

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 28th October, 1998

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

ESTABLISHMENT OF NATIONAL INFORMATICS COMMISSION

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-
THAT, in view of the pivotal role that information technology (IT) plays in enhancing efficiency, productivity, transparency, accuracy and timeliness and recognising that IT underpins socio economic development of modern age society and the global village that this country aspires to be part of, this House urges the Government to establish a national informatics commission whose main functions would be to:-

- (1) stimulate and harmonise the growth of the IT industry;
- (2) encourage IT research, development and use within both the public and private sectors;
- (3) optimise commercial and economic benefits from IT;
- (4) minimise problems related to the year 2000 bug and any other computer catastrophes of a similar scale or nature; and
- (5) promote appropriate human resource development and general computer literacy and awareness.

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

Mr. Deputy Speaker: Hon. Twaha, you cannot stand on a point of order because nobody has done anything.

Mr. Twaha: Mr. Deputy Speaker, Sir, well, somebody did last week.

Mr. Deputy Speaker: Hon. Twaha, you cannot do it now.

Mr. Twaha: Mr. Deputy Speaker, Sir, when will I do it?

Mr. Deputy Speaker: You should consult the Chair, so that you can be allowed to raise your matter.

An hon. Member: Let him read the Standing Orders.

ORAL ANSWERS TO QUESTIONS

Mr. Deputy Speaker: Order! Question No.117! Mr. Maitha!

Mr. Maitha: Mr. Speaker, Sir, I have not received a written answer from the Minister of State, Office of the President.

Question No.117

PAYMENT OF RETIREMENT BENEFITS TO MR. SALIM

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

- (a) why retirement benefits of the late Gabriel Kenga Salim, who was working at Malindi District Office P.W.O. 160115 have not been paid to his family and;
- (b) when the benefits will be paid.

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

- (a) The dependants of the late Gabriel Kenga Salim were paid through the Public Trustee of Post Office

Box 80366, Mombasa, vide cheque No.062677/78 on 26th June 1997.

(b) In view of my reply in "a" above, "b" does not arise.

Mr. Maitha: Mr. Deputy Speaker, Sir, I do thank the Assistant Minister for telling this House that the family of the late Gabriel Kenga Salim was paid the benefits. This Question was sent to this House in January this year. Maybe, because of this Question, the Government speeded up the payment of these benefits. I really thank him for that. I would like the Assistant Minister to assure this House that he will sort out the small problem with the Public Trustee people who have not remitted the money to the family, so that they can remit the money.

Mr. Choge: Mr. Deputy Speaker, Sir, I have even quoted the cheque number. The Ministry has remitted the money to the family of the late Gabriel Kenga Salim.

Mr. Mwakiringo: Mr. Deputy Speaker, Sir, as much as the reply sounds okay, because the cheque was remitted, the Assistant Minister has not told us how much it contained. It could have been having zero money in it.

Mr. Choge: I will be more than too happy if the hon. Member could prove that the cheque contained zero money.

Question No.402

DEATH OF MR. WALGIO

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

(a) whether he is aware that Mr. John Walgio, who was a church elder, was killed at Ndhwa Market on 23rd May, 1998 on his way to Pala Seventh Day Adventist (SDA) Church;

(b) if the answer to "a" is in the affirmative, what investigations he has undertaken to establish the circumstances of his death; and

(c) the number of people who have, so far, been apprehended in connection with Mr. Walgio's death.

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

(a) I am not aware.

(b) The deceased died as a result of a road accident. Ndhwa Police Station Fatal Accident File No.7/98 was opened for the purpose of investigations. The file was forwarded to the Nyanza Provincial State Counsel, who perused it and recommended that a public inquest be held by a court. Arising from this recommendation the file has been placed before the Senior Resident Magistrate's Court, Homa Bay District, for a date to be fixed for the inquest.

(c) Nobody has been arrested.

Mr. Ojode: Mr. Deputy Speaker, Sir, arising from the answer given by the Assistant Minister, who is a very good friend of mine, I cannot describe what I wanted to talk about. Mr. John Walgio was a church elder at Pala SDA Church. When he was riding his bicycle to attend a church function, he knocked down an Administration Police officer (AP). After that, the AP stood up and stabbed Mr. John Walgio to death. The man died on the spot. Up to this moment, this AP is working at Ndhwa District Officer's office. The Assistant Minister is telling me here that--

Mr. Deputy Speaker: So, what is your question?

Mr. Ojode: Mr. Deputy Speaker, Sir, could the Assistant Minister order the arrest of this culprit? There is no law which applies to some citizens of Kenya and not to others. Could he make sure that this AP is arrested, because even the DO was concealing this accident? Now that the Assistant Minister is aware that the deceased was stabbed to death by an AP, he should not come here and tell me that he died of natural causes.

Mr. Choge: Mr. Deputy Speaker, Sir, that is why an inquest file into the death of Mr. John Walgio has been opened. I will be more than happy if the hon. Member can tell all those people who have evidence and proper information to go and give it when the inquest starts.

Mr. Ojode: On a point of order, Mr. Deputy Speaker, Sir. This is a very serious case. First of all, I would like the Assistant Minister to withdraw from answering this Question, because he was jailed for five years. That is why he cannot answer this Question properly.

(Laughter)

Mr. Deputy Speaker: Order! Order! Dr. Ochuodho!

Dr. Ochuodho: Mr. Deputy Speaker, Sir, if I got the Assistant Minister correctly, he is implying that investigations into this case are not complete yet. If that be the case then, how did the Government come to the conclusion that this church elder, who belonged to my church, died in a road accident? If so, who caused the death of Mr. John Walgio, because even in a road accident there must be somebody who is held responsible?

Mr. Choge: I would like to give further information to hon. Members of this House. The late Walgio Bunde was riding his bicycle on 23rd of May, 1998 at 7.00 p.m. along Ndhiwa-Mirogi Road and on reaching near Onyingo Bridge, he collided with another bicycle and---

An hon. Member: What happened?

(Laughter)

Mr. Choge: He collided with another man who was also riding a bicycle.

Mr. Parpai: On a point of order, Mr. Deputy Speaker, Sir. Could the hon. Assistant Minister be a bit more serious? We are not joking. Can he tell us, since there is no way two bicycles can collide and cause the death of an individual, what really happened? Could he be a bit more serious?

Mr. Choge: Mr. Deputy Speaker, Sir, if he listened more carefully, I think I corrected that impression. I said he collided with another person who happened to be an Administration Policeman, Personal No.95049340. An AP constable, William Okello, who is attached to Ndhiwa District Officer's office. The deceased was riding down the hill and both bicycles had no headlights. As a result of the accident, the deceased received serious head injuries while the constable sustained injuries on his left elbow. Immediately after the accident the deceased was rushed to Ndhiwa Health Centre where he died while undergoing treatment. As a result of this, in order to remove any suspicion, we had to ensure that this inquest takes place. I would be more than happy, if the hon. Member would give the inquest further information to enable us to take appropriate steps.

Mr. Obwocha: On a point of order, Mr. Deputy Speaker, Sir. This is the most interesting thing; where two bicycles end up killing a person. It is unheard of in Kenya. However, my question to the Assistant Minister is: What is the name of this constable who had the other bicycle?

Mr. Choge: I think I have given the name and also the number of the constable. In view of the information and complaints that we have now received, we will pursue the matter and make sure that we arrive at a proper conclusion and satisfactory reply.

Mr. Deputy Speaker: Mr. Assistant Minister, you have been asked a very simple question. Why do you not restrict yourself to that? Mr. Obwocha merely asked hon. Choge to give him just the name of the constable. But he is now providing information which he said earlier he was not aware of.

Mr. Choge: Mr. Deputy Speaker, Sir, I have given his name as Mr. William Okello who is attached to Ndhiwa District Officer's office. His number is 95049340.

Mr. Shill: Mr. Deputy Speaker, Sir, I think the Assistant Minister is not very serious. The information he has given must go into the Guinness Book of Records. I have never heard, in the history of Kenya, of a case where two bicycles have collided and killed somebody. Up to now he has not told us at what speed they were travelling. I would, therefore, ask the Assistant Minister to be more serious and tell us exactly what happened. Is he willing to put that information in the Guinness Book of Records?

Mr. Choge: That is why we are having an inquest so that we can prove or disprove that two bicycles cannot collide.

Mr. Deputy Speaker: Mr. Choge, if you want to answer a question that has not been asked that is out of order.

Mr. Ojode: Mr. Deputy Speaker, first of all, I would request this Assistant Minister to withdraw from answering this Question because he is not serious. This is a case which involves the life of an innocent church elder. I have given the story of what happened to this person. Unfortunately, the AP constable is still working up to this very moment. I would request the Chair to defer this Question so that a sane Minister can come to this House and answer it.

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. While I have a lot of regard for hon. Ojode, and I have problems with some of the answers given by hon. Choge, is it in order for an hon. Member to suggest that another one is insane?

Mr. Deputy Speaker: It is certainly out of order. All hon. Members in this House are honourable and sane. That is a ruling from this Chair. Mr. Ojode, you must refrain from using insulting language.

Mr. Ojode: Mr. Deputy Speaker, Sir, at least, you should also help me. The reason why I am saying this

is because an innocent Kenyan who was going for a church function lost his life. This Administration policeman killed this man after having been knocked down by this bicycle. Why can the Assistant Minister not come up and tell us what he is going to do in order for this man to be arrested?

Mr. Deputy Speaker: Order, Mr. Ojode! You are aggravating the situation. You have referred to an hon. Member using insulting language. Now, I will ask you to withdraw and apologise to him. Then you can make that request that you have just made.

Mr. Ojode: Mr. Deputy Speaker, Sir, you are now forcing me to withdraw and I will just do that.

Mr. Deputy Speaker: Order! You will withdraw and apologise without embellishing that withdrawal and apology with any words.

Mr. Ojode: Mr. Deputy Speaker, Sir, since you want me to withdraw and apologise, I will do the same.

Mr. Deputy Speaker: Order! It is not the Chair that wants you to withdraw; it is your own Standing Orders that prohibit you from using insulting language against another hon Member. All I am trying to do is to enforce these rules. So, please withdraw and apologise.

Mr. Ojode: Mr. Deputy Speaker, Sir, I wish to withdraw and apologise.

(Laughter)

Mr. Deputy Speaker: Ask your question.

Mr. Ojode: Mr. Speaker, Sir, could the Assistant Minister order for the arrest of this AP so that he can face the law because he killed an innocent mwananchi of Kenya?

Mr. Choge: Mr. Speaker, we will have to arrest the AP after the inquest if it proved that he was actually guilty.

Mr. Katuku: Is the Assistant Minister in order to admit in this House that there was an accident whereby two bicycles collided. What criteria is he using to say he is going to open an inquest? Why can he not prosecute this individual who caused the death of the other man by dangerous driving? Is he in order?

Mr. Choge: The reason for holding an inquest is to find out who was in the wrong. Surely, you would not want us to make another mistake which we will later on have to regret. Even the AP, the church elder or their relatives have the right to defend themselves before a court of law.

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House, when we know very well that one cannot ride uphill in, and in any case, there was an impact? The person who was riding should have gotten more impact---

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

Dr. Ochuodho: Is he in order to mislead this House?

Mr. Deputy Speaker: Order! Dr. Ochuodho, you have been here long enough to know what is a point of order. But you have assisted me to stand up to argue. Please, if you want to raise a point of order, raise a point of order and the Chair will give you the opportunity to do so, but never to argue when you stand ostensibly on a point of order. Please, let us agree on that.

Mr. Ojode: Mr. Deputy Speaker, Sir, I have a feeling that the Government is trying to conceal the cause of the death of Mr. Walgio. This is because Mr. Walgio was killed at around 10.00 a.m. I heard the Assistant Minister mention something to the effect that the vehicle had no lights. There was no need for lights. There is no need to have an inquest done because I have already given him all the details of what happened on that material day. Could he order the arrest of the AP? The suspect should be arrested.

Mr. Choge: Mr. Deputy Speaker, Sir, we will order the arrest of the AP if the inquest proves that he was actually mistaken. The hon. Member has just suggested that it was a vehicle and not a bicycle.

Question No.515

NON-REMITTANCE OF CESS BY
MUMIAS SUGAR COMPANY

Mr. Osundwa asked the Minister for Agriculture:-

- (a) whether he is aware that Mumias Sugar Company has not remitted cess deductions to the Mumias Municipal Council since April this year, and that as a result, the Council has not met its financial obligations; and,
- (b) if the answer to "a" is in the affirmative, what the Ministry is doing to ensure that the

Company pays its revenue in order to enable the local authority meet its financial obligations.

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

(a) I am aware.

(b) Owing to the absence of cess committees, Mumias Sugar Company was unable to remit cess payment from May, 1998. Following the gazettement of relevant guidelines by the Ministry of Local Authorities, a cess committee for Mumias Municipality is in the process of formation. However, Mumias Sugar Company yesterday, 27th October, 1998, paid Kshs300,000 towards owing cess vide Cheque No.1082323.

Mr. Osundwa: Mr. Deputy Speaker, Sir, I asked this Question more than three weeks before we went on recess. It is amazing that I do not have a written reply. This shows how casually this Ministry is taking Members Questions.

The Assistant Minister says that the money was not remitted because there are no cess committees in position. He also says that Mumias Sugar Company released Kshs300,000 to a cess committee which is not formed. Which is which? Could he explain this because my information is that there are no cess committees? He has said that a cheque was released yesterday. To which committee was it released to?

Mr. Karauri: Mr. Deputy Speaker, Sir, I think there is some confusion here. When Members are saying that local authorities should not be given this money, others are asking questions and so forth. The cheque is at the Mumias Sugar Company waiting to be collected.

Dr. Kituyi: Mr. Deputy Speaker, Sir, the Assistant Minister said that since the beginning of March, they have not prepared a cheque because there was no cess committee. There was no committee for the Municipal Council. He says that the Committee is in the process of being formed. But a cheque was written yesterday. Why was this cheque written yesterday and not May, or after the formation of the committee?

Mr. Karauri: Mr. Deputy Speaker, Sir, the important thing is that the cheque has been written.

Mr. Deputy Speaker: Order, hon. Karauri! The question was: Why was the cheque not written on another day, in May or earlier? Please, answer the question.

Mr. Karauri: Mr. Deputy Speaker, Sir, this House is aware that there is some confusion as to who should be paid this cess. Now, in the absence of a proper committee to be paid, Mumias did not remit the cheque. But the April cheque was paid on May 15th. Now, I insist that since they have written the cheque, whether they wrote it last month or this month it does not matter. The cheque is ready.

Mr. Osundwa: Mr. Deputy Speaker, Sir, the Assistant Minister is not telling this House the truth. I still insist that a cess committee has not been constituted in Mumias. I would like the Assistant Minister to tell this House in whose name is the cheque written, since there is no cess committee in existence right now. Could he also give us the cheque number?

Mr. Karauri: I have already read the number, but I will repeat it. The cheque is written to Mumias Municipal Council, of Kshs300,000, and the cheque number is 1082323.

Mr. Muihia: Mr. Deputy Speaker, Sir, this is a very serious issue we are dealing with, of cess committees and cess money. As the Assistant Minister has just stated, there is a big problem of where the cess money should be taken. In the tea and coffee growing areas, the cess committees have been formed, and the money has been remitted there. Now, the Assistant Minister has said that the cheque has been written to the Mumias Municipal Council, while it is supposed to be written to the cess committee.

Could the Assistant Minister assure this House that all the cess money is going to be given to the cess committees, who are better placed than the municipal and county councils?

Mr. Karauri: Mr. Deputy Speaker, Sir, the question by the hon. Member is why Mumias Municipal Council has not been paid, and we have paid Mumias Municipal Council.

Mr. Osundwa: Mr. Deputy Speaker, Sir, I still insist that we have not received an appropriate answer from the Assistant Minister. Through the Chair, could I request that he goes back and brings us an appropriate answer? This is because the money that is in question is not Kshs300,000. It is over Kshs2 million. In his reply, he has said that the Company had failed to remit this money because there were no cess committees. This morning, as the area MP, I called Mumias and they have asked me to assist them to nominate five people to sit on the cess committee, and then press for the payment of the money. I do not believe the answer he is giving is adequate. Could you ask the Assistant Minister to come here with an appropriate answer?

Mr. Karauri: Mr. Deputy Speaker, Sir, I have given the cheque number. I admit that the cheque was written yesterday and it is at the Mumias Sugar Company. When the hon. Member has the appropriate people to go and collect that cheque, they will be given. But the cheque is written in the name of Mumias Municipal Council and they can go and collect it.

Mr. Parpai: On a point of order, Mr. Deputy Speaker, Sir. Could the Assistant Minister clarify which

cesses goes to---

Mr. Deputy Speaker: Order! That is a question.

Mr. Sifuna: Mr. Deputy Speaker, Sir, arising from the Assistant Minister's reply, could he tell this House the total amount owed to Mumias Municipal Council in form of cess, and why particularly, this cheque was written yesterday and not May?

Mr. Karauri: Mr. Deputy Speaker, Sir, I have answered that question several times and if they want me to repeat---

Mr. Deputy Speaker: Yes, you have answered that question. Let us go on to the next question.

Question No.295

DESTRUCTION OF ELGON TEAK

Mr. Murungi, on behalf of **Mr. Mwiraria**, asked the Minister for Natural Resources:-

(a) whether he is aware that Imenti Forest is the only place east of Mt. Elgon where Elgon Teak has been growing;

(b) whether he is further aware that the section of forest where this rare wood species was growing has been completely destroyed by charcoal burners in the last six months; and,

(c) if the answers to "a" and "b" are in the affirmative, what plans he has of replanting the Imenti Forest with Elgon Teak and other indigenous species?

The Minister for Natural resources (Mr. F.P.L. Lotodo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) No, I am not aware that the Imenti forest was the only place east of Mt. Elgon where Elgon Teak has been growing. In fact, Elgon Teak does not grow anywhere around Mt. Kenya.

(b) No, I am not aware that charcoal burning has been going on around Imenti Forest for the last six months, thus destroying Elgon Teak completely. In any case, there is no Elgon Teak growing around North Imenti Forest and, therefore, there cannot be any charcoal burning from Elgon Teak.

(c) My Ministry has an annual planting programme of 475 hectares. Out of this, 100 hectares are planted with indigenous trees annually. The planting of Elgon Teak will be made annually although, popular species such as Meru Oak and Camphor will get higher priority in the planting programme.

Mr. Murungi: Thank you, Mr. Deputy Speaker, Sir. I am very surprised by the ignorance displayed by the Minister regarding the Imenti Forest which is part of Mt. Kenya Forest. It is not true to say that Elgon Teak does not grow in Mt. Kenya Forest. As a matter of fact, we know, we come from the area, that it grows there.

There has been very largescale destruction of indigenous trees in this forest. The scandal there is worse than the Karura Forest scandal. Since the Government seems unable to protect indigenous trees and forests, especially in Mt. Kenya area, could the Minister, in line with what is happening in Tanzania - where the community is given the forests to protect and manage - consider handing over the Imenti Forest to Imenti people so that they can look after the forests and replant the trees which have been destroyed; because the Government has totally failed in even controlling the charcoal burning, bang growers and other forest destroyers? Can you consider handing-over this forest to the Meru people?

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, the hon. Member for Imenti South is confusing Elgon Teak and Olea Orchitic(?). They are almost the same. He is not an expert in that field and that is why he does not know.

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

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, I am telling him from a point of expertise. The question of handing over the forest to the local people is not our priority now.

Mr. Gitonga: On a point of order, Mr. Deputy Speaker, Sir. We know, and he is aware, that charcoal burning is taking place in all forests unabated. Is he in order to tell us that charcoal is not being burnt in Imenti Forest?

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, I am aware of what is happening in his area; that the remains of trees felled by timber merchants are burnt to charcoal, but it is not happening in this case.

Mrs. Mugo: On a point of order, Mr. Deputy Speaker Sir. Could the Minister tell this House how the Government finds it prudent to destroy the existing forests, mature indigenous trees and the natural forests under the pretext that they are going to replant new forests? We know that trees take a long time to grow, if they grow at all. Why can the Government not protect what we have instead of giving it to the land grabbers or to a few politically-connected individuals?

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, I think the hon. Member should reframe her supplementary question properly. It is not the Government which destroys the forests, it is the people. She should talk to her people also. Members of Parliament do not talk to the local people against destroying forests! They are also part of the Government and should talk to their people against this evil!

(Applause)

Mr. Thirikwa: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to tell this hon. Member to go back to and talk to the people? Why do we pay this Government? We pay the Government so that it can provide security to the people and forests.

Mr. Deputy Speaker: Order! Order! What is your point of order?

Mr. Thirikwa: Is he in order to tell us to go back and talk to the people when we know there is a Government which is supposed to provide security?

Mr. Deputy Speaker: That is not a point of order. You are arguing!

Mr. Mwiraria: Mr. Deputy Speaker, Sir, I apologise. I had a small accident and I could not come on time. Could the Minister accept an invitation from me to go and see the Elgon Teak which has been felled so that he can realise that this is real and not imaginary? Could I also ask the him whether he is aware that it is his foresters who are licensing people, giving them permission and they are not even collecting money for the Government? The money goes into their pockets and the forest is completely destroyed. What does the Minister propose to do to stop this destruction which is being done right under his nose?

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, I make my own programmes and I do not have to be invited by the former Permanent Secretary, Ministry of Energy.

Two, we license the timber merchants for commercial trees, but not indigenous trees. Should the hon. Member detect what he has said, report it to the local police station.

Dr. Omamo: On a point of order, Mr. Deputy Speaker, Sir. I would like to be very cautious when putting this question across. If a banana tree is planted, in nine months time, it can be harvested; if a cypress tree is planted, in 15 years it can be harvested; if a Teak tree is planted, it is harvested in 300 years, but what comes out of that is beautiful timber! As a woodblock, you love it and that is why people go for it.

The Minister has said that the Government has a programme for replanting trees, but this Elgon Teak has been give low priority. May I know from the Minister whether the Government could agree to give a higher priority to plantations of these precious local species? The Elgon Teak, internationally is the loliyodo(?) which is famous all over the world. Should we not take steps to increase plantations of lilodo(?)

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, in my reply to part "c", I did say that out of 475 hectares we plant annually around Mt. Kenya and Imenti Forest, 100 hectares are planted with local trees, including what the hon. Member has just mentioned.

Mr. Manyara: Mr. Deputy Speaker, Sir, the issue of forests is a matter that deserves greater seriousness than the Minister is giving it. Imenti Forest is part of the Mt. Kenya Forest. About three weeks ago, as a result of the complaints and uproars from the Meru people, the DC, Meru Central, together with the OCPD and several police officers, toured that forest and saw for themselves that, close to 3,000 acres of forest land have been depleted and the DC took steps. He suspended and requested the Ministry of Natural Resources to transfer the local Forester who had been leading this campaign of tree destruction in the forest. Two weeks later, that Forester came back with a letter from Nairobi; from the Conservator of Forests at Karura. Is it in order for the Minister to stand in this House and tell the people that he is not aware that there is destruction of Elgon Teak trees in Imenti Forest; when this is an issue that concerns the heritage of a whole community and the whole country? Could he confirm that this Forester, who has been destroying forests in Meru for the last 14 years, will be removed and if he is not removed, could he allow the people of Meru to remove him so that he does not destroy the forest any further?

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, we do not allow people to transfer our officers. We do it ourselves. If we get the information the hon. Member has just given, we will do it in our own way. About the destruction of the forest, we do not have that information. Could the hon. Member communicate the same to us so that we can see which steps to take? But I cannot be told that, and then accept it and say, "yes, yes". I am not a `yes man'.

Mr. Muriuki: Mr. Deputy Speaker, Sir, while the Minister is telling us about the planting of 400 acres of forests in Imenti, I would wish to bring to the attention of the Chair and this House that, in the current issue of the Kenya Gazette dated 23rd, October, he is now degazetting hundreds of acres in Kiambu, 796 acres in Nanyuki,

Mt. Kenya Forest and further, hundreds of acres of forest land in Laikipia Marmanet Forest. Could the Minister explain what is the logic of saying you are replanting 400 acres of forests while at the same time they are degazetting hundreds of acres for destruction?

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, I do not know whether that question is quite in order. Maybe, it is quite in order. This is not the first time the degazetting of forest has been done. It has been going on, it is going on and it will go on. About 796 hectares--- Lend me your ears!

Mr. Deputy Speaker: Minister, address the Chair!

Mr. F.P. Lotodo: Yes, Sir. An area covering 796 hectares of forests in Mt. Kenya Forest will go to wananchi living in his area called Ushishi. So, what is the problem with that? Marmanet Forest is 51 hectares and 56 hectares belong to the local people who want to go to Nyeri. So, we are exchanging. They will take Nyeri forest and that will be part of Marmanet Forest. Only two pieces of land around Meru Municipality will go to individuals. This is quite normal.

Mr. Mwiraria: Mr. Deputy Speaker, Sir, is it really fair for the Minister, the former Assistant Minister for Energy when I was the PS in the Ministry, to say that I am ignorant? Is it in order for him to come and tell the House that I am totally ignorant and I do not want to know because I have told him that forests have been destroyed? He has been told that the person who is responsible for this destruction was the forester who had been transferred but he is now back. I have also extended a very courteous invitation. I do not know what the Minister enjoys eating, but we can lay it on. I want him to go and see for himself the destruction of that forest. Could the Minister, at least, accept to see, for himself, or send one of his assistants so that he can give me another reply. There is no use for him to say, "no, no,". He is not a "yes man", but he should not be a "no, no, man" who is ignorant.

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, I am prepared to look into the question of the transfer of the officer. I ordered the transfer of about 60 people, but because of financial problems, we reduced the number to 11. If, indeed, the forest officer in question is one of the remaining 49 people to be transferred, I will look into that issue. But for now, I am turning down the invitation to visit Imenti Forest.

Question No.307

LAND ADJUDICATION IN SAMBURU

Mr. Leshore asked the Minister for Lands and Settlement:-

(a) whether he is aware that land adjudication in most of Samburu District has not been completed, thereby denying the Samburu people their rightful ownership of land and its economic use; and,

(b) if the answer to "a" is in the affirmative, whether he could undertake to complete the exercise urgently.

The Assistant Minister for Lands and Settlement (Mr. Leting): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that the land adjudication exercise has not been completed in most parts of Samburu District.

(b) All efforts are being made to speed up the adjudication process in the district to enable Samburu people to legally own the land for economic use.

Mr. Leshore: Mr. Deputy Speaker, Sir, since I came into this House, in 1993, I have visited the office of the Ministry several times. If there is one unit which should be scrapped, it is the land adjudication unit. It has the most corrupt people in this country. They have put the Government into a mess---

Mr. Deputy Speaker: Ask your question.

Mr. Leshore: I am coming to my question, Mr. Deputy Speaker, Sir. Could the Assistant Minister now arrange, very quickly, to send a fresh team to Samburu and adjudicate the land which has not been adjudicated?

Mr. Leting: Mr. Deputy Speaker, Sir, the hon. Member seems to be bringing in another issue. I thought he was interested in the progress we are making in land adjudication in Samburu District. Land adjudication is one of the most expensive undertakings by the Ministry of Lands and Settlement because it requires a lot of resources. We are satisfied in the Ministry that, it is not Samburu District alone which is behind in land adjudication matters. This is because so far, the first land adjudication declaration was made in Samburu in 1972 and we have more than 15 units, or adjudication areas, which we have been working on. Right now, as I speak, we have completed adjudication in about 10 areas and we have a few other areas where adjudication is still on-going. So, the question of corruption and all that is an issue that the hon. Member must bring out separately.

Mr. Leshore: Mr. Deputy Speaker, Sir, I do not know why the Assistant Minister is trying to hide this matter. His Ministry headquarters has given money on several occasions, about three years, for the officials in Samburu, and yet nothing has been done on the ground. They go there, give notices and they do not attend meetings, and he is telling us that there is progress. I am not blaming the Ministry, I am blaming the officers the Ministry is sending there. Why can the Ministry not send a fresh team to go and undertake that exercise?

Mr. Leting: Mr. Deputy Speaker, Sir, we have no proof on the ground that the officers who are doing the job are not doing what is supposed to be done.

Mr. Leshore: Mr. Deputy Speaker, Sir, I am saying that I am dissatisfied with the teams which have been sent to Samburu and yet, the Assistant Minister is trying to defend them. Are they working cahoots; are they jointly trying to slow down the work in Samburu District?

Mr. Leting: Mr. Deputy Speaker, Sir, we will take action against any officer who is proved to be corrupt. If the names of those who are corrupt are given to my Ministry, we will take action. We do not condone corruption.

Question No.573

TARMACKING OF OL KALOU-DUNDORI ROAD

Mr. Muriuki asked the Minister for Public Works and Housing:-

(a) when the Ol Kalou-Dundori Road, which is vital for the horticultural industry in Ol Kalou Division, will be tarmacked as recommended by the District Development Committee (DDC); and,

(b) if he could consider gravelling the road now to make it passable as it awaits tarmacking.

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

(a) The Ministry is not in a position to confirm when Ol Kalou-Dundori Road will be tarmacked. However, the Treasury has been approached to solicit for feasibility studies financing from the Arab Bank for Economic Development in Africa (BDEA). The studies will establish viability of the project and possible financing level. Presently, the Ministry is awaiting response from the bank.

(b) The Ol Kalou-Dundori Road is 20 kilometres long, out of which a six kilometre stretch from Ol Kalou to Pasenga junction was gravelled during July and August 1998, and the works were co-financed by the Government and Ol Kalou Town Council. The remaining 14 kilometres are programmed for grading and spot gravelling this financial year from the Fuel Levy Fund.

Mr. Muriuki: Mr. Deputy Speaker, Sir, through the Chair and through the Assistant Minister, I wish to thank the Government for having identified a possible donor for tarmacking of our much needed road from Ol Kalou to Dundori. However, the information I have is that there has not been any money at all, availed to the District Roads Department for gravelling that road. Could the Assistant Minister tell us how much money was spent on that road in July and August by the Government as stated, and how much was spent by the Town Council?

Mr. Khaniri: Mr. Deputy Speaker, Sir, the spot-gravelling of the six kilometre section between Ol Kalou and Pasenga junction was co-financed by the Government and the Ol Kalou Town Council, as I said. The council provided gravel, that is the murrum and fuel, while the Government provided transport, equipment and personnel.

The Assistant Minister for Planning and National Development (Mr. Sumbeiywo): On a point of order, Mr. Deputy Speaker, Sir. Yesterday, you ruled that people who are sitting on the side benches provided for Government officers are strangers and that hon. Members should not consult them. I have seen one of the hon. Members ignoring your orders and consulting them.

Mr. Deputy Speaker: Order, hon. Nyagah! Those persons on those benches are in fact, strangers in the House. So, if you want to consult them, please retire to the hind chamber. Questions by Private Notice!

Mr. Obwocha: Mr. Deputy Speaker, Sir, I am sorry I was taking an international call.

QUESTION BY PRIVATE NOTICE

DEATH OF MR. MOMANYI

Mr. Obwocha: 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 Mr. Ronald Ngara Momanyi was arrested and confined in the Nyamira Police Station cells from 21st to 26th July, 1998, where he subsequently died?

(b) If the answer to "a" is in the affirmative, who were the police officers who confined Mr. Momanyi in the cells?

(c) What action has been taken against the police officers for the unlawful confinement?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am indeed aware that Mr. Ronald Ngara Momanyi was arrested on 21st July until 26th July. After being taken to hospital he died while undergoing treatment.

(b) The police officer who arrested him was Calistus Ibwaga, No.619098.

(c) Mr. Deputy Speaker, Sir, on what action has been taken, allow me to explain the circumstances which led to his arrest. Mr. Momanyi went behind the police station to try and talk to the prisoners through the bar, and when he was being arrested, he resisted arrest and there was a bit of a scuffle. After that, he was locked in on the 21st of July.

Mr. Deputy Speaker, Sir, he stayed in the cells until the morning of 25th when he woke up not feeling well, and on being taken to hospital, he died while undergoing treatment. After this, the officer in charge of the police station, Joshua Onyoo was transferred from Nyamira Police Station to facilitate investigations, because we believe there was negligence on his part and in fact, he is being charged for negligence.

Mr. Deputy Speaker, Sir, a complaint file against the police officer has been opened; file No.1/98 and inquest file No.5/98 for the purposes of investigating and establishing under what circumstances the deceased met his death. The inquiry file has been forwarded to the Provincial State Counsel for perusal and further direction.

Mr. Deputy Speaker, Sir, we have also asked that the officer in charge, be enjoined in the inquest file with the police constable.

Mr. Obwocha: Mr. Deputy Speaker, Sir, the explanation given by the Minister is partly correct and partly wrong. The late young man, Mr. Ronald Ngara Momanyi, who was a *manamba*, was arrested for making noise and locked in the cells. In the OB in Nyamira, against his name, the charge is: 'Arrested for making noise'. He was arrested on 21st and locked up until 26th.

Now, let me just read what the doctors themselves said:-

"There were red marks all over his body. His hands and legs appeared to have been tied tightly with wires. Blood had oozed from his nostrils and mouth. The back had whip lashes which were swollen. The head was swollen and all the hands and the leg joints including both knees were loose and had scars that had bled".

Mr. Deputy Speaker, Sir, that medical report tells you that this young man was tortured in the cells until he died. This is inhuman and degrading. Could the Minister tell this House why Mr. Calistus Ibwaga, the officer who was in charge of crime, Mr. Wilson Chesoli, plus the OCS, Joshua Aongo, have not been arrested for these crimes rather than being transferred?

Maj. Madoka: Mr. Deputy Speaker, Sir, I certainly agree that there were obviously some misdeeds and we are investigating. We transferred the police officer to be able to facilitate investigations. From the postmortem report, we know, it is written that he died out of severe dehydration and anaemia. The external appearance indicated body wasted, marked severe pale and severe dehydration as peripheral cyanosis. We agree there was something and we are going to investigate and take appropriate action.

Mr. Kombo: Mr. Deputy Speaker, Sir, cases of torture are very common in this country and it is really amazing for the Minister to say: "We have transferred these police officers while we investigate," when in fact, they should be arrested or interdicted while you do the investigations. Could the Minister promise the House that he will take action to interdict these two policemen as they carry out investigations?

Maj. Madoka: Mr. Deputy Speaker, Sir, I have said we will take appropriate action.

Mr. Sambu: Mr. Deputy Speaker, Sir, apparently, when the ordinary police or the administration police commit murder, they will either be transferred or an inquest file is opened. I know of a case in Eldoret where two APs shot people at point blank range four years ago and the inquest is still going on. Will the Minister and the Attorney-General change the law so that APs, or policemen, are arrested like any other citizens whenever they commit murder? If not, let him tell us that the APs and the police have special law to protect them when they commit murder.

Maj. Madoka: Mr. Deputy Speaker, Sir, the sentiments by the Member certainly do deserve attention and we will look into it.

Mr. Wamae: Mr. Deputy Speaker, Sir, we have heard Ministers and even the Head of State complaining

against the international human rights organisations and even the Kenya Human Rights Commission because of making false allegations about Kenya condoning torture. This is a very clear case of torture. What is the Minister

going to do because the Kenya's name is tarnished locally and internationally because of these matters?

Maj. Madoka: Mr. Deputy Speaker, Sir, we have said we have opened an inquest file and honestly, we will only take appropriate action once we have got all the necessary facts.

Mr. Ndwiga: Mr. Deputy Speaker, Sir, murder is murder and part of the reason why the police are so inefficient, why there is indiscipline in the Police Force, is because these officers know that even if they murdered a suspect, nothing will happen; they will merely be transferred and inquest files will be opened. Because there is ample evidence here and the Attorney-General happens to be in this House and the capable Minister is also here, will he heed the will of the House that these officers must be arrested, because clear evidence exists that they murdered this boy? Will he now heed sentiments expressed in this House and immediately arrest these officers and charge them with murder?

Maj. Madoka: Mr. Deputy Speaker, Sir, I do not know how the hon. Member can say there is clear evidence. We have got to establish that there is that clear evidence before we take action.

Mr. Obwocha: Mr. Deputy Speaker, Sir, the clear evidence my brother, hon. Ndwiga, is talking about is the medical report which indicates what parts were beaten and how this boy died. That is clear evidence! What further evidence does the Minister want? Now, could the Minister, first of all, he has not even given me the written answer, tell me the file number of this inquest file he is talking about?

Maj. Madoka: Mr. Deputy Speaker, Sir, I had already given the file numbers. The the file number is 1/98 and the inquest file is No.5/98.

Mr. Deputy Speaker: The next Question by hon. Sambu has been deferred by agreement between him and the Minister for Public Works and Housing. Is that correct, hon. Sambu?

Mr. Sambu: Mr. Deputy Speaker, Sir, I would only like to know when he is coming up with the answer.

Mr. Deputy Speaker: Yes, hon. Khaniri?

The Assistant Minister for Public Works and Housing (Mr. Khaniri): Mr. Deputy Speaker, Sir, this will be tomorrow afternoon.

Mr. Deputy Speaker: Thank you. Hon. Masakhalia?

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

Mr. Deputy Speaker: Hon. Masakhalia?

MINISTERIAL STATEMENT

LAKE VICTORIA FISH COMPANY LIMITED

The Minister for Industrial Development (Dr. Masakhalia): Mr. Deputy Speaker, Sir, I would like to respond to a statement made by hon. Sungu, the Member for Kisumu Town East on the Lake Victoria Fish Company Limited. Mr. Sungu made the statement--- There is some noise there.

(Loud consultations)

Mr. Deputy Speaker: Order! Order, hon. Members. Please, if you want to consult, do it in low voices. Order, hon. Leshore! It is you I am addressing. If you want to consult, do it in a low voice.

The Minister for Industrial Development (Mr. Masakhalia): Mr. Deputy Speaker, Sir, I would like to respond to the statement by hon. Sungu, the Member for Kisumu Town East on Lake Victoria Fish Company Limited. Hon. Sungu made the statement before the adjournment of the House for the last recess.

Mr. Deputy Speaker, Sir, Lake Victoria Fish Company Limited was established in 1990 to procure, process and export Nile Perch fish products from Lake Victoria to the European market. The factory which is situated in Kisumu Municipality, on a 2.23 hectare plot, has an estimated investment of US\$9.5 million. A loan of Kshs42 million for investment financing was procured from the European Investment Bank (EIB), through the Development Finance Company of Kenya, now the Development Bank of Kenya, for the purchase of an ice plant of five tonnes procured from Denmark. The company subsequently availed itself Kshs56.4 million overdraft facility from the National Bank of Kenya, to enable it increase its ice plant capacity to 25 tonnes. The company, which began operations in 1996, encountered problems of a financial and management nature. These arose from:

- (1) The late disbursement of DFCK loan
- (2) Devaluation of the Kenya Shilling against the US Dollar which caused an additional outlay by the company; of Kshs18 million.
- (3) Four months late arrival of the 25 tonnes processing machinery which delayed the start up of full operations.

Because of these factors, a period elapsed before the newly acquired 25 tonne-day machinery was installed and Lake Victoria Fish Limited defaulted in repaying the loan advanced to it. Further, before the larger plant was installed, the 5 tone-day ice plant could not generate a product throughput that would enable the company to generate adequate sales value and profits to pay for the operations of the debt service. The debt servicing problem led to the DFCK, the main financier, to put Lake Victoria Fish Company Limited under receivership. The DFCK appointed Price Waterhouse consultant receiver/manager. The receiver/manager closed down the plant in January, 1997. This has led to the valuable assets being rendered idle and 300 employees losing their jobs. My Ministry, some time ago, contacted the shareholders of the company who sought its assistance in re-activating the operation of the plant.

Mr. Deputy Speaker, Sir, I would like to inform the House that my Ministry has established a committee under the leadership of the Director of Industries with the (?) from the Investments Promotion Centre and the Industrial Commercial and Development Corporation and the Industrial Development Bank, to investigate all matters relating to reactivation of the company and to recommend appropriate measures to assist the firm. The committee has already begun its work. The committee has provisionally made the following three recommendations:

- (1) Equity participation be sought from ICDC and other development banks to the level of Kshs45 million, subject to establishment of the viability of the enterprise.
- (2) Investment Promotion Centre should float the project and have present shareholders enter into venture with other owners
- (3) Establishment of a new technical and financial management team.

Mr. Deputy Speaker, Sir, I would finally like to state that my Ministry plans to examine exhaustively, the measures to be taken to preserve Lake Victoria Fish Company and assist the company in implementing them.

Now that I have the Floor, may I make some brief remarks on reports carried by the media in relation to a memorandum of understanding between my Ministry and a Chinese Government company. I would like to indicate that at our invitation, a delegation of high ranking executives from CMEC International Engineering Company of China visited Kenya between on 16th July and 26th July this year, for discussions on the Busia Sugar Project, a cement plant and power generation. Officials of the Ministries of Industrial Development, Agriculture, Finance, Co-operative Development and Energy and the chief executives of the Kenya Sugar Authority, the Industrial Development Bank and ICDC had discussions with CMEC representatives. At the conclusion of the meeting, the document summarising the discussion with CMEC was prepared. The document which was termed a memorandum of understanding is to be the basis for subsequent government negotiations with CMEC of China, on their collaboration in the implementation of the projects. I would like to emphasise that the memorandum is only a discussion document and not an investment programme.

Thank you, Mr. Deputy Speaker, Sir.

Dr. Oburu: Mr. Deputy Speaker, Sir, I would like to---

(Mr. Sungu stood up in his place)

Mr. Sungu: Mr. Deputy Speaker, I had said that---

Dr. Oburu: Mr. Deputy Speaker, Sir, could you allow me to make my point first since I am not commenting?

Mr. Deputy Speaker: Order! Yes, I will allow you to make a comment or seek clarifications from the Minister. Hon. Sungu!

Mr. Sungu: Thank you very much, Mr. Deputy Speaker, Sir. First of all, I would like to congratulate the Minister and thank him very much for the very good statements and good intentions expressed in his Statement in the light of my prior statement in the last session.

Mr. Deputy Speaker, Sir, it is true that industrialisation goal by the year 2020 is a priority for the Ministry, given the reply that he has given. However, this factory is still under receivership and I remember very well that during a Presidential visit to Kisumu some time back, the President himself ordered that the receivership be lifted by the National Bank of Kenya. Upto now, the National Bank of Kenya has not lifted this receivership

and it appears that the Chairman of the National Bank of Kenya is actually going against the Presidential directives on this matter.

Mr. Deputy Speaker: Order! Order, hon. Sungu! If you look at the Standing Orders, you cannot use the President's name as your authority to make that kind of a statement but more importantly, I want you to seek clarification from the Minister on the points that he has made now.

Mr. Sungu: Mr. Deputy Speaker, Sir, the clarification that I want the Minister to make is when the receivership will be lifted on this factory which is still going to waste, despite the fact that the evaluation of the factory and its assets is over Kshs435 million and the loans outstanding are less than Kshs100 million.

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

The Minister for Industrial Development (Dr. Masakhalia): Mr. Deputy Speaker, Sir, at this stage, I would like to limit myself by saying that discussions are underway and we hope that the receivership will be lifted soon.

POINTS OF ORDER

TRAWLING IN LAKE VICTORIA

Dr. Oburu: Mr. Deputy Speaker, Sir, I wish to seek a Ministerial Statement from the Ministry of Natural Resources on trawling in Lake Victoria. We have heard official statements from the Government saying that, trawling is banned in Lake Victoria and this is rightly so, because Lake Victoria is not trawlable particularly in the Nyanza Gulf. According to navigation laws, trawling can be only done beyond five nautical miles and we know that trawling is going on despite the ban and right now, I also know that there are nine boats; that is, four at Kaloka Beach and four at Luanda K'Otieno doing trawling, destroying fishermen's fishnets, destroying breeding grounds for fish and also catching immature small fish and, therefore, destroying the fishing industry in Lake Victoria and the fishing industry is our gold, coffee and tea. It is the main source of income for our people and it is a very, very serious matter that, this is happening with the full knowledge of the officials of the Government in that Ministry and also in the Provincial Administration. So, I seek that clarification.

Thank you.

Mr. Deputy Speaker: Well, the Ministry concerned would like to respond, but at a later date.

The Minister for Natural Resources (Mr. F.P.L. Lotodo): Mr. Deputy Speaker, Sir, I was not in when the hon. Member rose and so, I do not know what he said.

Mr. Deputy Speaker: Well, you can check the HANSARD and you can respond to that tomorrow. Hon. Mwenje!

ACUTE WATER SHORTAGE IN DANDORA

Mr. Mwenje: Mr. Deputy Speaker, Sir, I rise on a point of order to request the Minister for Local Authorities to intercede on a situation which is currently prevailing and it is appalling and dangerous in Dandora. At the moment, there is not a single drop of water. I do not know what has happened. This is an area with over 400,000 residents living there and for the last three to four days, there has not been a drop of water. This morning, I visited the place and the residents were trekking very far looking for water and they have now resorted to using very dirty water, which is polluted, from Nairobi River which passes through the estate. So, I am only appealing to the Minister for Local Authorities, and I can see the Assistant Minister is here, to intercede and get the Nairobi City Council to check exactly what is happening, where the water has gone or where the leakages have come from because if the situation is allowed to continue as it is now, it is likely that a dangerous disease can easily break out from this situation.

So, I am only appealing to the Minister that this is very, very urgent and it is a matter that should be looked into today and not tomorrow because if the situation continues until tomorrow, it is dangerous. So, I make that appeal.

Mr. Deputy Speaker: Anybody from Ministry of Authorities?

The Assistant Minister for Local Authorities (Mr. Mwakalu): Thank you, Mr. Deputy Speaker, Sir. I concur with the hon. Member of Parliament on the appalling, dangerous and hazardous situation prevailing in Dandora. I am not amused and I promise that I will immediately go and pursue the City Council on this matter for an effective solution to this human problem and I will be able, hopefully, to have the situation rectified for an adequate explanation to be given to this House this afternoon.

Thank you.

Mr. Twaha: On a point of order, Mr. Deputy Speaker, Sir. We all know that the practice of witchhunting is socially acceptable among the Kisii community but is it in order for the Backbenchers from that community to hire some of these services and even abuse the privileges of this House; to discuss the conduct of a Member without moving a Substantive Motion?

Mr. Deputy Speaker: Order, hon. Twaha. You cannot malign a whole community merely because you have a problem with one. They are many in number.

Mr. Twaha: Mr. Deputy Speaker, Sir, I am discussing the practice which has become fashionable this year; of witchhunting. So many women have been burnt in that community and some of their members have been---

Mr. Deputy Speaker: Order Mr. Twaha! You first rose on a point of order to raise a matter that affects you personally. You will not go beyond that point. If you do, I have said that I will stop you in your tracks.

Mr. Twaha: Mr. Deputy Speaker, Sir, I apologise. Was it in order for hon. Henry Obwocha, on the 21st of October, to discuss the conduct of another Member mainly myself, without moving a substantive Motion?

OUT OF ORDER TO DISCUSS MEMBER'S
CONDUCT WITHOUT SUBSTANTIVE MOTION

Mr. Deputy Speaker: Order! Order! Mr. Twaha, I expect you to stand on a point of order to raise a matter that affects you personally. You cannot go beyond that matter. If you do, as I have said, I will stop you.

Mr. Twaha: Mr. Deputy Speaker, Sir, I apologise, but was it in order for hon. Henry Obwocha, on 21st October, 1997, to discuss my conduct without moving a Substantive Motion?

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

Mr. Deputy Speaker: Order! Order, Mr. Obwocha! Hon. Twaha, I did advise you that if you want to raise an issue that was discussed in this House you must quote the HANSARD, so that hon. Members can know what you are talking about, and that you have authority for raising it. So, if you do not have a copy of the HANSARD containing the offensive remarks, you cannot raise any point of order.

Mr. Twaha: Mr. Deputy Speaker, Sir, the HANSARD of 21st October, 1998, on page 49 to 50, reports him as having said the following:-

"Without us cooperating, I do not think we are going to help the economy to prosper. I have a case here of sugar imported in August, 1997 by companies called Mayo and Say Enterprises. These companies, instead of paying duties to the Government for sugar that was destined to go out of the country, they diverted the sugar into the local market. They have not paid a total of Kshs93 million. The documents are here. I have import entries Nos.3571,0060,601 and 3150. Those companies I said are Maya Enterprises and Say Enterprises. The directors of these companies are Messrs. Abu Ali, Yusuf Ali and one Member of Parliament here, who was an Assistant Minister and was sacked recently on the same issue."

Mr. Deputy Speaker, Sir, an hon. Member asked: "Who is that Member?", and hon. Obwocha replied:-

"Of course you know who he is. If we are going to have hon. Members from this side who are supposed to help the Government to get revenue and they are the same people who are violating the rules, what are we going to do?"

So, apart from the case he has in court, Mr. Twaha has another one here. I wish to lay on the Table of this House these documents for the Minister to collect money for the people of Kenya. This is Kshs93 million."

Mr. Deputy Speaker, Sir, those are the offensive words the hon. Member used against me. Also, I would like to bring to your attention the fact the hon. Obwocha brought matters which were in court to this House. That is against the rule of *sub judice*.

Mr. Deputy Speaker: Order! Mr. Twaha, Mr. Obwocha has not referred to you in any derogatory manner. He merely laid on the Table of the House documents to prove the point he was making.

Mr. Twaha: He mentioned my name, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: So, strictly speaking, you ought to have raised your objections on that very day. Regarding the matter of *sub judice*, really, we did not discuss the subject of the court case. He merely referred to the matter for his report. So, really, this is not a matter the Chair wants to get involved in.

Order! I really do not think that Mr. Obwocha was in breach of any of our Standing Orders at that particular time, but if you feel aggrieved Mr. Twaha, we can---

(Loud consultations)

Order, Mr. Members! Now, I am going to be aggrieved! So, Mr. Twaha, strictly speaking, I do not know what Standing Order you are saying Mr. Obwocha has breached.

Mr. Twaha: Mr. Deputy Speaker, Sir, the hon. Member discussed the conduct of another hon. Member without moving a Substantive Motion. That is violation of the Standing Orders.

Mr. Deputy Speaker: Order! Order! Mr. Twaha, he did not discuss your conduct. He made reference to a matter that was topical at that time.

Mr. Twaha: But Mr. Deputy Speaker Sir---

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. Is it not out of order for Mr. Twaha to speak when Mr. Deputy Speaker is standing?

Mr. Deputy Speaker: Order! Order! Mr. Twaha, perhaps, this is a matter on which we should consult with Mr. Speaker, then we can agree on how you can raise it. But I think the way you are raising it now is not proper. You have not specified the Standing Order which Mr. Obwocha has breached.

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

Mr. Deputy Speaker: Order! Order!

Mr. Twaha: On a point of order, Mr. Deputy Speaker, Sir. Would the hon. Member like to repeat what he said?

(Mr. Obwocha stood up in his place)

Mr. Deputy Speaker: Order! Order, hon. Members! You do not come here to challenge each other to go and fight outside. You can meet out there without any of us being there.

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

Mr. Deputy Speaker: Order! Mr. Twaha, if you want to engage in a physical fight with Mr. Obwocha, you do not have to come to the House.

Mr. Twaha: Mr. Deputy Speaker, Sir, we can settle the differences out of this House.

(Loud consultation)

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

Mr. Deputy Speaker: Order! Order! That is the end of that matter. There shall be no further reference to that matter. Hon. Maitha, what is your point of order?

An hon. Member: Mkutane nje!

Mr. Maitha: Mr. Deputy Speaker, Sir, my point of order concerns the Standing Orders of this House. My understanding is that a Member who mentions another Member must move a Substantive Motion. We want guidance from you in the case of hon. Twaha.

Mr. Deputy Speaker: Mr. Maitha, the fact that the Chair makes rulings does not absolve you from your responsibility to read and understand the Standing Orders. So, what Standing Order are you complaining about?

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

Mr. Deputy Speaker: Order! Proceed Maj. Madoka!

MINISTERIAL STATEMENT

SHOOTING OF MR. KITI MWANG'OMBE

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I wish to make a Ministerial Statement on questions raised by hon. Emmanuel Maitha on alleged police shooting of Mr. Simeon Kiti Mwang'ombe at Kaloleni, Giriama, and Ali Hamed at Mtondia in Kilifi District.

Mr. Deputy Speaker, Sir, on the 27th of May, 1998, at about 4.00 p.m, at Kaloleni Trading Centre in Kilifi District of the Coast Province, traders were invaded by armed raiders who robbed businessmen of cash and various goods. While still in the act, a good Samaritan rushed to the Kizuruni Police Post and reported the matter. A team of police officers rushed to the scene and confronted the raiders. An exchange of fire ensued in the course of which the deceased, Mr. Simeon Kiti Mwang'ombe and two other raiders, namely, Ramadhani Diwani Nyeka

and Kalinga Kazungu Dodi, were shot dead. Police Inquest File No.6/98 was opened for the purpose of investigation; to establish whether the circumstances under which the deceased died were justifiable. So far, investigations are at an advanced stage. The file has now been forwarded to the Provincial State Counsel, Mombasa, for perusal and direction.

On Mr. Ali Mohamed, on the 29th of May, 1998, at about 7.30 a.m, an operation team under the command of an Administration Police Inspector, Juma Mwadidima, was on patrol along the Malindi-Kilifi Road. On reaching the junction of Mtondia Trading Centre, they heard screams coming from a nearby bush, and some people were shouting: "Thief! Thief!" The police rushed to the spot and found some people beating up an alleged thief in an act of mob justice. On seeing the policemen, the people who were beating him up ran away in different directions. The policemen gave chase, but all in vain. They even fired a round of ammunition as they ordered them to stop. The policemen eventually went back to the scene, where they found the victim, Ali Mohamed, lying down unconscious with deep cuts on both legs, back, stomach, right thigh and foot. He was rushed to Kilifi District Hospital, where he died on the 30th May, 1998 while admitted there and undergoing treatment. Police Inquest File No.15/98 was opened for the purpose of investigation. So far, there has not been any success in making arrests. The inquest file has now been placed before the Senior Resident Magistrate, Kilifi, for perusal and further directions. The deceased was, therefore, not killed by the police. He was a victim of mob injustice.

Mr. Maitha: Mr. Deputy Speaker, Sir, after the clashes at the Coast Province, the police have been notorious for killing innocent people at the Coast and branding them raiders. The truth of the matter is that Mr. Simeon Kiti Mwang'ombe who was a pastor had gone to Kaloleni Trading Centre with his followers for a crusade and he was caught up in the melee of chasing those robbers. He, in fact, was killed holding a Bible; with his followers around him. Efforts to have his followers record statements about the pastor have not been successful because the police do not accept any statement from the followers at all. Even the area chief who wanted to prove that the pastor came from his area has not been allowed---

Mr. Deputy Speaker: Mr. Maitha, I did not give you a chance to debate the issue. So, really by, asking him to explain certain issues raised this morning, I think you are not fair because you are not asking the Minister a specific question.

Mr. Maitha: Mr. Deputy Speaker, Sir, I wanted the Minister to assure this House that he will direct the police in Mombasa to take statements from the followers of this pastor because they have not accepted to record any statement from the deceased's followers, Mr. Mwangombe, who was a church pastor. Secondly, Ali Mohamed was a boy from Lamu and a fishermen. He went to a mosque in Mtondia on his arrival from Lamu by boat. His family is staying in Mtondia. The policeman who shot him is Inspector Juma Mwaduma. The doctor who carried out the postmortem on the late Mohamed has given that family the postmortem report. So, the Minister should direct the police to arrest Inspector Juma Mwaduma because there is evidence. There are even suspects who had been arrested in that vehicle---

Mr. Deputy Speaker: Order! Order!

Mr. Maitha: There were suspects who were in the police vehicle and they witnessed the police officer shooting that boy. Their names are given and their statements have been recorded. Why can the Minister not direct the police to record a statement from the doctor who did the postmortem which they are refusing to do? So, it is true that the police officers killed those people who were innocent. Could you take action against these police officers who shot those people, Mr. Minister?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, today, we know that there are many comen who pretend to be pastors. If that gentleman was amongst the raiders, that does not mean that we should not have arrested him because he was a pastor. Those people were definitely involved in the shooting and he was one of the raiders; pastor or not pastor. So, he was a victim just like one of the raiders. On the other information about this other gentleman you are saying was a fisherman, the information he is giving me is different, but I have certainly taken note of it. I am also not aware that the followers wanted to record statements and they were refused. So, I will check on that one as well.

SHORTAGE OF WATER IN DAGORETTI

Mrs. Mugo: Thank you, Mr. Deputy Speaker, Sir. The question raised by hon. Mwenje about the problem of water is also prevalent in Gando in Dagoretti. I do not want to repeat the dangers because they have been so well expressed by the hon. Member for Embakasi. In Gando, there has not been water for several months and the problem is very acute. Could the Minister extend that activity to Gando and please, give us an answer together with that of the Member for Embakasi?

Mr. Deputy Speaker: Thank you. Next Order.

MOTION

ESTABLISHMENT OF PRESIDENTIAL RETIREMENT BENEFITS FUND

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House do grant leave to introduce a Bill entitled an Act of Parliament to provide for the establishment of a Presidential Retirement Benefits Fund to cater for the welfare, security, basic household, local and international travel of all retired holders of the office of the President of the Sovereign Republic of Kenya and for matters incidental thereto and connected therewith.

Mr. Deputy Speaker, Sir, I would like to begin by saying that in the Constitution of the Republic of Kenya, Section 13, it is provided that:-

"(1) The President shall receive such salary, allowance and benefits as may be determined by a resolution of the National Assembly.

(2) Where the President ceases to hold office, he shall be entitled to receive a pension, gratuity and other allowances together with such other benefits and facilities including adequate security, office, staff and travel allowances as maybe prescribed by or under an Act of Parliament.

(3) The salary and allowances payable to the President and any pension or gratuity payable to him on retirement shall be a charge upon the Consolidated Fund.

(4) The salary, allowances and privileges of the President shall not be varied to his disadvantage while he holds office.

(5) The pension and allowances payable to the President who has ceased to hold office and the facilities and other benefits available to him shall not be varied to his disadvantage during his lifetime."

Mr. Deputy Speaker, Sir, I quote this section with particular reference to subsection 2 and 5 and I would like to repeat those subsections because they are germane to the Bill I am proposing.

"(2) Where the President ceases to hold office, he shall be entitled to receive a pension, gratuity and other allowances together with such other benefits and facilities including adequate security, office, staff and travel allowances as may be prescribed by or under an Act of Parliament".

Mr. Deputy Speaker, Sir, such an Act of Parliament, as of now, does not exist. The spirit of this Motion is to allow a Bill to be introduced into this House entitled Presidential Retirement Benefits Fund so that such an Act of Parliament can, indeed, emanate from this House so that we can provide a proper place in law for the retirement of our Heads of State. Africa to-date has not been very good at looking after those sons and daughters of Africa who have served the continent as Heads of State except for the Republic of Tanzania, Botswana, Uganda, South Africa and Senegal. There are very few other African countries which have such Acts or laws that govern the retirement of their Heads of State.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, the case of Zambia is much more recent because in 1991 when Zambia had multiparty elections after several years of one-party rule, they had just proposed in Parliament a Bill that would provide for the retirement of their Heads of State. Unfortunately, that Bill was not passed before the elections were held. So, the elections were held and there was a change in the Government without provision for how the former Head of State, who happened to be President Kaunda--- When Mr. Kaunda was defeated, there was an acrimony about his retirement package. Since Mr. Kaunda and the then President Frederick Chiluba did not have a very good relationship, this thing ended in a rather shameful situation in Africa where the former Head of State, Mr. Kenneth Kaunda, was forced to live in a rented house in the middle of the City of Lusaka without proper security and without a proper provision for the dignity of a former President.

Mr. Temporary Deputy Speaker, in March 1992, as part of the Carter Centre delegation which went to Lusaka to review the progress that was being made in terms of democratisation under the multiparty rule, we had the occasion to visit the former Excellency President Dr. Kenneth Kaunda in his new residence. It was on a

Tuesday morning and it had rained, the drive-way was flooded; there was no security for the former President and the house was small. We were to meet the President in his sitting room which was no bigger than a five by five room, typical of a normal bungalow in an African city. I felt touched that whatever Dr. Kaunda had done during his term of office in Zambia--- We know fully well that he had played a very important role in the liberation of Southern Africa. I think this was not a good example of African dignity.

Mr. Temporary Deputy Speaker, Sir, in the United States of America and Mexico, the law is that the President keeps his salary and security when he leaves office. Even the former President Gerald Ford, who was President for not more than two years, the moment he left the office, he was entitled to enjoy the provisions of Chapter 2 of the United States Code of Service which relates to the office and compensation of the President. I would just briefly read that section of Chapter 2 of the United States Code of Service related to office and compensation of the President. The relevant section reads as follows:

"The President shall receive in full for his services during the term for which he shall have been elected compensation in the aggregate amount of \$200,000 a year to be paid monthly, and in addition an expense allowance of \$50,000 to assist in defraying expenses relating to or resulting from the charge of his official duty. For his expense allowance, no accounting other than for income tax purposes shall be made by him. He shall be entitled also to the use of the furniture and other effects belonging to the United States and kept in the executive expense under the White House".

That is the basic law governing the retirement of a US President. But, of course, in addition to that, there are also provisions for former Presidents' security, office staff and office facilities, the President's travel, both local and international, the former President's spouses; facilities and her staff. Of course, what happens when the former President finally passes away is that the President is accorded a proper state funeral with the dignity that he deserves.

Mr. Temporary Deputy Speaker, Sir, the amount of monies involved in US terms is not very big. But, just to give you an example, the international travel allowance for a former US Head of State is \$1 million which in Kenyan terms will be Kshs60 million at the present rate of exchange. Now, the US pays a lot of entities on the international travel of a former President, even more than the salary he used to receive in the past because former Presidents are usually used for diplomatic endeavours. For Example, if an American President would like to send strong feelers to a Head of State somewhere where US interests are involved and they would like somebody who has status in society, but not directly connected with the regime of the Government, the services of former Presidents are used. Quite often, they become very effective in quiet diplomacy. That example has been emulated in Africa with much success in places where there are proper laws governing the retirement of Presidents and what they do when they leave office. In the case of Botswana, Quet Masire is now a respected statesman and he has been used effectively by the present Head of State who was his former Vice-President for quiet diplomacy on behalf of Botswana and even for business contacts abroad. The same is the case with Mwalimu Julius Nyerere of Tanzania and Leopold Sedar Senghor of Senegal. Although Leopold Sedar Senghor is now of advanced age and spends most of his time in France, it is known in Dakar that Abdu Diop consults him very regularly, although quietly and that Sedar Senghor does lend the credibility of his office at the moment and his stature as an international statesman to undertake such responsibilities for the Republic of Senegal.

Mr. Temporary Deputy Speaker, Sir, it is to be noted that the international airport in Dakar was named after Leopold Sedar Senghor only very recently, several years after he had retired from office. This is a mark of respect that the people of Senegal have put on him, no doubt because of the services he rendered to the nation and the fact that ever since he quit that office, he has handled himself with dignity. Definitely, it was an enviable decor. The Julius Nyerere Foundation in Arusha has been used as an institution that facilitates the mediation on the Burundi problems in particular at the moment. Mwalimu Nyerere himself has offered his services to the South Commission which had undertaken several studies on the South-South cooperation on the debt burden, human rights and the current global economic crisis issues as well as elaborating on the problematic globalisation issue.

Mr. Temporary Deputy Speaker, Sir, President Nelson Mandela is already looking forward to giving guidance to the Renaissance Foundation being established in South Africa when he retires. The Renaissance Foundation will seek to guide Africa intellectually into the next millennium. In all these cases, where former Presidents have been useful to their nations as well as Africa, you find a common factor: That in all these cases, those countries have proper laws governing the lives of their former Presidents and what they do. Indeed, they are given proper salaries, pensions and facilities in line with their dignity and their service to their nations in the continent of Africa.

Mr. Temporary Deputy Speaker, Sir, we see all this could not have happened to these Africa State Presidents had they not had the stability of retiring enshrined in their own laws and in their own political culture

and in a tradition of smooth succession in the Presidential office. Therefore, the object of this Bill which I have already passed to the Attorney-General and the Speaker of the National Assembly--- If I could read the memorandum of objects and reasons, which is very short, it states as follows:

"African countries are notorious for mistreating their Heads of States and Government when they relinquish their political power by whatever means and/or reason except in those few cases that I have mentioned. Section 13 of the Kenya Constitution states that where the President ceases to hold office, he shall be entitled to receive a pension, and gratuity and other allowances together with such other benefits and facilities including adequate security, office, staff and travel allowances as may be prescribed by it under an Act of Parliament.

A retired President is and must continue to be a national institution in the interest of continued peace, stability and national security. The enactment of this Bill will result in a major expenditure of public funds which shall be justified by the respect and stability in the institution of the Presidency and should be provided in annual estimates of the Republic of Kenya. I would like to emphasize the concept of the institution of the Presidency. In discussing a Motion like this, and in enacting a Bill like this, we should not personalise the issues. We should look at the institution of the Presidency, no matter who holds it. We are acting for purposes of making history, for the posterity and for purposes of establishing a tradition which will be Kenyan and which will be in line with what has now been done in those African countries which we do admire and respect for what they have done in stabilizing the Office of the President.

Mr. Temporary Deputy Speaker, Sir, one may think that in future, and indeed presently, Kenyans may propose that rather than have a President, we should resort to a Prime Ministerial system of Government like in the United Kingdom. Therefore, we should think of that in proposing a Bill like this. I do not think that were we to adopt a Prime Ministerial system, this law would change that much. It would have to be amended *Mutatis Mutandis* to apply to retired Heads of Government, should they be called Prime Ministers or any other ---. That indeed, is no reason why we should not deal with the reality as it is today and provide for it accordingly in the laws of Kenya as provided for in Section 13 of the Constitution of the Republic of Kenya.

Mr. Temporary Deputy Speaker, Sir, I will leave it to the Seconder of the Motion, hon. Moses Muihia, to go into details of what is provided for in other African countries, for example, South Africa which I think is very relevant to our case. I think he will also go further and explain why in the context of the present constitutional reform talks, passing a Bill like this at the moment would be in order; because the Constitution has been with us since 1963 and this thing has always been provided for in Section 13 of the Constitution and for one reason or the other, we have never actually woken up to the fact that we should enact it. But I am pleased that having had discussions with the Attorney-General, he appreciates the importance of this Motion and the discussion of a Bill like that and I do hope that once passed, it will go into the coffers of the laws of Kenya and, indeed, in future it will have a positive effect in the exercise of power in the Office of the President because it will give holders of that office the idea and a feeling that their services are appreciated, not only when they are effectively holding that office but even when they will leave it.

Mr. Temporary Deputy Speaker, Sir, this is important, just like when we were discussing the Retirement Benefits (Amendment) Bill, we noted that when people are working, they render better services when they know that, that work is also an investment into the future. If there is no provision like this, there is a tendency as has happened in other African countries that too much stress is put on the holder of that office. Somebody holding an office as important as a Prime Minister or a President should, indeed, be given the latitude to devote his time to working for the nation and not to worry too much about where the dollars, cents, shillings or pounds are going to come from when he quits his office.

Mr. Temporary Deputy Speaker, Sir, many Heads of States cannot behave like Jesus who said that you should not worry about tomorrow because birds of the air do not know where they are going to live or where they are going to lay eggs. But I think Jesus was wrong. We see birds of the air very busy building nests and very busy migrating to other climates when the weather changes. So, birds of the air too, do worry about the future and this is the only case where I could take Jesus to task over this issue. But since he was the son of God, perhaps, sometimes it is irreverent to say things like those ones.

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. With due respect to my friend, hon. Prof. Anyang'-Nyong'o, I think it is wrong for him to say Jesus was wrong. Jesus was never wrong because his was Biblical, religious and he was very correct.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I had not known that my friend, hon. Mwenje, had been canonized. But indeed, if that is his interpretation of the Bible, I would rather respect the opinion of my hon. friend on the opposite side of the House, Maj. Madoka who, indeed, has much more better credentials to speak on behalf of Jesus Christ than my friend over here!

Mr. Temporary Deputy Speaker, Sir, let me add too that one of the consequences of giving the Office of the President such a package is also because retired Presidents should be reservoirs of tradition. They should be reservoirs of knowledge and collective memory. When a President retires, he should have time, space and resources to reflect, write and build a library, so that when he finally passes away, such an institution becomes a shrine. They become part of the heritage. The Ministry of Home Affairs, National Heritage, Culture and Social Services would have more work to do were they to have libraries that have been bequeathed to the nation by former presidents.

Mr. Temporary Deputy Speaker, Sir, in Latin America and even in Western countries, this has really been very good. I visit the centre that Louis Echeverria of Mexico built after he retired as a President. It became a Third World Centre for learning, research and exchange of views. I think this is why Nelson Mandela is now proposing the Renaissance Foundation, so that all that experience he has had as Head of State is put in one place and becomes part and parcel of building that institution. Without this kind of package, we will lose that kind of benefit from former presidents.

With those remarks, I beg to move.

Mr. Muihia: Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion on the Presidential Retirement Benefits Fund.

Taking into consideration that this is something new in the African Continent, Prof. Anyang'-Nyong'o has taken us through the benefits and the importance of having to protect the Office of the President when he retires or is defeated. Many African Heads of States have resorted to fighting and trying to die in office because they fear for their security after retirement. But I believe that if we give the President a leeway or an assurance that after retiring, he will continue to enjoy the benefits of his sweat, we could get into a position where the sitting President, if he finds that he is not able to steer the country properly, he could decide to retire and enjoy the benefits of the Pension Fund.

Mr. Temporary Deputy Speaker, Sir, in the South African case, an Act of Parliament has been enacted which proposes that the President shall be paid part of any privilege which he or she may enjoy, such as salaries and allowances as may be determined from time to time by the resolution of the National Assembly after taking into consideration "The recommendations of a Commission which will give the latitude and the amount to be paid to such persons."

Mr. Temporary Deputy Speaker, Sir, this Motion is taking into consideration the role, the status, the duty and the responsibility of the President in a country. We all know that it is not so easy to rule a country. The President can make mistakes like anybody else. It is, therefore, for this reason that we urge this House to pass this Motion, so that once the President retires, he remains as a role model and works with the future President in order to steer the country out of any difficulties.

Mr. Temporary Deputy Speaker, Sir, in the same case as South Africa, the remuneration of this highest political office bearer should be determined from time to time. We are proposing that the President of this country be encouraged by being well remunerated so that he does not stay further or longer than necessary in the office. Once the President retires, he should remain in the country so that he works with the sitting President. He should resign from his political party so that he can be able to advise the party in power, advise the Government of the day and the Opposition parties on the way forward.

Mr. Temporary Deputy Speaker, Sir, I want to seek the indulgence of this House to go carefully through this Motion, so that, at the end of the debate, we convince ourselves that this is an important Motion that should be passed by this House. We do not want to personalise this issue on the current President because, if the Motion of No Confidence passed in this House on 15th of this month, then the current President would not have enjoyed the retirement benefits. In such circumstances, if he knows that after retiring or losing an election, he will continue enjoying his retirement benefits including the provision of medical facilities, I am sure this country will be different. I feel it is high time that we all agreed to give the President, by law, the retirement benefits.

Mr. Temporary Deputy Speaker, Sir, it is not hard for hon. Members to conceive this notion and nurture it because, future presidents, for whom we have not had an experience, may want to retire early. It is for this reason that I would like to ask this House to consider this Motion positively without thinking about the current President or the past President. But let us think about the future of this country. Let us think about the future of the Presidents of this country and the development role that they will play in our country after they have retired.

Mr. Temporary Deputy Speaker, Sir, South Africa is a young nation which is doing very well in democracy and it has embraced the notion of giving sitting Presidents future security. I think this is where we have a problem in this country. If we can assure our President of future security after his retirement, I think he will move very fast in the proposed constitutional review process, which I find him resisting very strongly. The President does not want a Constitution based on the people of this country. At every stage towards achieving this

constitutional change, there are roadblocks. I think if the President knows from today that this House has passed this Motion, he will let constitutional review process be debated by all Kenyans and not a few individuals so that we lay the contract between the governor and the governed. This Parliament should only be used to enact that "contract" which the people of Kenya will have agreed upon.

Mr. Temporary Deputy Speaker, Sir, with those few words, I beg to second the Motion.

(Question proposed)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me an opportunity to respond to this extremely important Motion. I would like to put on record my appreciation to the Mover of the Motion for having thought of bringing this Motion which if passed, will enable him to bring the Presidential Retirement Benefits Fund Bill.

The institution of the Presidency is a very important institution in our constitutional framework. The President is the Head of State. The Head of State, in any country, is really the focus of the national aspirations of the country. The Head of State is the symbol of unity in the country. In fact, the Head of State is a facilitator of enabling social cohesion to emerge in any country. Therefore, we are talking of a very important institution. We are talking about this institution, at a time now when we are engaged in an important constitutional and legal review exercise.

Mr. Temporary Deputy Speaker, Sir, we shall be removing those laws which are obsolete. We shall also amend or modify those which meet the needs and aspirations of modern Kenyans. It is even more important that in this process of legal reform. We shall be breeding new laws which are not even in the statute books, but are necessary. This is because either the Constitution demands that we must have them in our statute books or because of the complex society that we have now. The new circumstances demands that we have new legislation. One of those laws that we must have, because the Constitution demand that we have it, is the law to regulate and govern the presidential retirement benefits.

It is true that we do not have these laws in our statute books but I can assure this House that the Government was in the process of considering them. If I may draw the House back a bit to the period prior to 1991, we will note that the then Constitution, Section 13, really made a passing remark, if I may say so, on the issue of the Presidential pensions. Section 13(1) states that:

"The President shall receive such salary allowances and on retirement such pension, gratuity or allowances as maybe determined by a resolution of the National Assembly."

It was a simple statement in the Constitution at that time. All that it required upto 1991 was a resolution of the House to determine the emoluments and retirement benefits of the President. In 1992, this House passed a slightly more elaborate provision to do this. It did so because of the importance of the Bill that we will discuss now. Under Section 31(1) of the Kenyan Constitution the President will receive a salary. In subsection 2, it is stated that:

"When the President ceases to hold office he shall be entitled to receive a pension, gratuity and other allowances together with such other benefits facilities including adequate security, office, staff and travel allowance as maybe prescribed by or under an Act of Parliament."

The National Assembly amended the previous Section of the Constitution because of the importance of the Bill we are discussing today. Our current Constitution has a more detailed provision on what must be included in the Act to be passed by this House. The current Constitution states that it is not just enough for Parliament to prescribe these benefits by its resolution as it was before. Parliament must do so by its Act. Therefore, I would like to inform this august Assembly that it was at the time when the Constitution was being amended to have a more comprehensive section dealing with the matters that we are discussing that the initial drafting of a Bill on this matter began. Of course, we have not yet introduced this Bill to this august Assembly, neither has that preliminary draft gone through the various stages it is supposed to undergo, namely, through the Cabinet and then the National Assembly. In the spirit in which we want to deal with this important issue, although we have done this, we on the Government side will support this Motion by hon. Prof. Anyang'-Nyong'o. One of the reasons why we are lending our support to it is because of the importance of the Bill that we have to discuss. We will not want it to be discussed in a manner which will create bad blood between the two sides of the House. We would like this Bill to be discussed in a manner which will unite the House as regards this important institution of the Head of State, and what his benefits ought to be when he retires. Therefore, I will propose an amendment to the Motion. I am pleased to inform the House that I have discussed with the Mover of the Motion--- I think he is in agreement with what I am going to propose.

Mr. Temporary Deputy Speaker, Sir, I will propose that we add the words "in consultation with the

Attorney-General" between the words "introduce" and "a Bill" in the first line of the Motion, so that it will read: "This House do grant leave to introduce, in consultation with the Attorney-General a Bill entitled"--- This means that we shall hopefully, and I believe we can in these consultations, agree on the provisions of this important Bill. When the Bill will be brought before the House, both sides of the House will be united on it and will pass it in an atmosphere in which the respect and honour, which is due to the Head of State, is given.

The Mover and Seconder of the Motion have gone into the details of the justification of this Bill. The most important justification is that this is, indeed, a requirement of our Constitution. They have given many examples where various National Assemblies in other African countries have passed laws of this nature. For example, we have South Africa and Tanzania. In Tanzania, they have gone a step further in that they do not only have an Act in relation to the President's retirement benefits, but their Act also caters for the Prime Minister and the Deputy Prime Minister. They have gone a step further by having a separate Act all together on the retirement benefits of all constitutional offices. This Act covers offices such as those of the Attorney-General, the Auditor-General, the Head of the Public Service and Secretary to the Cabinet, the Commissioner of Police and other offices. I would like to inform this House that in due course during the life of this Parliament such a Bill, which will cover all those constitutional offices, will be brought to this House. Of course, Zambia now has those provisions. Uganda and Botswana have those provisions and so on. It has to be shown worldwide and here I would want to agree with the Mover of the Motion that the former Heads of State and the Government have within them a great wealth of experience which should not just die with them but which can be utilised to solve some of the outstanding problems, not only nationally but also internationally. It has now become a practice at the regional level, at the Organisation of African Unity level and also at the United Nations level, to appoint former Heads of State to look into some of the big problems that we do have in the world today. The example of ex-President Julius Nyerere as far as the Burundi affairs are concerned comes to mind. Another example which is not so well known is the appointment of Masire, the ex-President of Botswana, to look into the whole situation of the Great Lakes Region. The OAU has appointed him as the chairman of the community of persons to look into the problems of the Great Lakes Region. You may recall that the current Secretary General of the United Nations appointed what was called a committee of eminent persons which I was privileged to serve but which was chaired by the ex-President of Portugal Mr. Mario Soares and amongst whose members were the immediate ex-Prime Minister of India, Gujral and the immediate Prime Minister of Jordan, Mr. Karipati.

It is now realised that the experience which the former Heads of State have is one that can be used to solve quite a number of problems which are confronting the society both at national and at international affairs.

I have moved an amendment to this Motion. I do not want to take much time. The Motion is self-evident. We are of course, as you know, carrying out a process of constitutional review and I was going to table in to this House an amendment to the Constitution of Kenya Review Commission Act. Amendments again which have been agreed upon at the various meetings and consultative forums at Bomas of Kenya and Safari Park in the spirit in which all of us sat down and agreed. Those proposals are coming here. The Mover can borrow a leaf from there so that he can bring a Bill which has been agreed upon by both sides.

I know, particularly having looked at his draft that there ought to be no problem really in agreeing to that Bill. There is not really much difference between what he is thinking and what I am thinking about. We have a number of precedents to go by. I do not see how we can fail to come to this House with an agreed draft on this important topic.

Therefore, with those few remarks I beg to move the amendment.

The Minister for Planning and National Development (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I do rise to second the amendments that have been moved by the Attorney-General. I agree that it is refreshing to note that this very important Motion has been moved by Prof. Anyang'-Nyong'o; from the other side of the House. Why I feel that these amendments need to be supported is almost the same spirit that I suppose Prof. Anyang'-Nyong'o brought this Motion, namely, it is the institution of the Presidency that we are discussing about and its own preservation, the tradition and experience. From that point of view, it cannot be looked at from a partisan point of view. But I think that is the position that the Attorney-General has tried to underscore in these amendments; namely, once the Bill is prepared, it is important that it should be prepared with the consultation of the Attorney-General. What we want is a comprehensive Bill which will have taken into account the experiences of other countries and when that Bill does come here, it is not going to be a partisan Bill. It will be a Bill of Parliament to be agreed to by the two sides of this House, by virtue of the fact that the Presidency is a unifying factor. So, to that extent, I am glad that the Mover of this Motion has already intimated his own consent to the amendments; namely that, they will work with the Attorney-General so that we do have something which is acceptable to both sides of the House.

Mr. Temporary Deputy Speaker, Sir, as the Attorney-General has said, there is already a framework

under the current Constitution as amended in 1982, which is in recognition of the fact that an ex-President would need the House to work out a proviso for the various benefits. I believe what is envisaged is that a Bill will, therefore, be brought here. This is just as well as we do deliberate on this one here. In agreeing to this Motion, what are we agreeing? We are setting the evolution of democracy in this country and, at the same time, we are also trying to ensure that we also do what is done in many other countries. In modern democracies, when a President, or for that matter, a head of a Government or a Prime Minister retires, there is normally a provision spelling out clearly what the retirement benefits are. They are supposed to make recognition of the fact that somebody who has served as Head of a Government or a President, has in the process of execution of his duties, acquired substantial knowledge and experience. That experience and knowledge should not just be wasted away. When such a personality retires, he should remain as a reservoir of knowledge and experience. Much more important, it will, therefore, be a tradition. That is what has been done all over the world.

Therefore, Mr. Temporary Deputy Speaker, Sir, I beg to second the Motion as amended.

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

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, we are saying that we are supporting this Motion because we are considering it to be one of the most important Motions to be brought before this House. It is true, as the Attorney-General has said, that Section 13 of the Kenya Constitution was amended by Act No.6 of 1992, to provide that where a President ceases to hold office, he shall be entitled to receive a pension, gratuity or other allowances, together with such benefits and facilities, including adequate security, office staff and travelling allowances, as may be prescribed by, or under an Act of Parliament.

Since 1992, when this amendment was passed, this Parliament has not passed the law to implement that particular amendment. The Motion, and the Bill which is proposed to be brought by Prof. Anyang'-Nyong'o is to implement Section 13, so that we can have a law which provides for retirement benefits for any President of this country.

Mr. Temporary Deputy Speaker, Sir, I am happy that the Attorney-General is supporting this Motion. This is because, in fact, it is his constitutional duty to implement the Constitution. It is the duty of the Attorney-General, as the Chief Legal Advisor of the Government, to read the Constitution. It is also his duty to implement the Constitution. The question is: Where has the Attorney-General been since 1992? The Attorney-General should not have waited to be woken up by Prof. Anyang'-Nyong'o. He should have brought this Motion in the last Parliament, when we were here. So, while we thank him for supporting the Motion, we feel that we should make this point: That the Attorney-General should read the Constitution and make sure that whatever provisions require to be implemented within the Constitution, are implemented. He should not wait until he is prodded to do so by the Opposition.

Mr. Temporary Deputy Speaker, Sir, I think Prof. Anyang'-Nyong'o made an important point about the concept of the Presidency. As we talk about this Motion and the Bill, many people are going to have President Moi in mind. So, they think we are creating retirement benefits for President Moi. Well, President Moi will benefit from the law, merely because he occupies the Office of the President. There will be other Presidents after President Moi, who are also going to benefit from this law. We do not know who is going to be the President after the year 2002. This President could be Biwott, Kibaki and even Kiraitu can!

(Applause)

So, we are looking at the future of this country. I would like Kenyans to look at the law in that broad perspective, and not to think that we are merely creating benefits for President Moi.

Mr. Temporary Deputy Speaker, in many African countries, especially in the late 1970s and 1980s, many sitting Presidents declared themselves to be Presidents for Life. You remember the most famous case of Kamuzu Banda. Once a President became President for Life, there would be no way of that President retiring, unless he is forcefully retired through a military coup.

Mr. Temporary Deputy Speaker, Sir, in the 1970s and 1980s, coups became very fashionable in Africa. The only way to remove a President for live from office, was to terminate his life.

Once one became a President through a military coup, there was also no other way of removing him from office except by staging a counter-coup. So, one could only be removed from the Presidency through a coup or a counter-coup. This created a cycle of violence in Africa and made our politics very bloody. All the refugees that we get in the African continent are partly as a result of the political instability brought about by endless cycles of

coups and counter-coups.

Mr. Temporary Deputy Speaker, Sir, the question one needs to ask himself is why do Presidents want to be presidents for life and why do we not provide for retirement benefits for presidents? Once one became a President, the future immediately became uncertain, because we did not have examples of former presidents walking around. Now we have several examples, like Mwalimu Nyerere, Mr. Masire, Sengor and we would like to add to that list.

Once one was in the Office of the President, he had to steal and loot because there were no provisions made for him. That is why Mobutu ended up controlling more than half of the resources of the country, as an individual. He was looking into his retirement. Through this Motion, we want to stop that culture. Here in Kenya we do not want to kill our former Presidents. We do not want our former Presidents to live in misery. Idd Amin is a beggar in Saudi Arabia. I do not want to hear that hon. Kiraitu, who was the President of this country ten years ago, is now a beggar somewhere. We want former Presidents to live here, be respected elders and we want to consult them and I think this Motion will achieve that.

We also support this Motion because we think it is critical for the consolidation of democracy and civilised politics in this country. We in the Opposition have contributed a lot to the tension in this country. We have hardened the heart of President Moi and strengthened his resolve to remain in office by political rhetoric. When we go to our meetings, we always say that "President Moi will be looking after goats in Baringo next year".

People do not want to live miserable lives. I am sure President Moi would not like to go and look after goats when he leaves office. I think this Motion should encourage both the current President and the future Presidents to retire when time comes because they will be assured of good lives after Presidency.

As of now, we have no lives after Presidency. The Presidents have no lives after Presidency. That is why they are insisting on sticking in the offices and using all manner of tricks to remain there.

I think this is a very important Motion in that respect. We also support the Motion because this office is a very dignified office. We would like the President, if possible, to keep his salary, his security, have travel allowances and have something to look forward to after retirement.

We have not done much on this one. This is a good idea but we should wait until we finish with the process of Constitutional Reform and write this as one of the clauses in the Constitution. But I think the Constitutional Reform is not going to be a panacea. It is not going to solve all the problems of this country. Just as we are carrying out the Constitutional Reform process, we should also continue, as a Parliament, to do legal reforms to support the Constitutional Reforms. This particular Bill should not wait until we enact the Constitution. If we pass a different Constitution I do not foresee us abolishing the Presidency. We might restructure it. Whether we call this person a Prime Minister or even a Sultan, or whatever, all we need is to change those titles but the idea of providing for a future; the idea of providing a pension and retirement benefits should continue. So, I think it is a very good Motion and I am pleading with every hon. Member in this House to support it.

With those very few remarks, I beg to support the Motion.

The Minister for East African and Regional Co-operation (Mr. Biwott): Thank you, Mr. Temporary Deputy Speaker, Sir. This Motion is definitely very, very important. As moved by Prof. Anyang'-Nyong'o, it was not going to succeed because the provision is there and the Presidential Retirement Benefit Fund has to be implemented. Therefore, the amendment by the Attorney-General makes it real; because it is the Attorney-General who will introduce that Bill to implement Section 13 of the Constitution.

The previous speaker who has spoken here was thinking more about Meru, maybe, a little lower down where goats are being herded and so on, than talking about Parliament as we are here today. The reference to the President and goats all the time, I think, is very cheap. Also, the question of sticking to power does not arise because the President has always won outright through the ballot and the term is very clear; it is a five-year term. The retirement period is also provided for in the Constitution.

I think the spirit of the Motion is good. We need to have predictability of the future. We need to know---

Dr. Kituyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order hon. Biwott to refuse to understand the logic of hon. Kiraitu Murungi, or wants to purchase cheap publicity, starts denigrating a very light touch mention that we do not want the President to go and herd goats like other old men do in Turgen, to be meaning cheap politics on the part of hon. Murungi?

The Minister for East African and Regional Co-operation (Mr. Biwott): Mr. Temporary Deputy Speaker, Sir, I thought the hon. Member was a lot more cleverer than what he has just contributed at the moment. But anyway, we are talking about a very good Motion. A Motion that looks into the future and which talks about the security of the future; that a President who has sacrificed so much will retire, knowing well that the work he has done for his own people is appreciated and is taken care of. It is also a mark of responsibility on the part of Kenyans because somebody who caters for his father and the old, is somebody who appreciates life, and his own

heritage. The Kenyan heritage is such that, the care of those who have contributed so much, is well appreciated. Therefore, I think it is important that we introduce this Bill. As the hon. Member who has just spoken before me said quite rightly, this section does not require implementation of the Constitutional amendments. It is something that the Attorney-General can implement right away by introducing an Act of Parliament as suggested in Section 13 of the Constitution.

Mr. Temporary Deputy Speaker, Sir, there are incidents in other countries where they have had to embarrass their own leaders after contributing so much. There are incidents also of countries where they have catered for their presidents. We have been given examples of our neighbours, especially Tanzania, which is more or less ahead of us in this particular aspect. But we have also other countries like America, where a president is assured of the future. He is assured of a library, protection, continued service and privileges. He is also assured of the possibility of being called upon to provide extra services when required. He is a person who has so much respect among his own people.

Mr. Temporary Deputy Speaker, Sir, the Kenyan aspect is necessary because it will be one thing that will put Kenya one step ahead in its programme of development. Usually, a president retires when he has done so much and he is ready to rest and complete his remaining life peacefully. He hopes that, by then, he will be able to go back to his private life and enjoy himself and provide service, as and when he is called upon to do so. He is also available for consultation. As the Attorney-General has said, usually, people who have become presidents have acquired a lot of knowledge. They have acquired so much knowledge that it will be a shame if people neglected to use that knowledge, especially for the incoming president. I think he will find it more rewarding to consult from time to time, as time requires, or as circumstances dictate. For example, one could ask; "when you were in office you dealt with this problem, I would like to do A, B, C, and D but I would like to know more about some aspects of it". I think that is a very, very important contribution which a former president can provide.

A former president also will be useful in his party, as a consultant. He can also be useful as we have a particular case at the moment, in East Africa, where Mwalimu Julius Nyerere is playing a crucial role. He is playing a crucial role in the search for a solution to the Burundi problem. He is also consulted on aspects that relate to the least developed countries in the South-South Commission. He also gives lectures in various places on the African political development as he sees it himself.

Mr. Temporary Deputy Speaker, Sir, I believe that Kenya can offer more because Kenya has got more experience. I believe that Kenya has proved to be a more stable, viable, progressive and developed country. Therefore, any President of Kenya, beginning with President Moi, will be useful in future. And whoever succeeds him thereafter, from the KANU party, because it is the only viable party and the only party of the future, will be able to continue to offer advice and viable leadership ideas that hold our society together; ideas that can promote unity, peace and social development so that the people of Kenya can improve the welfare and alleviate poverty as is the case at the moment.

With these few remarks, I beg to support.

Mr. Kajwang: Thank you Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I just wanted to say that this is one of the most important Motions to come to this House in this Session. It is appalling that since Independence, we have had this section in our Constitution providing for emoluments and retirement of presidents, but not one Attorney-General ever brought this. The reason is that, no president ever thought of retiring. You were not supposed even to assume that a president could retire. In fact, if you talked about retirement during Njonjo's era, it would have been treasonable. It is good that this country has moved several steps and now we can stand up here and talk in a friendly manner about the retirement of the President. In fact, hon. Anyang'-Nyong'o would have been thrown into the dungeons of Nyayo House very fast for thinking of such a Motion.

Mr. Temporary Deputy Speaker, Sir, look at the most recent retiree, Cardinal Otunga. When he retired, he decided to leave his official residence to go and stay with some old men in some institution. I looked at Cardinal Otunga and our President and I wondered, when our President retires, where does he go? It is because we do not provide that presidents now have to look at their future. Do they run out of the country so that they take money abroad? Do they grab so that they have a lot of money? But if our presidents were provided for properly, somebody would love to retire so that they do not have to hold that big responsibility over their shoulders and still live well and be called upon to advise young people and offer guidance to governments and government departments.

Mr. Temporary Deputy Speaker, Sir, I also wanted to speak about the burial of presidents. I went to Ghana sometimes last year, and I realised that when Kwame Nkrumah died outside the country, his body was brought to the country and buried in his home village. For many years, visitors to Ghana would go to his home village to see the mausoleum. This is because it was a symbol of unity. Then the present President brought that

body to the centre of the city. Now it is a museum. I paid some little money, went in and saw where he was buried. We were shown some videos and photographs on his life. It is a good thing for a country. That is one site where if you go to Ghana, you would want to go and see. I would even urge that we do something about our mausoleum here, so that we can also go and see it. I have never stepped there and I do not want to die before I step there. Even as a Member of Parliament, I have not stepped there. We want to see where our former President is buried. It is a national shrine and we want to be proud of it.

Mr. Temporary Deputy Speaker, Sir, just one thing about the Office of the President. The Constitution provides that the holder of that office shall not hold another office for profit. So, if you tell somebody that: "If you are in office, you are not going to do any other business, you are not going to earn another salary; this is your salary," and you do not provide on how he will survive after that, it is a terrible thing, and that is why most presidents do not want to leave office. We should have thought about it before, but it is good it has been brought and we should not wait for the reform process which will take another three or so years. We should make it good for the President, even the holder of office now, to say: "I am tired, I am going home, I think I should live a peaceful live," and somebody else takes over. I was looking at the draft of Professor Anyang'-Nyong'o. He has provided for the spouse of the President. In fact, the spouse of the President is also a number two in the management of the affairs of the country when the President is alive. When the President retires, she should not immediately go into oblivion and poverty. She should herself be going round in seminars, giving lectures and also attending to--- But I wanted to add that we are Africans; we should provide for two spouses for the President, so that the other one can also enjoy.

Mr. Temporary Deputy Speaker, Sir, on security, it is important to have security for a former Head of State. You will realise that there are some people who would want to kill a President, not because he hates him, but because he wants to go into the annals of history as the one who murdered him. So, a President who walks in the streets happily would get somebody to murder him so that he goes into history. Look at what happened to the Pope. Somebody wanted to murder the Pope, not because he hated him, but because he wanted his name to remain in history as the one who knifed him. So, we need security, not only for the President and the Prime Minister as the Attorney-General was suggesting, but for all constitutional offices. People are forgetting that a Member of Parliament holds a constitutional office. That is why some of us do not want to leave Parliament. If I knew that if I leave Parliament I would still enjoy certain benefits, I would do my job for five years or ten years, then I go home and relax. But because we do not provide for MPs, an MP wants to be an MP for life, and of course, if you provided well for the Attorney-General, he would not want to hold that office forever. He would definitely want to go home and enjoy.

But one thing which must be provided in that Bill when it comes, is that a former President shall not ally with his former party. We are giving him this job not because he is the head of KANU or NDP or any other party. We are giving him this security because he is a Head of State. That is the problem with Kaunda and Chiluba. He wants to be given his money and he is still the President of UNIP. So, Chiluba is saying: "If I give you this money, you might use it to benefit your party. So, you retire from politics." But he says: "Give me the cheque, then I leave." It is a big problem. So, we should provide in that Act that a President shall not participate in any party politics when he leaves office and if he participates, then we do not give him the money. We should also provide that a President who siphons money abroad and loots the economy should not be given this money on the resolution of Parliament.

Thank you very much.

The Minister for Water Resources (Mr. Ng'eny): Thank you Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion. First of all, I would like to take this opportunity to thank Professor Anyang'-Nyong'o for moving this Motion. I think it is one of those occasions where members of the Opposition have brought a very good Motion and I would like to say, thank you very much on this occasion.

Mr. Temporary Deputy Speaker, Sir, this Motion is extremely important for many reasons. One of the reasons is that, the institution of the Presidency is synonymous with the nation. There is no nation like Kenya if we do not have the institution of the Presidency and sometimes when the hon. Members of this House speak in a manner that dilutes the importance of the Office of the President or the institution of the Presidency, it makes it difficult for Kenyans to understand what is the philosophy; what are our objectives and what is our aim.

Mr. Temporary Deputy Speaker, Sir, you will recall that many of us during our school days, read history about Francis Drake and Magellan travelling from Portugal, Spain, UK and all those places. They were doing so because they wanted to honour their country. They wanted to glorify their country and their King or their Queen. However, we as Kenyans sometimes fail to appreciate those points which are very crucial and we go into very little things of belittling our own institutions. If you belittle the institution of the Presidency, then we are also belittling ourselves even as Members of Parliament.

So, I support this Motion wholeheartedly, because it is building our nation. It is going to insure our future. It is going to insure our children. We are not talking about personalities. We are not personalising issues. President Moi is here today and the next time it will be somebody else. However, we are talking about the Office of the President or the institution of the Presidency and we should do so. I was happy when the Attorney-General said that he is going to review the other offices, so that these Kenyans feel comfortable. A Professor should also feel comfortable so that, he feels that Kenyans appreciate his work and output but we Kenyans have started from the top and we are going down. Even if a good engineer discovers something, we do not appreciate that he has done a good job. If a doctor discovers some medicine, we do not even recognise that as Kenyans. If somebody has done anything even if he is a good administrator, we go and shout at him. That is why I am asking: "Where is our patriotism in Kenya? Where has it gone?"

Mr. Temporary Deputy Sir, this is a good Motion and I would like to say that I support it wholeheartedly, because it is going to build this nation to be one country with patriotism and we are going to be sure that anybody who is coming will be assured of security and peace of mind.

With those few remarks, I support the Motion.

Mr. Imanyara: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support the Motion.

Mr. Temporary Deputy Speaker, Sir, I would like to thank hon. Prof. Anyang'- Nyong'o for bringing this Motion to this House, and for the sense of decorum with which he moved it. Let me also congratulate the Attorney-General for supporting this Motion, and undertaking to work in consultation with its Mover in presenting the Bill. I think hon. Biwott got it wrong when he said that the Bill will be brought by the Attorney-General. The Attorney-General said clearly that he will consult. He said that the amendments he moved will provide for consultation with him before the Bill is presented to this House for debate. We, in FORD (K) wholeheartedly support this Motion. We think that it is long overdue.

Mr. Temporary Deputy Speaker, Sir, Kenya has stood out as an example of constitutionalism at work. In 1978, many thought that this country would collapse. The question that used to be asked at that time was: "After Kenyatta, what next?" This was because we had come to associate the nation with the person. We have come to a stage when we can build our own institutions. We have spent many years trivialising the Office of the President. A time has come for us to build upon the institutions that differentiate this country from countries that have yet to emerge to constitutional form of Government. We have come to a stage where we must build upon those institutions that have set apart this country. One of those institutions is the Office of the President. This Office is not about Kenyatta or Moi. It is about a person who has a constitutional obligation to lead this country. If you look at the Constitution of Kenya, you will realise that all the arms of the Government recognise the Office of the President. The legislative powers of this nation lie in Parliament and the President. The executive powers lie in the President and the Cabinet. In appointments to the Judiciary, the Office of the President is the apex. It is an institution that this country must be proud of. It is important that we create the necessary environment for the holder of this Office. The current holder of this Office has publicly stated, on more than one occasion, that he does not intend to stick to this Office when his term ends. Therefore, it is important for us, as Parliamentarians, to create the environment that respects the institution of the Presidency, so that when the current holder of that Office retires, the Office remains with the dignity that attends to the institution.

Mr. Temporary Deputy Speaker, Sir, we have been given many examples of good use to which holders of the Office of the President can be put to when they leave office. Examples are found in the East African region in the person of Mwalimu Julius Nyerere, and in South Africa would be in the Renaissance Foundations that Prof. Anyang'- Nyong'o was talking to us about. It is time for the Attorney-General to come up not only with the Presidential Retirement Benefits Bill that he talked about, but also with many other Bills that will prepare this country for a peaceful transition. For too long, we have been led under one-party institutions. We removed Section 2(A) without introducing the necessary constitutional amendments to create a multiparty environment in this country. This is the first of the major amendments in our constitutional set-up that needs to be brought here. We expect that the Attorney-General will move with speed to bring the others.

Mr. Temporary Deputy Speaker, Sir, what we have learnt over the last six months during the constitutional reform talks is that consultation is the way forward. But consultation will not necessarily bring the kind of constitutional reforms that we require. Even before the Constitution of Kenya Review Commission Bill, which the Attorney-General has undertaken to present to this House comes up for debate, we need to look at several other constitutional areas that require immediate amendments. This is one of them. We must congratulate hon. Prof. Anyang'-Nyong'o for bringing this Bill, and we do ask the Attorney-General to quickly bring here the other Bills, so that by the time we go into the constitutional reforms process, we will have the necessary climate to create the environment that will give us a constitution that is not only people-driven, but also one that will live long after all of us in this House.

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

The Assistant Minister, Office of the President (Mr. Angwenyi): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute to this very important Motion which has been proposed by a renown person in this House, the hon. Prof. Anyang'-Nyong'o. This Motion was long overdue. Before this Motion was brought to this House, we had not recognised the good work done by our leaders, particularly the Heads of State.

This morning as I was coming to town, I gave a lift to an old man from my constituency and he told me a story about what the late President Kenyatta did in order to achieve Independence for this country. He used to collect people and sensitize them about freedom and prepare them for detention and jail so that we could get our Independence. In fact, this Motion should have been brought during the Kenyatta regime, but we did not do it; we have had to do it now. The current President has dedicated his service to this country, he has gone to every corner of this country trying to assist the people of Kenya. He has done this for the last 40 years. If this Motion is passed and we put in place proper measures to take care of his household and his security, we will have recognised that dedicated service to this country.

Mr. Temporary Deputy Speaker, Sir, this Motion is also important because not only does it recognise the work of a President and rewards that work after retirement, but it also obviates the need for a serving President to go out of his way to take care of his future. He knows the country now is taking care of his future and the future of his family; the future in terms of providing for his upkeep as well as his security. So, this Motion has a second aspect of assuring the President about his future. This Motion is also important because it instils stability and continuity for our country. When you are a President and you retire, then you prepare yourself to give lectures and seminars; you prepare a library that people can come and seek advice out of your experience as well as wisdom. In fact, this Motion should be extended to cover Members of Parliament. When you look at the heroes of our struggle for Independence like Bildad Kaggia, Paul Ngei, Achieng-Oneko and Matano, who was in this Parliament for 30 years and he is now struggling with a posho mill out there in the village, this Motion should have been expanded to cover those type of people.

Mr. Temporary Deputy Speaker, Sir, I cannot say much. I wish I had time to say much more than this, but we thank the Mover of this Motion and I also thank the Attorney-General for supporting this Motion because it goes us a long way to guarantee security for leaders in the future.

With those few remarks, I beg to support.

Mr. Katuku: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this important Motion before the House. I would want to start my contribution by also thanking the Mover of the Motion because of its intention to the very important institution, the Presidency. I would also like to declare my interest in this Motion as it is my ambition to one time be the President of this country---

(Laughter)

I would wish that when I retire I would benefit from this Bill which I am sure will go through successfully. The issue of security is not only very important to the President but also to all Kenyans, Members of Parliament here and citizens out there. When you have no security and you do not know what will happen to you tomorrow, you tend to develop a culture or a feeling of wanting to be over-protective of your position. It is interesting that as Members of Parliament speak here, we also have no security. For example, if a Member of Parliament falls sick here, there is no medical scheme to cater for him. The same applies to most Kenyans out there. This is an aspect which we must address seriously because it is very vital. At one time, one will grow old and when you are out there and you do not have a medical scheme or any other benefits, it would be a problem. There are people who are not working and we should consider them as Kenyans. These are business people, farmers and many others. We should think seriously on what we need to do to address the issue of old age. In some countries, we have situations whereby there is provision to take care of one at old age. In this Motion, we have the same spirit that heads of Government and state should be taken care of at the retirement age.

Mr. Temporary Deputy Speaker, Sir, it is important to note that in the proposals made by the Mover, benefits like houses and vehicles will be returned to the State maybe after he dies or something like that. That assurance, when given to Kenyans, will make them not to have any problem with the Bill. This is because as a retired President who has served the country diligently, one should get the benefit of recognition and services. Like it was said by hon. Angwenyi, we have so many freedom fighters---

Mr. Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Katuku! Time is up.

Mr. Katuku: So, with those few remarks, I support the Motion.

Mr. Temporary Deputy Speaker (Mr. Poghisio): I now call upon the Mover to reply.

Prof. Anyang'-Nyong'o: Thank you, Mr. Temporary Deputy Speaker, Sir. First of all, I would like to extend my appreciation to the Attorney-General for, first, the amendment he moved and secondly for the support he has given to the Motion and the proposed Bill. I will only go over a few salient points that have been raised by Members of Parliament. I do not think that I would add anything to what the Attorney-General has said. I think it was quite explicit and to the point. There was one point that hon. Gitabu Imanyara clarified which I think it is important. I am sure the Attorney-General will appreciate it. I think our Standing Orders are very clear on the procedure on Motions and Bills like that, and what the Attorney-General has added in the amendment is in line with the provisions of the Standing Orders. We will, of course, work together in consultations on this. There is no problem in this because the Attorney-General and myself share one motto since our high school days which we also share with the Deputy Speaker and many others. That is "strong to serve". When you are strong to serve, you do not really bother about who takes the credit. You do recognise the input and apportion credit according to input. So, I think hon. Biwott's concern is taken care of.

Mr. Temporary Deputy Speaker, Sir, secondly, when I was a student at Makerere University, the University's motto was "*Pro futuro Edeficanos*". That is "we build for the future". I think it is in that spirit of "building for the future" that hon. Members have contributed to this Motion and that the Bill has been thus drafted.

Let me extend my appreciation to hon. Kajwang's contribution which I think was very substantial. I do not think I would go as far as suggesting that a second spouse be added to the lot. That would complicate the life of a President even more further. There will be many more applicants to be the spouses just on the eve of his retirement.

Mr. Temporary Deputy Speaker, Sir, I think the debate about making provisions for the burial of a former President is very important. Last year, I visited the Tom Mboya Mausoleum in Rusinga Islands and it was a very sad affair because here is a mausoleum in the memory of a great son of Kenya but thoroughly neglected; and not put within the grid of our national heritage. I think when the hon. Members are saying that this kind of thinking should be extended to all public offices, I think they are making a very important point. In South Africa, you have what we call the Remuneration of Public Office Bearers Act. It is under this Act that we have provisions for taking care of the retirement of the President. That Act also covers Members of Parliament and other people who hold constitutional offices. Of course, their benefits and retirement packages are different depending on the kind of office they bear. I think this is what the Attorney-General had in mind that after this Bill is passed by the House, others related to other people who hold constitutional offices will follow subsequently.

Mr. Temporary Deputy Speaker, Sir, one hon. Member made a remark that once this Bill becomes law, it should be remembered that the Office of the President should be de-linked from political parties or party politics. I think that is very important because the President is the Head of State and, as Head of State, he exercises a function above the partisanship of political parties. In his retirement period, he would be much more effective in exercising that function if he is not directly linked to political parties. In the United States of America, it works very well. You find presidents who were former Republicans or former Democrats, once they are out of office, they exercise the powers of ex-presidents as people who are above partisan politics. I think that is a very important democratic tradition, that I hope, will be observed when this law is finally enacted.

Mr. Temporary Deputy Speaker, Sir, hon. Imanyara made a remark which I would like to repeat or paraphrase. He did say that the Office of the President is a constitutional institution for the fulfilment and furtherance of the national interest and for future posterity. In trying to begin building our democratic tradition in this nation, that is the spirit that we must have when we are talking about this Motion and the subsequent Bill because posterity is extremely important. A nation without history is a nation without memory and collective consciousness. Therefore, we are going to build history by ensuring that those who have made history continue to make it, when the offices in which they have made that history no longer belong to them, but then, they cannot detach themselves from that office by the fact that they have that collective memory from that office. It is in that regard that the point that the Attorney-General made is important. Although we are engaged in the process of constitutional reform, Parliament must continue to fulfil its functions. It must continue to look at laws that are in the law books, amend them, update them and make sure that they are relevant to our practices and our experiences.

Mr. Temporary Deputy Speaker, Sir, the last two commentaries from hon. Angwenyi and hon. Katuku are important and I would like to just add one more point that hon. Angwenyi made, which I think is extremely important. He said that this Motion will lead us to recognise the good work done by our leaders. When somebody is in office, it is not always the case that everything they do is good. But it is important to understand that once they leave office, people will remember them by those good things that they did. A person will only

seek to maximize doing good when they know that on departure from office, he will be appreciated. If, indeed, there is some mentality that the departure from office brings in insecurity, then there is a tendency to heighten the bad rather than the good. This trend we have built will definitely, in future, enhance the possibilities of sitting members or occupants of that office doing good things rather than those things that they do because of insecurity after they leave office. After all, Shakespeare said, "The bad that men do lives after them. The good is often interred with their bones." So, what we are trying to say is that the good that men do, should not be interred with their bones when they leave the office. The good things that men do, they should continue to do when they leave office, provided that when they are in office, they are encouraged to maximize and enhance their good qualities and not their bad qualities.

Mr. Temporary Deputy Speaker, Sir, I had promised hon. Wamae three minutes of my time to make some comments. I hope that is okay with you? Could ask hon. Wamae to make those comments?

Mr. Wamae: Thank you hon. Anyang'-Nyong'o for giving me your three minutes for me to make some contribution to this Motion. First of all, I would like to thank you and the Attorney-General for agreeing on this Motion. It shows that the Kenyan Parliament has reached maturity---

The Temporary Deputy Speaker (Mr. Poghiso): Order, Mr. Wamae! I think when the Mover is called upon to reply, your part of the time should have come at the beginning of his reply. So, let the Mover do reply.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I respect your ruling and I hope that in another setting, Mr. Wamae will make his remarks, particularly when the Bill comes to the House. So, there is yet another opportunity. Finally, I would like to say that I do appreciate the bipartisan manner in which we have approved this Motion. I do appreciate that when the Bill comes before this House, that bipartisan spirit will continue.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to move.

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

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

Resolved Accordingly:

That, this House do grant leave to introduce in consultation with the Attorney-General a Bill entitled An Act of Parliament to provide for establishment of a Presidential Retirement Benefits Fund to cater for the welfare, security, basic household, local and international travel of all retired holders of the office of the President of the Sovereign Republic of Kenya and for matters incidental thereto and connected therewith.

ADJOURNMENT

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

The House rose at 12.30 p.m.