

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 5th July, 2000

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.285

DEATHS OF SUSPECTS AT MACHAKOS POLICE STATION

Mr. Deputy Speaker: Mr. Katuku, could you ask your Question?

Mr. Katuku: Mr. Deputy Speaker, Sir, I have perused through the Order Paper, but I could not find my Question.

Mr. Deputy Speaker: Of course, the Order Paper contains your Question, Mr. Katuku. We will come back to it; let us proceed to the next Question.

Question No.331

LETTERS FROM KENYA MOVEMENT FOR DEMOCRACY

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

(a) whether the Office of the President has received letters from the London-based Kenya Movement for Democracy regarding pertinent issues such as constitutional reforms, corruption, human rights, *et cetera*; and,

(b) whether he has responded to the letters.

Mr. Deputy Speaker: Is the Minister of State, Office of the President, here?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, if we could wait for a while, we will be able to answer this Question.

Mr. Deputy Speaker: Order, Mr. Minister! It is now Question Time, and you are here. Are you ready to answer this Question?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, the Question is supposed to be answered by my colleague, who is on his way coming.

Mr. Deputy Speaker: We will come to this Question later. Next Question, Mr. Otita.

Question No.292

PAYMENT OF BENEFITS TO MR. ORUNGI AGOK

Mr. Deputy Speaker: Is Mr. Otita here? He is not here; we will come back to his Question later. Next Question, Mr. Weyra.

Question No.340

DESILTING OF DAMS IN IJARA

Mr. Deputy Speaker: Is Mr. Mohammed Weyrah here? He is not here. We will come back to this Question. Next Question, Mr. Githiomi.

Question No.289

REPAIR OF ROADS IN KIPIPIRI

Mr. Githiomi asked the Minister for Roads and Public Works:-

(a) whether he could inform the House how much money the Government spent on repair of roads in Geta, Wanjohi, Kipipiri, Lereshwa and Malewa; and,

(b) whether he could give the breakdown from January, 1999 to-date.

The Assistant Minister for Roads and Public Works (Eng. Rotich): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Government spent Kshs4,920,748 on roads in Nyandarua District, including those in Geta, Wanjohi, Kipipiri, Lereshwa and Malewa.

(b) The funds were spent on those roads as follows: In the 1996/97 financial year, Kshs2.8 million; 1997/98 financial year, Kshs267,000; 1998/1999 financial year, Kshs200,000; and, 1999/2000 financial year, Kshs1.5 million.

Mr. Githiomi: Mr. Deputy Speaker, Sir, as I request the Assistant Minister to investigate the information he has just given this House, I would like to inform him that not a single cent was spent on those roads during the financial years he has referred to. I would like him to tell this House the roads on which this money was spent.

Eng. Rotich: Mr. Deputy Speaker, Sir, the money was spent on Road B389, which passes through Kipipiri, and on Road C69.

Mr. Muite: Mr. Deputy Speaker, Sir, we have many situations in this country where money is shown on paper to have been spent on particular roads. However, when you go to the ground to verify such information, you find that no work has been done on those roads. Has the Assistant Minister sent officers to confirm that work worth the amount of money shown on paper to have been spent was actually done?. We have many such cases, including in Kikuyu Division, where money has been shown to have been spent on specific roads only to go to the ground and find that no work has been done on those roads. Has the Assistant Minister sent surveyors to the ground to verify that work worth the amount of money he has shown on paper was actually carried out there?

Eng. Rotich: Mr. Deputy Speaker, Sir, we have done two things. We sent people to verify that work was, indeed, done. Also, we called the concerned officers from the district, whom I talked to, and who confirmed that the work has been done. In case of any doubt as to whether the work was done or not, I will be willing to go to the field in the company of the hon. Member for the area and the officers who came and confirmed that the work was done. When I talked to those officers, I asked them three times: "In case of any problem, will you be willing to take me to the field and show me the work that you said was done?", to which they replied: "Yes". So, I am willing to go there with the hon. Member for the area.

Mr. Anyona: Mr. Deputy Speaker, Sir, this Question comes up quite often in this House; maybe, we should use this as a test case. There is no way a Member of Parliament would come here and ask for a road to be rehabilitated if that road has been rehabilitated. In which way can we, effectively, use this case to verify once and for all that what we are being told here is true or false? I would like the guidance of the Chair on this issue.

Mr. Deputy Speaker: Well; since the Assistant Minister has agreed to go to the field with the Member of Parliament for the area to verify that information, we will let them do so. However, they should be accompanied by another hon. Member, who will bring us the report of their findings.

Mr. Githiomi: Mr. Deputy Speaker, Sir, this Assistant Minister knows that he is misleading this House. Last year, I brought a similar Question here and kept on asking him when the same road he claims to have been repaired would be repaired. He knows very well that the road has not been repaired. So, could he tell us when that road was repaired? I have always been asking this same Assistant Minister about that road.

Eng. Rotich: We will find that out when we go there, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Assistant Minister, your going there will not tell you when those roads were repaired. So, could you tell us when those roads were repaired?

Eng. Rotich: Mr. Deputy Speaker, Sir, according to my information, many roads were repaired during the last financial year. One of them is RAR15 Road, of which a stretch of 4.6 kilometres was repaired; RAR16 Road, a stretch of 6.4 kilometres was recarpeted; MR371

Road, where a stretch of 11.6 kilometres was repaired. If there is any doubt, I am willing to go with the hon. Member to inspect it on Friday this week.

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. Since it is not possible or practical for the

Assistant Minister to inspect all road works in the country, why does the Ministry not have a regular inspection unit? If there is one, why is it not effective?

Eng. Rotich: Mr. Deputy Speaker, Sir, we have a road inspection unit that inspects roads in this country.

Mr. Deputy Speaker: Fair enough. Mr. Githiomi, you will agree on a date with the Assistant Minister.

And for record purposes, let me know what date you have agreed to go and inspect that road with the Assistant Minister.

Mr. Githiomi: Mr. Deputy Speaker, Sir, we can go on Monday next week, if he agrees.

Mr. Omamba: Mr. Deputy Speaker, Sir, there is a tendency of the Assistant Minister not telling the truth in this House. On many occasions, hon. Members have complained of roads not being repaired in their constituencies. What action will he take against the Government officers who do not do satisfactory work as instructed?

Eng. Rotich: Mr. Deputy Speaker, Sir, if an officer has not done something satisfactory and money has been spent, then he will face the consequence.

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

Question No.285

DEATHS OF SUSPECTS AT MACHAKOS POLICE STATION

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

(a) if he could give names of the persons who died at Machakos Police Cells between 16th and 24th April, 2000;

(b) what was the cause of the deaths and what action he has taken to ensure no further deaths occur in the said police station; and,

(c) what legal action he has taken against the officers involved.

Mr. Deputy Speaker, Sir, I apologise for not asking the Question the first time, and I have not received the written reply.

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Deputy Speaker, Sir, I apologise that the hon. Member does not have a written answer. However, I beg to reply.

(a) No suspect died at Machakos Police Station cell between 16th and 24th April, 2000. However, three suspects who had been held at the police station died in the Machakos General Hospital between 21st and 28th April, 2000.

(b) The causes of deaths were as follows: Mohammed Ali died on 21st April, 2000, due to acute congestive cardiac failure, secondary to excessive physical exhaustion. Richard Kithome died on 27th April, 2000 due to respiratory failure as a result of tuberculosis (TB) and pneumonia. Francis Kyalo Nzue died on 28th April, 2000, due to cardio-pulmonary arrest as a result of pulmonary TB and bronchio-pneumonia. Machakos Police Station inquest file numbers 17, 18 and 77 of 2000 in respect of the above deaths are pending under investigation and appropriate action will be taken once the investigations are completed.

Mr. Katuku: Mr. Deputy Speaker, Sir, there is something fishy about the answer given by the Assistant Minister. The truth of the matter is that those suspects were tortured at the police cells. They died in those cells and not in the hospital. This is another case of the police brutality on the suspects. It is a big shame for the entire Police Force. I would like the Assistant Minister to tell us what happened with Ali because he was arrested from his home on 20th April, 2000 while he was very fit and he was tortured by police officers at the police station. He died the following day. Could he tell us the truth about this case? What was the cause of his arrest? Why were they arrested?

Mr. Samoei: Mr. Deputy Speaker, Sir, Mr. Ali who was arrested on 20th April, 2000 complained of being sick on 21st April, 2000. He was rushed to the hospital and died the same day. According to the postmortem report, the reason for his death was as a result of congestive cardiac failure. However, I have examined the postmortem report. There were external appearances on the body which had multiple bruises and lacerations on upper part of the body. As a result of that, I have instructed that an inquest under file No.17 be opened in respect to Mr. Ali's death. I have a copy of the postmortem report here, if the hon. Member wishes to have a look. I will take action when the investigation is complete.

Dr. Ali: Mr. Deputy Speaker, Sir, I would like to ask the Assistant Minister whether the police cells are TB wards. How do you take TB patients to cells?

Mr. Samoei: Mr. Deputy Speaker, Sir, Mr. Ali was not taken to the cell because he was a TB patient.

But he was taken to the cell because he was a suspect in a robbery attempt.

Mr. Magara: Mr. Deputy Speaker, Sir, why should an inquest be opened when Mr. Ali died in the police station cell and people know that he was arrested and taken to the cell by the police? Why does he not understand the conditions or circumstances under which inquests are opened?

Mr. Samoei: Mr. Deputy Speaker, Sir, the hon. Member should know and argue from a point of factual information that Mr. Ali did not die in the police cells, but in hospital. I have said in the interest of fairness, an inquest file has already been opened to determine how he died and from what causes, so as to ascertain who is to blame for his death.

Mr. Muchiri: Mr. Deputy Speaker, Sir, whether Mr. Ali died in hospital or not, the fact is that he was in the police custody. When the deceased was in the police cell, there were other prisoners in that cell. How many statements have the police recorded from those people who were in the cell to ascertain the truth of the matter?

Mr. Samoei: Mr. Deputy Speaker, Sir, the number of statements pertaining to this issue will be known when the investigations are completed.

Mr. Muite: Mr. Deputy Speaker, Sir, the Assistant Minister must be aware that the public does not trust or expect the police to expose their fellow police officers. What steps is he really taking to ensure that he gets the truth, because if he is just relying on the police to investigate fellow police officers, their job will be to cover-up? What steps has the Assistant Minister taken to ensure that there will be no cover-up by the police?

Mr. Samoei: Mr. Deputy Speaker, Sir, I have instructed senior police officers from the Police Headquarters to take up this matter. To a great extent, we have seen police officers arraigned in courts, and this will not be an exceptional case. We will see to it that the root of this issue comes out in the open for Kenyans to know.

Mr. Anyona: Mr. Deputy Speaker, Sir, this is a tip of the iceberg. The truth of the matter, for those who have never been in police cells, is that there is torture and horrible conditions in those cells, so that even if we talk about these three suspects, we have not solved the problem. What will the Assistant Minister do in terms of training the police in handling suspects and in respect for human rights and improve the conditions of the police cells? That is the only solution.

Mr. Samoei: Mr. Deputy Speaker, Sir, the curriculum of the Police Force at the Kiganjo Police Training College has been extended to include the manner in which police officers are to handle suspects, including their knowledge of respect of the rights of suspects. This House has passed the Public Orders Bill that will help us de-congest the prisons and by extension the police cells. By and large to a great extent, we are seeing more and more of de-congesting of remand prisons and police cells.

Mr. Deputy Speaker: But Mr. Assistant Minister, if in fact, they are not taught to torture or abuse the rights of Kenyans, where do they learn these bad habits?

Mr. Samoei: Mr. Deputy Speaker, Sir, you will realise that policemen are human beings.

Mr. Deputy Speaker: But no human being is taught how to torture!

Mr. Samoei: Mr. Deputy Speaker, Sir, to a great extent, many of our policemen do handle suspects as required by law. It is only that we have few cases of people, because they are human beings who engage in acts that---

Mr. Kamande: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to tell us that police do what they are required to do, when we know very well that in Westlands, they killed one driver and maimed another civil servant? Is he in order to say that?

Mr. Deputy Speaker: Order, Mr. Kamande! You know that you have not stood on a point of order; you are arguing. Next time you do it, you will pay for it!

Mr. Katuku: Mr. Deputy Speaker, Sir, the Assistant Minister has given false answers in all the supplementary questions he has been asked. The truth of the matter is that these people were tortured by the police. I would like to inform this House that a hand and the neck of one of the suspects were broken in the police cells when he was being tortured. I was told this by the people who were in that cell. When I visited the police station, the police told me that there was congestion in the cell. I would like to point out that this fellow was removed from the police cells where there were some suspects and bundled into a police Land Rover to be taken to the mortuary. Could the Assistant Minister take this issue seriously, because so many people have died in that police station? I would like to say that this is not the first case; about 10 people have died in this police cell this year. Could the Assistant Minister take this matter seriously? This is not my case, but it is of three Kenyans who are dead. Could the Assistant Minister put an independent machinery to investigate that case of Machakos?

Mr. Samoei: Mr. Deputy Speaker, Sir, I take this issue very seriously because it affects the lives of Kenyans. The inquest is on and I would like to assure this House that I will take whatever action that would be

necessary when this inquest is complete.

Question No.331

LETTERS FROM KENYA MOVEMENT
FOR DEMOCRACY

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

(a) whether the Office of the President has received letters from the London-based Kenya Movement for Democracy regarding pertinent issues such as constitutional reforms, corruption, human rights, *et cetera*; and,

(b) whether he has responded to the letters.

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I would kindly request that this Question be deferred.

Hon. Members: Why?

Mr. Deputy Speaker: Maj. Madoka, but you know that this Question was deferred last week with the agreement of the concerned Minister, only for him not to show up to answer it. This is something rather serious.

Mr. Muite: Mr. Deputy Speaker, Sir, you will recollect that I laid some documents on the Table. Actually, the answer that I was given last time was that the Minister was not aware and, therefore, part "b" did not arise. This is the same answer that I has been given today after I had tabled the documents here. Now that the Minister is not here, could he be "named"? This is the National Assembly, the supreme authority in the land.

Hon. Member: "Name" him!

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, may I request that the Question be answered this afternoon? I will make sure that my colleague is here.

Mr. Deputy Speaker: Well, the Question must be answered. So, I will order it to be answered tomorrow afternoon, but more importantly, I happen only to have read the HANSARD yesterday, and the Minister's reply was that he could not respond because the Office of the President had not received the letters I directed that the letters be given to him on time so that he can read them and then answer the Question adequately. I have looked at his answer which says that he is not aware. That will not pass. So, you should inform him that he had better find another answer. This one will not do. The Question is deferred to tomorrow afternoon.

(Question deferred)

Mr. Muniyao: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek the guidance of the Chair, because when it allows so many Questions to go on a day, it makes sure that 12 Questions will be taken. If this tendency continues, it will also affect other Questions on the Order Paper the following day and, therefore, it will affect the whole business of the House.

Mr. Deputy Speaker: Mr. Muniyao, you must be reading Standing Orders which you use elsewhere. Here, we can go up to 15 Questions and not 12 Questions.

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. Since we have a dangerous situation, where Ministers can--- I move a Motion that we "name" the Minister.

Mr. Deputy Speaker: Hon. Ochuodho, under what Standing Order?

(Laughter)

Order! Hon. Members, there are certain issues that you must not take lightly. Hon. Ochuodho, when you stand on a point of order and say that you want to move a Motion, you really ought to know the Standing Order you are referring to. I will forgive you this morning because I am in a very good mood. Mr. Otita's Question!

Question No.292

PAYMENT OF BENEFITS TO MR. ORUNGI AGOK

Mr. Otita asked the Minister for Education:-

(a) whether he is aware that Mr. Bernard Faith Orungi Agok, TSC No.071033 retired in 1996

and has not been paid his benefits to date; and,
(b) when he will be paid his benefits.

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

(a) My Ministry is aware that Mr. Agok retired in September, 1999 and not in 1996. He has not been paid his benefits since he had not submitted some vital documents to facilitate the processing of his pension.

(b) Mr. Agok's claims have already been submitted to the Treasury, Pensions Department, and he is requested to consult the Director of Pensions on the payment of his benefits.

Mr. Otita: Mr. Deputy Speaker, Sir, the answer I have is not really bad as far as the situation is concerned, but the House is very much concerned about the delays. Members of staff going on retirement do stay for several months or years before they get their compensation. Could the Assistant Minister tell us whether they are working out a plan whereby if somebody goes for retirement he gets his payment immediately together with any amount owed?

Mr. Deputy Speaker: Hon. Otita, you have not read the Standing Orders. There is a Motion on that precise subject scheduled for this morning. I want to hear you contribute to it.

Mr. Anyona: Mr. Deputy Speaker, Sir, a person who wants his pension cannot fail to submit documents in time. I am personally pursuing a case of this nature. If you go to the office, they will tell you: "We wrote to this person asking for these documents and he has not come" yet no letter has been sent. It is just a gimmick. What is he doing to ensure that this is actually done?

Dr. Wamukoya: Mr. Deputy Speaker, Sir, there are many reasons why sometimes there are delays. In the case of Mr. Agok, he had not signed the permanent letter of appointment which he only brought in March 2000.

Mr. Ndilinge: On a point of order, Mr. Deputy Speaker, Sir. Would I be in order if I requested the Assistant Minister to be fair to this House and tell us frankly that after the Bomb blast---

Mr. Deputy Speaker: There is no point of order there. Proceed, Mr. Minister.

Mr. Ndilinge: It is a point of order!

Mr. Deputy Speaker: Order! Which Standing Order is he violating now? If you interrupt one more time, you will answer for it. Continue, Dr. Wamukoya.

Dr. Wamukoya: Mr. Deputy Speaker, Sir, Mr. Agok was employed as a temporary teacher in 1972, but when he was made permanent in 1989, he had not signed his letter of appointment which he was asked for at the time of retirement and he only brought it in March 2000. There are other procedural reasons why there are delays in consideration of pensions. One of them is tax clearance which has got to be considered by the Income Tax Department and not the Ministry of Education. The other one is evidence of reporting on duty at appointment time because somebody can be appointed and the reporting date could be later. The other one is that the Treasury is responsible for inspecting all matters concerning the person who is retiring before they can allow the Ministry to write the report.

Dr. Kulundu: Hon. Members are getting tired of these frivolous reasons that the Ministry gives for delays in paying either promoted or retired teachers. The so-called vital documents are surely documents that must be in the custody of the Ministry of Education. An example is the appointment letter, a payslip and so on. Why should the Ministry insist on having those documents from the teachers who have been promoted or retired when, in fact, those documents originate from them? Why can they not keep them in their files?

Dr. Wamukoya: Mr. Deputy Speaker, Sir, I have just said that at the time of retirement the documentation required does not lie in the Ministry of Education only. We have documentation at the Income Tax Department and the Treasury that is required to be inspected and approved before clearance can be given for onward processing of pensions.

Mr. Ndilinge: Mr. Deputy Speaker, Sir, can the Minister deny or confirm that the retirees from the TSC are facing problems because most of their files were destroyed after the bomb blast incident? Can he consult the district offices to get references of these teachers files?

Dr. Wamukoya: Fortunately, that is not the case. It was discovered that all the files were intact.

Mr. Achola: Now that the Assistant Minister has said all those stories, can he give us a specific date when this gentleman can be paid his dues? We want a commitment from you to say when you will pay him?

Dr. Wamukoya: Mr. Deputy Speaker, Sir, I do not talk stories in this august House. I come and give facts as much as I am aware. Secondly, I want to say that that mandate is now out of my hands. It is in the Treasury. We have written a letter to the Treasury and to Mr. Agok so that they can liaise to find out when payment will be made.

Mr. Munyasia: Mr. Deputy Speaker, Sir, the Assistant Minister was asked why the Ministry of Education continues asking retiring teachers to bring letters of appointment, letters of confirmation, *etcetera*, when the Ministry has them in their files. Can the Assistant Minister promise that they will stop fussing over this matter of letters of appointment and letters of confirmation?

Dr. Wamukoya: Mr. Deputy Speaker, Sir, the main reasons that I have given for the delay are outside the Ministry of Education.

Mr. Deputy Speaker: Mr. Minister, all payslips now indicate people's ages which is to say you have computerised all this information. Why do you not start looking for this information six months before you write somebody a letter of retirement so that you can complete documentation before he goes?

Dr. Wamukoya: Mr. Deputy Speaker, Sir, with all due respect, somebody cannot have retired six months before his retirement age.

Mr. Deputy Speaker: No, but you can start documentation. Next Question!

Question No.340

DESILTING OF DAMS IN IJARA

Is Mr. Weyrah not here? The Question is dropped.

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

ABDUCTION OF NTORONI RESIDENTS

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

(a) Is the Minister aware that the following people, namely:- Ikuura Mukembu, Mark Kathare, Njeru Kamwara, Mrs. Jane Njeru and Modesto Njuki, disappeared on 9th January, 2000 after they were abducted by Administration Police Officers from their farms in Ntoroni Location of Tharaka District?

(b) Could the Minister inform the House the whereabouts of the above named people?

Mr. Deputy Speaker, Sir, may I complain that I have not been given any written reply by the Minister.

The Assistant Minister of State, Office of the President (Mr. Samoei): Mr. Deputy Speaker, Sir, you will very well remember that we had actually answered this Question and, therefore, hon. Mwenda already has the benefit of an answer. However, it was deferred on the grounds of certain information which the hon. Member had volunteered to me so that I could see what I could do with that information. I have since found out that the answer that I did give stands the way it is. We do not know of the whereabouts of the five people mentioned and we are doing everything possible under Tharaka Police Inquiry File No.1 of 2000 to find out how we can conclude this matter.

Mr. Mwenda: Mr. Deputy Speaker, Sir, this is a very serious matter. This is the sixth month since these five Kenyans disappeared and the relatives and friends of the missing people are very anxious. Can the Assistant Minister tell us under what circumstances these people disappeared because they did not just walk from their farms and disappear in thin air?

Mr. Samoei: Mr. Deputy Speaker, Sir, the background information I have as to when the victims did disappear stems from an invasion of one Mr. Julius Munyoka and his wife Jennifer Musyoka who were on their farm in Ntoroni Location, Tharaka District, harvesting beans. They were attacked by a gang of people in their farm. Following the attack an alarm was raised and the attackers were repulsed by members of the public. The two victims; Mr. and Mrs. Musyoka were rushed to the Kathiani DO's office where they were given transport to Maua Methodist Hospital. Following that attack allegations started circulating in the area to the effect that five persons were missing. When these reports were made to the police, Tharaka Police Inquiry, File No.1 of 2000 was opened. We are still pursuing this issue with the help of the local population. We are keen to get to the conclusion of this matter.

Mr. Muchiri: Mr. Deputy Speaker, Sir, the Question has not been answered. Those people were abducted by the administration police officers, and the question is: How did those people disappear from the custody of the Government?

Mr. Deputy Speaker: Order! The Assistant Minister has already answered that question; he said that he was not aware of their whereabouts.

Mr. Mwenda: Mr. Deputy Speaker, Sir, the Assistant Minister is not coming clear on that matter. Last time, I did volunteer information that a certain Joseph Musili is facing charges of abduction in Maua Law Court. Two administration police officers who were mentioned as the abductors are facing charges in Maua Law Court, but the charges are somehow unrelated to the abduction case because they are failing to account for ammunition on the day when those people went missing. Why is the Assistant Minister not coming out clearly in telling us why, after the arrest of those two administration police officers, they were released and were not charged with abduction? Instead, they preferred on them charges of failing to account for ammunition, and it is believed that those are the ammunition that they used to kill those people with.

(Applause)

Mr. Samoei: Mr. Deputy Speaker, Sir, unfortunate as it is, we do not know the whereabouts of five of our people. However, regarding the information that the hon. Member raised, I have found out that it has no relationship whatsoever to the incident in question.

Mr. Muchiri: Mr. Deputy Speaker, Sir, here is a story of administration police officers failing to account for lost ammunition, and at the same time, there is the issue of a number of Kenyans who disappeared. Could the Assistant Minister tell this House how those ammunition were used?

Mr. Samoei: Mr. Deputy Speaker, Sir, I have said that those two issues are unrelated. As far as the disappearance of the five Kenyans is concerned, we do have an inquiry file open, and the case is going on. As to the issue concerning our administration police officers and their failure to account for ammunition, that is something we are dealing with at an administrative level, and it is a separate issue from the Question asked.

Mr. Mwenda: Mr. Deputy Speaker, Sir, that is very serious, because we are talking about five Kenyans who have been missing for the last six months. The Government, apparently, has done nothing, and if a single tourist, on the folly of his or her own goes missing while climbing Mt. Kenya, the Government mobilises everybody, including the Kenya Airforce and the Kenya Police Force.

(Applause)

We have Kenyans who have been missing for six months, and the Government is doing nothing. Could the Assistant Minister tell this House why the administration police officers who were mentioned as the abductors are not being charged with the offence related to the disappearance of those five people, and yet their names were given?

Mr. Samoei: Mr. Deputy Speaker, Sir, we are doing everything possible to make sure that we resolve the issue of those five missing Kenyans under the inquiry file No.1 of 2000 Tharaka Police Station, and I want to assure this House that, in a month's time, we should be having conclusive information as to what extent we have gone on that issue.

REMOVAL OF VEHICLES FROM
MIGORI POLICE STATION

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

[Mr. Achola]

(a) Why did the CID officers remove the following vehicles from Migori Police Station on 28th February, 1998:-

- (i) KAD 485Q;
- (ii) KYF 599;
- (iii) KAA 417D;
- (iv) KZH 399;
- (v) KAA 264H; and,
- (vi) KAA 927X.

(b) Where are these vehicles as of now?

(c) Who are the bonafide owners of the said vehicles?

Mr. Deputy Speaker, Sir, I have not received a written reply to my Question.

Mr. Deputy Speaker: The Office of the President, you seem to have a problem supplying written replies?

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Deputy Speaker, Sir, I want to apologise for the non-availability of a written reply to hon. Achola. However, you will realise that, that Question was actually asked earlier by hon. Ojode, and I did answer it. It is exactly the same Question in terms of the issues raised.

However, in the interest of the dignity of the House, I will proceed and answer it again.

Mr. Deputy Speaker: Order! Just a minute, Mr. Samoei. Hon. Ojode, did you ask that Question before?

Mr. Ojode: Mr. Deputy Speaker, Sir, I asked a different Question!

(Laughter)

Mr. Deputy Speaker: Order! We are talking about the contents of the Question. I will defer this Question, and we will check whether it was asked before, and the Chair will rule on it tomorrow afternoon.

Mr. Ojode: On a point of order, Mr. Deputy Speaker, Sir. In any case, if I did ask a similar Question, the Assistant Minister never gave a reply. Why can he not just give the reply to the Question asked by Mr. Achola? He promised this House that he will be bringing a comprehensive reply.

Mr. Deputy Speaker: Order! Doubt has been raised in my mind as to whether this Question appeared before the House, and as I said, I will check, and if it has not been answered, it will be answered tomorrow afternoon. That is the end of the story!

Next Question, Mr. Wambua!

USE OF YATTA FURROW WATER FOR IRRIGATION

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

(a) Is the Minister aware that three secondary schools in Yatta are faced with closure due to lack of water as a result of people using water from the Yatta Furrow for irrigation?

(b) Is he further aware that people living in Kateki, Kyasioni, Kutheuni, Ikombe and Kyua have had no water for domestic use and also for livestock as a result of part "a" above?

(c) Could the Minister consider imposing a ban on all irrigation activities using water from Yatta Furrow?

The Minister for Water Development (Mr. Ng'eny): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware. However, I am aware that Thika River which is the source of the Yatta Furrow has had its flow drastically reduced due to the prevailing drought in the country.

(b) I am not aware. However, I am aware that the people living in the area mentioned have had no water due to low flow from Thika River, as stated in part "a" above.

(c) In consideration of the current severe drought situation and reduced availability of water in most of our rivers, streams, canals, *et cetera*, I have already issued a ban on irrigation in this area and other parts of the country. My officers on the ground have had clear and firm instructions to enforce the ban and take appropriate action as required by law.

Mr. Wambua: Mr. Deputy Speaker, Sir, I am very much surprised by the Minister who, of course, I respect very much. He had visited the area, and knows the area that I have mentioned, and those schools do not have water. What does he mean when he says that he "is not aware," and he was there? The other thing is that---

Mr. Deputy Speaker: Order! Ask your question!

Mr. Wambua: Mr. Deputy Speaker, Sir, my question is: As far as the issue of those people who are lacking water to drink is concerned, why can he not ban the irrigation by people in Yatta Canal? Mr. Minister, are you covering those people because one of them who is doing that is a Minister like you?

Mr. Deputy Speaker: Order, Mr. Wambua! Mr. Minister, can you reply to that?

Mr. Ng'eny: Mr. Deputy Speaker, Sir, I would like to assure this House that the Ministry had taken serious measures in regard to that particular issue of Yatta Furrow. In fact, the Ndakaini Dam which is the source of the Yatta Furrow, and also the source of the supply of water to Nairobi is now extremely low. There is not much that anybody can do in form of policing water up to the Yatta Furrow. I would like to assure this House that my Ministry has taken action, in fact, to the point of arresting some people who are now in court.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. I am worried about this form of answering

Questions. I know that once upon a time, you were, indeed, in charge of Parliamentary Questions and answers under the docket of the Office of the President. I know that you know the quality of answers that the Ministry used to give. The hon. Member has said that there is no water. The Minister first said that he was not aware that there is no water, but he then went ahead and admitted that there is no water. Could we be assisted so that this cliché of "I am not aware", is obliterated so that we can have clear answers to Questions?

Mr. Deputy Speaker: Well, I think that answer comes in line with the Question. I think hon. Members should stop asking whether the Minister is aware and make a direct statement based on the facts that they know. Ministers will always say that they are not aware. So, ask your Questions differently. If you asked me if I am aware, I will say "no".

Mr. Katuku: Mr. Deputy Speaker, Sir, it is true that there is no water downstream Yatta Furrow, which actually is the livelihood of those people along the Yatta Plateau. The Minister has said that he has imposed a ban on irrigation along the canal for people to have enough water. He has said also that there are people who have been arrested. I wonder now how we are going about this? This is because one of those people who were to be arrested is the hon. Member of Parliament for the area for directing people not to allow anybody to irrigate with that water. Could the Minister now consider withdrawing the cases against those who are saying that people should not irrigate using water from the canal? The Minister is protecting his colleague.

Mr. Ng'eny: Mr. Deputy Speaker, Sir, I gave instructions to all the officers to police the Yatta Canal. In the process, some people were found breaking that ban. My officer, by the name of Mr. Mutua, was actually charged with the responsibility of making sure that there is no misuse of that water until the situation improves. In the process, the local people came and stoned the officer.

Dr. Murungaru: On a point of order, Mr. Deputy Speaker, Sir. This water issue is a very serious one at this time. Indeed, there have been clashes between communities fighting over water in this country and not just in Yatta Plateau. The problem is that the officers of the Ministry of Water Development are unable to effectively police the water courses. Could the Minister liaise with other Government Departments that can assist his officers to effectively do what is necessary to ensure that the water that is available in rivers flows?

Mr. Ng'eny: Mr. Deputy Speaker, Sir, I thank Dr. Murungaru for his suggestion. In fact, we are in the process of reinforcing the directive. As water becomes less and less everyday, there is scramble for it and, therefore, we need to police water courses more and more often.

Mr. Nderitu: Thank you, Mr. Deputy Speaker Sir. The Minister has told us that he is ready to police the water courses and follow up people who are destroying water catchment areas. This is an issue which is affecting the whole country, including Ndia Water Project and the Broadway Water Supply System which was supposed to be consumed by a lot of people including those in Mwea area. What are the Minister's plans to control this menace in the whole country?

Mr. Ng'eny: Mr. Deputy Speaker, Sir, I am sure that this House appreciates that this is a phenomenon which has never happened in the last 40 years. Water levels even in the biggest dams in this country have gone down. There were no contingent plans made in anticipation of this situation. However, the Ministry is now making plans so that in future, it will design dams whose water, at least, will last for three years in case of severe drought.

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

Mr. Deputy Speaker: Hon. Wanjala, you do not have a water problem; if anything, you have too much of it.

Mr. Wanjala: On a point of order, Mr. Deputy Speaker, Sir. All hon. Members of Parliament here represent different parts of this country and they are expressing fears that there is a shortage of water. In this country, we have the second-largest fresh water lake. In Kenya, we have even managed to pipe petrol from Mombasa to Eldoret and soon, we will be extending the pipeline to Kampala. Could this Ministry consider piping water from Kisumu to other parts of this country so that we do not have this water shortage? Could the Minister advise Cabinet Minister, Hon. Musyoka, to stop misusing that water?

Mr. Deputy Speaker: Order! Could you please withdraw that second part of your question?

Mr. Wanjala: Mr. Deputy Speaker, Sir, I withdraw.

Mr. Ng'eny: Mr. Deputy Speaker, Sir, the Government has got a lot of plans for supplying water to this country. These include plans on the use of Lake Victoria waters. Those plans will be implemented very soon.

NON-PAYMENT OF SALARIES TO SECURITY GUARDS

Mr. Ojode: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Labour the following Question by Private Notice.

(a) Is the Minister aware that over 600 workers employed by the following companies have not been paid their salaries for the last seven months:-

- (i) Security Holdings;
- (ii) Security Express;
- (iii) Simba Security; and,
- (iv) House Guards

(b) What action is the Minister taking to ensure that payment is effected forthwith?

The Assistant Minister for Labour and Human Resource Development (Mr. Maizs): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that 123 guards drawn from Security Holdings, Security Express, Simba Security and House Guards companies have not been paid their salary arrears for the period ranging between one and three months and totalling to Kshs143,643.

A hon. Member: Is it in Kenya shillings?

The Assistant Minister for Labour: (Mr. Maisz): Mr. Deputy Speaker, Sir, it is Kenya shillings and not any other shillings.

(b) Appropriate measures have already been taken to ensure that payment is effected in full. A total of Kshs500,000 has been recovered from the employers and deposited with my office.

Mr. Ojodeh: Mr. Deputy Speaker, Sir, about 600 workers have not been paid their wages and salaries since November 1999 to date. These workers are going to be criminals because if you hire one to guard your place, he will definitely steal because he has a family to look after. What is the Government doing to Mr. Desai who is the proprietor of these firms in order for these workers to be paid?

Mr. Maizs: Mr. Deputy Speaker, Sir, we are taking a very serious step. In fact, we have a criminal case already which is Case No. 1296/200 of 30th May, 2000 pending in the Chief Magistrate's Court and it would be *sub judice* to disclose further information pertaining to this matter. So, we are taking action.

Mr. Ochilo-Ayacko: Mr. Deputy Speaker, Sir, I heard the Assistant Minister say that part of the salaries owed has already been released to the affected workers. Can he tell this House when the balance that is owed to these workers will be released to them and how much it is?

Mr. Maizs: Mr. Deputy Speaker, Sir, a total of Kshs500,000 has been recovered from the employers and deposited in our office. So, as soon as we finalise the mode of payments, we shall pay them.

Mr. Munyao: Mr. Deputy Speaker, Sir, the Assistant Minister accepts that the 600 workers have been working and they have not been paid for the last seven months by the company. Is this not equivalent to slavery?

Mr. Maizs: Mr. Deputy Speaker, Sir, I am aware of 123 guards and not 600. If the Member has proof that they are 600 workers, he may table that evidence here before us.

Mr. Ojodeh: Mr. Deputy Speaker, Sir, it does not matter whether they are five or six people. The fact of the matter is that they have not been paid by Mr. Desai. What action are you going to take against Mr. Desai in order for him to pay these workers?

Mr. Deputy Speaker: Order! Hon. Ojodeh, you must address the Chair!

Mr. Ojodeh: Mr. Deputy Speaker, Sir, what action is the Assistant Minister going to take against the proprietor of this company?

Mr. Deputy Speaker: But the Assistant Minister has just told you that there is a criminal case against him!

Mr. Ojodeh: No, Mr. Deputy Speaker, Sir. It is Mr. Desai who should be taken to court and not these workers.

Mr. Deputy Speaker: Order! Mr. Assistant Minister, maybe I will let you make your own explanation. What action are you going to take?

Mr. Maizs: Mr. Deputy Speaker, Sir, as I said, since the criminal case No. 1296/200 of 30th May, 2000 is pending in the Chief Magistrate's Court, it would be *sub judice* to disclose any further information pertaining to this matter.

A hon. Member: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! Mr. Assistant Minister, that criminal case is against who?

Mr. Maizs: Mr. Deputy Speaker, Sir, it is against these Security Holdings, Security Express, Simba Security and House Guards companies.

Mr. Deputy Speaker: Can a company be sued for criminal matters? You mean a company has committed a crime?

Mr. Maizs: Mr. Deputy Speaker, Sir, the Ministry is an arbitrator between the employer and the

employee. So, if the employer wrongs the employee, we take action against the former.

Mr. Deputy Speaker: I have no doubt about that. We are asking you: Who have you taken criminal action against?

Mr. Maizs: Mr. Deputy Speaker, Sir, I will check the information and divulge it later.

Mr. Maore: On a point of order, Mr. Deputy Speaker.

Mr. Deputy Speaker: If it is a question, just ask it.

Mr. Maore: Mr. Deputy Speaker, Sir, it is a point of order.

Mr. Deputy Speaker: Okay.

Mr. Maore: Mr. Deputy Speaker, Sir, in the light of inadequate quality of the answer, can the Chair in its wisdom suggest that we defer this Question until the Assistant Minister gets the information he is looking for because he has requested for it?

Mr. Deputy Speaker: Order! The Assistant Minister has answered so many questions. It is only one which he has not.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, the problems here are not only specific to these few companies. Even in Wells Fargo Limited, there is a major problem of over-exploiting the askaris. Is the Assistant Minister aware that these companies charge about Kshs7,000 for every guard for their clients, but they only pay them Kshs2,000 a month? Secondly, is he aware that they live in very poor conditions and when they fall sick they do not get compensated for sick offs?

Mr. Maizs: Mr. Deputy Speaker, Sir, I am not aware of that, but since there was a flaw in the answer, I am going to check and then bring it forward.

Mr. Mwenda: Mr. Deputy Speaker, Sir, the Assistant Minister has been asked a very specific question, which is: What measures is the Ministry taking to ensure payment? The fact that there is a criminal case pending in court, even if there is a conviction, will not result in the payment of this money. There is a clear distinction between a criminal and a civil process. What is the Assistant Minister doing to ensure that these people are actually paid their money?

Mr. Maizs: Mr. Deputy Speaker, Sir, I ask the Members to give me time to bring an appropriate answer to this Question.

Mr. Deputy Speaker: Well, really to be fair, then I will defer that Question to Tuesday next week. Next Question! Mr. Kihoro.

(Question deferred)

ALLOCATION OF GAZETTED FORESTS

Mr. Kihoro: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Environment the following Question by Private Notice.

(a) Is the Minister aware that parts of Mt. Kenya Forest and conservation areas which include Gathiuru and Hombe Forests have been surveyed and ready for immediate allocation to individuals?

(b) Could the Minister inform the House how many acres have been surveyed, indicating the sizes of the parcels and the proposed beneficiaries?

(c) Could he intervene and revoke these allocations of gazetted forests in the interests of the preservation of this vital water catchment and conservation area?

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

(a) No, I am not aware. However, I am aware that the Government exchanged some forest lands in Gathiuru and Hombe with the land given up by wananchi for the following facilities: Expansion of Karatina Sub-District Hospital, that is the Nyayo wards; Mathira Technical Institute; Bishop Gatimu, Ng'andu Girls Secondary School and, lastly, the squatters' settlements.

(b) The area for settlement is 3,671.24 hectares. My Ministry does not determine the size of the parcels or the allottees.

(c) The de-gazettment was done after careful consideration of the water catchment properties of the forest. I therefore cannot revoke the degazettments.

Mr. Kihoro: Mr. Deputy Speaker, Sir, the Question has not been fully answered because I required of the Minister to indicate who the beneficiaries of this allocation are. He has just given inanimate and legal things as the beneficiaries of the 3,671.24 hectares of Mt. Kenya Forest. He has not named a single beneficiary other than institutions maybe with legal personalities which are private. So, the Question has not been answered and I would

require of the Minister to give a list of the actual beneficiaries. What he has given us is actually an evasion of the Question by saying it is just legal institutions that are the owners which actually do not even exist in law. Could he answer the Question?

Mr. Nyenze: Mr. Deputy Speaker, Sir, my Ministry is not the custodian of those lists. We can do excision, but we do not allocate. That is a decision of the Ministry of Lands and Settlement.

Mr. Deputy Speaker: Order, hon. Minister! This Question was referred to you by the Ministry of Lands and Settlement on the basis that you are responsible for the excision of forests. Now, you cannot come and tell us that one part of this Question must be answered by another Ministry. I ruled that we cannot have two Ministers answering the same Question. We are working on the basis that it was transferred to you with the answer relevant to part "b" of the Question. So, you must answer it.

Mr. Nyenze: Mr. Deputy Speaker, Sir, the three institutions and the squatters are the ones that this excision was done for. As I said earlier, it was for the district hospital, Mathira---

Mr. Deputy Speaker: Order! Mr. Minister, you must bring a list of the beneficiaries. You have named the institutions, but the acreage you have mentioned is very large for those institutions. You should get the list of the beneficiaries, if title deeds have been issued by the Ministry of Lands and Settlement. The Question is deferred to next week.

(Question deferred)

MINISTERIAL STATEMENT

APPROVED FEES STRUCTURE FOR PUBLIC SECONDARY SCHOOLS

The Assistant Minister for Education, Science and Technology (Dr. Wamukoya): On a point of order, Mr. Deputy Speaker, Sir. I rise to make a Ministerial Statement on the approved fees structure for public secondary schools, in the year 2000/2001. I would pray that this Statement supersedes all the others we have read in the newspapers and heard on radio and television.

Mr. Deputy Speaker, Sir, as hon. Members are aware, the Education Act, Cap.211 Sections 3 and 35, empowers the Minister responsible for education to promote and control the progressive development of education in this country and to make regulations prescribing among others, the fees to be charged at any public school. On the strength of this responsibility, the Minister has, over the years, reviewed fees structures in line with the changes in the cost of living.

Mr. Deputy Speaker, Sir, the fees structure for the year 2000 was arrived at after a thorough survey and exhaustive consultations with the various stakeholders by our field officers at the district and provincial levels. The harmonised proposals from the provinces were presented to the Ministry for scrutiny and rationalization. On the basis of these consultations, the Government approved the current fees structure for all public secondary schools.

An impression has been created that many headteachers have defied the current fees structure. However, a survey recently carried out indicated that only 1.4 per cent of the schools in the country have been charging fees above the approved levels. Indeed, several schools are charging fees below the figures set. A Ministerial Fees and Levies Committee which was set up by my Ministry has consulted with various headteachers of the schools involved, and it has emerged that inflated fees were charged on some items which, in the opinion of the Ministry, do not improve the provision of quality education.

Mr. Deputy Speaker, Sir, in view of this, I would like to reiterate that the fees structure for the year 2000 as announced in January still stands. Parents are, therefore, advised to pay school fees according to the approved structure. The participatory approach used in working out this fees structure for the year 2000 will continue in subsequent years, so as to arrive at the final charges with the broad consensus of all relevant stakeholders. Therefore, for the year 2001 a circular has been sent out to all Provincial Directors of Education, specifying the processes of consultation before approval by the Ministry. These will be as follows:-

(i) All heads of public secondary schools will be required to plan and prepare their own annual budget for consideration and endorsement by the Joint Board of Governors and Parents Teachers Associations at their annual general meeting.

(ii) The prepared and endorsed school budget, together with minutes and list of attendance, will be tabled before the District Education Board which will rationalize the fees for the entire district. The Board will also determine and approve the actual fees normally required from students on initial admission. This should be

presented to the Provincial Education Board for harmonization by the beginning of September, 2000.

(iii) The Provincial Education Board's recommendations will be forwarded to the Ministry of Education, Science and Technology by 1st October, 2000, for scrutiny and final approval by the Government.

Mr. Deputy Speaker, Sir, it is expected that schools will strictly adhere to the approved fees structure, and the districts and provincial education boards will aim at making education affordable to all parents, with a view to increasing access, retention, and quality, equity in their respective areas of jurisdiction.

Mr. Anyona: Mr. Deputy Speaker, Sir, that is very well. But the point is that, on the day the Minister was tabling the list here, an official of his Ministry was addressing headteachers and saying that the fees guidelines had been shelved. Indeed, at that meeting, the headteachers actually humiliated the Minister. What guarantee do we have that what we have been told here will overrule that one?

Secondly, for clarification, Section 35(b) of the Act requires the Minister to make regulations. As far as I know, no regulations have been made. That means there is a wrangle because the fees have no legal basis. When did you last make regulations, if ever?

The Assistant Minister for Education, Science and Technology (Dr. Wamukoya): Mr. Deputy Speaker, Sir, it is not true that the Minister was humiliated at the headteachers' meeting. There were also reports that the Director of Education was heckled, which was not true. Thirdly, according to one of the senior deputy directors, he was misquoted on the alleged statement he made because, if you read the newspaper, it states that the fees guidelines have been removed, but will be implemented at the end of third term. So, that second part makes the whole statement meaningless.

As regards the second question as to when regulations were made, I am not in a position to say now, unless I am given a chance to go and check again.

Mr. Musila: Mr. Deputy Speaker, Sir, as far as I am concerned, what the Assistant Minister has said with regard to the fees structure is nothing but a public relations exercise. We are all parents and we know that some headteachers have refused to follow the instructions of the Minister, and the Minister has done nothing about it. Could he tell the House what he is going to do, and whether parents are going to be refunded their money?

Mr. Deputy Speaker, Sir, I would like to inform the House that only last week, even an Assistant Minister in that Ministry had his child expelled from Mangu High School and he had to pay the fees. Yet the Assistant Minister comes here and tells us that there are instructions. Could he tell us the truth?

The Assistant Minister for Education, Science and Technology (Dr. Wamukoya): Mr. Deputy Speaker, Sir, this is not a public relations exercise. At the beginning of my statement, I stated that this statement supersedes everything else we have heard. The reason why one of the Assistant Minister's child was chased from the school was because they complied with what the Senior Deputy Director of Education had said, and took it to have meant that the Fees Structure Guidelines had been removed. But that child is back in school with the old fees structure without any problem. He is learning.

Mr. O.K. Mwangi: Mr. Deputy Speaker, Sir, that is very interesting! The Assistant Minister has told us that the fees guidelines still stand. When the Minister himself stood up in this House last week, he gave a list of 35 schools where the headteachers have refused to abide by the fees guidelines. Out of those schools, 50 per cent are in my district. I have personally written letters to the Minister to that effect. His Director went to a headteachers' meeting and cancelled the fees guidelines. Now, which is which? We do not understand the position of the Ministry of Education. Who is in control? Is it the headteachers or the Minister? What action will the Minister take against the headteachers who have decided that the schools are theirs? They are no longer public schools!

The Assistant Minister for Education, Science and Technology (Dr. Wamukoya): Mr. Deputy Speaker, Sir, the Minister is in charge! Secondly, the schools that have defied the guidelines are from Nairobi and Central Provinces. I made a statement that the headteachers who had defied the guidelines had been warned against it. What we are telling the parents and the public is that this Parliament will make sure that they are not intimidated with regard to the fee guidelines. The Minister has stated that the fees guidelines still stand. I would like the whole country to know that.

Mr. Mwiraria: Mr. Deputy Speaker, Sir, I support a child in one of the schools which have defied the fees guidelines. Let me say this: The headmaster called a meeting of the parents who approved the enhanced fees structure. Now, the question that I would like to ask is: If the parents of the children want to pay more money than the Ministry is ordering, what right does the Ministry have to stop them? The parents would like their children to eat a certain type of food and enjoy swimming pools. What right does the Ministry have to stop them from paying the enhanced fees?

The Assistant Minister for Education, Science and Technology (Dr. Wamukoya): Mr. Deputy

Speaker, Sir, my right comes in because I have to moderate between those who can afford and those who cannot! This is where the problem started from January! A few well-to-do parents meet with the headteachers, conspire and call the parents. When the parents come, they are dictated upon and those who would like their children to learn keep quiet. When I went to Maragwa on prize-giving day, this was the problem! I addressed it! I told the parents not to keep quiet. They were being intimidated into paying school fees they cannot afford because the well-to-do had conspired with the headteacher.

Mr. Deputy Speaker, Sir, the next thing is that, even if the parents pass the enhanced fees guidelines, the Ministry's stand is that this must go to the District Education Board (DEB), who must sanction what the Parents/Teachers Association (PTA) has passed. We do not want any parent to pay fees just because the PTA has passed them. If we discover in the minutes that some DEBs have been coerced to do this, we shall refuse! We will say: "No! No! No! The fees structure will stand the way it is!"

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. What is wrong in this process is that the Assistant Minister has failed to make regulations as required by the Act. Will you now make regulations, so that they can have something to follow?

The Assistant Minister for Education, Science and Technology (Dr. Wamukoya): Mr. Deputy Speaker, Sir, I have listened to hon. Anyona's request and I will look at it in that light.

Mr. Ndilinge: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that the same rude headteachers also give bursaries to students from rich families instead of those from poor families?

The Assistant Minister for Education, Science and Technology (Dr. Wamukoya): Mr. Deputy Speaker, Sir, as far as the Ministry is aware, we give help to poor students. I am not aware of headteachers who give bursaries to rich students.

MOTIONS

PAYMENT OF RETIREMENT BENEFITS TO CIVIL SERVANTS

THAT, while noting that there are long delays before public servants are paid their retirement benefits; that is, pensions and gratuities after retirement, and that, some remain unpaid for as long as ten years; aware that this non-payment of benefits to public servants has caused untold suffering to the retired public servants and their families; this House urges the Government to ensure that all benefits payable to the retiring or deceased public officers' dependants are paid within three calendar months after the retirement or death of such officers.

(Mr. Musila on 14.6.2000)

(Resumption of Debate interrupted on 14.6.2000)

Mr. Deputy Speaker: Who was on the Floor? Mr. Munyao was on the Floor! Proceed!

Mr. Munyao: Thank you, Mr. Deputy Speaker, Sir. Before the House rose last time, I was on the Floor. I had just taken about three minutes, if I am correct.

First, those chairs are for civil servants on Wednesdays. They should come here, take notes and go back to the Ministries. This is because, Private Members' Motions are equivalent to referendums in countries where referendum provisions do not exist. This is the only way to make a Motion become a policy of the Government. If we continue talking to empty chairs, we will not make any headway. There are particular Ministries which do not bring their civil servants to follow the proceedings in the House. That is a mistake. I request particular Ministers whose Ministries are targeted by various Motions to make use of that provision.

Before we rose last time, I was saying that the employment form has the date of employment and age. Therefore, immediately after employment, one can work out the date of retirement. Therefore, even the period of three months which the Motion provides for is too long. I request the Mover, when he comes to reply, to insist that the retirement benefits should be paid immediately. One should be paid a week after retirement. I do not see any difficulties with that.

Mr. Deputy Speaker, Sir, pensions are savings. The workers contribute a bit and the Government contributes the other bit. That bit should be invested properly so that when it is needed, it is available. Pensions are the same. They are like the Parliamentary Pensions Scheme which we all pay through our noses. We know

that after five years, we will be paid the pension. Therefore, we pay so that it can be saved, and after five years, it is due to us. Therefore, I request that the pensions which are deducted from the worker's salary, be invested properly so that when the worker retires, the money will be there.

The problem has been in some of the organisations that keep the workers' deductions. The money is taken there and when one wants it, it is not available. We have an organisation like the National Social Security Fund (NSSF), which is the only employees' bank. You will not be surprised, if after retirement, you go there and find that there is no money. To make it even worse, trade unions like the Central Organisation of Trade Unions (COTU) are appointed in the board of directors. It even contravenes the effects of whatever should be done. When you find unions like the COTU in the board of organisations like the NSSF, you fail to understand what they are saving.

Mr. Deputy Speaker, Sir, the issue of non-payment of pension has been coming here every day. Every week, we get two or three Questions about some retirees who have not been paid their terminal benefits. Even this morning, hon. Otita raised the same issue of a retired teacher from his constituency who has not been paid since 1996. That is not the only case because every week, we receive several cases of retired civil servants who have not been paid their benefits. Two months ago, the Assistant Minister for Education, Science and Technology assured this House that retired teachers from Makueni District, whom we had enumerated at that time, were going to be paid their pensions. I would like to remind the Assistant Minister, who is looking at me very well and whom I respect, that those teachers have not been paid their pension todate.

Mr. Deputy Speaker, Sir, it beats reason if one has to work and get his dues - one will work honestly knowing that his savings are safe - only to find later that those deductions are not safe.

With those few remarks, I beg to support. I hope that it will be passed today.

Mr. Deputy Speaker: Order! Order!

The Assistant Minister for Energy (Mr. Sasura): Thank you, Mr. Deputy Speaker, Sir, for giving me this chance to contribute to this very important Motion. When we talk about retirement benefits, it touches on the life someone has spent in the Civil Service, or any other service, for that matter. This is a result of the sweat of a Kenyan. That is the end of his earning from the package one has been getting for a very long time.

Mr. Deputy Speaker, Sir, I think the most important thing in retirement is the preparedness. Most of our public servants are not prepared by their employers for the process of retirement. That slumps somebody into a very depressive situation. Having been used to a regular monthly income, an employee who is not prepared for retirement, after getting some little amount of money, ends up being frustrated. Just before the "Golden Handshake" was introduced, there was an attempt to prepare those officers for retirement and getting nothing at the end of the month. But that was not done well. Some papers were prepared, like brochures for a hotel, and they were expected to read and prepare themselves for the "Golden Handshake". That was a very good example of how our people are not being prepared for this process. In this country, most of the people who were given "Golden Handshake" are either languishing in poverty, or are dead. That money was suicidal because it killed some of them because they were not prepared for retirement.

However, Mr. Deputy Speaker, Sir, the most frustrating aspect is the normal process of getting your retirement benefits. This process is so long and widespread that the beneficiary does not know where to begin and where to end. For example, a Kenyan who lives at the farthest end of this country, to start following up his terminal benefits, has to come to Nairobi to get one form to fill. This process must be decentralised to the districts, so that the whole process begins at home where the retiree is going to spend the rest of his life. For example, if a retiree comes to Nairobi, he has to go to the parent Ministry's headquarters for one benefit. He has to go to NSSF House for the other benefits and then get back to Marshalls House for the process of his pension. This is somebody, maybe, who has never come to Nairobi, and he ends up sleeping with watchmen because he cannot afford to pay for accommodation. He cannot cater for his transport costs and, therefore, he has to walk all over to get this package. This is how frustrating that process is. We must decentralise that process. The parent Ministry knows very well who amongst its staff is going to retire; so, six months before the date of retirement, it must prepare the employee to retire peacefully. It should prepare everything and get all that is necessary in process, six months before the actual date of retirement. This Motion is proposing that retirees should be paid in three calendar months. But much as I am not proposing an amendment, this should even take, at most, two months, so that the beneficiary gets all his dues.

Mr. Deputy Speaker, Sir, as I am talking now, I am carrying forms of a retiree who died in 1997, having worked with the Ministry of Health. This distracts me from my normal duties, but because that person who is now deceased has got dependants, they have to send somebody to Nairobi to follow up those benefits. I have to take that responsibility because the dependants do not know Nairobi. This is how frustrating that process is and we must streamline it. There is some place here called Marshalls House, and if there is anybody who is retrenching public

servants, I think everybody in that office should be completely removed and not even transferred. It has very inhuman staff working there, and I have experience on how I was mistreated there. I can imagine how a retiree can be treated in that office. I do not have to identify myself to be somebody somewhere to get services in this country. To get benefits, maybe, Kshs40,000, you have to undergo very dehumanising treatment in Marshalls House. The staff are busy running up and down, a definite signal that they are not doing their work the way it is supposed to be done. That is a definite signal that this will somehow benefit them. I think the relevant Ministry should do something about that.

There are computers in that office, but to get information as to when a certain file left that office, it took me two days for an officer to tell me from the computer when the file left there. I asked him why he cannot check the information from the computer, but he told me it is not possible.

Mr. Deputy Speaker, Sir, lastly, talking about benefits, there is a sector which is being forgotten. There are people who are not educated in this country and they are from all over the rural areas of this country. They end up working in Nairobi in various factories, industries, or guarding personal properties. You find that somebody who has been guarding an Asian firm for five years--- I am sorry to tell you that this is the experience I have had and most of the complaints I have got are from those people, who are sent away after working there for five years. One is just given one month's salary and is not entitled to anything else as far as the employer is concerned.

Mr. Deputy Speaker, Sir, the other day I went to the Labour Office and found out that the Labour officers are very, very good in colluding with employers in this country. They are conning our people, especially here in Nairobi. Somebody who has worked in an Asian firm for 10 years ends up being paid a paltry Kshs5,000 as his retirement benefits. This is because somebody in the Labour Office colludes with the Asian employer, so that, instead of paying the retiree Kshs200,000, they split the benefits of an employee into two and give the beneficiary an amount of Kshs5,000 to Kshs6,000. They ask the beneficiary: "Instead of you going to court, a process which will take you three good years, why do you not take this amount of money?" Kenyans who are retiring are being frustrated in this country. Our labour laws are there but they are not enforced to the word; they are very loosely enforced and some people are getting rich through their misuse. The labour offices and the Ministry of Finance should put the right checks and balances in place, so that Kenyans are not frustrated any more.

With those remarks, I beg to support. Thank you.

Mr. Mwiraria: Thank you very much, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion.

I rise to support this Motion, and I notice that the Motion is dealing with pensioners from the Civil Service. So, I will address the question of Government pensioners before I comment on pensioners from other services.

Being a pensioner, and, particularly, from the Civil Service in Kenya, it means, perhaps that you will lead a very, very miserable life in future. The Government pension is supposed to be non-contributory and in every year, the Government is supposed to contribute 25 per cent of your salary until you retire. But those of us who have been in the Civil Service and have retired, know that the pensions are really a pittance.

Mr. Deputy Speaker, Sir, to make matters worse, the system of paying pensioners cannot and should not be accepted in modern Kenya. In the present system, you find an old man who was a chief and who retired 15 years ago travelling every month to the District Commissioner's Office to collect his pension. More often than not, when he gets there he finds that the pension has not been received at the District Commissioner's office. He makes two or three trips and, at the end of the day, all his pension is spent.

Mr. Deputy Speaker, Sir, I know that our pensions were revised a few years back, but I would really like to urge the Government that there ought to be more regular reviews of pensions. In fact, pensions should be reviewed with every salary review that takes place. This is because, unless this is done, the pension becomes totally useless as it does not help anybody. More importantly, I would like the Ministry to look at the payment process. How can you simplify the payment process? How can you ensure that a pensioner does not spend days looking for his little pension, especially when he has to travel long distances to the District Commissioner's office for the pension?

Mr. Deputy Speaker, Sir, this Motion has come at a time when the Government is talking about retrenchment. This exercise is causing a lot of worry amongst civil servants. Therefore, I would like to take a minute or two to comment on retrenchment. The rationale behind retrenchment is to reduce the number of civil servants and thereby reduce the salary bill for the Government, which is currently between 70 per cent and 80 per cent of all the Recurrent Expenditure, which means that the Government is left with very little money to offer services.

On Monday, I had an opportunity to visit one of the Government hospitals where I went to a laboratory and found 11 Laboratory Technicians sitting idle. They were doing nothing! When I asked them why they were

idle, they told me that they had no materials. They could not even test for obvious and simple diseases like malaria, typhoid--- When I asked the Medical Officer of Health (MOH), he told me that he had ordered for materials and he was hoping that they would come. Definitely, we do not want to keep on paying people who sit idle.

Having said that, I want to add that there is need for the retrenchment to be orderly. What I mean by that is that, at the moment, it looks as if people are being picked arbitrarily to be retrenched. When companies and private institutions want to retrench, they normally carry out an evaluation exercise, which helps them to decide who is the deadwood and who is not. The deadwoods should go first, followed by the unproductive officers. Then, if you have to go beyond that, you should take last in, first out. In other words, the people you have employed recently are the ones who should go home, not the ones who are at the prime of their lives and who have children in schools and have worked and have, perhaps, become productive. What I am saying is that there ought to be an evaluation of the officers in Government before the Government decides who is to be retired. Start off with deadwoods, secondly, the non-productive officers, and if you want to go beyond, because you have a lot of employees, you should start with last in, first out, so that you will not victimise people who have been in the Government long enough, and who are productive, by sending them away. Once you decide who should be retrenched, the lump sum payment should be prompt. The people should get their lump sum payments before they leave. More importantly, because they have been used to getting their regular monthly salaries, the pension should be regular. They should not be subjected to the delays that those of us who have retired are being subjected to, or be subjected to trips to District Commissioners' (DC's) offices. The Government can, today, organise to pay its pensioners through banks, particularly those pensioners who have homes in towns. This ought to be the system to be used.

Mr. Deputy Speaker, Sir, turning to the subject of this Motion, I would like to fully agree that many of our people are suffering after retiring from their jobs. In fact, some people die while in service. I have a case of someone who died as a warder with the Kenya Wildlife Service (KWS) three [Mr. Mwiraria] years ago, but his wife has not gotten a cent from the KWS todate. His children have been sent away from school. Really, there can be no excuse for such incidents.

Many teachers have been retired recently. However, the Teachers Service Commission (TSC) says that it does not pay pension to anybody who has not completed, at least, a year out of service. I can see the Assistant Minister for Education, Science and Technology shaking his head in disapproval to what I am saying. I will give him a list of people who retired more than a year ago, but whose files have not been processed by the TSC. The files for those retired teachers have not even been inspected by the Treasury, so that they can be sent to the pensions office. I know all the processes involved in processing pensions; I happen to have gone through that system. So, we are urging the Government to treat retirees as human beings who suffer when their payments are withheld for no good reasons.

With those remarks, I support the Motion.

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to also contribute to this very important Motion.

This very important Motion touches on the lives of people. You know that Members of Parliament have now been pre-occupied very much with assisting their constituents to get their benefits. That is why I rise to support this Motion; I have the experience of dealing with people who have retired from Government service.

Mr. Deputy Speaker, Sir, it would also be important for this Motion to have been framed in such a way that it touched on all sectors of society, rather than have it confined to retired Government officers. Hon. Members have raised concern about the behaviour of officers at Marshalls House. Personally, I would like to give an experience of very good service being provided at that particular building. I find the Director of Pensions to be a very efficient and responsible officer. However, as stated by my colleagues, the problem is that there is too much centralisation of that office's activities in Nairobi. The officers at Marshalls House have so much work to do. Why do we have all this centralisation in one office? As my colleagues have suggested, we need to de-centralise the services of this department and allocate some of its roles to the location, sub-location and district levels. This way, for example, somebody from Wajir District who happens to retire from Government service would find it very easy to get his pension if he fills in all the required documents at the office of his DC; it would be very convenient for Government retirees to get their benefits wherever they are.

I would like to support the sentiments that were expressed by hon. Mwiraria, that, we should review the pension for officers whenever we review their salaries. Because of inflation, retirement benefits to be received by Government servants and others serving in sectors that contribute to the growth of this country's economy have to be adjusted with time, so that those people do not become hopeless and die early due to frustration on retirement. Let us try to maintain certain basic levels of pension for retirees, who have given all their energy to that service

while they were young, to produce effectively and enable this country's economy to survive. Therefore, the call to review our pensions as we review our salaries from time to time is welcome, and I support it.

Mr. Deputy Speaker, Sir, when a family loses the sole bread winner - who was the head of that family and was a Government officer - that family finds it difficult to continue benefiting from the dependants' scheme due to very many problems at the Office of the Attorney-General. I think there is need for the Minister to appeal to the Attorney-General about this issue. There is the so-called "14 days' Gazette Notice", which must be given by the next of kin wishing to collect the deceased's benefits to support his family. The area DC has to confirm that the person lodging the claim for the deceased's benefits is, indeed, the next of kin of the deceased person before that next of kin comes to Nairobi. After that claim has been processed by the Director of Pensions, the matter is referred to the Public Trustee. Thereafter, that person is told to wait for the 14-days' Gazette Notice to be published. The workload at the Government Printer is so much that it can take even four months before such a notice is published in the Kenya Gazette. Sometimes, the amount of money involved is as little as Kshs20,000 or Kshs30,000. The death of that officer is published in the Kenya Gazette, so that anybody who is entitled to his benefits may lodge a claim.

I think it is very unfair to maintain this system. Let us have certain minimum requirements put in place. We could, for instance, subject such cases to that kind of treatment if the amount of money involved is more than Kshs1 million since that would be a substantial amount. However, as it is now, even if the amount of money involved is as little as Kshs30,000, the case has to be referred to the Public Trustee. Cases involving such little amounts of money should be referred to chiefs and DCs to establish the genuine next of kin. We do not have to travel all the way to Nairobi for the Public Trustee to establish whether you are the genuine next of kin. Despite the fact that this can be done at the village level, many families have been inconvenienced, leading to the dropping out of some students from school due to lack of the necessary financial support.

Mr. Deputy Speaker, Sir, I would like to appeal to the Minister to prevail upon the Attorney-General to bring a Bill in this House. I am sure hon. Members will pass it because it will improve the lives of our people. Some of our laws are archaic and outdated. I am sure, when they were passed, our society had not changed much.

However, it is now dynamic and it requires new laws to make it function. In fact, this is in line with the principle of decentralisation of Government operations. It is a shame that there is no office of the Public Trustee in the whole of North Eastern Province. Our people have to travel all the way to Nairobi to get the services of the Director of the Public Trustee. I think there is need to support this office and make sure that we establish one in Garissa Town, so that people who have lost their relatives get their benefits.

Mr. Deputy Speaker, Sir, I think it has been a mistake to retrench civil servants through the golden handshake programme. We have lost good brains through this programme. For example, I know of civil servants who retired under that programme and most of them are now useless after having spent all their money. They do not know what to do with their lives because they are frustrated. Let us encourage those who are about to retire to leave the service, instead of young and energetic youths who will---

Mr. Deputy Speaker: Order! Hon. Members, according to our schedule, the Government responder should respond now so that we conclude at 11.30 a.m. That gives us two hours on this Motion. So, I call upon the Assistant Minister to respond.

The Assistant Minister for Finance and Planning (Mr. Arap-Kirui): Mr. Deputy Speaker, Sir, before I respond, and with your permission, I would like to give five minutes to hon. Nassir.

Mr. Deputy Speaker: Order! That habit must stop. The responsibility of giving hon. Members an opportunity to speak belongs to one person only; that is the Chair. But since you had not been forewarned, I will allow you. This is the last time I am going to allow any hon. Member to say "I give my time to so-and-so."

Proceed, Mr. Nassir.

The Minister of State, Office of the President (Mr. Nassir): Asante sana, Bw. Naibu Spika, kwa kunipa nafasi hii. Jambo la kwanza ni kumshukuru mhe. Musila kwa sababu ya kuwasilisha Hoja hii mbele ya Bunge hili. Waswahili husema: Siri ya mtungi ajiuaye ni kata. Bw. Musila alikuwa katika Serikali na anajua taabu za wafanyakazi wa Serikali wanapostaafu. Ikiwa kuna watu wa kuheshimiwa na kusaidiwa, basi ni wafanyakazi wote wa Serikali kwa sababu ni wao husadia viongozi kusimamia Serikali. Wafanyakazi hawa walisaidia tangu Serikali ya hayati Kenyatta mpaka leo, na wanaendelea kufanya hivyo kwa unyenyekevu. Ni lazima wafikiwiwe kwa undani, kwani hawa ni sehemu muhimu sana ya Serikali yetu. Wakati mwingine, wafanyakazi hawa huwa na taabu nyingi sana kwa sababu wanapotimiza umri wa kustaafu, ndio wengi wao wanaanza kuzaa watoto. Basi wakistaafu, ni lazima Serikali yetu iwafikirie kwa makini sana na kutafuta njia mwafaka za kuwasaidia. Ni lazima tujue historia ya mfanyakazi fulani kabla hajastaafu. Kwa mfano, ana watoto wangapi, na wangapi wamesoma hadi chuo kikuu na kadhalika. Haifai kuwastaafisha wafanyakazi wa umma kama wafanyavyo matajiri Wahindi. Ikiwa wamestaafu, ni heri kwetu sisi kuhakikisha ya kuwa hawatumi pesa nyingi kuja hapa

Nairobi kutafuta marupurupu yao. Ni lazima katika kila mkoa nchini kuwe na ofisi ya kushughulikia wafanyakazi wa Serikali wanapostaafu.

Bw. Naibu Spika, ikiwa tutastaafisha wafanyakazi wetu, tutapaswa kuzingatia mambo fulani. Haifai kustaafisha watu wa kutoka sehemu fulani ya nchi na wengine wanabaki wakifanya kazi. Hili litakuwa ni jambo baya. Ninaomba Serikali yetu tukufu, isiwashe wafanyakazi huku wakisema, "mtafukuzwa", na kadhalika. Kustaafu kwa wafanyakazi wa Serikali huwa ni jambo la kawaida. Tangu wakati wa serikali ya mkoloni, mfanyakazi akihitimisha umri wa kustaafa alikuwa akienda nyumbani. Lakini waandishi wa habari wanaandika kuwa Serikali yetu itawafuta kazi wafanyakazi wake. Je, mnataka watu hawa, na pengine ni wagonjwa, wafe ofisini kwa vitisho vyenu kuwa wametimiza umri wa kustaafu na kuwaambia watafukuzwa? Jambo hili ni la kawaida. Miaka nenda, miaka rudi, wafanyakazi wa Serikali hustaafu wanapotimiza umri huo.

Ni lazima Serikali yetu ifikirie juu ya maisha ya hawa watu watakapostaafu. Umefika wakati wa Serikali kutafuta ardhi ya kujenga nyumba nyingi ili wafanyakazi watakaostaafu wawe na nyumba hizo. Hii ni kwa sababu mishahara yao ni midogo na pengine wana watoto shuleni wanapostaafu. Nimekuwa mmoja wa wakurugenzi wa Bandari ya Mombasa kwa muda wa miaka mingi. Huko, tuliwajengea nyumba wafanyakazi wa bandari hiyo. Kwa hivyo, ni lazima Serikali yetu iwe na mipango maalum ya kuwajengea wafanyakazi wake nyumba kwa malipo ya polepole. Hii ni kwa sababu wakistaafu, watakuwa na nyumba zao. Leo tukiwapa pesa nyingi, pengine watanunua matatu. Matatu hiyo inaweza kuwa mtumba. Atainunua kutoka kwa Mhindi na baadaye, gari hilo halitamfaidi yeye. Tuwafikirie ndugu zetu wanaofanya kazi Serikalini na tuangalie hali yao kwa makini. Ni lazima tuwe na umoja wa Serikali, na moyo wa kupendana kusikilizana, na kusaidiana kwa sababu watu hawa wanataka misaada yetu.

Bw. Naibu Spika, tunajua kila mkoa una taabu zake. Kuna wananchi wengi ambao hawana ardhi. Ni lazima tufikirie mambo ya ardhi. Serikali yetu inaweza kutenga ardhi fulani kwa minajili ya kuwapa wafanyakazi wake. Ninajua kuna ardhi kubwa tuliyoitenga kwa sababu ya shughuli za kiutalii nchini, na umefika wakati wa kuwafikiria wananchi wetu kuliko wanyama.

Kwa hayo machache, Bw. Naibu Spika, ninaunga mkono Hoja hii.

The Assistant Minister for Finance and Planning (Mr. Arap-Kirui): Mr. Deputy Speaker, Sir, from the onset, the Government supported this Motion. I would even go further to say that Government regulations are, in fact, very much ahead of this Motion. The Mover of the Motion has been generous by suggesting that the payment be made within three months. The ideal situation is, all things being equal, anyone retiring normally should be paid on the date of retirement. There are instructions to that effect. Let me just quote a few instructions from a circular that was issued by the Treasury in 1995, and reaffirmed by another one from the Office of the President in September 1999. The Treasury usually provides Ministries with names of officers who will retire 12 months in advance. The concerned Ministries are required to submit to the Treasury all the forms for retirement nine months before the officer retires. Retirement caused by any other reason other than the attainment of the age of 55 years should be submitted immediately after the appropriate authority has been obtained provided that the officer concerned is eligible for benefits under the law.

Mr. Deputy Speaker, Sir, as our regulations stand, anyone who retires should be paid his benefits on the date of retirement and should continue to receive monthly payments immediately thereafter. This is a situation we would like to get into, but most of the time the delays that occur are not wholly within the Government, and certainly not within the Treasury. This is because we have found, and some of the hon. Members have alluded to this, that while the system within the Government would like to operate under these provisions, the individuals concerned for some reasons are reluctant to appreciate that they are retiring at the end of their time, and so they usually do not come forward to fill in the required forms although they know that they will retire. They are sort of caught up; the date of retirement comes and they have not filled anything on their forms. In a number of cases, we have had people who have been prepared to go through the process just before their retirement date and they have actually been paid their dues as they retire. They receive the lump sum payment on the day before they proceed on terminal leave or leave employment and thereafter receive monthly payments. This has been done where the individual has appreciated that he will retire and assisted in the processing of his retirement benefits.

I would admit that in some instances, the originating Ministries and institutions have been slow to act, and this is where we would like to urge the Ministries concerned to comply with the regulations to ensure that nine months before an officer retires, his papers are with the Treasury. If that happens, the Treasury will ensure that the individual is paid his benefits as he retires. We would like to see this happen. All of us in one form or another get subjected to this process. Even those who are currently on employment, I am sure, would not like to get into a situation where they find themselves retiring and there is no income for them and, yet, they are due for pension. So, I would like to appeal to the institutions and Ministries concerned to ensure that those forms get to the Treasury in time.

We would also like to request those institutions that have a high number of retirees, and I believe that the TSC has been one of those institutions that has been mentioned, to have the necessary personnel. If it is evident that the workload is bigger than it can be handled by the personnel they have, then they should make provisions, because this is a very important activity. We would not like to be in a situation where some Members were saying that the Government is being blamed for not appreciating the work of its citizens. I would like to say that the Government does appreciate the work that has been done by the individual concerned and we would like once he retires he is handled carefully and with respect. He should also be accorded his rights, because it is not a privilege that a pension is paid. This is the message we would like to send loud and clear to all officers who are concerned with this process.

At the Treasury, the system is usually fairly fast except in instances where forms have not been properly filled in and have got to be sent back. Some Members have complained that it is difficult to visit Marshalls House, but from what I know, if all the forms have been properly filled in, the money would be paid in a period of one month. The Pensions Department normally undertakes to pay within one month of the file arriving within the Department. It is only in situations where there have been errors that there are some delays. If there are any instances where the staff have demanded for any favour before they can do their job, I think we would like to appeal to the public not to tolerate this. We are going into an era of liberalisation where we should have zero tolerance on corruption. So, anyone who is approached in this regard should come forward and report the matter and the officer concerned will be disciplined. If this was made known to us, we would take appropriate action and I am sure that retirees are served by officers who were people-centred and would like to treat them with respect.

Mr. Deputy Speaker, Sir, as I said earlier on, Government regulations, as they stand, in fact, are ahead of the provisions being made in this Motion. It is the intention of the Government to ensure that when an employee retires, he is paid on the date of his retirement his dues and, thereafter, to be paid frequently.

On matters of decentralisation, this is under consideration and this will be put into effect as soon as we have the system that will ensure reliable means of conveying information between headquarters and the decentralised points. It is also not true that pensioners are made to trek to DCs' offices. This is usually done where a pensioner does not have an account, otherwise, where he has a bank account, he is paid directly through it. Again, this is where I would like to urge pensioners, who can maintain bank accounts, to open them so that they can be paid in a convenient manner.

May I also suggest that decentralisation can only go up to the district level and anywhere below that is just asking for trouble. I think someone did suggest that pensioners can be paid at locational and sub-locational levels. I would like to say that, that would not be feasible, but we will consider decentralisation when the appropriate mechanisms are put in place so that pensioners can be served better. This is the message we would like to convey. We are concerned, as a Government, that pensioners occasionally do have a difficult time once they retire. It is our intention that this should be minimised and we would like to appeal to institutions and Government Departments processing pensioners' benefits to do it in time. We would also like to appeal to potential pensioners to take an active part in preparing themselves for their retirement. It is only in this way that our work and that of the officers would be eased.

Mr. Deputy Speaker, Sir, with those few remarks, I would like to support the Motion.

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

First, I would like to begin by thanking hon. Members who have made very useful contributions to this Motion. From the contributions that we have heard from hon. Members it is now very clear that non-payment of pensions and gratuities is a national problem. This is because in virtually every village of this country there are teachers and public officers, who have retired and have not been paid their dues. There are people who have died while on public service and their relatives have not received death gratuities. I would also like to thank the Assistant Minister who has responded, on behalf of the Government, for the very positive remarks that he made, first by indicating that the Government accepts this Motion and also that steps are being taken to see to it that public officers receive their pension immediately or on retirement.

In fact this is how it should be in the first place; that you are given a notice that you will retire 12 months before you are due for retirement. Every paper should be prepared three months to that date so that on the day you are leaving you take your pension home and not as at the moment where you only receive a letter thanking you. I know that there are certain regulations. The Assistant Minister has referred to a circular dated 1995. That is all true. We know certain that circulars are there, but they are not implemented. I would like to propose that instead of the Assistant Minister appealing to this institution, I would like to ask the Government to ensure that things are put in place so that when you retire you know you are taking home your pension. When someone dies, within one or two months after identifying the beneficiaries or the next of kin of the deceased officer, money should be paid to the person responsible.

The Assistant Minister has spoken as if everything is going on very well. He said that the Government is ahead of our sentiments. It is not true. The truth of the matter is that there are people who have died without receiving their pension. There are people whose relatives died ten years ago and they have not received their pensions. This is why I would like to inform this House that I will soon come with a Motion again asking the House to grant leave for the Attorney General to bring an amendment to the Pensions Act because I believe that the existing regulations are not sufficient. This will ensure immediate payment of pensions and gratuities on the day of retirement.

It should also be noted that one of the reasons why there are delays in payment is none other than corruption. When the retiree goes to the Ministry he has to pay money before his pension is posted. When the file goes to the pensions office the retiree has to offer another bribe before the cheque is written. I would like to recommend to the Government that when one finally gets his pension after retirement, if this money was delayed it should be paid with interest. The Assistant Minister said that the payment should be done promptly on the day you are going home. We would want to insist that if there is a delay the officer would be paid his money plus the interest. What is happening now is that your pension is delayed for ten years and you finally receive the same amount that you ought to have received. You have been denied use of your pension for all this period and then you get money without interest.

The Government can even go further and say that since their policy is that pension is paid on retirement then if an officer is responsible for that delay he should be the one to be surcharged that interest that will be loaded on the pension. If the Government wants to appear serious they must now enforce this regulation in the Ministries to ensure that the officer, who is responsible for the delay, is surcharged the interest and the pensioner gets the money with interest. It is high time the Kenya Anti Corruption Authority (KACA) moved to the Department of Pensions to investigate the amount of corruption going on in these Ministries particularly in the processing of pensions. I am saying this because every hon. Member here knows that 50 per cent of our time is spent chasing pensions of people who have retired. These delays are caused by demands for bribes.

Pensioners have sold their properties to enable them to bribe officers to process their files in order to get their pensions which they have worked for, for over 30 to 40 years. The officers in these Ministries think that they are doing favours for the officers who are retiring. The Government is currently saying that it will retrench 30,000 or so civil servants. They are saying that their pensions will be ready by October this year. Some people retired ten years ago and they have not been paid their pensions. Now there is a special class of civil servants being retrenched, who will receive their pension on 30th October when we know there are millions of civil servants out there who retired ten years ago and they are yet to receive their pay. The Government continues to sit on billions of shillings of poor pensioners.

We say that we are alleviating poverty. By denying these poor civil servants their pension we are not by any means alleviating poverty, instead we are increasing it. I know of families whose children do not go to school because maybe their father died many years ago and, there is no one to pay school fees because the death gratuity or dependant pension has not been paid. While thanking the Assistant Minister I think he needs to go further than just appealing to Ministries. They must now put their foot on the ground and say no officer will leave Government service without his cheque. If for any reason the Government is unable to produce the cheque, let that officer continue working until such a time that the Government shall produce the pension cheque; then the officer will now be ready to go. Other than that, if he goes without the cheque then the Government must take responsibility to pay interest for the delayed pension. We must be serious and do this.

We have in place recent technology and the Government has no excuse whatsoever for denying people pension. On the day an officer is going home, by the touch of a button on the computer the printer should be able to print the officer's cheque and that officer should go home. When a person dies, I think the same thing should happen. It should take maybe one month to identify the next of kin to ensure that that is the right person then he should be paid. The Assistant Minister has made appeals to institutions. I want to tell him that of the most notorious institutions of the Government who are not paying pensions, first and foremost is the Teachers Service Commission (TSC). Retired teachers are suffering out there in poverty while the TSC and the Government is keeping their money. Other culprits are the Minister of Health, the Minister of Agriculture and Livestock Development, the Office of the President. All these Ministries are unable to pay pensions. Instead of the Minister appealing to them, it is high time he went out there and ensured that something is done. It is high time KACA visited those Ministries to ensure that pensions are paid.

With those remarks, I beg to move.

(Question put and agreed to)

EXPANSION OF ROLE OF DISTRICT
HEALTH MANAGEMENT BOARDS

THAT, considering the important role played by health institutions in the country and being aware of the problems faced by these institutions as concerns supply of drugs and other related medical equipment; being further aware that districts are the administrative focus of Government since the inception of the District Focus for Rural Development in the early 1980s, this House resolves that:-

- (i) The role and responsibility of the District Health Management Boards be extended in order to empower them to control and oversee all health services in the public sectors;
- (ii) Names of those to serve in the District Health Management Boards be submitted by the various District Development Committees to the Minister for formal appointment; and,
- (iii) The District Health

[Mr. Musila]

Management Boards be directly involved in the decision making regarding funds available from the district's Ministry of Health votes.

(Mr. N. Nyagah on 10.05.2000)

(Resumption of Debate interrupted on 10.05.2000)

Mr. Wamae: Mr. Deputy Speaker, Sir, thank you for giving me the opportunity to contribute to this Motion, which I think is very important with regard to the question of management of our hospitals. It is a crucial matter, and it should be considered as one way of enabling wananchi to look after their own welfare and interests. In the same way since we have boards of governors for secondary schools, we should also have a proper method of selecting people to the management boards for our hospitals. For instance, in the case of Nyeri Provincial Hospital, most of those people who were selected by the Provincial Administration to be in charge of it are KANU followers; they were not selected on merit. In Nyeri, there are very few KANU followers, less than five per cent, but most of the members in the Board are KANU followers, and so they have no interest in the management of the hospital. Even part of the hospital's land was dished out to some grabbers, and the Board did not even complain because they were party to it. There must be a proper method of monitoring how the management boards are selected. They should involve the local MPs who are elected by the people so that they can represent their interests, and not hand-picked by the Provincial Administration, or the health officers.

It is, therefore, my view that this Motion must be supported by every hon. Member, whether on the Opposition or the KANU side because we were elected by the people, and we should have a say on how these management boards are appointed. It is, therefore, important that we should have a panel to deal with how the health management boards should be appointed, and I think if there are district health management boards, selection should include all hon. Members in a given district, the Medical Officer of Health in charge of the district, and I have no objection of the District Commissioner being included, and a few other people. But the majority of members to select members to the Boards should be the elected representatives of the people. Also, the chairmen of the county councils should be in the panel, because we want to be as objective as possible in selecting those people. If we do that, we would have selected people who would have the interests of the wananchi at heart and who would look after the interests of the equipment and drugs which the Minister for Medical Services will be sending to us, because you have an interest in those programmes.

I am glad that the Minister himself is here now because that is a very important aspect as the public being served should have confidence in those management boards and in the method by which they are elected. We do not want hand-picked people, either by the Minister for Medical Services, health officers or the Provincial Administration. Even in those boards, the Provincial Administration officials have dipped their hands in, and I think they want to be everywhere, but I do not think they should be allowed to do so. They should be the minority and should only have an advisory role.

Mr. Deputy Speaker, Sir, the question of health is a very important issue, and we also have the aspect of cost-sharing and people are paying money so that they can also support the Government in providing health services in their areas. When they know that, that money is well looked after, people will be free and willing to make contributions, but in some areas, money for cost-sharing had been misused and misappropriated by the officers and the Boards concerned. We, as elected hon. Members, have had no say in what action we can take in that regard because we did not appoint those health management boards in the first instance. But if they were

elected by us, we would have a say in their election, or selection, and if they misbehave, we shall go to the Minister and tell him to remove them. Indeed, if they are not playing the game that they are supposed to be playing, or assisting the Minister for Medical Services in running those hospitals they should be removed.

That is part of liberalisation of our governance system; of giving people the power to run their affairs in areas in a way they are responsible for. The district management boards, the provincial health management boards, the sub-hospital management boards and the dispensary management boards should all be selected in a manner which reflects the wishes of the people in an area, and that will help the Minister in ensuring that there is no pilferage of drugs and the people who are supposed to work in the health offices are doing their own work, because if they do not come to work, the management boards or the committees will report them because they have an interest in the welfare of their people.

Mr. Deputy Speaker, Sir, so, I am sure that the Minister will find that this is a Motion which I think everyone of us should support, and he should know that we are assisting him to streamline the management of health services in this country, and therefore, he should have no problem in accepting this Motion.

With those few words, I support the Motion.

The Assistant Minister for Energy (Mr. Chanzu): Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion. It is in line with the strategy and the Government policy of 1983 to decentralise its services and functions to the districts, which is the focal point in the management of public affairs. So, it is very important that the district health management boards are given leeway to assist in the control and management of the health facilities, because it is close to the people and it goes in line with the strategy of the District Focus for Rural Development Strategy. That will also facilitate speedy or expeditious decision-making which, again, goes into assisting.

Even as we talk about alleviation of poverty, it is also one way of helping the wananchi to reduce costs when it comes to the services that are to be rendered through the District Health Management Boards because of its closeness to the wananchi. Again, people who serve on those boards should be men and women of integrity, because as it has been experienced, those are professional aspects which, when it comes to any decision-making, somebody must have knowledge of what is being deliberated. So, it will be important that somebody should have knowledge in the medical profession, and must have exposure or experience to enable him or her to be able to participate in the decision-making at this level on the very critical matters affecting the health of the people.

I think the Ministry of Health will have to spell the criteria to be used when choosing those people, and I do not think that it is true that we should politicise it because when we are looking for people of integrity, we must not base it on political affiliation, or other considerations. The DDC's will then have to vet their names and submit them for the Minister's approval, as the Motion reads.

Mr. Deputy Speaker, Sir, this will help the Government to keep records of all those people who are serving on these boards. This will also help when it comes to accountability. It is necessary that we know the people who are serving on these boards, their integrity and backgrounds for accountability due to the nature of the business that will be transacted by the District Health Management Boards. Therefore, if we have men and women of integrity, then it will be easier for them to co-ordinate matters relating to all medical services in the districts and downwards to constituency level. This is in line with the District Focus Strategy for Rural Development which has been in place since 1983. Of course, this will also go a long way in taking services closer to the people as it is the policy of the Government. Therefore, the Government should source more funds to meet the cost of medical expenses at these levels. As we have heard, the cost-sharing policy tends to give a lot of problems to, particularly, those who cannot afford to pay for medical services. The medical staff take advantage of this to the detriment of the patients. You find them sometimes idling around because they have nothing to do. This is because these patients cannot afford to pay for medical services. This is an area where the Government should come in and maybe, avail more funds so that those who cannot afford cost-sharing costs, can be assisted to meet their medical expenses.

With those few remarks, I beg to support.

[Mr. Deputy Speaker, left the Chair]

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

Mr. Kibicho: Thank you, Mr. Temporary Deputy Speaker, Sir. This is a very important Motion.

Currently, we have health institutions which are not working. In every place in Kenya, you find that there is hue and cry because of shortage of drugs. When you ask the Ministry officials about it, they say that they have

delivered the drugs to the health institutions. If you go to our health institutions, you see that their standards have completely gone down. Some of them are very unhygienic. This can only be rectified by a new approach in the management of these institutions, and there can be no better way of doing so other than by having in place competent boards from Provincial General Hospitals to the dispensaries. When these boards are being selected by the District Development Focus (DDC), as proposed by this Motion, care must be taken so that various interests can be clearly defined. In a board, we have to consider whether it has professionals and whether the community interest has also been taken care of. That can only be done if the elected leaders of a given area are involved in the appointment of the members of those boards.

Mr. Temporary Deputy Speaker, Sir, this system has worked very well within the education system where school boards have been constituted by a panel consisting of the local politicians, the administration and the school heads. In this respect, I propose that when this Motion is implemented, the boards must be constituted by the local Member of Parliament, the councillor, Government representative and the Provincial Medical Officer so that we may have a board, competent enough to run an institution. Now, we have an amorphous system. We have the District Hospital Management Boards. If you ask the local communities who elected, appointed or proposed the members of those Boards, they say that they do not know. The District Commissioner (DC) just wakes up and tells the assistant chiefs to give him three or four names. The assistant chiefs go to those people who are perceived to be loyal to the Government and do not pick people on the basis of competence. As a result, the present Hospital Management Boards have no impact at all on the management of hospitals.

This is very serious, particularly when you take into account that most of these institutions are run on cost-sharing basis. The people who pay this money have no way of seeing how it is utilised. I am proposing that we should have a board which is accountable to the people. We should have a board whose members feel that if they mismanage an institution, the public will hold them responsible. We should not have a situation where members of these boards do not feel answerable to anybody. We want a board which is answerable to the public. This is very important bearing in mind that the local people contribute towards the running of these institutions.

Mr. Temporary Deputy Speaker, Sir, when we come to health centres and dispensaries, the sub-chiefs have undue influence on the appointment of the people who run them. As a result, some of them have reached a point of disrepair. If, for example, in a certain area a committee is composed of people who are unpopular, when the locals are called upon to contribute money, they do not attend that function. As a result, the institution will completely go down to a point of disrepair. Why do we want to use our institutions, even those which are charged with the responsibility of our health, for political expediency? This defeats reason completely.

Mr. Temporary Deputy Speaker, Sir, I am suggesting that once these boards are constituted, they must stay in office for a fixed term. So, if a member of the board performs properly, he will be sure that whoever will be recommending people for appointment will recommend him for another term. But if a board member knows that whether he performs or not, he will be on the next Board, he will not be answerable to the public. In my district, we have had situations whereby very good boards and committees have been disbanded simply because new health technicians have come to sub-locations and have decided that some people must be removed. There must be regulations or principles upon which people should hold these offices so that they feel that they are also secure.

In Kenya currently, there is not a single hospital without a hue and cry for non-delivery of drugs, and if you check with Nairobi, records will show that these drugs have been supplied. These drugs are being stolen. These boards should be held responsible for the disappearance of the drugs. This board should be charged with the responsibility of managing those drugs and the staff. Today, in Kirinyaga District in a place like Kangaru Dispensary, you find that a committee which was there before was disbanded. When the committee was disbanded what happened is that the new committee surrendered the land which belonged to the dispensary to a private developer simply because this committee feels that it is not answerable to anybody. All that we are saying is this: Let our people be responsible for their affairs. Let our people feel that they are the ones who are going to be blamed if anything goes wrong within those particular institutions.

With those few remarks, I support the Motion.

The Assistant Minister for Energy (Eng. Manga): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Motion.

The District Health Management Boards are very important instruments in the development of our health facilities. The idea of having these boards was very good, but it has happened that these boards eventually become rubber stamps. We would wish that these boards are actually management boards for these facilities. Health facilities are very important for our nation because without them a nation cannot develop. Therefore, and considering that the resources are very meagre, then whatever has been put in should actually be taken care of, serve the people and do the job that it is meant to do.

Mr. Temporary Deputy Speaker, Sir, the District Health Management Boards should be empowered in

order to do a good job. Things go wrong from the beginning when the members are selected. It cannot be just one individual's work to do this. Sometimes you find the board's term expires when a new District Commissioner comes in. A new District Commissioner is furnished with names of people who will sit on these boards and, maybe, the one who gives him the names has a purpose for doing so. In most cases, the names that are given are of people who lack integrity and who cannot manage these facilities. Therefore, as the Motion puts it, let it be done by the DDC because this is where representatives of all people abound. Even if the DC is a new person, these representatives will be able to suggest who is legible for these positions and who can actually manage these hospitals.

Mr. Temporary Deputy Speaker, Sir, some health facilities like hospitals, dispensaries and health centres have been personalised by the medical people. They come to work when they want and leave when they want. Everything is their responsibility. The management of these boards have no teeth to bite. Until he calls them and it all depends on when he wants them to come, he can stay for up to two years without even calling one meeting. Therefore, there should be a specific time interval when to meet on a regular basis to discuss matters pertaining to the management of the facilities.

The Minister for Medical Services (Dr. Anangwe): They should meet every two months.

The Assistant Minister for Energy (Eng. Manga): I can hear the Minister suggesting that they should meet at an interval of two months. I would say that maybe one time every month so that it is actually effective.

Mr. Temporary Deputy Speaker, Sir, as concerns projects, money comes from the Ministry headquarters to the district headquarter. The AIE holder is the MOH and his staff. The management does not know when the projects are conceived. When tenders are being awarded these members are absent. They are only told: "Somebody has been awarded a tender to do that". The Board does not know what he is doing and how much he is being paid for it. They do not even see the certificates. So, how do you call it a Health Management Board? It does not take part in these procedures. So, we would suggest that maybe, at least, a chairmans sit on the District Tender Board when these jobs are given out so that at least he can be present to hear how the tendering is being considered and who is being awarded these tenders. Through this, that chairman will be in the picture. I would suggest that where possible a chairman should be a medical person like retirees; that is people who know how to manage medical facilities. This is because sometimes the DC will just say this is the chap and yet he or she does not know how medical services are run. So, if it is possible, we would to have a man of that calibre. Another thing is that, just like we have done for schools, I think it will be fair to have Members of Parliament in the District Health Management Boards. This is because, at least, a Member of Parliament has some stake there. He knows that if he messes around wananchi will oust him at the end of the day. So, the Member of Parliament should actually be a Member of the District Health Management Board. I know that Members of Parliament have a big work load, but at least they should have that slot so that when they know that there is a problem within these boards, he can actually attend their meetings.

Mr. Temporary Deputy Speaker, Sir, a burning issue is the management of cost-sharing money. This is where a lot of things are happening. The doctors who manage these funds make them their enterprises and we should be able to check that. Therefore, we should have very strong people with accounting knowledge to sit on these boards so that that cost-sharing money is used for it's intended purpose. Cost-sharing money is a very important part of these facilities because they can use it to quickly put up some facilities like laboratories and the Government cannot afford that. They can actually use that money to solve minor health problems. Sometimes there may be some drugs that the Government has not supplied and hence this money can be used for that purpose. However, sometimes this money is misused. Also, for the case of the district, maybe the district hospital has more money in terms of cost-sharing and, therefore, it can also help the clinics out there to develop. It can supply them with the necessary medicine and other kinds of drugs.

All that has got to be done very carefully, because these cost sharing funds have been in most cases abused by the people who keep their custody. I know that they have a separate account, but the signatories to this account have to be very carefully selected. At the moment, the chairman is elected by the Board members, but I think the chairman should be named from the beginning when the DDC is giving out the names.

I beg to support.

Mr. Mwakiringo: Mr. Temporary Deputy Speaker, Sir, it is important to establish District Management Health Boards, but as previous speakers have said, the composition of the Board must be people of integrity. They should be individuals who people have faith in. If we go full-blast to retired Government officers, the effects will still be felt most in the local management health boards.

Mr. Temporary Deputy Speaker, Sir, the Ministry should be charged with the issuance of guidelines on what the health board is supposed to do in terms of tendering and how much they can use without referring to the Ministry so that they can be in a position to service minor equipments within their hospitals without much ado. As

of now, they still have to refer all this to the Ministry for approval, which renders the day-to-day operations of the hospitals difficult. I would like to suggest that these health boards trickle down to the health centres and even to the dispensaries. Barazas should be convened when they are constituting these boards, though of course, the district boards, have to be forwarded to the Minister for ratification.

Mr. Temporary Deputy Speaker, Sir, I am concerned about the mushrooming of clinics in the rural areas. Some of these clinics are manned by people who are not clinical officers. With the establishment of these health management boards, they could go further to approve and recommend who is qualified to run a clinic in a particular area. It is very sad to see people from rural areas, who eat a lot of green vegetables which generate a lot of blood being hospitalised for anaemia. How come these people get dehydrated or lack blood? I think it is because they get wrong medication from people who are not qualified and competent and not registered with the Ministry. The Ministry should ensure that the health boards are autonomous to do such kinds of things.

Mr. Temporary Deputy Speaker, Sir, in constituting the health boards, as much as we would require people with a medical background and experience, we still need an outsider with the knowledge of accounts, because that is an area which is very important. Most of the board members may be lay men, so to have somebody with accounts knowledge would be of big assistance to that board. The constitution of the board should not be based on party lines because they are supposed to serve Kenyans who belong to different parties, religious groups and cadres. So, the question of which party a person belongs to should not arise because that causes a lot of problems. In my district, I am the only Member of Parliament on an Opposition ticket. So, if a district health board is to be constituted in the district, I should have a say. Members of Parliament should be allowed to sit in these boards to oversee what the board is doing and assess the tendering procedures so that when the public complains, we are in a position to explain what happened according to Government guidelines and policies.

I beg to support.

The Minister for Renewable Energy Development (Mr. F.P. Lotodo): Mr. Temporary Deputy Speaker, Sir, it is true that district health management boards should be composed of people with integrity. The elected representatives of the people, for example, Members of Parliament who should be ex-officio members and councillors should be included. I come from West Pokot where there is a District Health Management Board in Kapenguria District Hospital, and I do not know who its members are; how they were picked and what they exactly do. I concur with my colleagues, that just like the District Tender Board, we should be included in the District Health Management Board.

Mr. Temporary Deputy Speaker, Sir, I do not know who ascertains how much money a hospital earns every month. I do not know whether it is an accountant from the Provincial or District Commissioner's office. For my case, I do not know whether they are officers from Nakuru or from the Controller and Auditor-General's office. This is public money and should be accounted for. We should have responsible people to make sure that the money is there and is being utilised properly.

Mr. Temporary Deputy Speaker, Sir, hon. Wamae said that the membership to these boards should be on party lines. I agree with hon. Mwakiringo sentiments because, for example, a Kikuyu is a Kikuyu everywhere and the question of discriminating patients should not arise. I am sure, for example, hon. Kihoro would not like to see a Mr. Kihara suffering just because he belongs to KANU. Should that be the wish of hon. Members, then let the membership be drawn from the parties. If it is KANU, then let them be KANU members all of them.

I beg to support the Motion.

The Temporary Deputy Speaker (Mr. Musila): I now call upon the Government Official Responder to respond.

The Minister for Medical Services (Dr. Anangwe): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to respond to this Motion. May I say that we, on the Government side, accept the Motion. The spirit which underlies this Motion is in line with what the Government is already doing. So, the sentiments that have been raised will go along way in helping us to strengthen the Boards.

If you recall what the Mover of the Motion said, he submitted the Motion a bit earlier, but discovered that the Government had already taken measures which were implied in his Motion. So, his Motion had already been overtaken by events! But he also stated that, this particular Motion will afford hon. Members an opportunity to say several things on how the District Health Management Boards should function, as well as general comments on the delivery of health care services in this country. I wish to confirm that, indeed, what has been suggested in this Motion has already been catered for in two legal notices. The first one is Legal Notice No.162 of 20th May, 1992. The second one is Legal Notice No.170 of 24th December, 1998. When I sat down here and listened to the sentiments raised by hon. Members, they were actually saying what has already been provided for in the two legal notices. To some extent, they may not be aware of the contents of the two legal notices. It may help if I could spend a few minutes to highlight the contents of the two legal notices.

Legal Notice No.162 of 20th May, 1992 provide amongst other things, the following:-

- (i) Each Board shall consist of not less than seven nor more than nine Members, constituted as follows:-
 - (a) Chairman, appointed by the Minister from amongst the Members of the Board.
 - (b) The area District Commissioner (DC) or his representative.
 - (c) The following persons appointed by the Minister:-
 - 1. One person with experience in finance and administration from within the district.
 - 2. Two persons nominated by Non-Governmental Organisations (NGOs) recognised by the Minister, one of whom shall represent the interests of the religious and other private health services.
 - 3. One person nominated by the Local Authority having the jurisdiction over the area. That includes councillors.
 - 4. Not more than three persons to represent community interests.
 - 5. The area medical officer, who shall be the secretary of the Board.

Therefore, some of the proposals that have been made here, in respect of the qualifications in finance, medical areas and representation in the Local Authorities, are allowed in the provisions of the two legal notices.

One hon. Member said that the tenure of the Board Members should be specific. Indeed, this particular gazette notice provides that, Board Members, other than *ex officio* Members, shall hold office for a period of three years. However, they shall be eligible for appointment. There are also functions which are stipulated. They are:-

- (a) To superintend the management of hospital services.
- (b) To support health care programmes.
- (c) To prepare and submit to the Minister for approval, estimates of revenue and development expenditures.
- (d) To submit recommendations to the Minister on areas to levy user charges and cost-sharing programme as provided for use in the Exchequer and Audit Act and Health Services Fund Regulations, 1990.
- (e) To tender advice to the Minister on plans for development or promotion of health services in the District Legal Notice No.268 of 1990, and to carry out such plans if approved.
- (f) To submit such statistical, financial and other reports as the Minister may require.
- (g) To fulfil such other functions as the Minister may prescribe.

They are supposed to hold those meetings, at least, once every two months. That is provided for. When they attend those meetings, they are eligible for some sitting allowance.

Now, in the Legal Notice No.70 of 24th December, 1998, we expanded the Board's area of operation by inserting more functions. They include:-

- (i) To supervise, monitor and evaluate the management of the district health services.
- (ii) To develop and implement plans for human resources development.
- (iii) To facilitate the development and establishment of systems, structures and resources in the district in support of public health services.
- (iv) To ensure delivery of quality health care services by all providers, including the ones hon. Mwakiringo mentioned.
- (v) To approve plans and budget.
- (vi) To secure the necessary finances.
- (vii) To oversee the implementation of quarterly or annual work plans.

Therefore, hon. Members may realise that those functions and the legal notices are all encompassing. They have provided by and large, for some of the areas that were mentioned.

However, let me come back specifically to issues raised by the Motion. The Motion does raise an issue about the role and the responsibilities of the District Health Management Boards, to be extended in order to empower them to control and oversee all the health services in the public sector. We have already catered for that, as I already alluded to earlier on. Those responsibilities provided in the legal notices require capacity. As hon. Members said here, some of the members may need to develop their capacities. That is being catered for under the National Health Sector Strategic Plan, 1999/2004. The aim here is to carry out an empowering activity through training, provision of the requisite infrastructure and equipment to help them to dispense those functions.

The second issue that is raised by the Motion is about names of those to serve in the Boards, which should be submitted by the various District Development Committees (DDCs), to the Minister for formal appointment. I think the critical issue that is obliging hon. Members to raise concern has to do with the calibre of those in place. The best way to redress this particular shortcoming may not be what is being suggested. I agree in principle that we could integrate the DDCs in this particular process. But in order to improve on the calibre, democracy may not be the solution. Some people have always taken it for granted that democracy is a solution for management

problems. Management has to do with certain functions. Experience has shown that democracy may not be one of the efficient ways of managing the resources, particularly when you are interested in quality managers and the responsibilities that they carry out.

Mr. Temporary Deputy Speaker, Sir, I am prepared to accommodate the role of the DDCs, but at the same time, we should also work together to ensure that those who are appointed to those District Health Management Boards are people of integrity. Indeed, we shall in due course, instruct District Medical Officers of Health to ensure that, when we gazette the District Health Management Boards, after the DDCs are consulted.

About the membership of Members of Parliament, I agree that they need to be represented. Therefore, I shall amend the Legal Notice to include them so that they are represented in those District Health Management Boards. However, gazette to include hon. Members is one thing, but attendance is another. We have been provided opportunities even to attend DDCs and District Tenders Boards, but many of us do not attend. I hope that this will not complicate the situation, but I promise that the Government will take the necessary action to ensure the representation of hon. Members. About councillors, as I have already mentioned, they are catered for under the regulations.

(Applause)

The other issue, Mr. Temporary Deputy Speaker, Sir, raised by this Motion has to do with the fact that District Health Management Boards be directly involved in the decision making regarding funds available from the district's Ministry of Health Vote, yes, but this has to be a long-term issue. Before we can even involve them, their capacity has to be developed. Already, the functions we have bestowed on them are not being dispensed as required. This means that we need to do a lot more and empower them. But in principle, the regulations and the rules do provide for such a role in regard to involvement in decision making on funds, under the district's Ministry of Health Vote.

Mr. Temporary Deputy Speaker, Sir, may I address specific issues that hon. Members have raised, like the management of drugs. I admit this has been a problem, but measures have been taken to seal the loopholes. If you look at the recent experience of most health centres and district hospitals, I have taken the initiative to visit those institutions and found that drugs are there. The only indicator to show that there are drugs, these days we do not see many letters written to the Ministry's Headquarters or the editors of the various newspapers raising the matter. In the past, it used to be common knowledge. We have taken firm measures and those who have been found to have been involved in stealing of drugs have, either be taken to court or sacked. We are going to strengthen measures to ensure that pilferage of drugs in Government public institutions is curtailed.

Mr. Temporary Deputy Speaker, Sir, with regard to the issue of cost-sharing money, and how it is being managed, I take cognizance of the sentiments raised. But let me say this, yes, cost-sharing money has to be banked and there is a separate account for that. But the District Health Management Boards (DHMBs) plus the District Health Management Teams (DHMTs) have to secure authority to incur expenditure (AIE) from the Provincial Medical Officer of Health (PMOH). So, it is not true that they can raise funds with one hand and spend with the other hand. They also need authority to do so. Other issues have also been raised--- Because of time, I can see I am being given a signal to curtail my reply in order to give more time to the Mover to reply.

But I have taken many of the sentiments that have been raised in respect of the various issues. I know one hon. Member talked about Nyeri District Hospital and said that, the representation is on a KANU basis. I am not too sure that is true, but that may be by coincidence. That notwithstanding, that hospital is performing very well. It has improved its performance tremendously! So, that may be attributed to the representation by KANU.

The Temporary Deputy Speaker (Mr. Musila): Hon. Members, under Standing Order No.67(2), the Mover of the Motion, Mr. Norman Nyagah, has appointed hon. Kihoro to reply.

Mr. Kihoro: Thank you, Mr. Temporary Deputy Speaker, Sir for giving me this opportunity to reply.

Mr. Temporary Deputy Speaker, Sir, I beg to reply, on behalf hon. N. Nyagah, Member of Parliament for Kamkunji Constituency. I would also like to say that, the rules in my party; the Democratic Party, allow me to assist the Opposition Whip in a matter like this one.

I would like to thank all those Members who have contributed to this very important Motion. I can see about nine Members have spoken and I would like to thank them for their contributions. They are very enlightened and they have brought out perspectives on what is happening to our health institutions.

From Mombasa, hon. Kajembe did make a contribution and hon. Dr. Kulundu also made a contribution. So, across this land, we have heard views on what is happening to our health institutions.

Mr. Temporary Deputy Speaker, Sir, this country is facing a health emergency. A state of emergency should be declared in terms of what needs to be done in order to return the Kenyan economy to a state and a frame

of mind that should be commensurate with this time and age; in terms of attending to matters that appertain to our affairs today.

We have heard that the appointments of the management boards has not been done in accordance with the rules that have been laid down. In some situations, it has not been done to represent the criteria that has been set by the Ministry and it is very important that we play on this very important matter in accordance with the rules. It is important that we have a whole spectrum of people managing the health institutions and, that will be very important in terms of giving confidence to those people who fall sick that, they will get the best attention in our hospitals.

Mr. Temporary Deputy Speaker, Sir, maybe, the secret of a person getting treated and discharged, where one is used to, is making sure that, that person is psychologically confident that the hospitals will take the best care of his whole body and mind. It is also important that, when we constitute the management board, it is done in a way that is going to give the surrounding population, as much confidence as possible, in the management of the hospitals.

I must say that, some of our people in this country are resorting more and more to traditional medicine. Even though some of our people have not visited a witch doctor in their lifetime, they are starting to think about that more and more as a cure to many of the ailments that they are getting these days. It is important that this kind of traditional medicine line that is being taken by certain people--- Even some quacks have come up and they are trying to prevail upon our people to go back to traditional medicine. I think that is part of what is happening to our health institutions and is making our people lose confidence in how they are being run. So, it is important for us to have these very good hospitals run the way they should be run and, in a way that is going to be beneficial to our people.

Mr. Temporary Deputy Speaker, Sir, we have not spoken about medical research. Even some of the boards can be able to engage in research activities, training and in exchange of information. As the Mover of this Motion had said before, a lot of funding is coming into this country to assist our health institutions. Therefore, it is important that, all this funding that is coming from overseas and even from the Ministry of Public Health, is managed in the best way possible to assist our people.

With those remarks, I beg to move.

Thank you.

(Question put and agreed to)

ADJOURNMENT

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

The House rose at 12.30 p.m.