nilikuwa nasema vile Bw. Mwenje amesaidia watu wake. Najaribu kusema vile Bw. Mwenje alichukua mashamba na kuwasaidia watu wake. Hata akiwa alichukua kwa njia mbaya, hakuwa na ubaya.

(Laughter)

Ukiangalia leo, watu wakisaidiwa, wengine wanafanya mchezo. Unakumbuka juzi, tulipoenda kumwona Rais wa nchi hii, hata kabla ya kampeini ya machungwa na ndizi, tulisema watu wa Mau warudishiwe mashamba yao. Serikali ikiwasaidia watu, wengine wanasukuma wasisaidiwe, eti ni siasa. Unakumbuka vile nimekuwa nikiomba watu wangu wapewe mashamba. Wakati huu, Serikali imekubali kuwapa watu wangu mashamba! Sijui watasema ni ndizi ama ni chungwa. Nadhani Serikali ina wajibu wa kufanya kazi hiyo. Hata katika Katiba mpya--- Nashangazwa na aliyelea Hoja hii! Yeye anaunga mkono Katiba mpya isipite. Katiba hiyo ina sheria kuhusu mashamba. Imesema kwamba Bunge litasema mtu atakuwa na shamba la ekari ngapi. Pengine, kwa kuunga mkono mjadala huu, nadhani atachukuwa nafasi hii kuangalia vizuri hiyo Katiba, na awache kumsaidia yule mzungu ambaye amewapokonya watu mashamba huko Taita-Taveta.

Mr. Mwandawiro: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Je, Bw. Ndile ana haki ya kulipotosha Bunge hili kwamba Katiba inayokuja inawarudishia watu mashamba, ilhali inatambua mali ya kibinafsi kuwa muhimu zaidi?

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

[Mr. Deputy Speaker took the Chair]

Mr. Ndile: Bw. Naibu Spika, unajua Bw. Mwandawiro ana mambo mengi mazuri, lakini haelewi Katiba inayokuja. Mzungu anayekaa kwake alilia: "Jamani nisaidieni tupige kura ya "no" kwa sababu hii Katiba itanipokonya mashamba!" Wazungu hao walijipatia vyeti vya kumiliki mashamba vya miaka 999. Walijua wakifukuzwa kwenda kwao, wataenda na vyeti hivyo kwa sababu hawatalipa nauli ya ndege. Ndiyo sababu ninamwambia huyu ndugu yangu abadilishe nia kwa sababu akitaka maskini wasaidiwe, ni lazima aunge mkono Katiba mpya kwa kupigia ndizi kura.

Mr. Sambu: Jambo la nidhamu, Bw. Naibu Spika---

Mr. Ndile: Bw. Naibu Spika---

Mr. Deputy Speaker: Bw. Ndile, mtu akisimama kwa jambo la nidhamu, unaketi kwanza halafu tunamskiliza!

Mr. Sambu: Jambo la nidhamu, Bw. Naibu Spika. Muda mfupi uliopita, ulitoa amri kwamba mambo ya kupigia debe machungwa ama ndizi tusiyalette hapa. Je, ni nidhamu kwa Bw. Ndile kutumia Hoja hii kuanza kupigia debe kampeini ya ndizi? Akifanya hivyo, basi nasi tupewe nafasi ya kupigia debe kampeini yetu.

Mr. Deputy Speaker: Waheshimiwa Wabunge, mara kwa mara, nimewaeleza mjaribu vile mwezavyo kutoingiza kampeini ya Katiba ndani ya Bunge hili. Bw. Ndile, endelea, lakini zingatia Hoja iliyo mbele yetu.

Mr. Ndile: Bw. Naibu Spika, huwezi kutofautisha mjadala huu na Katiba inayokuja. Katiba inayokuja ilipitia hapa Bungeni na ni mali ya Bunge. Nilisema ni muhimu kuiangalia vile ilivyo. Vitu vyote alivyovipendekeza hapa viko katika Katiba mpya. Ni muhimu sana Bunge likae chini na kuangalia mtu atamiliki shamba kiasi gani. Kwa mfano, kutoka pale makutano ya Machakos - kila mtu ambaye amewahi kwenda Mombasa anajua sehemu hiyo - kwenda Salama, umbali wa kilomita 80, hilo shamba limechukuliwa na wanaume watatu. Hawakuchukua shamba hilo kwa sababu ni watu wa kawaida. Walilichukua kwa sababu walikuwa Serikalini. Mmoja wao alilichukua akiwa Waziri wa Ardhi. Tutaendelea namna gani? Ni lini Kalembe atakuwa Waziri wa Ardhi ili ajichukulie shamba, pamoja na watu wake, ili tunufaike? Ni lazima Wakenya wasiwe na tamaa ya kunyakua vitu.

Bw. Naibu Spika, ukiangalia mbuga ya wanyama ya Samburu, inasaidia watu wa Samburu County Council. Ukiangalia mbuga ya Maasai Mara, inasaidia watu wa Narok County Council.

Mr. Deputy Speaker: Mr. Ndile, your time is up!

Mr. Ndile: Bw. Naibu Spika, naunga mkono!

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion. I support this Motion. I agree with those who say that there must be a ceiling, both maximum and minimum-- - It is not fair for some Kenyans who have plenty to continue having more land than they have use for. We also need to have portions of land that is viable. Therefore, even as we debate the suggestions by the Minister for Lands and Housing to rescind the decision on whether or not there is to be a minimum acreage that one has to hold, I think it is important for us to discuss it soberly. We need to ask questions as to whether or not there is a minimum that does not make a difference to whoever owns that kind of land. But, as we agree on issues related to a minimum, it is also important for us to give alternatives to those who are forced to sub-divide their land, because they have no otherwise. Many people sub-divide their land to almost nothing because they have to pay school fees, buy medicines and take care of their daily needs. Unless we give those people alternatives, it is going to be unfortunate for us to insist on a policy that does not give them a way

out. Therefore, with regard to rural communities, it is important to ask questions on whether or not we can start other income generating projects including industrialisation, factories or strengthening the urban centres to create more employment for those who have minimum pieces of land, so that they can sustain themselves in other ways.

Mr. Deputy Speaker, Sir, the problem of owning so much land is also found in urban estates. Landlords have so much land which they cannot maintain. Therefore, it is important to enforce the law. Landlords are supposed to provide services.

COMMUNICATION FROM THE CHAIR

ALLOCATION OF TIME FOR ADJOURNMENT MOTION

Mr. Deputy Speaker: Let us stop there. We have one-and-a-half hours to debate the Motion of Adjournment by Mr. Billow. There are only 30 minutes which are enough for the Mover and Responder to reply. Dr. Mwiria, you have now concluded your debate but you have 30 more minutes to continue when we meet on Wednesday.

Hon. Members, I will now call upon Mr. Billow to move the Motion of Adjournment but before he does so, I want to remind you that Standing Order 18(3) states that:

"No Member speaking on any such matter shall speak for more than ten minutes without the leave of the House".

The Mover and one Minister may speak for 15 minutes. So, Mr. Billow and the Seconder have 15 minutes to speak and the hon. Members will be limited to ten minutes as of now unless the House decides otherwise.

Mr. Billow: Mr. Deputy Speaker, Sir, could I move that the hon. Members be given five minutes so that many of them can contribute to this Motion?

(Applause)

Mr. Deputy Speaker: Is that the wish of the House?

Hon. Members: Yes, Mr. Deputy Speaker, Sir.

MOTION FOR THE ADJOURNMENT UNDER STANDING ORDER NO.20

USE OF PUBLIC RESOURCES IN REFERENDUM CAMPAIGNS

Mr. Billow: Mr. Deputy Speaker, Sir, I beg to move that the House do now adjourn. Cabinet Ministers have been categorical on the use of public resources for the campaigns. Major concerns have been raised by Kenyans, taxpayers and donors in this country on the statement that has been made by Cabinet Ministers to the effect that they are going to use public resources for the campaigns by the proponents of the proposed new constitution.

Mr. Deputy Speaker, Sir, the Chairman of the Electoral Commission of Kenya (ECK) has warned that should that happen, the outcome of the referendum will have been influenced to the extent that it would be fraudulent and that he might even withdraw from the process. When the ECK Chairman said that, he was also threatened that he would indeed be dismissed if he withdrew. In

addition to that threat, even donors have issued warnings that if the Government continued using public resources for the campaigns by the proponents of this constitution, they might suspend aid. So, the impact of this use of resources is great.

Mr. Deputy Speaker, Sir, Parliament as an institution has a constitutional responsibility to provide oversight role, to act as a watchdog on expenditure by the Government. The use of public resources is, therefore, very important to this House and we have the mandate to determine it and not to wait as some of the Cabinet Ministers have said, until three to four years for the audit report. We have a responsibility to say today that we will not allow public resources to be misused.

Mr. Deputy Speaker, Sir, as a Parliament, we allocate and approve resources for the Government to use and we also have the responsibility to hold the Government to account for the utilisation of the same and, therefore, we have to exercise this responsibility. The use of public resources for conducting the referendum campaigns is not the issue and I have to clarify this. We, as a House, have already approved money to relevant organs of the Government for the purpose of conducting the referendum. This year's Budget has as provision of Kshs3 billion for the ECK for the purpose of conducting the referendum. The Budget also contains Kshs1 billion for the Constitution of Kenya Review Commission (CKRC) for the purpose of conducting among other things civic education. We are not, therefore, disputing the use of those resources that have been approved in the Budget for conducting the referendum but what we are opposed to is the use of public resources for the purpose of conducting campaigns by the proponents of the new proposed constitution.

(Applause)

Mr. Deputy Speaker, Sir, apart from the money I have mentioned, there is no other provision in this year's Budget that has been approved by this House for the purpose of these campaigns. There is not any and I challenge the Government so. However, we have seen, for instance, the Office of the President has given out tenders for the printing of millions of copies of the proposed new constitution. According to the Budget, it is the responsibility of the CKRC to print those books. Before they could place the orders for those books, the Office of the President had already issued orders to even private companies in addition to the Government Printer to print millions of copies of this new proposed constitution. The money that the Office of the President is going to use for printing is the money that is going to be challenged when it comes to the Public Accounts Committee (PAC) because there is no provision or allocation in the Office of the President for printing these books.

Mr. Deputy Speaker, Sir, I am saying this because in this debate on the proposed new constitution, there are proponents and opponents. The current Constitution is very clear. It outlaws discrimination in this regard and with your permission, let me quote. Section 82 states:

"No person shall be treated in a discriminatory manner by a person acting by virtue of any written law or in the performance of the functions of a public office or a public authority".

If it amounts to that, the discrimination is outlawed in this Constitution. Section 100 of the same Constitution also makes it clear that the Government cannot use money except for the purposes that have been approved by this House.

(Applause)

Mr. Deputy Speaker, Sir, the public resources being used for the campaigns we are talking about are quite a number. I want to give examples. If you use a public premise belonging to the

Government for the purpose of these campaigns it amounts to making use of the public resources. An example is the office that belonged to the former School of Law which is being used by the proponents of the proposed new constitution. If you use aircrafts belonging to the army and police for the purpose of attending rallies, as some of the Cabinet Ministers have done, it amounts to misuse of public resources. The use of motor vehicles by Ministers on either side and public officials attending rallies or being involved in rallies, I think also amounts to misuse of public resources. With regard to the misuse of motor vehicles, we have brought the attention of the Government to the fact that there are Government motor vehicles whose registration plates have been changed into private ones and they have been given to people to use.

(Applause)

A very good example is the hon. Member who was criticising the previous regime for misusing public resources. The same hon. Member was given a motor vehicle, a Toyota double cabin, green in colour which was formerly GK A376H and replaced with a number plate reading KAU 570L. The vehicle is being used by hon. Ndile.

(Applause)

Hon. Members: Shame! Shame!

Mr. Deputy Speaker: Order, hon. Members! As we continue debating this Motion, I appeal to you to be sober. Let us not shout as I have just heard because this is a matter that should be handled with sobriety. I do not wish this kind of thing to continue.

Mr. Wanjala: On a point of order, Mr. Deputy Speaker, Sir. You have heard clearly the hon. Member moving the Motion say that one of the hon. Members of this House was given a motor vehicle. Could he substantiate his claim by telling us who this hon. Member is?

Mr. Deputy Speaker: Order, Mr. Wanjala. You heard the hon. Member give the registration numbers and, of course, Mr. Ndile is here and he can defend himself. Otherwise, proceed Mr. Billow.

Mr. Billow: Thank you, Mr. Deputy Speaker, Sir. Motor vehicles, as I highlighted, are one of the resources that are being misused.

In addition to the motor vehicles, there is the issue of the use of natural resources of this country for the purpose of inducing or influencing certain communities to vote in a particular way. An example is when national parks have been returned to certain communities so that they can be influenced to vote. When people are given land for the purpose of voting in a particular way that amounts to misuse of public resources.

Mr. Deputy Speaker, Sir, the direction given by a Cabinet Minister that civil servants have no choice on this matter, but to support the proponents of the new proposed constitution contradicts the Public Officers Ethics Act. With your permission, Mr. Deputy Speaker, Sir, I wish to read Section 16(2) of that Act. It reads as follows:

"A public officer shall not engage in a political activity that may compromise or be seen to compromise the political neutrality of his office".

I think it is very clear that the way public servants are being used is illegal. Apart from public servants, there is the issue of councillors. Yesterday we were told that councillors are being paid out of public funds to attend meetings. The rally which was held---

The Assistant Minister for Finance (Mr. Katuku): On a point of order, Mr. Deputy Speaker, Sir. The hon. Member has made serious allegations against councillors who are not in this

House. He said that they are being paid to attend meetings. The hon. Member started by saying that, "We have been told---" We would like to know by who. He should also substantiate his remarks without relying on the Press.

Mr. Billow: Mr. Deputy Speaker, Sir, we have it on record of the Minister for Local Government that salaries for councillors are going to be reviewed. That is being used as part of the "Yes" campaign. We think that is misuse of resources and it amounts to abuse of office as stipulated in the Public Officers Ethics Act. When people in Government use their offices for the purposes of campaigning, that is abuse of office.

Another example I want to mention is the allocation of famine relief food. I come from an arid area where people are starving. There is an emergency relief operation programme conducted by the World Food Programme (WFP) for the purpose of distributing relief food. What is happening on the ground is that famine relief aid is being given to the districts---

The Assistant Minister for Local Government (Mr. Tarus): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, Mr. Tarus! Continue Mr. Billow!

Mr. Billow: Mr. Deputy Speaker, Sir, instead of the food being given out through the normal channels, it is now being given to District Commissioners for the purpose of campaigning. I have evidence of this happening in my area. Already, that has caused a little friction between the Government and the WFP.

The Assistant Minister for Local Government (Mr. Tarus): On a point of order, Mr. Deputy Speaker, Sir. The hon. Member has mentioned something about the Minister for Local Government. He said that the Minister has issued a statement to the effect that we want to increase the councillors' salaries. Is it in order to talk against Kenyans who also have rights?

(Loud consultations)

Mr. Deputy Speaker: Hon. Members, please, do not raise frivolous points of order.

Mr. Billow: Mr. Deputy Speaker, Sir, on this matter about use of public resources, the issue is not about the illegality of the use of public resources during the campaigns by the proponents of the proposed new constitution. It is clear that it is illegal according to the Constitution and the Acts that I have mentioned. The issue, now, is: What action should the Government take? I have already mentioned that it is illegal and it amounts to corruption because abuse of office in the Anti-Corruption and Economic Crimes Act is an offence. This is going to affect the referendum in that it will not be free and fair. Kenyans will not be given a chance to vote independently and freely and, therefore, the outcome of the referendum will have been predetermined.

The Government should stop using public resources in the campaigns. I want the Minister for Finance to make a categorical statement, now that he is the custodian of public funds, that public resources are not going to be used for the purpose of the campaigns by one group. We also want the Kenya Anti Corruption Commission (KACC) and the Attorney-General to swing into action and prosecute those people involved in illegalities because we have mentioned all those instances.

Mr. Deputy Speaker, Sir, people have even criticised NGOs which raised these issues as being accountability busybodies. How come if you talk of accountability today it becomes a crime?

Mr. Deputy Speaker, Sir, with those few remarks, I beg to move. I will be seconded by hon. Mwenje.

Mr. Mwenje: Mr. Deputy Speaker, Sir, in addition to what hon. Billow has said, it is not only public funds which are being misused, but also power vested in the Government. They are misusing their power by breaking the rules, harassing and arresting those who are on the "No" side.

It is clear knowledge and everybody saw it last weekend. They started with me and so I am best placed to talk about it.

Mr. Deputy Speaker, Sir, abuse of human rights has been demonstrated because the Government has resorted to detention without trial.

(Applause)

How can 60 vehicles and 150 policemen be kept around Parliament to make sure that they harass only two Members of Parliament? That is abuse of our human rights. I am surprised that the Minister for Justice and Constitutional Affairs, who was a very good human rights lawyer before, has now changed. The Minister in charge of internal security together with the Commissioner of Police are now being misused to arrest and harass people. They incarcerated us in the police cells and at night they would come to tell us that if we do not say "Yes" then we will remain in the cells forever.

Hon. Members: Shame! Shame! Shame!

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Deputy Speaker, Sir, is the hon. Member in order to mislead this House and the public that when he was in the police cells he was told that he will remain there forever until he says "Yes". Now that he is here in Parliament, has he said "Yes"?

Mr. Mwenje: Mr. Deputy Speaker, Sir, that is a frivolous point of order and I do not need to bother about it.

(Applause)

Mr. Deputy Speaker, Sir, the truth is that we were intimidated when we were in cell. In fact, when we were in court, they broke into our cell to take us away despite the fact that we had already obtained bonds. This is outright intimidation and one major reason for it is that they know we have found out that they stole the cocaine which was in police custody and sold it. They are now looking for opportunities to revenge on us. This is being done by the Commissioner of Police. Thanks to God that I am the Chairman of the Departmental Committee on Administration, National Security and Local Authorities. I will summon him next week on Wednesday to tell us why he has been intimidating us. This is, indeed, a serious issue.

(Applause)

Mr. Deputy Speaker, Sir, it is high time the Government stopped misusing its powers to intimidate people to vote for "Yes" during the referendum. In any case, at the end of the day, the "Yes" side will fail, fail and fail.

(Applause)

Mr. Deputy Speaker: Mr. Mwenje, could you, please, relax?

(Laughter)

Mr. Mwenje: Mr. Deputy Speaker, Sir, you realise that I am bitter man. They must explain why they are using public funds to fund their campaigns. The Government, after exhausting all

other means, is now misusing its powers. Some Government officials have resorted to pretence. Yesterday, someone pretended that there was a bomb at the venue of his meeting. That was pretence. We must say clearly, and tell the President, that those Ministers who are messing him up will make him lose during the referendum. The public, which has contributed the funds being misused--- Embakasi Constituency has the highest population. Therefore, residents of the area contribute the highest amount of tax in this country. It is the same tax which is being misused by the Government. We cannot allow that to happen. When, eventually, this matter is brought to this House, someone will be crucified, taken to court and jailed. The Government is now jailing people dishonestly, but those in it will be jailed later for doing what they are doing now. The truth will come out. Those in the Government are allocating pieces of land to Ministers, which is misuse of public resources!

*(Mr. Mwenje raised a piece of paper
for hon. Members to see)*

This is a letter showing an allocation of land to a Minister. The Minister for Lands and Housing is here. If he has not seen it, I will give it to him.

(Loud consultations)

Mr. Deputy Speaker: Order, Order, hon. Members!

The Minister for Lands and Housing (Mr. Kimunya): On a point or order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to mislead this House by using fake letters that he printed, to say that we are allocating land without any proper guidelines?

Mr. Mwenje: Mr. Deputy Speaker, Sir, I would like to lay this document on the Table!

Mr. Deputy Speaker: Your time is up!

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

I beg to second this Motion and lay the letter on the Table.

(Mr. Mwenje laid the letter on the Table)

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Deputy Speaker, Sir---

(Mr. Ndile stood up in his place)

Mr. Deputy Speaker: Sit down Mr. Minister! Bw. Ndile, jambo lako ni lipi?

Mr. Ndile: Bw. Naibu Spika, kuna Mbunge hapa, ambaye amenitaja kuhusu gari fulani. Ningetaka kujua ni kwa nini amenitaja kuhusiana na gari fulani. Gari analozungumzia lilitolewa, ili litumike kusafirisha vitabu. Kwa nini amenitaja?

Mr. Deputy Speaker: Order, Mr. Ndile! Order, hon. Members! We talked about that matter a long time ago and it should not be revisited. I even called upon you to comment on it, but you were absent! The rules of this House must be followed.

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Thank you, Mr. Deputy Speaker, Sir. I beg to oppose this Motion. It is very clear, from this Motion, that the "Orange" campaign team is in a state of panic.

Hon. Members: No!

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Deputy Speaker, Sir, this Motion is very clear. The "Orange" campaign team is sensing defeat. The whole idea of this Motion is to cry foul, even before we go into referendum. No amount of noise, made in this House, will stop the "Banana" campaign team from ultimately winning in the referendum on 21st November.

(Applause)

Mr. Oloo-Aringo: On a point of order, Mr. Deputy Speaker, Sir. We need your guidance. Hon. Members come here to debate. Is it in order for the Minister to refer to what we have said here as "noise"? Could he apologise and withdraw those remarks?

Mr. Deputy Speaker: Mr. Minister, you know that we come here to debate and not make noise. Could you withdraw?

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Deputy Speaker, Sir, I believe that you have two ears like I do. You heard the noise that was there before I started speaking. So, whereas we agree that hon. Members make useful contributions, there are times, like now, when they get excited and make noise. The hon. Members in the "Orange" campaign team have been making noise! Have you not heard?

Mr. Deputy Speaker: I appealed for sanity when we are debating this Motion. Hon. Members on my left have been standing and shouting when the Minister is speaking. That is not right! Having said that, Mr. Minister, you know very well that hon. Members do not make noise. Therefore, you are obliged to withdraw those remarks and proceed.

An hon. Member: They were making loud consultations!

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Thank you, Mr. Deputy Speaker, Sir. I am reminded that the hon. Members were making loud consultations and, consequently, I beg to withdraw and continue. It is an obvious fact that backward and retrogressive forces which thrived and prospered from institutions of bad governance in this country have been blocking the proposed Constitution for the past 15 years. All those forces have now ganged up and are in the "Orange" team campaign. We defeated those forces in 2002, and we will defeat them again on 21st November, 2005. It is quite clear that the "Orange" team has reduced the referendum into an endless campaign of lies, propaganda, distortion and sometimes violence. We, as the Government, have promised to have a peaceful campaign. Every Kenyan will have a fair opportunity to express his or her views.

Mr. Deputy Speaker: Mr. Minister, I need to know if you are making the official response to the Motion.

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Deputy Speaker, Sir, I am not responding to the Motion. This is a Motion about public resources. It is the Minister for Finance who is supposed to respond to it. I am only making my own contribution.

Mr. Deputy Speaker: You are then limited to five minutes!

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Deputy Speaker, Sir, this Motion is intended to discredit the Government. We have said that there is no amount of thuggery or violence by the "Orange" group that will intimidate us. We have also said---

Mr. Deputy Speaker: Hon. Members, you are limited to make your contributions in five minutes only.

Mr. Muturi: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to dwell on irrelevancies when it is clear that the Motion is about the use of Government resources? The Minister is talking about thuggery, noise and violence instead on concentrating on the real issues.

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Deputy Speaker, Sir, the delivery of a new constitution was a key promise of this Government. We have allocated resources to it, and we will use them. We will not use bribery.

Mr. Deputy Speaker: Your time is up!

Mr. Wario: Bw. Naibu Spika, namshukuru Mwenyezi Mungu kwa kupata fursa hii. Serikali inatoa ardhi ili kuwashawishi wananchi kupiga kura kwa kampi ya ndizi. Kule Mau, watu waliuawa na wanawake kunyimwa makazi. Serikali hii ilikuwa wapi watu hao walipokuwa wakifanyiwa hivyo? Serikali iliwahamisha watu na kuwanyima ardhi. Watu wengine walikufa. Leo, Serikali inajigamba eti inatoa ardhi ya umiliki!

Serikali pia imetoa hifadhi ya wanyama ya kitaifa. Hifadhi hiyo si ya ndizi wala chungwa. Hifadhi hiyo ni ya taifa la Kenya. Serikali inajigamba kuwa karimu kwa Wamaasai. Wamaasai hawatabadilisha msimamo wao kwa kuwa wamepewa hifadhi hiyo ya wanyama.

(Applause)

Mhe. Mwenje na mhe. Ndolo walipelekwa mahakamani. Walipewa dhamana kwa mujibu ya sheria za nchi hii. Baada ya kupewa dhamana, walipelekwa jela kwa sababu wamesema "La" kwa katiba mpya. Kuwapeleka jela sio suluhisho na haitabadilisha msimamo wa Wakenya. Serikali inatumia mamlaka yake vibaya. Hii ni dhuluma za haki ya kibinadamu inayoongozwa na Waziri ambaye anastahili kutetea haki za binadamu.

Bw. Naibu Spika, katika sehemu nyingine, vyakula vinatumiwa kama njia ya kuwashawishi Wakenya kubadilisha msimamo. Tusipobadilisha msimamo, tutaitwa wakimbizi na kunyanyaswa. Jana mhe. Mungatana alikuwa katika eneo Bunge la Bura na alitumia gari la Serikali kufanya kampeni ya ndizi na mfanyakazi wa Telkom Kenya ndiye alisimama kwenye jukwaa kuunga mkono kampeni ya ndizi. Katiba hii ni ya Wakenya, wala sio ya NARC ama mtu yeyote. Kwa nini Serikali inaegemea upande mmoja ikitumia rasilmali za taifa?

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

Mr. Deputy Speaker: Order! I wish to request hon. Members to restrain themselves and stop raising points of order unless they are very necessary.

Proceed, Mr. Wario!

Mr. Wario: Bw. Naibu Spika, juzi Waziri Msaidizi, Bw. M. Kariuki alikutana na machifu na wakuu wa tarafa ili kuwaeleza kwamba wataongezewa mishahara yao. Waliambiwa kuwa mishahara yao itaongezwa baada ya *referendum*. Wafanyakazi hawa---

The Assistant Minister, Office of the President (Mr. M. Kariuki): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to mislead this House? My speech was televised and aired on radio. At no time were false promises of salaries made. I said that the salary structures were already being prepared and that they will be released at our own time.

Mr. Wario: Bw. Naibu Spika, Serikali hii, machifu na wakuu wa tarafa walikuwa katika mkutano huo. Mbona hawajaitwa siku zote hizi kupewa ahadi za mishahara? Hata madiwani walikuwepo. Tumeleta Hoja katika Bunge hili mara mbili ili kuboresha mishahara na hali ya maisha ya madiwani, lakini Serikali hii ilipinga. Leo wamewaita madiwani na kuwaambia kwamba mishahara yao itaboreshwa. Serikali inatumiwa uwezo wake, rasilmali na pesa za nchi hii kwa njia isiyostahili. Bila shaka ndizi zitaenda na maji.

Mr. Muite: Thank you, Mr. Deputy Speaker, Sir. My understanding regarding the issue of the public funds that are being used by the Government is in respect to printing copies of the Constitution. This is the money given to the CKRC and the Electoral Commission of Kenya. This is legitimate expenditure which has to continue coming from public funds. I support that. I have not

come across any evidence of people being given money to go and campaign. I want the hon. Member for Lang'ata to confirm or deny that he has been having meetings with retired President Moi in the Nairobi house of Mr. Ruto. The former President is fully funding the orange campaign. That is why---

Mr. Wanjala: Plus Americans and NGOs!

Hon. Members: No! No!

The Minister for Roads and Public Works (Mr. Raila): Mr. Deputy Speaker, Sir, you have heard the allegations made by Mr. Muite. I have never had a meeting with the former President and I want Mr. Muite to prove that allegation. Secondly, what has that got to do with the use of Government resources which is the subject of this Motion?

Mr. Muite: Mr. Deputy Speaker, Sir, the money that was stolen from this country during the former regime is now being returned to fund the Orange Campaign. We now notice that the Kenya Shilling is strengthening against the dollar.

Mr. Sambu: On a point of order, Mr. Deputy Speaker, Sir. Is Mr. Muite in order to impute improper motives on the former President, that he stole funds? Mr. Muite should withdraw and apologise. The former President did not steal any money!

(Loud consultations)

Mr. Deputy Speaker: Order! Hon. Members, I still ask you to exercise sobriety as you debate this matter. There should be no hon. Members throwing words across the Floor!

Mr. Muite, finish up!

Mr. Muite: Mr. Deputy Speaker, Sir, if you look at the Kenya Shilling, at a time when this country is paying a lot of money to import crude oil and no fundamentals have changed, why is it strengthening against the dollar? That is because of the donors---

Mr. Osundwa: On a point of order, Mr. Deputy Speaker, Sir. I am sure the Chair heard very well, a while ago, Mr. Muite cast aspersions on the character of Mr. Raila. Could he be forced to apologise?

Hon. Members: No! No!

Mr. Deputy Speaker: Order, hon. Members! Really, Mr. Muite, if you stick to the Motion, I am sure you will not be talking about the issues of crude oil and the performance of the Kenya Shilling. Please, stick to the Motion!

Could you finish up!

Mr. Muite: Mr. Deputy Speaker, Sir, if there is any issue of immoral funding, it is for the Orange Campaign! That is the money that this Government must investigate, so that it is returned, in order for this country to improve.

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

An hon. Member: *Wewe bure!*

Mr. Muite: *Hata wewe bure kabisa!*

Mr. Maore: Thank you, Mr. Deputy Speaker, Sir, for according me this opportunity to contribute to this Motion. From the outset, the Motion is about the use of public resources on a political cause. I would like to invite the House to a flashback. On 13th March, 2003, the---

The Minister for Justice and Constitutional Affairs (Mr. Murungi): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to mislead this House and the public that we are talking about use of public resources for political purposes when we are talking about a new Constitution? We are campaigning for the referendum, so that this country can have a new Constitution!

Hon. Members: *Keti! Keti!*

Mr. Deputy Speaker: Order, hon. Members! Mr. Maore, please, continue!

Mr. Maore: Mr. Deputy Speaker, Sir, I would like to invite the House, with your permission, to the HANSARD of 13th March, 2003. Exactly 72 days after the Minister for Justice and Constitutional Affairs had been in office, this is what he said when moving the Public Officer Ethics Bill.

Mr. Deputy Speaker, Sir, you were on the Chair that day. He said:-

"Mr. Deputy Speaker, Sir, the other important concept being introduced in this Bill is one of political neutrality in the Civil Service. I am sorry to say that under the KANU regime, our Civil Service had lost its political neutrality. There are very clear cases of Provincial Commissioners (PCs) who were addressing public gatherings and saying: "We are KANU PCs and we do not care. When the other Government comes to power, we will not be part of it." The police and the Provincial Administration had become mere armed KANU youthwingers. We can tell what amount of harassment we went through as hon. Members of the Opposition in this Parliament. I would like to assure hon. Members of the Opposition, who are in this House now, that as long as I am the Minister for Justice and Constitutional Affairs, I will not allow the police and the Provincial Administration to terrorise hon. Members because they are in the Opposition.

Mr. Deputy Speaker, Sir, in conclusion, while currently saying that, we have to remind civil servants that the duty of the Civil Service is in maintaining its neutrality."

Mr. Deputy Speaker, Sir, I want to give an example of abuse of public resources. When we went to Makadara Law Courts to see Mr. Ndolo and Mr. Mwenje, a blatant misuse of resources happened. I can only liken it to an incident that happened in the Nakuru Law Courts in 1995; when myself, the Minister for Justice and Constitutional Affairs and a few others went to attend the many trials of Mr. Wamwere. The bodyguard of the then hon. Leakey was arrested with a knife that was in the car. But he had a gun. So, when we entered the court, the hon. Member for Kabete asked the Provincial Criminal Investigations Officer (PCIO): "Why would you arrest somebody with a knife, when he has a gun?" The then PCIO, Mr. David Korir, looked at Mr. Muite and told him: "Paul, we are not talking about law! We are talking about power!" Therefore, on Friday, this Government and its officers confirmed that power is also getting into their heads.

(Applause)

Mr. Deputy Speaker, Sir, the difference between that time and this time is that, they never used to flush people out of courts. They used to have a civilised way of organising injustice. They were not flushing Members out of Parliament or court cells. That never happened.

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

Mr. Deputy Speaker: What is it, Mr. Muite?

Mr. Maore: I hope he will deny that!

Mr. Muite: Mr. Deputy Speaker, Sir, is the hon. Member for Ntonyiri in order to mislead the House that people were never used to be flushed out, when I was actually dragged out of a toilet?

(Laughter)

Mr. Maore: Mr. Deputy Speaker, Sir, I said that they never used to flush people out of

courts! We really need somebody to arbitrate between the public courts which believe that the referendum is a political project, and the Minister for Justice and Constitutional Affairs who believes that it is a Government project.

With those few remarks, I beg to support.

The Minister of State, Office of the President (Mr. Karume): Ahsante sana, Bw. Naibu Spika, kwa kunipa nafasi hii ili niseme machache. Kwanza, ningependa kuwaambia Wabunge wote kwamba tulichaguliwa na Wakenya kuwaakilisha Bungeni. Kwa hivyo, tufanye kampeni kwa njia ya haki kwa sababu, baada ya 21/11/2005, tutabaki nchini tukiwa ndugu na dada. Kwa hivyo, tufanye kampeni tukijua tuko pamoja.

Tumetumia miaka 15 kutafuta Katiba mpya. Wakenya wamekuwa wakingoja. Lakini sasa, kwa bahati ya Mwenyezi Mungu, inaonekana tuko karibu kupata Katiba mpya, vile wananchi wanavyotaka. Pia, ningependa kusema kwamba ni lazima tujue kwamba nchi ya Kenya ni yetu. Tulipigana na wakoloni ili tujitawale na ndio sababu tunatengeneza Katiba mpya kwa sababu tuliona makosa katika ile ya zamani. Kwa hivyo, tukifanya kampeni, inafaa tuwe waangalifu ili tusitumiwe na wageni kutoka ng'ambo. Kama sasa, tunajua kwamba watu wa ng'ambo wanapanga vile watamwaga pesa nchini. Hata wengine wamepanga vile watatengeneza pesa sizizo halali hapa nchini.

Mr. Poghiso: On a point of order, Mr. Deputy Speaker, Sir. I know that that hon. Karume was not here when the Motion was moved. But is he in order to dwell on irrelevancies without addressing the Motion?

The Minister of State, Office of the President (Mr. Karume): Bw. Naibu Spika, nafikiri hilo jambo la nidhamu halina maana.

Kwa hivyo, Bw. Naibu Spika, ni muhimu tujue kwamba Kenya ina adui wengi. Ni ukweli kwamba watu wengine kutoka ng'ambo wameleta pesa humu nchini. Hata wengine wameleta mashine za kutengeneza pesa za kuharibu nchi hii. Kampeni lazima tufanye kwa njia ya haki, bila matusi ama kupigana. Hii ni kura ya maoni tu, si kura ya kibinafsi. Hii ni Katiba ya watu wote wa Kenya. Nina hakika kwamba wananchi sasa wamesoma Katiba hiyo mpya na wameona ukweli. Ningewaomba waendeleo kusoma, na wale hawajui kusoma wasaidiwe na wenzao.

Bw. Naibu Spika, ningependa kuwaomba wenzangu Wabunge wale wa Upinzani kwamba wakienda kwa mikutano, wasome hiyo Katiba na kuwaeleza Wakenya ni sehemu gani ambayo ina makosa.

Kwa hayo machache, ninapinga Hoja hii.

Mr. Deputy Speaker: Order! I would like hon. Members to restrict themselves to the substance of the Motion.

Now, Mr. Raila!

The Assistant Minister for Finance (Mr. Katuku): On a point of order, Mr. Deputy Speaker, Sir. You have said that you are going to be balanced in your selection of Members to contribute to this Motion. Are you balancing between Members of Parliament or between supporters of bananas and oranges? That is very important, so that we can know when you are balancing and when you are not.

Mr. Deputy Speaker: Order! Mr. Katuku, you do not just waste the time of the House for nothing. It is for me to know how I am balancing; it is not your business!

Mr. Raila!

The Minister for Roads and Public Works (Mr. Raila): Mr. Deputy Speaker, Sir, I want to speak on this Constitution that we swore to protect, defend and uphold. This is the issue at hand here. The provisions of this Constitution are being violated. Section 99 is very clear and categorical, on how we withdraw and appropriate funds from the Consolidated Fund.

Mr. Deputy Speaker, Sir, in 1964, the then Minister for Justice and Constitutional Affairs, the late hon. Tom Mboya, came to this House with a Referendum (Amendment) Bill which later became an Act. At that time, it was to amend the Constitution, and the amendment was so fundamental that a referendum was going to be required. Section 9 of that Act read as follows:

"All expenses properly incurred with respect to the conduct of the referendum or otherwise, for the purposes of this Act or any other rules made thereunder, including, without prejudice to the generality of the following provisions; any expenses incurred on behalf of the Government in any legal proceedings arising in connection with the referendum shall be charged upon the Consolidated Fund."

Mr. Deputy Speaker, Sir, let me inform my hon. friend here that, in order to do a proper referendum in this country, he should not do what his predecessor did in 1964. It is very clear that, without this kind of omission, we have a Constitution. It is very clear that we are not allowed to use money from the Consolidated Fund, or Government resources, to campaign for any side in the referendum. It is illegal and unconstitutional.

The Minister for Justice and Constitutional Affairs (Mr. Murungi): On a point of order, Mr. Deputy Speaker, Sir. Is my friend, hon. Raila, in order to mislead this House about the use of public resources? He drives a Mercedes Benz belonging to his Ministry to campaign for the "Orange". He also flies a flag in his rallies.

The Minister for Roads and Public Works (Mr. Raila): Mr. Deputy Speaker, Sir, it is public knowledge, and if the Minister has evidence to the contrary he should produce it, that I use my private car. I do not even use Government security personnel and drivers when I go for the campaigns.

Mr. Ndile: Jambo la nidhamu, Bw. Naibu Spika. Juzi, mhe. Raila alikuja kwangu, Makindu, kufungua barabara akiwa na GK vehicle na askari wa Serikali na alikuwa akiongea kuhusu machungwa!

The Minister for Roads and Public Works (Mr. Raila): Mr. Deputy Speaker, Sir, those are irrelevancies. One of my cars, registration No.GKA 811D has now been given a civilian registration No.KAU 560N and it is being used for the purposes of campaigns in the referendum. This is illegal!

Those of us who are campaigning for the rejection of the proposed Constitution are doing it out of principle; that it is a bad Constitution. I want to assure other hon. Members that there is no panic in the Orange Camp. We have a lot of confidence that the majority of the people of this country are going to reject this Constitution. This mongrel, that was produced in Kilifi, is an insult to the intelligence of the people of Kenya. I stand here with a lot of pride and confidence because I know that I am speaking on behalf of millions of Kenyans.

The Minister for Lands and Housing (Mr. Kimunya): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to mislead this House and the public that, out there, we are having the Kilifi Draft, when the draft that is there was passed by this very House, which he is now rubbishing?

Hon. Members: No!

The Minister for Roads and Public Works (Mr. Raila): Mr. Deputy Speaker, Sir, those are kicks of a dying horse!

(Loud consultations)

Mr. Deputy Speaker: Order! Order! Actually, hon. Members, we are not debating the *de facto* Constitution. The Motion before us is a different one, so let us confine ourselves to the

Motion!

Mr. Kombo!

(Loud consultations)

Hon Members: Aaah! This side!

Mr. Deputy Speaker: Order!

The Minister for Local Government (Mr. Kombo): Thank you, Mr. Deputy Speaker, Sir. I will not, infact, take a very long time because I was told that while I was away, somebody talked about the action we are taking within the local authorities and that is being cited as an example of using public funds.

(Loud consultations)

Mr. Deputy Speaker: Order!

The Minister for Local Government (Mr. Kombo): *Acheni kupiga kelele; sikilizeni kwanza!* I want to make it very clear that the role of councillors in this country is very well known. The councillors are our leaders at the grassroots and we have always appreciated that. For a very long time, the councillors have been pushing us to think about their welfare.

Mr. Mwandawiro: On a point of order, Mr. Deputy Speaker, Sir. We have to be very sincere in this House. How can he now pretend that we have had the interests of councillors at heart while a Motion for raising their salaries from the Consolidated Fund was rejected by you!

(Applause)

Mr. Deputy Speaker: Order!

The Minister for Local Government (Mr. Kombo): Mr. Deputy Speaker, Sir, it is very simple. When the Motion came, I did promise the House that we were working on it.

Hon. Members: No!

The Minister for Local Government (Mr. Kombo): Absolutely! So, I have watched and seen that some of our councillors, when they die, nothing happens to their families. This is obviously a matter of concern and I hope that those councillors are listening and hearing those who are heckling, because they have no interest in their welfare. So, for one year---

Mr. Deputy Speaker: Order! Order, Mr. Minister! Could you withdraw the words, "those who are heckling"?

The Minister for Local Government (Mr. Kombo): Mr. Deputy Speaker, Sir, those who are shouting very loudly unnecessarily---

Mr. Deputy Speaker: Order! You are even going into more difficulties! Could you withdraw the words "heckling" and "shouting"?

The Minister for Local Government (Mr. Kombo): All right, those who are consulting very loudly!

(Laughter)

So, Mr. Deputy Speaker, Sir, because of that, I decided, a year ago, to set up a committee---

(Mr. Poghiso stood up in his place)

Mr. Deputy Speaker: Order, Mr. Kombo! You did not withdraw, you just substituted the words!

The Minister for Local Government (Mr. Kombo): Mr. Deputy Speaker, Sir, hon. Members of Parliament do not heckle or shout, but they consult loudly. So, I withdraw the words "heckling" and "shouting".

A year ago, I set up a committee which was chaired by Mr. Joe Aketch, the Chairman of the Association of Local Government Authorities of Kenya (ALGAK) to look into the welfare of our brothers, the councillors. The report was given to me in August, 2005, and we have looked at the report and when I met the councillors on Friday---

Hon. Members: From where?

The Minister for Local Government (Mr. Kombo): Mr. Deputy Speaker, Sir, this occurs everywhere. When I go to Mombasa or Moyale, the councillors always ask me whether we are doing anything for them. The report has been submitted to me. It is a good report and it looks after the welfare of the councillors. It is not an issue that we cannot deal with at the Ministerial level. Before I went to the United States of America (USA), during the Annual General Meeting of ALGAK, I had promised that I will release that report. However, I could not because I was in the US. I am ready to release the report. I did not release the report early because of the various consultations which are still going on. I will discuss the report at the various Government levels and release it. That is why I did not release it on Friday. I want to make it very clear that the Government does not stop working because there is a referendum. We have to continue working and address the welfare of councillors so that they can be good ambassadors at the grassroots level.

Thank you.

(Applause)

Mr. Muturi: Thank you, Mr. Deputy Speaker, Sir. The Motion before us is meant to express the concern of this House over the use of public resources in the on-going referendum campaigns by both the "No" and the "Yes" teams. We should confine ourselves to that and not to talk about how beautiful the new Constitution is in this Motion. Therefore, I would like to touch on some of the issues straightaway.

First, we have seen the Permanent Secretary, Secretary to the Cabinet and Head of Public Service attend meetings convened in the Office of the Vice-President and Minister for Home Affairs with a few Ministers in attendance; to go and strategize on how to campaign for the adoption of the new Constitution. The Permanent Secretary, Secretary to the Cabinet and Head of Public Service is---

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

Is the hon. Member in order to mislead the House by telling us that the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service sits with some Cabinet Ministers to strategize on how to campaign for the adoption of the new Constitution? Does he have the minutes?

(Mr. Bifwoli was booed)

Mr. Muturi: Mr. Deputy Speaker, Sir, as you can see the mood in the House is to ignore that kind of frivolous point of order. It is a matter of public knowledge. The Permanent Secretary, Secretary to the Cabinet and Head of Public Service must remain neutral in this matter. He must not be seen attending meetings because he has been summoned by the Minister for Justice and

Constitutional Affairs who might twist things. He is a man capable of twisting things!

(Applause)

The Minister for Justice and Constitutional Affairs (Mr. Murungi): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to mislead this House that the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service is not being neutral when he is, in fact, implementing Government policy of having a new Constitution by consulting with the Leader of Government Business and Cabinet Ministers? Is it in order for the hon. Member to mislead the House that the Permanent Secretary, Secretary to the Cabinet and Head of Public Service is involved in the campaigns, and yet he is not?

Mr. Muturi: Mr. Deputy Speaker, Sir, these are matters of public notoriety. We all live on earth and we are not creatures that descend here at daybreak. We see what the Permanent Secretary, Secretary to the Cabinet and Head of Public Service does.

We have seen the Assistant Minister, Office of the President, Mr. M. Kariuki, summon DOs and chiefs. We have also seen the last speaker, Mr. Kombo, meet councillors from his area and promise them that they will get a salary increment. These are matters the Government cannot run away from and no amount of intimidation will help. Kenyans have decided on this issue. We are telling the Government clearly and loudly not to use public resources. We want---

The Assistant Minister, Office of the President (Mr. M. Kariuki): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to mislead the House that I summoned chiefs and DOs about the referendum campaigns? As Mr. Kombo has said, the Government runs; whether there is a referendum or not. That was a routine meeting. Could the hon. Member substantiate his remarks that, that was a meeting with a campaign agenda?

Mr. Muturi: Mr. Deputy Speaker, Sir, the Assistant Minister will have an opportunity to tell us that it was a routine meeting. Therefore, he should not waste my time. It is also a well known fact that DCs, throughout this country, have been summoned. Some are being given famine relief food to distribute in their districts. This is misuse of public resources. Famine relief food should be distributed without conditions. People should not be coerced. West Pokot District has been given 4,000 bags of relief food to be distributed only to the areas which are deemed to support the new Constitution. If the Government must distribute famine relief food, which is part of its function, it should do it across the board without discrimination, favouritism and inducing people to vote either way.

The Assistant Minister, Office of the President (Dr. Machage): On a point of order, Mr. Deputy Speaker, Sir. It is a well known fact that my Ministry has been very neutral in the distribution of relief food. Is the hon. Member in order to insinuate that we distribute food to the hungry for political expediency?

Hon. Members: Yeah!

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members!

Mr. Muturi: Mr. Deputy Speaker, Sir, I have been very clear that we want famine relief food to be distributed as part of the functions of the Government. However, it should not be used as an inducement to any particular community in order to coerce it to vote either way.

The Assistant Minister for Finance (Mr. Katuku): That is normal!

Mr. Muturi: Mr. Deputy Speaker, Sir, Mr. Katuku said that, "that is normal". I know he is getting a lot of relief food in his constituency because that is the only method he can use.

Mr. Kimunya is dishing out land. He has even given land to a company that belongs to one of his colleagues.

Mr. Deputy Speaker: Order, Mr. Muturi! Your time is up! Hon. Members, when you stand on a point of order, go straight to it! Do not explain because that will not be a point of order.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, it is sad that we are discussing this issue. We know that most hon. Members have misled the public because they do not want to talk about the truth but what will favour their campaign side. It is a shame that hon. Members are preaching water all over the country whereas they are taking wine. I would like to challenge the Ministers themselves both on the "Orange" and "Banana" campaigns to tell us whether to date they are not using their bodyguards. They should tell us whether they have withdrawn their bodyguards before accusing the Government of misusing public resources.

(Applause)

If you want to be a democrat and say that you are holier than thou---

The Minister for Roads and Public Works (Mr. Raila): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to mislead the House that when we are going to work in the Ministry we should not have our staff? He is implying that we should withdraw our own secretaries as well! I do not use my driver or my security when I go for those campaigns. However, when I am doing Government work, I use Government officers.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, it is very clear that they are being monitored. If anyone wants to say that they are holier-than-thou, they must make sure that they are not using Government officers.

Secondly, it is also shameful that some hon. Members are asking their colleagues to resign from a Government that they also belong to. We wonder what Government they are talking about! That is the highest height of hypocrisy in this country. We cannot talk about Government harassment or the misuse of public resources when we know that this Government is only distributing copies of the Draft Constitution through the State machinery. What other way would this Government use to distribute copies of the Draft Constitution to the people? Would the Draft Constitution be given to the banana or the orange camps to distribute to the people? These people are even burning copies of the Draft Constitution! They have also alleged that if one of their leaders has read it, then all of them have read it!

Mr. Deputy Speaker, Sir, it is shameful to say that this Government harassed hon. Members yet we know the people in that camp. In 1993, I was taken from my room at the university and locked up for six months by the former regime. That same system detained Mr. Raila for a long time.

(Applause)

Mr. Mwandawiro was also a victim of similar actions by the previous regime. In 1995, I was arrested and incarcerated in Maragwa on the orders of the then Secretary-General of KANU. It took the intervention of the hon. Member for Kabete, Mr. Muite, to get me out.

Mr. Kamotho: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to make an unfounded allegation; that I gave an order for him to be arrested? Let him produce any evidence to show that I did it as either a Minister or the then Secretary-General of KANU!

Mr. Deputy Speaker: Order! Order! Mr. Kiunjuri, I have appealed to hon. Members to exercise restraint. You should not just make an allegation against an hon. Member unless you have substantive evidence. Could you, therefore, withdraw that allegation?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, because I want to save my time, I withdraw. But there is an Occurrence Book at Maragwa Police Station where this has been recorded; when he was campaigning for a councillor.

Mr. Deputy Speaker: Order! You have withdrawn the allegation. You may now proceed!

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, this Government will not use public resources on the referendum. It will not give away the Molasses Plant so that it can be supported. This Government will not be intimidated in any way. Its programmes must continue.

Mr. Sungu: On a point of order, Mr. Deputy Speaker, Sir. Whatever the argument is, the Chair must be respected. The Chair has ruled on this subject. The hon. Member on the Floor is defying the Chair. I fear that the respect and dignity of this House is in danger if hon. Members continue to defy the Chair. Could you take appropriate action?

Mr. Deputy Speaker: Order! Order! Mr. Sungu, I asked Mr. Kiunjuri to withdraw and he did withdraw. Mr. Kiunjuri, I do not understand why you withdrew the allegation and then continued discussing it. So, you are completely out of order. Be that as it may, I have only two minutes, which I will give to Mr. Okemo.

Mr. Okemo: Thank you very much, Mr. Deputy Speaker, Sir. The Motion before the House is extremely clear. What we are talking about is not the facilitative role of the Government because that is already provided for in the Printed Estimates. What we are talking about is the use of public funds to campaign one way or the other. Therefore, what we are telling the Government is that it has no authority to use public resources for the "Yes" campaign. That is really what we are talking about here. We know that the Government is trying to be coy about the whole issue.

Mr. Deputy Speaker, Sir, first, I feel a bit embarrassed about having to contradict my brother, Mr. Kombo, because we had a Motion here and we argued strongly for the councillors' salaries to be paid from the Consolidated Fund. The Minister came out categorically to say that the Government cannot afford it and opposed the Motion vehemently. So, why is this hypocrisy coming at this point in time? All of a sudden, the Minister is now pretending that he cares about councillors! At that time, he did not!

(Applause)

The Minister for Local Government (Mr. Kombo): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! Order, Mr. Okemo and Mr. Kombo! The two minutes I gave to Mr. Okemo are over. It is now time for the Minister for Finance to reply.

Mr. Wanjala: No way! The Chair is biased!

The Minister for Finance (Mr. Mwiraria): Mr. Deputy Speaker, Sir, may I give five minutes of my time to my colleague, Mr. Kimunya?

*(Several hon. Members stood
up in their places)*

The Minister for Lands and Housing (Mr. Kimunya): Mr. Deputy Speaker, Sir, the Motion before us---

Mr. Osundwa: On a point of order, Mr. Deputy Speaker, Sir. Mr. Wanjala has said the Chair is biased. Is he in order to say so, when we know it is neutral?

(Loud consultations)

Mr. Deputy Speaker: Order! Order! Mr. Wanjala, the Chair had already said that you should restrain yourself. Now, you have just said that it is biased. I think that is an assault on the Chair. Therefore, you are ordered out of this Chamber!

(Mr. Wanjala withdrew from the Chamber)

Proceed, Mr. Kimunya!

The Minister for Lands and Housing (Mr. Kimunya): Thank you Mr. Deputy Speaker, Sir. The Motion before this House is on an allegation that the Government is misusing resources to finance or bankroll a campaign one way or the other. Allegations have also been made in this House that we are using the issue of land to woo voters one way or the other. Hon. Members have been crying in this House about opening of offices. They have also been asking about the settlement of the Ogiek community which has been denied land by hon. Members sitting on the other side for all those years. But when we give them land, we are being accused of doing that for campaign purposes.

Mr. Kamotho: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead this House and the country that we are alleging that the Government is spending money to finance the referendum, while the Ministers themselves; Messrs. Murungi and Nyachae, at Safari Park Hotel, claimed that they will spend money to finance this referendum whether we like it or not?

The Minister for Lands and Housing (Mr. Kimunya): Mr. Deputy Speaker, Sir, I believe that has nothing to do with what I said. The hon. Member is trying to contribute through the back door.

Mr. Deputy Speaker, Sir, it is very clear that the Government must continue running. We cannot allow people to continue suffering because there is a referendum. We cannot continue to see people suffering from hunger and starvation because we cannot distribute relief food because of the referendum. We will not allow people from Mau Forest, who are suffering, to continue doing so because there is a referendum.

Mr. Kipchumba: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to say that he cares about the people of Mau when the Government is known to have burnt houses, schools and churches?

The Minister for Lands and Housing (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg to ignore that question.

We need to be very clear here as to who is misusing resources. We are investigating - and I would like hon. Members to be very clear on this - allegations that have been brought to us on the financing of the "Orange Campaign". Money is being channelled from foreign countries through the United Nations Development Programme (UNDP), Action Aid---

(Loud consultations)

The Assistant Minister for Foreign Affairs (Mr. Ojode): On a point of order, Mr. Deputy Speaker, Sir. With a lot of respect to my honourable Minister, he cannot allege anything which he

cannot substantiate. Could he substantiate the amount of money which has already been channelled through UNDP to Kenya? Who was the recipient?

The Minister for Lands and Housing (Mr. Kimunya): Mr. Deputy Speaker, Sir, I was very clear. We are investigating allegations that have been brought to us about this financing. I want to make this very clear---

*(Several hon. Members stood
up in their places)*

Mr. Deputy Speaker: Order! Order! Please, sit down! We only have ten minutes before we finish this debate. I want hon. Members to give the Chair some peace during these ten minutes. Proceed!

The Minister for Lands and Housing (Mr. Kimunya): Thank you, Mr. Deputy Speaker, Sir, for protecting me.

Mr. Poghio: On a point of order, Mr. Deputy Speaker, Sir. An hon. Member is responsible for the accuracy of the information brought to this House. He has not withdrawn anything he said about UNDP.

Mr. Deputy Speaker: The Minister has said that there is an allegation. So, you cannot ask him to substantiate an allegation!

The Minister for Lands and Housing (Mr. Kimunya): Mr. Deputy Speaker, Sir, lastly, this has a bearing on misuse of public funds; it will be very expensive in the long-term. We are getting allegations that contractors are being harassed to finance the "Orange Campaign" through all the road contracts that are being given right now.

Maj-Gen Nkaiserry: On a point of order, Mr. Deputy Speaker, Sir.

*(Several hon. Members stood
up in their places)*

I am on a point of order, gentlemen!

Mr. Deputy Speaker: Order, hon. Members!

Maj-Gen. Nkaiserry: Mr. Deputy Speaker, Sir, that is a very serious allegation! A United Nations agency is being accused by this Government. That is the United Nations Environment Programme (UNEP). The Minister has just said that they are investigating a United Nations agency. Could he substantiate the allegation about investigating?

The Minister for Lands and Housing (Mr. Kimunya): Mr. Deputy Speaker, Sir, these people are just wasting my time! I said very clearly that money is being channelled into this country. That is why the Kenyan Shilling is strengthening! A lot of money is flowing in. Contractors are being harassed to finance the campaigns. That is misuse of public resources for the---

An hon. Member: Toboa! Toboa!

*(Several hon. Members stood
up in their places)*

Mr. Deputy Speaker: Order, hon. Members! You know I am on my feet! So, nobody else should be on his feet! Let us be orderly! Let us have points of order only!

The Minister for Roads and Public Works (Mr. Raila): Mr. Deputy Speaker, Sir, the hon. Minister has alleged that contractors are being harassed. I can produce evidence to the contrary. It is

them who are harassing contractors for payments. I can produce the names of the contractors and people who are involved, including some operatives from up there!

Mr. Deputy Speaker: Mr. Kimunya, you made that allegation!

The Minister for Lands and Housing (Mr. Kimunya): Mr. Deputy Speaker, Sir, if this House knows the truth, four members, who are not workers at the Ministry of Roads and Public Works, have been stationed at the cash office to track when cheques are being paid. Phone calls are then made to the contractors. They are being told: "You must pay! You will get the variations after the referendum!" We are investigating those allegations.

The Assistant Minister for Foreign Affairs (Mr. Ojode): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! But, Minister Kimunya, you are really---

The Minister for Lands and Housing (Mr. Kimunya): Mr. Deputy Speaker, Sir, is it in order for the Minister to call me a "stupid idiot" in the House?

Mr. Deputy Speaker: Order! Will you sit down? Mr. Kimunya, you are making even more serious allegations!

The Minister for Lands and Housing (Mr. Kimunya): Mr. Deputy Speaker, Sir, the Minister has just called me: "You stupid idiot", here!

The Assistant Minister for Lands and Housing (Mr. Ojode): It does not matter! Those are allegations that he has to substantiate!

Mr. Deputy Speaker: Order, hon. Members! Will you sit down? I think we are now degenerating into a very disorderly House! I think hon. Members must be honourable enough not to make such allegations, or even abuse one another in the House. I do not wish to go into that matter. I did not hear those words. You will have to sort them out.

The Minister for Finance, please proceed!

The Assistant Minister for Foreign Affairs (Mr. Ojode): On a point of order, Mr. Deputy Speaker, Sir. We need directions from the Chair. There is no way hon. Kimunya can make allegations and then we leave him to go scot-free with them. First of all, he said that the United Nations Development Programme (UNDP) is dishing out money. Secondly, he said that there are contractors who are being forced to pay money. Let him substantiate his claims and if he does not, let him withdraw them. We cannot run a Government like this! It is not possible!

*(Several hon. Members stood
up in their places)*

Mr. Deputy Speaker: Hon. Members, could you sit down? Now, hon. Kimunya, you have heard the point of order. Do you want to remain with that matter like you have said?

The Minister for Lands and Housing (Mr. Kimunya): Mr. Deputy Speaker, Sir, I believe you had ruled on the matter. I said: "We have received allegations which we are investigating, and once investigations are complete, they will be channelled to the Kenya Anti-Corruption Authority (KACA)".

Mr. Keter: On a point of order, Mr. Deputy Speaker, Sir. We cannot let hon. Kimunya get away with this one. Could he table those allegations since he has received them?

Mr. Deputy Speaker: Order, hon. Members! Mr. Kimunya, it is not the earlier matter of allegations but the latter one, where you said that people are stationed at the cash office and are to collect the cheques as they are written. What is that?

The Minister for Lands and Housing (Mr. Kimunya): Mr. Deputy Speaker, Sir, I said that we have received allegations that there are four people---

Hon. Members: No! No!

The Minister for Lands and Housing (Mr. Kimunya): Please allow me to finish!

Mr. Deputy Speaker, Sir, pending the outcome of the investigations, I beg to withdraw.

Hon. Members: No! No!

Mr. Deputy Speaker: Order, hon. Members! I warned you earlier that you must be sober in this matter. Mr. Kimunya, earlier you made allegations of money being channelled through the UNDP. Now, I want to draw your attention to Standing Order No.73 which states:

"Neither the personal conduct nor his conduct of the President, nor any conduct of Mr. Speaker, or of the judge, nor the judicial conduct of any other person performing judicial functions, nor any conduct of the ruler of the Government or the representative in Kenya of any friendly country shall be referred to adversely except upon a specific Substantive Motion moved for that purpose."

In that case, UNDP falls in that class and you have referred to it adversely. Therefore, could you withdraw that statement?

The Minister for Lands and Housing (Mr. Kimunya): Mr. Deputy Speaker, Sir, I did not refer directly to the Resident Representative of UNDP. I said that money is being channelled through Action Aid and UNDP. Those are the allegations we are investigating.

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

ADJOURNMENT

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

The House rose at 12.30 p.m.