

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 25th April, 2001

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

ESTABLISHMENT OF SECURITY SELECT COMMITTEE

Dr. Kituyi: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, whereas Members of Parliament have sworn to nurture national unity and tranquillity; conscious that such unity and tranquillity are founded on an environment of security and internal harmony; noting with concern the rapidly deteriorating security situation in the country, and being aware that sound solutions to security problems must derive from careful identification of causes and deliberations and the way forward, this House resolves to establish a Select Committee to investigate the extent and nature of insecurity in the country, its root causes and possible forms of intervention necessary to return peace and calm to the country, and that the said Select Committee comprise of the following Members:-

The Hon. S. Kamolleh, MP

The Hon. Dr. Ali, MP

The Hon. E. Morogo, MP

The Hon. H. Odongo, MP

The Hon. P. Maundu, MP

The Hon. D. Kombe, MP

The Hon. S. Poghisio, MP

The Hon. B. Mwakiringo, MP

The Hon. G. Achola, MP

The Hon. Dr. Kituyi, MP

The Hon. J. Katuku, MP

The Hon. N. Kariuki, MP

The Hon. W. Kihoro, MP

ORAL ANSWERS TO QUESTIONS

Question No.124

DEPLOYMENT OF PRISON OFFICERS TO GUARD PRIVATE RESIDENCE

Dr. Kituyi asked the Minister for Home Affairs, Heritage and Sports:-

(a) whether he is aware that prisoners are being ferried in Government vehicles to work at the Trans Nzoia farm belonging to the former Prisons Commissioner, Mr. Francis Lopokoyit; and,

(b) whether he is further aware that Mr. Lopokoyit's private residence is still guarded by prison officers.

The Minister for Home Affairs, Heritage and Sports (Mr. Ngala): Mr. Deputy Speaker, Sir, I beg to reply.

(a) It is not true that prisoners have continued to be ferried in Government vehicles to work on the Trans Nzoia farm of the former Prisons Commissioner, Mr. Lopokoyit.

(b) Mr. Lopokoyit having been the Commissioner of Prisons and a senior Government officer in charge of the

security department was entitled to a security detail.

The current position is that, the security detail at Mr. Lopokoyit's residence has now been withdrawn. It is the normal practice in the service that when an officer of the rank of the Commissioner of Prisons retires, he continues receiving security of two warders for at least three months as he organizes his own personal security.

Dr. Kituyi: Mr. Deputy Speaker, Sir, I do not know why the Minister believes that prisoners stopped working at Mr. Lopokoyit's farm, because I saw with my own eyes, a green GK lorry ferrying prisoners from the Kitale Prison to go and work on the farm of Mr. Lopokoyit. Last November, they were harvesting his maize. Could he tell the House .

when prisoners stopped working for Mr. Lopokoyit? At any rate, under what law were they working on the farm even when he was the Prisons Commissioner?

Mr. Ngala: Mr. Deputy Speaker, Sir, I still stand by the earlier reply, that they have stopped working there. If that information is contrary to what Dr. Kituyi believes, I will try to check further.

Dr. Kulundu: Mr. Deputy Speaker, Sir, Dr. Kituyi has put a question which the Minister has evaded. Even if Mr. Lopokoyit was still the Prisons Commissioner, under what law would prisoners be required to work for him?

Mr. Ngala: Mr. Deputy Speaker, Sir, I am not aware that prisoners were working on his farm.

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Minister to give two contradictory answers? First, he said that the prisoners had stopped working on the farm, which means that he knew that at one time they were working there. Could he now tell the House under what law they were working on the farm?

Mr. Ngala: Mr. Deputy Speaker, Sir, as a Commissioner of Prisons, he had certain advantages he could use to have some of the prisoners work on his farm. What happens is that prisoners can work on a farm under certain arrangements.

Mr. Muchiri: Mr. Deputy Speaker, Sir, the Minister is avoiding to address an issue that is happening. Even in Kamiti Maximum Prison, in my constituency, prisoners are working on the Kamiti Farm that is owned by the Government, while the officers harvest the produce. Under what law are the prisoners working for the prison officers without paying anything to the Government?

Mr. Ngala: Mr. Deputy Speaker, Sir, there is a provision, which I can check and avail to the House, where the prisoners could be allowed under certain conditions, and payment made later on.

Mr. N. Nyagah: Mr. Deputy Speaker, Sir, could the Minister order the prisons boss that prisoners should never be misused by working on any private land in this country?

Mr. Ngala: Mr. Deputy Speaker, Sir, I have not said that prisoners are being misused. We have seen prisoners working in certain places in this country, through particular arrangements. I do not think there is need for us to put a blanket order to stop the Commissioner of Prisons from using the prisoners, because we need them in certain places.

Mr. Wanjala: Mr. Deputy Speaker, Sir, this House passed a Motion to allow those prisoners who are not severely sentenced to do some communal work in rural areas, possibly to maintain roads. For example, those who are arrested as a result of drinking chang'aa. Could the Minister tell us what arrangements he has put in place for those prisoners to start doing communal work?

Mr. Ngala: Mr. Deputy Speaker, Sir, I think he is talking about the Community Service Order. That programme is operational and if it is not in his place, I could check.

Dr. Kituyi: Mr. Deputy Speaker, Sir, I like and respect the gentle style of this hon. Minister, but he is too scared of civil servants. What is so difficult about the Minister telling a Commissioner of Prisons who is under him, "from today, make sure that no prisoner works on private land without clear monetary remuneration to Government?" What is so difficult for the Minister to make such a modest undertaking? Are you scared of the Commissioner of Prisons?

Mr. Ngala: Mr. Deputy Speaker, Sir, I would like to thank the hon. Member for the sentiments expressed on me, but I am not scared of the Commissioner of Prisons. I believe this is a Government that does consultations and, therefore, we shall try to keep that understanding between the Minister and other officers that work under him. I will make sure that we check and get the details.

Eng. Muriuki: Mr. Deputy Speaker, before I ask my Question, I would like to bring to your notice the fact that I have not received a written reply.

However, I beg to ask the Question.

Question No.068

LIST OF STUDENTS ADMITTED
TO NATIONAL SCHOOLS

Eng. Muriuki asked the Minister for Education:-

- (a) whether he could table a list of all the students who were admitted to national schools in Form One, in the year 2001; their index numbers and the KCPE scores for each student;
- (b) how many are from public schools and how many are from private schools; and,
- (c) what the criteria for admission to the national schools was.

The Assistant Minister for Education, Science and Technology (Mr. Awori): Mr. Deputy Speaker, Sir, I was assured by my officers in the Ministry that 15 copies were sent to the Clerk of the National Assembly. I am afraid I cannot tell where those copies ended up.

However, I beg to reply. (a) I hereby table the list of all the students who were admitted to national schools in Form One in 2001; the index number, and Kenya Certificate of Primary Education (KCPE) mean score for each student.

(Mr. Awori laid the document on the Table)

(b) Out of the total number admitted to national schools, 1,723 students are from public schools and 689 are from private schools.

(c) The criteria for selection is based on the student's merit in the district, student's national school choice and the district quota allocation in the national school.

Eng. Muriuki: Mr. Deputy Speaker, Sir, the supplementary questions I wish to raise pertain to suspicions that certain areas are favoured when it comes to these admission. This document is voluminous and I seek the indulgence of the Chair that I be given a day or two to go through it so that I can be in a position to ask pertinent questions without making wild allegations.

Mr. Deputy Speaker: Very well, that Question will be deferred to Wednesday, next week.

(Question deferred)

Question No.046

DISCONTINUATION OF TELEPHONE
SERVICES TO TOMBE TEA FACTORY

Mr. Anyona asked the Minister for Information, Transport and Communications:-

- (a) whether he is aware that Tombe Tea Factory Company ceased receiving telephone services through Kisii Telephone 20369 more than four years ago, despite full payment of arrears;
- (b) whether he is further aware that the company was advised to buy a wireless facility in the form of a radio by Telkom Kenya and paid deposit and connection charges of Kshs300,000 and Kshs54,000 respectively, but the radio service has not been provided; and,
- (c) what the causes of the long delay in restoration of service through Kisii Telephone 20369 and the installation of the radio telephone are, and when the services will be restored and/or installed.

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

(a) Tombe Tea Factory ceased to receive telephone services as from 2nd September, 1999. This is because the customer's line, Kisii Telephone 20369, was being served by an open wire from the Kisii Exchange. Service was frequently disrupted due to vandalism of these open lines.

(b) Yes, I am aware that in order to ensure improved quality of service, it was decided, in consultation with the customer, to provide service through a single channel radio. The customer was asked to pay, and indeed he did pay, the deposit of Kshs354,000 on 9th January, 2001.

(c) The cause of the delay in the restoration of service was mainly due to the customer's failure to raise the requisite deposit between September and January. But since receiving part of the deposit in January, Telkom Kenya has made the necessary procurement arrangement and the equipment is expected to be installed within the next two months, effective from now.

Mr. Anyona: Mr. Deputy Speaker, Sir, with respect to part (a) of the Question, the explanation from his own officers in Kisii is that the failure to restore telephone services to Tombe Tea Factory is purely technical and has nothing to do with vandalism. It is a technical problem all the way from Kisii to Tombe Tea Factory, and up to Manga. What is the real cause? Is it a technical problem or vandalism? If it is vandalism, he should give detailed cases of

where, when and how. To the best of my knowledge, there has been no single vandalism along this line. We come from Kitutu Masaba where there is no vandalism!

Mr. Keah: Mr. Deputy Speaker, Sir, I do appreciate the sentiments expressed by the hon. Member that there is no vandalism in Kisii because they are civilised people. But from the information I have from the staff of Telkom Kenya, who he has purportedly consulted, the causes of those disruptions---

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. I even have this explanation in writing here, and the Assistant Minister uses such words as "purportedly". I have been talking to one of his officers, a Mr. Rono, who is in charge of that area, and he has acknowledged that this problem is purely technical! Why is the Assistant Minister saying I "purportedly" talked to his officers as if I am telling a lie?

Mr. Keah: Mr. Deputy Speaker, Sir, I remove the word "purport" and use the word "consulted" the officers who work under me. But the cause of those disruptions is vandalism. We may be at variance here with my good friend, Mr. Anyona. But as far as the Ministry is concerned, vandalism has been the cause of these disruptions not only in Kisii, but also in many parts of the country, including Kaloleni. What we are doing right now is that instead of using the open copper wire, we are going to modern technologies, for instance, the use of single-channel radios. This is modern technology and I hope with it, vandalism will be a thing of the past, and telephone services will be provided efficiently.

Mr. Kihoro: Mr. Deputy Speaker, Sir, could the Assistant Minister advise this House on the Ministry's policy in respect to the installation of radio communication, in light of the fact that the Questioner has indicated that a previous line did exist and that telephone services were being provided? That service stopped being provided and evidently, there was a requirement of Kshs354,000 paid by the customer so that a radio service could be provided. What is the policy of the Ministry in respect of the provision of a radio service? This is a lot of money and it appears as if you do not want to provide that service.

Mr. Keah: Mr. Deputy Speaker, Sir, that was a capital contribution towards the provision of that radio service. The policy is that Telkom Kenya will invest its own funds but the customer has to provide a capital contribution. That is quite normal with organisations that provide such services, like the Kenya Power and Lighting Company and other corporations that incur heavy capital investment costs.

Mr. Deputy Speaker: But, Mr. Assistant Minister, the point they are making is that these services were already being provided and you want to upgrade your equipment, hence, you want the customer to pay for that upgrading?

Mr. Keah: Mr. Deputy Speaker, Sir, that was a land line using copper wire and it was vandalised. So, it is no longer in existence.

Mr. Deputy Speaker: But, Mr. Keah, the customer did not install that copper wire? You did it!

Mr. Keah: Mr. Deputy Speaker, Sir, that was a service. But if we can no longer provide that service through the copper wire, we have to look for other ways of providing that service. The only way is to provide it through a radio service which calls for new investment. In that respect, we have to share the costs.

Mr. Sambu: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House? The customers paid for those copper wires! I have got one such copper wire covering a distance of four kilometres in my place, and I paid for it. Now that those copper wires in Tombe Tea Factory are not working, will Telkom Kenya go and collect them and install a new telephone service using local loops free of charge since the customer paid for the copper wires?

Mr. Keah: Mr. Deputy Speaker, Sir, could the hon. Member repeat his question?

Mr. Sambu: Mr. Deputy Speaker, Sir, it is not a question; it is a point of order. The Assistant Minister is misleading the House. The customers have already paid for the copper wires which are there. So, is he in order to mislead the House that the customers have to pay again when they have already done so?

Mr. Keah: Mr. Deputy Speaker, Sir, the policy in the installation of these services within these major corporations, that is Telkom Kenya and Kenya Power and Lighting Corporation, is that the corporation makes a contribution and the customer also makes a capital contribution. Where the copper wire has been vandalised and there is a new mode of technological service being provided, the system remains the same. The corporation will make a contribution as well as the customer. Now, in this case, yes, the customer has made a contribution but that invariably remains the property of the corporation. When we remove the copper wire land line and insert new technology, the customers will always be required to make capital contributions.

Mr. Kihoro: On a point of order, Mr. Deputy Speaker, Sir. It is not clear what really is the investment of the Ministry when the copper wires have been bought by the subscriber and when the radio communication here has been bought again by the subscriber. What is your investment? In this particular situation, now that this tea factory contributed Kshs354,000 for a radio transmission, what is the contribution of Telkom Kenya?

Mr. Keah: Mr. Deputy Speaker, Sir, I can tell you that this only represents a magnitude of 10 per cent of the total contribution. If this is 10 per cent, what are we contributing? That is really the policy at the moment. The customer is making a contribution and Telkom Kenya makes a bigger portion of that contribution. It is the same policy with Kenya Power and Lighting Company Limited and the major corporations. This is a normal procedure.

Mr. Deputy Speaker: Order! It is not the same procedure with Kenya Shell Company because when they upgrade their pumps, they do not ask people who take petrol to go and contribute to the purchase of the pumps.

Mr. Keah: Mr. Deputy Speaker, Sir, that is Kenya Shell Company. Telkom Kenya has a different policy from Kenya Shell Company.

Mr. Deputy Speaker: Order, Mr. Assistant Minister! Hon. Members are talking about equity. Really, what is the basis of exploiting wananchi? If you are talking about 10 per cent, then you are

[Mr. Deputy Speaker]

saying that Telkom Kenya is contributing over Kshs3 million for one line. Is that so?

Mr. Keah: Mr. Deputy Speaker, Sir, I must explain some background information here. When we install a radio station, there is a far greater investment within Telkom Kenya, which is not---

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. For the benefit of the House, the Assistant Minister is misleading himself and the House. What he is saying may well be the case, but in this particular case, the position is this: That line from Kisii to Tombe is a common public line and there are booths at Getare, Omogonchoro, Kemera and Tombe, and one goes to Manga. Now, because that line has got penetration(?) all this long, the factory asked Telkom Kenya what to do. They said: "As a temporary measure, pay this money and we will give you a radio line while something is being done about the line." We were asked to pay this money and I suspect this is a form of fraud. I will table documents here tomorrow to prove it because there is correspondence on it.

Mr. Keah: Mr. Deputy Speaker, Sir, well, if the Member has any documents to prove there is some element of fraud, I will only be too delighted to be guided by them when he tables them. As of now, the situation in so far as the Tombe Tea Factory is concerned is that the equipment has been procured and within the next two months we will install the service.

Mr. Anyona: Mr. Deputy Speaker, Sir, the Assistant Minister says in parts "b" and "c" of his reply that there was a delay in paying the deposit. How do you define a delay? Between which periods? As soon as they were advised, the money was paid. That was in January, which is four months ago. Now, he is saying that they will have to wait for another two months. What are you doing with that money? It is making profits. Is that not so? Could you tell us precisely when this line is going to be installed?

Mr. Keah: Mr. Deputy Speaker, Sir, I said the line will be installed within the next two months.

Hon. Members: Why two months?

Mr. Keah: Mr. Deputy Speaker, Sir, this is because of procurement procedures. We do not have these radio sets on the shelves. We do not just install them and, therefore, once the money was paid in January--- There are also schedules for work and when we received the money, we had to schedule the installation in line with the existing jobs that Telkom Kenya had. We could not just drop everything on 9th January to rush over to Tombe when we had work in the pipeline. So, between January and April, we have been doing the procurement and planning processes so that we can install the service. That may be an undue long delay but that is the situation we have at the moment and I would like to ask the indulgence of the hon. Member that we are doing the best to install this service within the next two months, effective from now.

Mr. Deputy Speaker: Next Question by Mr. Munyao!

Question No.002

EXCESSIVE IMPORTATION OF SUGAR

Mr. Munyao asked the Minister for Agriculture:-

- (a) whether he is aware that the sugar industry and sugar milling factories are holding a lot of sugar which they cannot sell due to importation of excess sugar;
- (b) whether he is further aware that sugar-cane growers have not been paid by the millers as the latter cannot sell the produce to the market; and,
- (c) what urgent steps he is taking to assist both the millers and farmers.

The Assistant Minister for Agriculture, Livestock and Rural Development (Mr. Sumbeiywo): Mr. Deputy Speaker, Sir, I would like to beg the indulgence of the House to allow this Question to be asked later on because the Minister who has got the answer is on the way coming.

Mr. Deputy Speaker: We will come back to it after we have finished with the others. Next Question, Mr. Gatabaki!

Question No.043

EARNINGS FROM PYRETHRUM EXPORTS

Mr. Gatabaki asked the Minister for Agriculture:-

(a) how much money did the country earn in foreign exchange from pyrethrum exports in the last five years; and,

(b) which were the main export markets in terms of export revenues and how much did farmers get in specific districts of production during the period mentioned in "a" above.

The Assistant Minister for Agriculture, Livestock and Rural Development (Mr. Sumbeiywo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Between the years 1995 and February 2001, the country has earned a total of Kshs1,076,621,058.90 from pyrethrum exports.

Mr. Deputy Speaker: Could you read that figure again?

The Assistant Minister for Agriculture, Livestock and Rural Development (Mr. Sumbeiywo): Mr. Deputy Speaker, Sir, I said Kshs1,076,621,058.90.

(b) The following were the main export markets in terms of export revenues: The United States of America, Europe, Japan, Australia, New Zealand, South America, India, South Africa, Canada and South East Asia, which consists of Malaysia, Philippines and Singapore.

The earnings of the producer districts for the last five years are as follows: Nakuru District - Kshs1,885,239,500.

Mr. Deputy Speaker: Order, Mr. Assistant Minister! Read that figure again.

The Assistant Minister for Agriculture, Livestock and Rural Development (Mr. Sumbeiywo): Mr. Deputy Speaker, Sir, I think the figure was typed wrongly. I must admit that. It is written here as Kshs1,888,239,500. So, if you can allow me, we will correct that figure.

Mr. Deputy Speaker, Sir, let me continue with the others. Bomet District is Kshs100,302,800. Kericho - Kshs142,093,200. Baringo - Kshs57,900,200. Koibatek - Kshs56,583,300; Narok - Kshs86,516---

Mr. Deputy Speaker, Sir, could you allow me to table this document because it is a long list of about 20 districts?

Mr. Deputy Speaker: Table it.

(Mr. Sumbeiywo laid the document on the Table)

The Assistant Minister for Agriculture, Livestock and Rural Development (Mr. Sumbeiywo): As I said earlier on, the total amount of funds collected from the proceeds of pyrethrum was Kshs1,076,621,058.90.

Mr. Anyona: Mr. Deputy Speaker, Sir, if the total sum is in doubt, then no other figure is valid until he can tell us exactly how much that total is. All these others do not make sense.

Mr. Deputy Speaker: What is the figure for Nakuru? That seems to be the offending figure.

Mr. Sumbeiywo: The figure for Nakuru---

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

Mr. Deputy Speaker: He is responding to a point of order.

Mr. Obwocha: But he does not understand the question.

Mr. Deputy Speaker: There was no question; there was a point of order.

Proceed. What is the figure for Nakuru?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, I have just tabled the total figure for Nakuru. I think I need to look at it.

(Laughter)

There is nothing wrong because the figure for Nakuru is the one in dispute and I have just asked the House to allow me to get back to the Ministry and correct it. I do not agree with this figure because it is even more than the total amount.

Mr. Deputy Speaker: Mr. Gatabaki, what do you say?

Mr. Gatabaki: Mr. Deputy Speaker, Sir, despite the awkwardness of the Assistant Minister in answering the Question, I must protest that I have not been given the written reply to this Question. You can understand the confusion. In view of the inability of the Assistant Minister to answer the Question---

Mr. Deputy Speaker: What do you want? You are not here to sit in judgement over him.

Mr. Gatabaki: Could you order him to come back and present a credible answer?

Mr. Deputy Speaker: I will defer this Question to Wednesday next week.

(Question deferred)

Question No.098

TITLE DEEDS FOR PRIMARY SCHOOLS IN KASARANI

Mr. Muchiri asked the Minister for Local Government:-

(a) if he is aware that Nairobi City Council is unable to obtain title deeds for all primary schools in Kasarani Constituency;

(b) what measures he has taken to ensure that land on which the schools stand is not used to secure loans or even transferred to third parties; and,

(c) why the rates and rents for the said land were paid by holders of the title deeds.

Mr. Deputy Speaker: Is anyone here from the Ministry of Local Government? We will come back to it later. Mr. Munyao's Question, for the second time.

Question No.002

EXCESSIVE IMPORTATION OF SUGAR

Mr. Munyao asked the Minister for Agriculture:-

(a) whether he is aware that the sugar industry and sugar milling factories are holding a lot of sugar which they cannot sell due to the importation of excess sugar,

(b) whether he is further aware that sugar-cane growers have not been paid by the millers as the latter cannot sell the produce to the market; and,

(c) what urgent steps he is taking to assist both the millers and the farmers.

Mr. Deputy Speaker: Is anyone here from the Ministry of Agriculture?

The Assistant Minister for Agriculture, Livestock and Rural Development (Mr. Sumbeiywo): Mr. Deputy Speaker, Sir, I said the Minister will come to answer this Question later.

Mr. Deputy Speaker: Order! The Minister knows that Question Time is the first item of our business and that we start at 9.00 o'clock. There is no use of him coming after 10.00 o'clock because there will be no Questions for him to answer.

I will defer this Question to Wednesday morning, next week.

Mr. Munyao: Thank you, Mr. Deputy Speaker, Sir, although it is being deferred for the second time.

(Question deferred)

Mr. Muchiri's Question for the second time.

Question No.098

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loans or even transferred to third parties; and,

(c) why the rates and rents for the said land were paid by holders of the title deeds.

Mr. Deputy Speaker: Is there anyone here from the Ministry of Local Government?

I will defer the Question to Wednesday, next week.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

VEHICLE FOR MUTHA POLICE POST

Mr. Kiminza: 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 Mutha Division of Kitui South is a banditry-prone area and that Mutha Police Post has no vehicle?

(b) When will the Minister avail the vehicle for Mutha Police Post to help in combating banditry activities in this area?

Mr. Deputy Speaker: Is anyone here from the Office of the President?

Hon. Members: Nassir!

The Minister of State, Office of the President (Mr. Nassir): Mr. Deputy Speaker, Sir, I believe the "proper" Minister is not here.

(Laughter)

Mr. Deputy Speaker: Mr. Kiminza, I have to defer this Question.

Mr. Kiminza: You have deferred it to what date, Mr. Deputy Speaker, Sir?

Mr. Deputy Speaker: I have deferred it to tomorrow afternoon because this is a Question by Private Notice.

Mr. Munyao: On a point of order, Mr. Deputy Speaker, Sir. Did the Chair hear that the Ministers are categorised? There are "proper" Ministers and "improper" Ministers. Is hon. Nassir telling us that he is one of the "improper" Ministers?

The Minister for State, Office of the President (Mr. Nassir): Mr. Deputy Speaker, Sir, I think the hon. Member wants me to give him a proper reply, but I am not the one concerned with answering this Question.

Mr. Gatabaki: On a point of order, Mr. Deputy Speaker, Sir. Considering the performance of the Government this morning, could you ask the Government to apologise to the House for this laziness, lethargy, lawlessness and incapacity to answer Questions?

(Applause)

Mr. Deputy Speaker: Order! The Chair does not take this lightly. When the Leader of Government Business comes into the House, I will invite his attention to this rather pathetic performance this morning.

Next Question, Mr. Wamae!

POLICE RAID ON JAYS PUB

(Mr. Wamae) to ask the Minister of State, Office of the President:-

(a) Is the Minister aware that 10 policemen in Karatina Municipality on 5th April, 2001, lobbed tear gas canisters into Jays Pub at about 2.00 a.m. and thereafter beat up patrons and lodgers?

(b) Is he further aware that many persons were injured and lost cash and other valuables to the officers?

(c) What action has the Minister taken to punish these officers, who also appeared drunk while on duty?

Mr. Deputy Speaker: Is Mr. Wamae not here?

Hon. Member: There is no one from the Office of the President!

Mr. Deputy Speaker: We do not know if the "proper" Minister is here to answer this Question.

(Laughter)

The Question is dropped.

(Question dropped)

NON-APPROVAL OF MP'S VISIT TO KAMITI PRISON

Mr. Muiruri: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Home Affairs, Heritage and Sports the following Question by Private Notice.

(a) Could the Minister explain why the Member for Gatundu North was denied permission to visit Mr. Stephen Mwangi Gitau, a prisoner at Kamiti Maximum Prison, on 30th and 31st of March, 2001?

(b) Could the Minister ensure that Members of Parliament are not barred from visiting their constituents in jail?

The Minister for Home Affairs, Heritage and Sports (Mr. Ngala): Mr. Deputy Speaker, Sir, the answer to this Question is not ready.

Mr. Deputy Speaker: When will it be ready?

The Minister for Home Affairs, Heritage and Sports (Mr. Ngala): I will get the answer tomorrow, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: But, Mr. Minister, we have a copy of your written reply.

The Minister for Home Affairs, Heritage and Sports (Mr. Ngala): Mr. Deputy Speaker, Sir, I am aware that there is a copy of the written reply, but I am not satisfied with the way it has been prepared. That is why I want to get more details.

Mr. Deputy Speaker: Mr. Muiruri, what do you say to that?

Mr. Muiruri: Mr. Deputy Speaker, Sir, that is okay with me. I need a proper explanation because I was harassed. I will wait until tomorrow.

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. I am seeking the Chair's indulgence because several times, we have had Ministers saying that the answers they have do not satisfy them, yet when they come to answer the Questions on the Floor of the House, they give the same answers which they had said they were not satisfied with. We have had several cases like this one.

Mr. Deputy Speaker: That is not a point of order, but the point, quite frankly, is that if a Minister says that the answer he has got is not satisfactory, my understanding of the situation is that, in fact, he knows of a better answer, and that is the answer that the House wants.

Mr. Minister, since we hold you responsible, you cannot tell us that this answer is not satisfactory while the satisfactory one, which you must have in order to judge the answer you have to be unsatisfactory, you are not giving to us.

The Minister for Home Affairs, Heritage and Sports (Mr. Ngala): Mr. Deputy Speaker, Sir, what you have said is quite in order, but when we say that an answer is not satisfactory, we are looking for more details so that we can give proper answers.

Mr. Parpai: On a point of order, Mr. Deputy Speaker, Sir. Could the Minister tell us whether he is the one who actually signed the written answer that we have here? If he signed it, on which basis did he come here later to say that, that answer is not satisfactory?

The Minister for Home Affairs, Heritage and Sports (Mr. Ngala): Mr. Deputy Speaker, Sir, you asked the hon. Questioner whether he was satisfied that I should bring a proper reply later, and he has confirmed that he is prepared to wait for me to prepare a proper answer. So, let me be given an opportunity to prepare to give the hon. Member a proper answer tomorrow.

Mr. Deputy Speaker: We will defer this Question to tomorrow, Thursday, afternoon.
Next Question!

(Question deferred)

TRANSFER OF THIKA TOWN CLERK

Mr. Ndicho: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Local Government the following

Question by Private Notice.

(a) Is the Minister aware that the former Thika Town Clerk, Mr. Franklin Maganju, has refused to vacate the official residence at Thika Town despite having been transferred?

(b) Is he further aware that the current Town Clerk spends Kshs50,000 per week on travelling allowances to and from Nairobi at the detriment of Thika residents?

(c) What urgent measures is the Minister taking to facilitate the transfer and save the meagre resources of the council?

Mr. Deputy Speaker: Ministry of Local Government! Is there no one from the Ministry of Local Government?

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. I have a written answer here on which I want to seek your indulgence. The Minister has answered my Question with "I am not aware" answers.

Mr. Deputy Speaker: Order, hon. Ndicho!

Mr. Ndicho: Mr. Deputy Speaker, Sir, I am seeking your indulgence.

Mr. Deputy Speaker: But you do not seek my indulgence by telling me what the answer is when the Minister who is supposed to answer it is not there.

Mr. Ndicho: Mr. Deputy Speaker, Sir, that is why I am seeking your help.

Mr. Deputy Speaker: No, I will defer this Question to tomorrow afternoon.

Mr. Ndicho: Mr. Deputy Speaker, Sir, that is why I am seeking your help.

Mr. Deputy Speaker: My help comes in the form of deferring the Question to tomorrow afternoon.

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

Mr. deputy Speaker: That is the end of the story.

Mr. Ndicho: Mr. Deputy Speaker, Sir, please, I am seeking your help. I have never seen somebody seeking your help and you said that you would not help him.

Mr. Deputy Speaker: But I have already given you the help that I am able to give. I cannot answer the Question, but I can fix another date for it to be answered.

Mr. Ndicho: But I am seeking your help.

Mr. Deputy Speaker: What help do you want more than deferral of the Question to tomorrow afternoon?

Mr. Ndicho: Mr. Deputy Speaker, Sir, I knew that since the Minister for Local Government is not here, you would defer the Question to tomorrow afternoon. But I want to seek your help and indulgence, that the Minister must not bring this written answer which he has given today, tomorrow.

Mr. Deputy Speaker: Order, hon. Ndicho! Hon. Members must know the Chair's responsibilities. They include ordering a Question to be answered but they do not include and mean the way a Question will be answered until such a Question is answered. So, I cannot tell the Minister what to do.

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

Mr. Deputy Speaker: Order, hon. Members! I defer the Question to tomorrow afternoon.

(Question deferred)

Mr. Muiruri: On a point of order, Mr. Deputy Speaker, Sir. When I came to the House, I was not aware that the written answer had already been given to the House.

Mr. Deputy Speaker: We have already passed that Question.

Mr. Muiruri: Mr. Deputy Speaker, Sir, I was not aware that there was a written answer--

Mr. Deputy Speaker: Sorry! Hon. Muiruri, we have been on the Question by Private Notice asked by hon. Ndicho.

Mr. Kiunjuri: On a point of order, Mr. Deputy Speaker, Sir. We talked to the Minister for Local Government and he knows that there are very fundamental Questions for him to answer before the House. Councillors, council clerks and mayors are about to leave for Rio de Janeiro, but there are some councils that cannot sponsor them for over Kshs1 million. An example of such councils is the Nanyuki Municipal Council. The mayors and the clerks--

Mr. Deputy Speaker: Order! Hon. Kiunjuri, you cannot stand up to raise a point of order on a Question that has not even been asked. There is no point in asking me to do anything about that situation because I do not have the powers to do anything about it.

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. We are in a serious problem and this seems to recur every Wednesday morning. The Ministers are hardly ever there to answer Questions on Wednesday mornings. I appreciate the fact that the Chair has told the House that it will draw the attention of the Leader of Government Business to this problem. I also take cognisance of the fact that this is not the first time the Chair has drawn the

attention of the Leader of Government Business to this serious problem. We come here every Wednesday morning and Ministers are not there to answer Questions.

Mr. Deputy Speaker: What is it that you want?

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I want to move that this Minister be named under Standing Order No.88.

Mr. Deputy Speaker: But the Minister to be named is not even here.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, he does not have to be here when being named.

Mr. Deputy Speaker: Order! You must read your Standing Orders properly. You want to move this under which Standing Order?

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I want to move that this Minister be named under Standing Order No.88 (3).

Mr. Deputy Speaker: I understand it properly now. You are asking for a Minister to be named?

Dr. Ochuodho: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Over what? What is the Minister's gross disorderly conduct?

Dr. Ochuodho: Mr. Deputy Speaker, Sir, the gross disorderly conduct is the perpetual inability to come to the House to answer Questions. Earlier on, a Question was asked by hon. Muchiri to the same Minister and now another Question is being asked. The Minister is not here to answer the Questions.

Mr. Deputy Speaker: Which Minister?

Dr. Ochuodho: Mr. Deputy Speaker, Sir, this is the Minister for Local Government.

Mr. Deputy Speaker: Order! He cannot have committed a gross disorderly conduct outside this House. So, he must be here for us to name him. But first and foremost, that Standing Order requires you to ask me to name him; it does not provide for you to state that the Minister should be named. Since you have not asked me to name him, I refuse to do anything. Next time, you should ask me to name a Minister or an hon. Member.

Next Order!

MOTIONS

STRATEGIC PLAN FOR ENVIRONMENTAL REHABILITATION

THAT, considering the alarming rate of destruction of the natural resources, particularly forests which are on the verge of extinction; noting that the country is faced with imminent desertification, this House urges the Government to finalise the master plan, within six months, for forest rehabilitation, protection of rivers and dry land vegetation and that the National Environment Management Authority supervises the rehabilitation of the forests in accordance with the National Environment Management Co-ordination Act.

(Mr. Kiunjuri on 18.4.2001)

(Resumption of Debate interrupted on 18.4.2001)

Mr. Deputy Speaker: Prof. Anyang'-Nyong'o was on the Floor.

An hon. Member: He has walked out.

Mr. Katuku: Thank you, Mr. Deputy Speaker, Sir. This Motion on the environment is very important. You will agree with me that the Minister should take the sentiments of this House very seriously and bring to this House his master plan within six months as provided for by the amended Motion.

Mr. Deputy Speaker, Sir, you will also agree with me that due to the inadequacy of resources in this Ministry, we have a lot of problems with our rivers due to pollution. I have in mind Thwake River in my constituency, which has been polluted year in, year out. As I talk, people cannot draw water from that river because of pollution as a result of emissions from Machakos Town. The Minister has to move fast to arrest the situation because people living along the river are suffering a lot from water-borne diseases such as diarrhoea. Unless the Minister moves fast to arrest this situation, people will lose lives. At the same time, Athi River, which passes through my constituency, has also been polluted. Several people living along this river have lost their lives. It is also being claimed that people who are taking water from Athi River are losing their reproductive potential. It is being said that people living along Athi River cannot bear more than five children. This is a big concern and the Minister should move in to stop pollution of this river by industries in Athi River Town.

Mr. Deputy Speaker, Sir, you must have gone to Athi River Town and smelt the bad smell because of some industries in that area. That is a very serious matter and the Minister must move in to contain the situation.

On the issue of the forests, the Minister claimed that he is excising them to settle some people. But when it comes to the real issue of settlement, the people who are being settled in those forests are the rich! So, you wonder what kind of settlement is that! Some of the people who have been allocated land in those areas are Members of Parliament! Our forests must be protected. If they are not protected, we will find ourselves in the same situation that we were in recently; that is the problem of power rationing. We will not be able to get enough water in our rivers because of the destruction of catchment areas. For example, Masinga Dam had a lot of problems due to silting. That was because the trees were cut upstream and the dams were filled with silt. The issue of our forests must be addressed seriously. I do not think it is fair to excise forests to give land to the politically-correct people. This always happens when it nears election time. The Government moves in to give people land. We have an example of Karura forest, which was allocated to rich people to raise money for the elections. Kenyans are aware of that and no matter how much money you give to them, they will never vote for the KANU Government. We need to take care of our forests and respect the environment. If we do not do that, we will have no future as a nation.

Mr. Deputy Speaker, Sir, I want to comment on an issue that was raised by hon. Wamae, when we discussed this matter last time. He claimed that Kambas, as a community, were destroying forests. I did not take that lightly because those people, who are said to be destroying forests, are involved in curio business. They are wood carvers. That is a very important sector of our economy. In my constituency, more than 30 per cent of the people depend on that industry. It is high time the Minister comes up with a clear policy concerning those who are involved in the wood carving business. I would encourage those who are involved in the business to ensure that they plant whatever trees they use in their area of business. You cannot tell them to stop wood carving, which is the source of their income. I would urge the Minister to assist such people with nurseries, so that whenever they cut trees to carve, they can plant more. Some of the trees which are very essential in wood carving take time to mature.

With those few remarks, I beg to support.

Mr. Deputy Speaker: I will now call upon the Mover to reply.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I would wish to give two minutes only to hon.---

Mr. Deputy Speaker: Order! This habit really must stop! This time is allotted to you to reply. Now, if you are giving that time to somebody else, it means that he is going to contribute because he cannot be replying on your behalf, when you are there!

So, proceed!

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I wish to reply. First of all, I would like to thank all the Members who contributed. At the same time, this House would like to demand an apology from the Minister concerned for not being in the House when this important Motion was moved.

However, I wish that the Government will be able to implement all the policy papers and work that has been done in the last ten years, concerning the rehabilitation of our forests and natural resources. It should be noted that the Government has failed and abdicated its duty to rehabilitate our natural resources. It should be remembered that in 1997/98, the Government was given over Kshs100 million by the British Government, through the Kenya Indigenous Forests Conservation Programme (KIFCOP), to replant trees in the forests. It is a great shame that the Government could not come up with a programme on how the replanting of trees would be done. It is shameful that the money was taken back by the British Government.

Mr. Deputy Speaker, Sir, it should also be remembered that Finland gave us some money for the same purpose. The replanting was to be done at Mau West, Mau South and the whole of Molo. But because some Government officials and the then Minister were not willing to allow Finland to have a free hand on the money, it was taken back. Today, we do not have anything on the rehabilitation of our forests. It should also be remembered that when Dr. Leakey came in and discovered that all those monies had been taken back, he placed some moratorium on forest harvesting. As that programme went on, the Government came up with no plan to rehabilitate the forests.

Mr. Deputy Speaker, Sir, millions of shillings are being lost because Kenyans are selfish. They cannot allow anybody to come and work freely. Donors come in but they cannot be allowed to do their work because somebody somewhere wants to inflate prices, or fears that those people are interested in investigating the Government. It is a great shame and we hope that, that will not continue forever!

However, I would like to come up with several suggestions. My recommendations are: The Government should be very strict this time round, to ensure that nobody does farming 30 meters near our rivers, to avoid siltation. The Nyayo Tea Zones should be sub-divided and issued out to the squatters, instead of us encroaching to the already endangered forests. Let us sub-divide all the Nyayo Tea Zones because they are a failure. They are not benefitting any Kenyan. They should be sub-divided into one-acre pieces of land and given to the squatters. Let us also create buffer zones with clear boundaries between settlement areas and our forests. That will make sure that nobody encroaches or

takes an inch of our forests. That can be done only if we create buffer zones.

Mr. Deputy Speaker, Sir, at the same time, we must know that desertification is a fact. In the next 50 years, this country will not be having 2 per cent of our forests. The only way we can avoid that is for the Government to implement the five-year strategic master plan to ensure that, every inch of our forests, or every hectare of land where trees are harvested, are replanted immediately. I gave an example the other time that 50,000 hectares out of 200,000 hectares in the Mt. Kenya forest is bare without any trees. We should make sure that trees are planted. How do we do that?

First, the Government must come to terms with reality that, after the "golden handshake", there was retrenchment of workers last year. Right now, there are no workers in the forests. The Government should start re-employing people in the forests immediately. If the Government cannot do that, let it not feel ashamed because it removed the squatters from the forests in 1988/1989. The Government should allow them back on a shamba-system basis. Let them cultivate the land for two years and then plant trees. Let them be supervised by forest officers to ensure that if a single seedling dies, they are pushed out of the forests. If you allow those people to take tender care of the seedlings, I can assure you that none of them will die. Those people will fear to be evacuated. What we are telling the Minister is to let those people do the farming there. It is a shame that last year, the forest officers threw out many farmers who lost millions of shillings, when we were faced by starvation at the same time. So, I would like to appeal to the Minister to adhere to this. He should allow those people to farm in the forest. He should give them a free hand, so that they can do rotation every two years.

Mr. Deputy Speaker, Sir, the safest way of safeguarding our forests from extinction is for the Minister to ensure that before anybody is issued with a licence to harvest trees he has tree seedlings for replacement of the trees he is going to fell. Forestry officers should be presented with tree seedlings equivalent to the number of trees going to be felled. If one intends to fell 100,000, he should have 100,000 tree seedlings that will replace the trees going to be felled. Planting a tree for every felled tree is the only way of ensuring the continued existence of our forests.

Lastly, I would like the Minister to call upon the relevant Department to establish the size of this country's forests and secure a title deed for every forest. If, for example, Mt. Kenya Forest covers 100 acres, the Minister should have a title deed for 100 acres of forest land. Recently, the Minister confessed before this House that he did not know the size of land covered by forests in this country. That is shameful. We should not be cheated that people are being settled in the forests. We should, first of all, have title deeds for that land. Because we do not trust this Government, the National Environment Management and Co-ordination Act should be used to address this aspect.

The title deeds for the forests should be kept by the House's relevant Departmental Committee. We cannot allow the Government to keep the title deeds to our forests. We have known this Government for a long time. Nobody can trust it. So, this House's relevant Departmental Committee should be charged with the responsibility of acquiring and keeping the title deeds for the forests. Let every Kenyan know the number of hectares of land covered by forests in this country. The same should apply to other Departments. Even the Ministry of Local Government should let us know the size of trust land available in each local authority. That is the only way in which we can rehabilitate our natural resources. Otherwise, we will keep on coming here with proposals, master plans and many other documents that are irrelevant. That way we will not get far.

Mr. Deputy Speaker, wildlife-human conflicts have become very common countrywide these days. I told the Minister recently that elephants nowadays roam about freely in Laikipia District, but nothing has been done about it. We pass Motions here, but they are not implemented. Documents containing this House's resolutions are gathering dust in shelves. Nobody is willing to do anything about the issues raised here. However, this time round, we are talking about the future of our children, grandchildren and great-grandchildren. So, we should not play about with the issue of conserving our environment.

Some 20 or 30 years to come, some hon. Members here will not be existing, but I will be around then since I am still very young. In the next 50 years, our children will be faced with a quagmire that we might not be able to come out of because this Government cannot open its ears and listen to what we are saying. We are saying that if the Government treats this Motion with the contempt it has treated previous Motions, the future of this country will be in danger. Nothing will be implemented. The Government will not come up with any programme.

Lastly, I would like to appeal to hon. Members on both sides of the House to support this Motion. This Motion is neither mine nor the Minister's. This Motion is for the welfare of the whole nation. We are talking about our present and future lives as well as those of our children.

With those few remarks, I beg to move.

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

Resolved Accordingly:

THAT, considering the alarming rate of destruction of the natural resources, particularly forests which are on the verge of extinction; noting that the country is faced with imminent desertification, this House urges the Government to finalise the master plan, within six months, for forest rehabilitation, protection of rivers and dry land vegetation and that the National Environment Management Authority supervises the rehabilitation of the forests in accordance with the National Environment Management and Co-ordination Act.

LEAVE TO INTRODUCE THE PENSIONS
(AMENDMENT) BILL

Mr. Musila: Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House do grant leave to introduce a Bill for an Act of Parliament entitled Pensions (Amendment) Bill to provide for payment of retirement benefits to public officers immediately on retirement and payment of death gratuity within a maximum period of not more than 30 days after the death of such officers and for matters related thereto and connected herewith.

Mr. Deputy Speaker, Sir, this Motion is very special in the sense that, firstly, it is sponsored by the ruling party, KANU. It, therefore, goes a long way in confirming that KANU has the welfare of its people at heart. Secondly, this Motion is important in that it is about the welfare of people who have served this nation loyally with a lot of dedication for many years. Some officers died while serving the nation. On 5th May, 2000, which is about a year ago, this House, unanimously, resolved as follows:-

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

Mr. Deputy Speaker, Sir, while replying to that Motion on behalf of the Government, an Assistant Minister for Finance, Mr. Arap-Kirui, assured the House that the Government was fully committed and that it fully supported the Motion. I would like to quote Mr. Arap-Kirui verbatim from that day's HANSARD. He said:

"The ideal situation, all being equal, is that anyone retiring normally should be paid on the date of retirement. There are instructions to this effect."

Mr. Arap-Kirui went on to say:

"Anyone who retires should be paid on the date of his retirement and continue to receive monthly payments immediately thereafter."

Mr. Deputy Speaker, Sir, although Mr. Arap-Kirui wanted this House to believe that the Government was paying officers who retire in time and that, for those who die, their dependants are paid death gratuity in time, in fact, the opposite is true. So far, nothing has been done since this House passed the Motion a year ago, calling upon the Government to ensure that those officers who serve the Government for their entire lives are paid their benefits, and that for those who die, their dependants are paid death gratuity.

Mr. Deputy Speaker, Sir, only two weeks ago, in an answer to a Question that I asked the Minister for Finance, in relation to payment of pension, an Assistant Minister laid on the Table of this House a list of 507 names of deceased public officers and 166 retired officers whose pension and death gratuities have remained unpaid for five years. Yet, the Minister for Finance wants us to believe that everything is well. The Teachers Service Commission (TSC) is expected to table a similar list very soon, as a follow-up to a Question I asked. I am sure hon. Members will be stunned to see the large number of teachers who retired or died many years ago and to whom no pension or gratuities have been paid.

Mr. Deputy Speaker, Sir, in a nutshell, public officers who retire continue to suffer because of the long delays in the payment of pension. It is very clear that, even today, many public servants who have retired are living as paupers because of the negligence of public officers who fail to process the payments of their pension. It is sad that they even demand bribes from retirees before they can process their dues. They even very shamelessly continue to demand bribes from widows and orphans of deceased officers in order to pay them their dues. This has been going on for many years. When we raise these issues here, the Minister comes here and says it is not their fault, but the fault of those officers because they do not fill the necessary forms. The practice should be that if the Government knows about an officer who will retire within 12 months, they should start the process immediately so that by the time the officer

retires, he ought to be paid his benefits on the spot.

Mr. Deputy Speaker, Sir, therefore, in order to put an end to the suffering of public officers, including teachers, who retire, or the suffering of the dependants of officers who die, my Motion proposes that we put in place legislation that will require the Government to pay these benefits on the spot. If my Motion is passed today, the Pensions Act, Cap.189 of the Laws of Kenya will be amended so that the Government will be required, among other things, to pay the retirement benefits to the retiring public officers and teachers on their last day of work. This will mean that the retired officers will go home with their lump-sum pension cheque on the date of commencement of their retirement and continue to receive their monthly dues immediately thereafter.

Mr. Deputy Speaker, Sir, it is proposed in this Motion that such an amendment will provide that, where the Government fails to pay the retiring officer his or her dues in time, such public officer will be deemed to be in employment and will continue to remain in the payroll until his or her cheque is ready. He or she will be paid before he or she goes home.

Mr. Deputy Speaker, Sir, you will recall what the Government did last year when it wanted to retire certain public officers. They retired over 25,000 civil servants under the Retrenchment Programme. These officers were just told to go home because they had been retired. They were given letters with the promise that they would be paid their pension. If this legislation I am proposing was in place, such public servants would not have been sent home without pay. The riots we saw on the streets could not have occurred because the Government would have been obliged to prepare and pay all the payments due to those officers before they were retired. As we speak today, most of those officers who were retired last year are yet to be paid their dues. Members of this House would be doing public officers of this country a great service if they pass this Motion and, subsequently ensure that the proposed legislation is put in place.

Mr. Deputy Speaker, Sir, turning now to the payment of death gratuity to the dependants of the deceased public officers, the proposed amendment stipulates that these dues should be paid within a maximum period of 30 days after death. The amendment would require the Government to pay interest at the prevailing bank rates on the dues after 30 days, provided that the dependants are not responsible for the delays through litigations. This is because I am aware that when a person dies, there are many people who claim that they should be paid the death gratuity. Therefore, there could be delay because of litigation. But in most of the cases, where the Government neglects to pay the death gratuity to the dependant, it is not because of that. It is simply because somebody is sitting on the file and wants to be bribed in order for the widow or the orphans to be paid. Very sadly, I would like to give an example of thousands of people - and I am sure hon. Members have many in their constituencies - who have died and no gratuities have been paid. Children who go to school have dropped out completely because there is no fees to be paid.

Mr. Deputy Speaker, Sir, a year ago, when I moved my Motion, I gave an example of an assistant chief who died and all his children dropped out of school because his death gratuity was not paid. It was only paid 12 years later, after the intervention of this House. Public servants who retire and they are not paid their dues and the plight of widows and orphans whose breadwinners die and they are not paid their dues must be a matter of serious concern to all us.

Mr. Deputy Speaker, Sir, last time, Mr. Arap-Kirui told the House that there are circulars and regulations which direct Ministries what to do when officers retire or die. But the experience now is that these circulars and regulations have failed to work. Therefore, we need to move from circulars and regulations and put legislation in place to protect these people.

Mr. Deputy Speaker, Sir, before I conclude so that I give hon. Members a chance to contribute to this very important Motion, I would like to mention two other areas which are similarly of concern to officers who retire. One, the Office of the Public Trustee. The Public Trustee is supposed to look after the funds of officers who die on behalf of the relatives, families and spouses, but that Office of the Public Trustee has become another bottleneck in as far as the earnings and dues of these people are concerned. These offices are located in places--I know, for example, the office of Public Trustee which serves the whole of Eastern Province is located in Machakos. A widow or an orphan coming from the other end of Mwingi to go and collect her or his dues or gratuities in Machakos has to spend thousands of shillings and many days on the way before she or he reaches there. When they get there, again, bribes are demanded by these people. I do hope that in the spirit of this Motion, the Attorney-General will also take action and correct the situation where the Public Trustee is not assisting people who he is supposed to assist in as far as payment of dues is concerned.

Finally, Mr. Deputy Speaker, Sir, I want to mention another very important problem arising from pension. This is the amount payable to pensioners. In other countries, whenever there is a review of salaries of serving officers, that committee also reviews pension. In this country, despite the work that pensioners have done over the years, nobody bothers about them, perhaps, because they have no union. Nobody bothers that these people exist. I know some pensioners who earn as little as Kshs200 per month and they spend this Kshs200 to pay for matatu fares to go to

the DC's offices to collect their pension. In my constituency, the pensioners have formed a group whereby they contribute matatu fares and one person goes to collect the pension for them. If they dare go and collect it individually, they will remain with nothing. I know assistant chiefs who earn as little as Kshs100 per month. I know retired majors of the Kenya Armed Forces who earn as little as Kshs500 per month. I know of former Permanent Secretaries who earn as little as Kshs1,000 per month. I know even Provincial Commissioners who earn as little as Kshs4,000 per month. This is ridiculous. We must put in place mechanisms so that whenever the Government is reviewing salaries, pensions are reviewed accordingly in order that we may boost the standard of living of these people in line with the prevailing economic conditions.

Mr. Deputy Speaker, Sir, I do hope that the current committee that has been recently appointed by the Government to harmonize and review salaries will take heed and do something to ensure that not only are pensions paid promptly, but that they are adjusted, so that we have people who retired from Public Service being compensated. This is happening all over the world. If it is a colonel in the army of some country, he continues being a colonel and he continues enjoying life. He can walk to you and say: "I served this country for many years and, therefore, I am earning my pension." The same for the assistant chiefs, office messengers, clerk and anyone who retires.

Mr. Deputy Speaker, Sir, I think this is a very important Motion and I do believe that the Ministry of Finance has failed in delivering this very vital service to officers who retire. I believe that the Director of Pensions is doing a good job, but I also believe that she has not done it as perfectly as it should be. There could be problems, but it is upon the Government to see to it that all those bottlenecks which prevent an officer from receiving his cheque on the day of retirement are removed. There should be no excuses whatsoever. I do hope that when finally the Government Responder stands to talk, he is not going to tell us it is the fault of officers who do not fill the necessary forms. The Government employed that officer and it is upon it to make sure that all documents are done. If they are not done, too bad because that person will continue earning salary until the day the Government shall deliver a cheque on his table.

With those few remarks, I beg to move. With your permission, I would like to request my friend, Mr. Muturi, to second the Motion.

(Applause)

Mr. Muturi: Thank you, Mr. Deputy Speaker, Sir. I rise to second this Motion that seeks to amend the Pensions Act in the manner proposed by the Mover. It is quite common, and I believe this happens in every corner of the Republic, that retiring public servants have suffered so immensely when claiming their pension, and in the case of dependants, when seeking death gratuities and other allowances payable under the Pensions Act, Cap. 189, that this Motion seeks to amend.

Mr. Deputy Speaker, Sir, it is important to note that this is a colonial piece of legislation. Indeed, one of its main sections, even at the commencement, was indicated to commence on or about 8th May 1942 and the balance of the Act to commence on 1st January 1946. It is many years since this Act was enacted and a lot of things have happened. It may well have been that in the minds of the colonial government as shown in the regulations made under the Act, it was possible to pay pension to retiring public servants and other officers who are indicated to benefit from the Act within reasonable periods after retirement or upon death occurring to a serving officer. But to have left the period within which pensions, gratuities and other allowances could be paid to the judgement of the pensions officers at that time may have been well intentioned. But as amply demonstrated by the numerous Questions that have been raised by Members in this House, it is clear that there is a lot that leaves to be desired in the manner in which pensions, gratuities and other allowances are paid either to retiring officers, to their dependants or widows or other entitled persons. It is clear to me that the delays that have been experienced as shown by the various Questions that have been raised here have been so experienced because of laxity on the part of the implementing officers. It is no wonder that when it was noticed that the payments of pensions, gratuities and other allowances was such an enormous task, the power was given to the Minister way back in 1974 and duties delegated to the Principal Pensions Officer in the Ministry of Finance by Legal Notice No.317 of 1974. That Act was made through a Legal Notice of 1974. That Act was also meant to remove the pressures on the Minister for Finance in working out pensions. Between 1974 and today, it is a long time. The Principal Pensions Officer and our officers are now not in a position - without the force of law - to pay pensions in the manner expected under the Act. I started off by saying that, that is an outdated piece of legislation, and this is the best day for people serving in the Public Service who hope to be paid pensions, or those who suffer in various ways so that their families could get compensated on the spot or without undue delay.

Mr. Deputy Speaker, Sir, I am saying that because the Act which was promulgated appears to have vested so much power - the power to pay pensions - on the President. The President is a very busy person. Indeed, under the Act - a colonial legislation - pension is not even a right. It can be denied to retired officers on flimsy grounds. When it is indicated in law that, that shall be determined by the President, whether an officer has been negligent or there have

been irregularities, that is taking away the power which is rightfully for the Judiciary and being given to the President. The President cannot possibly be the one to make decisions on issues of negligence. Those are purely legal matters.

It is because of the legislative provisions which are in the Act that there have been delays. Over the years, the reason that has been given to pensioners who go to the Treasury is that they do not have enough checkers. The Teachers Service Commission (TSC), which employs so many teachers has only three checkers, to check whether an officer who has retired has fulfilled all the requirements that entitle him or her to payment of pension. What is the current practice in the Government? The current practice is that, a year before an officer is due to retire, he or she receives a letter informing him or her that, he or she is due to retire on 24th or 25th May, 2002. So, if the Government has taken the trouble to know that a year from now somebody should retire, why should it take the Government an extra hour to know that on a certain date it should pay a retiring officer his or her dues under the Pensions Act? There can be no justification and the answers that have been given to hon. Members over the years cannot suffice.

Therefore, it is high time we put it into legislation; that an officer should be paid his or her pension on the date that he or she retires, or in the alternative as proposed by the Mover. If such payments are not made on that due date, then, the Government should continue to pay that officer the salary that he or she was receiving prior to that date until such a time as the Government will be ready to pay that officer's pension. Pension is not even paid with interest, even after one has waited for it for more than one or two years. Why then should the Government have its cake and eat it, if the Government does not pay the retiring officers their pensions on the date they retire? Then, it should continue paying that officer his or her salary until such time as it would be ready with a cheque, and the officer shall be deemed to have ceased to be in employment.

Just recently, the former Chief Justice of the Republic of Kenya had to go to the court to enforce the payment of his pension. A whole Chief Justice who had served the Republic of Kenya with dedication could not be paid his pension on the due date. There may have been other technicalities, but it was upon the Government to calculate his dues and pay him in good time, before his due date of retirement. The Government should have indicated to him what would be due to him. If that had been done, then, the necessity to go to court, file matters in the High Court, and the Principal Pensions Officer to appeal to the Court of Appeal and challenge the decision of the High Court, would not have arisen. The Government ended up wasting funds. In the right manner, the Government should be compelled, through legislation, such as what is proposed by this Motion, to pay either interest or continue paying salaries to any public servant who retires.

With those few remarks, I beg to support.

(Question proposed)

Mr. Kihoro: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this very obvious Motion. This is a Motion that arises from what was adopted by this House about one year ago. Again, it is a Motion that was sponsored by the Member for Mwingi South, hon. David Musila. It is unfortunate that nothing has happened in one year, and delay has continued on a matter that is so important to old-age pensioners in this country. This has happened in spite of the fact that this House has also become a retirement home for very many provincial commissioners and Permanent Secretaries. They have retired to this House and, indeed, I can see one of them sitting down there on the second row.

Mr. Deputy Speaker: Order! He has not retired into this House. They are still on active duty.

(Laughter)

Mr. Kihoro: Mr. Deputy Speaker, Sir, the issue is important when you consider that we are dealing with people who have, according to the Government, gone through their active productive period. That is the time when delay is occurring in paying them their benefits, which they have earned - maybe, they paid into the National Social Security Fund or the Local Government Superannuation Fund or other funds. It is very unfortunate and these are the people who are undergoing punishment when they are not paid their benefits in time. Indeed, even when they are processed, I have come to realise that some of the benefits are not being paid on time.

Mr. Deputy Speaker, Sir, it is important to ensure that there is proper inspection of money in all the pension funds in this country. This is because I believe, and this has happened from time to time, that there are a lot of pension funds that are really shells of their former positions. Money has been spent; like in the National Social Security Fund, and that has come to this Parliament from time to time through the Public Investments Committee Reports that have been tabled before this House; showing that investments that should have been made have been made out of NSSF money. It has also become impossible to have the necessary liquidity to pay pensions to the people who rightly deserve to be paid that money. It is, therefore, important to pay the people their money.

Mr. Deputy Speaker, Sir, we have a very important Authority in this country and that is the Retirement Benefits Authority. I believe, payment of pensions to retirees is the first duty of such an Authority. It is charged with the responsibility of inspecting all the pensions Funds in this country and ensuring that they are in sound condition, because we can well say that benefits should be paid on time; they should be paid within one month after the retirement of the individual, but it is also true that money could have been misused. We want to have a full and proper inspection on how money that has been paid into all the pension Funds has been secured or invested and ensure that there is sufficient turnover, every month and every year, to pay pension to the old age pensioners in this country.

Mr. Deputy Speaker, Sir, there are not very many pensioners. I believe, the Civil Service has now been trimmed down and it has got about 180,000 or 200,000 workers who are now serving a population of 28 million Kenyans. It is important that we are only talking about a population of about 2,000 people retiring in one month, which I believe is on the higher side. It is unfortunate that the 2,000 people cannot be paid at the end of the subsequent month, even though the Government has known all a long that somebody would retire in next 30 years or 20 years. Indeed, the Government does not recruit people who are beyond 30 years of age, unless one is employed on a contract basis. So, these regulations are very clear to the Government and the benefits should be processed in good time and paid on time. The people who are now being paid here are those who do not deserve to be paid.

Mr. Deputy Speaker, Sir, only very recently we did hear of another case of investment of pension funds in the Kenya Commercial Bank being used to bring about a better fiscal situation in that bank. There was an indication that, that money in the Pensions Fund could be used to buy the Kenya Commercial Bank so that it could get into a better liquidity position. We do our restructuring, it is important that we do not again go into the Pension Funds. We should not say: "Pension Funds are available and they can be used on any mission or because the money is not due today, it can be used on some other missions." The Retirement Benefits Authority should put its foot down to regularise the position and investigate whether these funds are no longer viable and cannot, indeed, pay whatever the law allows to be paid for.

I do support the amendments which this House will come up with later on. Whatever law that we are going to come up with, it is important that there should be sufficient investigations done into the viability of the Pensions Funds in this country. In that respect, I am talking about the NSSF and the Local Government Superannuation Fund, which are supposed to pay benefits to Kenyans upon retirement. They are supposed to pay those benefits to people serving municipalities, town councils and county councils in this country.

Mr. Deputy Speaker, Sir, last year, we passed a Motion that was sponsored by my very good friend, Prof. Anyang'-Nyong'o, on the retirement of the President. It is good that Prof. Anyang'-Nyong'o, and many hon. Members in this House, did support the Motion. I believe that, the President does not really need the money. But it is good that this House thought about it and put a figure of about Kshs5 million for the President to live on after retiring from office. This is a package that the President should take advantage of so that as we go into the year 2002, the President will retire in honour and dignity and also oversee the new order in this country when he is in good health. That is important because unless that happens during his life time, I think there will be a duty left for him in Heaven, maybe, to say the conditions in which he left Kenyans in.

So, it is important that, as we amend Cap.189 of the Laws of Kenya, to remember that benefits for the President are already provided, but he must also provide for hon. Members here. We have already done our own job.

Mr. Deputy Speaker, Sir, the hon. Members here have also started their own Pension Fund and that is also a very welcome development. They have done the same in respect of the President and there should be no delay in the payment of hon. Members' pensions, if they are not re-elected during the next General Elections.

It is important that we regularise the position in respect of the pension for some of these senior citizens in this country who are going without money when they have actually earned their pension. I would propose that, if somebody's pension is not processed in the first month after a person has retired, his salary should be paid during that month and it should continue to be paid until the pension is processed. If the trend continues for more than six months, it is important to give a provision that, that money will not be recoverable by the Government. This is because we do not want to have a situation whereby somebody is paid a full salary for six months subsequent to his retirement and then after the benefits have actually been processed, you find that the person has been overpaid, maybe, by 80 per cent and again you start recovering his proceeds. Instead of this person retiring in peace and going to his or her home, you find that the Government is getting involved in what amounts to harassment of to a person who should be treated with respect in this country.

Mr. Deputy Speaker, Sir, we can alternatively have a tariff that is going to be made available. We know the salaries that are paid in the Civil Service. We know the salaries that are paid and, in fact, a Commission has already been set up to look into the salaries in the Civil Service. If we can have a salary scale under which people are employed in the Public Service, I do not see why we cannot have a tariff under which benefits can be paid depending on the period one served or the amount of money earned during the period the person has been working in the Government.

So, my support for this Motion goes to what, I think, has gone wrong since Independence because we have treated people, who deserve to be treated well, with a lot of irresponsibility and uncaring attitude. That position should be corrected.

With those remarks, I beg to support the Motion.

The Assistant Minister for Information, Transport and Communications (Mr. Keah): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion. I do support this Motion for the following reasons:

I support this Motion because it touches on a practical problem that we Members of Parliament face. Every weekend, when I go to the constituency, I am faced with not less than ten or even more old pensioners who come to seek assistance in getting their pension cheques. One of these pensioner's case is a pathetic one, of Mr. William Mbachi, a former chief. This old man has never been paid his pension since 1998, when he retired. I am saying so because I want officers from the Pensions Department, who are here now, to go and look at it. To date, this former chief has not received his pension. His children are out of school. He has come to see me so that I can pay school fees for his children. I am sure this case is similar to other hundreds of cases within the Republic.

This Motion is a follow-up of another Motion that was passed here last year and it seeks to ensure that the timing for the payment of the pension is improved. I wholeheartedly support this particular Motion. I have gone through the Act as revised in 1986 and I do not see anywhere in the Act where there is a mention of the time-frame within which pensions are supposed to be paid. Ideally, it should be almost immediate, but in the absence of legislation, it is difficult to compel the Treasury to act fast. I am aware that the delay is due to many reasons; the delay is due to some forms not being submitted on time, but there is absolutely no reason why, when we know a person will retire in three months' time, the papers should not be put in order, so that on the retirement date, which is known, literally that old pensioner is given his cheque so that he can go and start a new lease of life.

Mr. Deputy Speaker, Sir, we do have a duty as a country to the elderly citizens, who have devoted their lives in the service of this Republic. We not only have a moral duty, but also a social responsibility to ensure that they are comfortable after their retirement. It is in this respect, therefore, that I do support this Motion and recognise the danger it poses. If the law is amended and, therefore, it becomes effective, the danger would be that the elderly pensioner could, in fact, sue the Government or impose penalties in respect of late payment of his pension. But to me, this will only enhance our efficiency and effectiveness to respect the pensioners. I would like to point out that this is not a bad idea at all.

[Mr. Deputy Speaker left the Chair]

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

I do recognise the new Temporary Deputy Speaker, Mr. Mwenje, and we should clap for him.

(Applause)

I was saying that we do not only owe these people a moral duty, but also a social responsibility. Therefore, I do propose that we carry out a massive computerization programme, within one year, so that we can update the records and make it possible for these pensioners to be paid their pension on time. To me, this is an administrative matter and, in the present wave of reforms, I believe that this is one of the reforms that we ought to undertake to ensure that our old citizens are well catered for.

Mr. Temporary Deputy Speaker, Sir, while I am still on the Floor, I would like to touch on a few problems. I would like to say that procedures are cumbersome, these pensioners have to make long journeys from their respective areas to come to Nairobi, where they move from one office to another and sometimes "grease" the palm of an officer or something like that. These things are not necessary at all. I would like to say that an officer who has retired should be paid his retirement benefits within a day or a week. This is the reason why I think that the one month duration being provided here is really good guidance and it will help us to be more efficient and effective.

Mr. Temporary Deputy Speaker, Sir, while on this aspect, let me touch on a related piece of legislation, and this is the Retirement Benefits Act. I would like to say that the law that was recently enacted has problems, because two pieces of legislation are conflicting. The Income Tax Act, for example, does provide that no more than Kshs0.5 million should be paid as a lumpsum benefit. But some of the pension schemes do not have any limit whatsoever and, in my view, the Retirement Benefits Authority or the Ministry, should try and rationalise the two pieces of legislation. This is because although the Income Tax Act prevails, there is hardly any reason why if one wants to withdraw more

than Kshs0.5 million, he should be stopped from doing so. This is because he has, after all, worked and earned that money. So, why should he be restricted from withdrawing a lumpsum amount of money from his retirement package?

I also want to contribute to the aspect of liquidity in some of these pension funds. I think this is a matter which the trustees of pension funds should be very careful about. They should ensure that pension funds are managed wisely and that liquidity is available. I have come across cases, in my audit practice, where a pension fund does not have the liquidity to pay the retirees. In my view, this is really bad management and I would like to ask the trustees of pension funds to be more careful in their investment decisions to ensure that these funds have enough liquidity in order to pay retirement benefits.

Otherwise, Mr. Temporary Deputy Speaker, Sir, Mr. Mwenje--- I am sorry, Mr. Temporary Deputy Speaker, Sir. I have said "Mr. Temporary Deputy Speaker, Sir".

The Assistant Minister for Education, Science and Technology (Mr. Karauri): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to call the Chair by a human name; "Mr. Mwenje"?

(Laughter)

The Temporary Deputy Speaker (Mr. Mwenje): Well, I think he realised the mistake and corrected himself immediately.

The Assistant Minister for Information, Transport and Communications (Mr. Keah): Thank you, Mr. Temporary Deputy Speaker, Sir. I realised that mistake and corrected myself immediately. Waswahili husema kwamba ulimi hauna mfupa. I would like to say that my tongue slipped.

Mr. Temporary Deputy Speaker, Sir, may I therefore, take this opportunity to support this Motion.

The Temporary Deputy Speaker (Mr. Mwenje): Mr. Omino!

(Laughter)

Mr. Omino: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this debate. Let me declare my interest; I am a pensioner and when I will leave this House, I will be a pensioner for the second time. So, what I will say, would probably be seen as containing a lot of self-interest, but that is human nature.

This Motion is very timely, and I stand to support it and give the reason why I support it. Theoretically, pensions in those schemes where there is no contribution is income belonging to the pensioner held back by the employer. So, in the case of the Government, civil servants are forever complaining of low salaries because part of their salaries is held back by their employer to pay them a pension. It is, therefore, immoral for a pensioner to wait for that which is his to be paid by the employer who held it back. It is time we converted from the non-contributory pension to a contributory one, so that the employer knows that the money he is holding back actually belongs to the employee. More importantly, if we convert it to that kind of scheme, we would enable public servants, when they retire to take their contributions plus the employer's contribution and start another scheme, because many of them are being retired before they attain the retirement age of 55 years. I think it is grossly unfair on the part of an employer to retire a worker at the age of 30 years or 35 years and deny that worker the opportunity to continue contributing to the pension scheme in order to ensure that he has something to live on in old age.

Mr. Temporary Deputy Speaker, Sir, in this regard, therefore, we must begin looking at, very urgently, the process of converting the National Social Security Fund into a national pension fund, so that all Kenyans, whether employed or not, can contribute to it because everybody needs to be looked after in old age, whether employed or self-employed. The system that we operate at the moment is grossly unfair to those Kenyans who do not earn a wage at the end of the month and who, in any event, work hard in their farms, shops and in their businesses to maintain themselves and their families. So, while we are looking at the method of paying retirement benefits at an early age, we should put in place a system that enables all Kenyans to be paid a pension.

Mr. Temporary Deputy Speaker, Sir, I agree entirely with the Mover's proposal, that when a pensioner has not received his lumpsum at the end of his term, that pensioner must be considered to be still in employment and should continue to receive his salary. That salary should not be regarded as a loan and, therefore, it should not be recoverable, because, it is the fault of the employer that he is in that situation, and so the employer cannot commit an offence and benefit from it. Employers must be made to feel the pinch of not paying their employees' benefits immediately.

Mr. Temporary Deputy Speaker, Sir, there was a proposal that pensions be reviewed every time there is a salary review. I do not think that makes much sense to me. This is because, pension is supposed to be a payment that maintains your living standard or style at the time you retire. Now if a review takes ten years, it does not help the pensioner. So, I am proposing that pensions must be indexed and tied to inflation. More importantly, this House must pass legislation that ensures that there is a minimum pension payable to all pensioners in the country. At the moment,

there are pensioners, and I know some of them, who are paid a paltry Kshs500 per month. To go and get that pension from the DC's office costs them the whole Kshs500. So, really, they end up with no pension at all. Even if that Kshs500 was the minimum, it would serve no purpose because a pension is supposed to give a person a style of living equivalent to that which he enjoyed before he retired.

Mr. Temporary Deputy Speaker, Sir, I would also like to see one more other thing happen. For example, if you paid hon. Members of this House upon departure from Parliament, and there are hon. Members who have even left at the age of 80 years or 90 years, when are they going to enjoy that pension? So, while we are looking at the pension scheme for public servants, we should also consider paying out pensions to people who have attained the age of 65 years, whether they are still in Parliament or not. We would like them to have an opportunity to enjoy that pension.

Mr. Temporary Deputy Speaker, Sir, there is absolutely no excuse for pensioners in the Civil Service not to paid their pension on due date. This is because, if you looked at their pay slips it tells them their age. So, there is a programme that notes a person's age, and it should not be a problem to start preparing a person's benefits a year in advance. I would like to encourage the Government to take into consideration the plight of pensioners. We must find an easier way of pensioners accessing their pension. I think the old fashion of sending everybody who needs any type of payment to the DC must stop. Pensioners must be paid their pensions without any cost to them. At the moment, it costs them virtually half of what they receive; chasing what they earned when they were working.

I think this Motion is timely, and I hope when the Ministry of Finance responds to the Motion, they will agree to every proposal that has been made, because it is all intended to ease and make more comfortable the life of Kenyans.

With those few remarks, I beg to support.

Mr. Sajjad: Thank you Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this important Motion. We all agree that senior citizens of this country suffer most after having diligently and loyally served the Government until they retire. When a senior citizen retires, he is supposed to change his lifestyle. Those who have young children are supposed to educate them.

*(Mr. Murathe entered the Chamber
without bowing to the Chair)*

Mr. Wamae: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you notice that Mr. Murathe did not bow to the Chair while entering the Chamber?

The Temporary Deputy Speaker (Mr. Mwenje): Mr. Murathe, I order you to go back to the Bar and bow to the Chair!

*(Mr. Murathe moved to the Bar and
bowed to the Chair)*

The Assistant Minister for Energy (Mr. Sasura): On a point of order, Mr. Temporary Deputy Speaker, Sir. Have you also noticed that every speaker who has risen to speak, since you took over the Chair, has had to lobby from you?

The Temporary Deputy Speaker (Mr. Mwenje): That is not correct! Whoever has talked to me, did so on a different matter. Proceed, Mr. Sajjad!

Mr. Sajjad: Mr. Temporary Deputy Speaker, Sir, senior citizens of this country suffer most after they have served the Government diligently for a period between 20 years and 30 years. I support the hon. Member who said that retirement benefits should be paid immediately upon retirement.

Mr. Temporary Deputy Speaker, Sir, majority of the civil servants die and leave behind children and widows who do not know what to do. They do not know how to collect the deceased's benefits from the Government. Such benefits should be made available to the families of deceased persons without them having to travel to Nairobi. By so doing, the families of such officers will benefit because relatives will not take advantage and swindle them of such benefits. So, I request the Government to make sure that death benefits are paid to the families of deceased civil servants immediately after the deaths of such officers.

Mr. Temporary Deputy Speaker, Sir, I also suggest that we should look into the issue of contributions to the National Social Security Fund (NSSF). I feel that, when a person retires, he has to chart out his future. To do that, he requires all the funds he has ever saved. Most retirees have their benefits invested with the NSSF, but we know that there are people who have not been paid by the NSSF for the last 15 years. How are these people going to live? We should enact a law here, which will make it mandatory for the NSSF to pay retirees their dues within the shortest time possible.

Mr. Temporary Deputy Speaker, Sir, the amount payable to retirees in this country is very little. With the

prevailing inflation and the depreciation of our currency, this is peanuts. I request the Government to bring a Bill to this House to increase the amount payable to retirees either from the Government service or the private sector service. We should make the retirees comfortable when they retire from active public service. They should be able to lead the lifestyles they are used to. Majority of the retired senior civil servants have been turned into beggars either because they have not been paid their benefits or the benefits paid to them were negligible. In other circumstances some officers retire without a pension at all because all their benefits are taken by employers to cover loans which the retiring officers may have taken in advance. Mr. Omino revealed that some people get as little as Kshs500 as their monthly pension. Can somebody really survive on that amount of money? We should have a clause in the proposed Bill which stipulates that pension should automatically be increased in line with inflation and depreciation of the Kenyan currency. It should not be stagnant

Mr. Temporary Deputy Speaker, Sir, I would like to emphasize that retirees should be paid their monthly pensions at their homes and not at the DC's office. Why should a man be made to travel all the way from Lamu to Mombasa to collect his pension? He should be paid his money in Lamu to avoid unnecessary costs.

With those remarks, I beg to support the Motion.

Mr. Khamasi: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute to this very important Motion brought to the House by the Member for Mwingi South.

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

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

First and foremost, the retirement benefits we are talking about in this country are peanuts. In fact, if payment of pensions in this country was realistic, we would not have, retired Provincial Commissioners, Permanent Secretaries, Managing Directors wanting to be Members of Parliament at all. They would be enjoying that pension at home peacefully!

Mr. Temporary Deputy Speaker, Sir, the Mover of this Motion said this was a party sponsored Motion. One would wonder why KANU should sponsor a Motion instead of asking the Minister to bring a Bill to this House, to be enacted into law. This is clear testimony that this is yet another gimmick of lip-service to the people of this country. We have passed Motions in this House and no action has been taken. If the party was serious about this matter, it should have brought a Bill to this House, but not a freelance Motion, by a Member of the governing party.

Mr. Temporary Deputy Speaker, Sir, the issue of delayed payments of pension benefits is a big problem in this country. In fact, many of the retired people die without receiving their benefits. People have been forced to make countless journeys to Ministries, and pension offices in an effort to get what is rightly theirs. In the process, the amount of money spent by these people while trying to launch their pension claims is so enormous. This does not make good arithmetic at all.

Mr. Temporary Deputy Speaker, Sir, I have had occasion to visit the Teachers Service Commission (TSC) offices to pursue retirement dues for some teachers from my constituency. It is a shame! The corridors of TSC offices are full of too many teachers who want to be paid their retirement dues. They spend a lot of money in hotels while trying to get their dues, but they get very shoddy services, not worth talking about.

Mr. Temporary Deputy Speaker, Sir, widows suffer greatly because of the inappropriate service provided by the Government when it comes to paying retirement benefits. Orphans who have no one to support them even lose what is rightly theirs because there is nobody to help them get the benefits due to their late fathers or mothers. In those offices, corruption is the order of the day. Trying to locate even a file in those offices is a big problem. One has to part with money! When the figures are being processed, the pensioners and dependants have got to part with their money. When they are even getting the cheques, the same thing happens. It is high time we brought a legal framework into place to stipulate the time within which these payments are made. Penalties should be imposed on late payments of the benefits; interest to be paid on all monies owed where the Government has received all documents and for reasons that are not a mistake of the beneficiaries, penalties should be imposed. Something has got to be done about bribery. This is because in every office in this country unless you are going to part with some little money, nothing actually works.

Mr. Temporary Deputy Speaker, Sir, the Office of the Public Trustee is an issue which has got to be dealt with very seriously. These officers, in many cases, are inaccessible to the dependants or beneficiaries of these funds. Many a time, officers in those offices are rude and completely inconsiderate. It is high time these offices were brought closer to the people, and I suggest at divisional level, so that the District Officers, chiefs and assistant chiefs who are closer to the beneficiaries, can help and make sure that, at least, the people who are entitled to these pensions really get

them without many problems.

Mr. Temporary Deputy Speaker, Sir, we have heard stories of monies that are entitled to beneficiaries going to the wrong hands at the Trustees' offices. This is a very serious matter whereby children of the deceased, who are beneficiaries of these monies, are unable to go to school because the monies have been misappropriated. What is the Government doing about this? You can imagine a situation where a person who has given the Government service in excess of 25 years, dies in service and, maybe, has left about five school-going children but this money is not available to the latter simply because somebody in the Office of the Public Trustee has actually misappropriated this money. What a shame to this country!

I want to join my colleagues in saying that, in fact, in this law, we should be able to make sure that the beneficiaries get their money at their doorsteps. It is important for people who have given service to the Government and other employers to be able to be given some respect which should be by way of getting what is due to them at their homes. These are old and incapacitated people who are unable to move from one office to another. Some of them are blind and are unable to move from point "a" to "b" and yet the circumstances force them to travel long distances going to the DC's office where sometimes the DC is unavailable and yet, he is the only person to deal with them and they cannot be served.

So, it is important, at this juncture, to make sure that when people retire, they do so on reasonable benefits. I want to also join my colleagues in saying that it should not be a mere Kshs500 but a pension that an inflation factor has been factored into so that everytime there is change in the style of living and economy, there is a factor that takes care of the increase in the pensions that is payable to the dependants.

With those few remarks, I beg to support.

The Assistant Minister for Energy (Mr. Sasura): Mr. Temporary Deputy Speaker, Sir, I am glad that Mr. Mwenje is not there. This is a very important Motion and considering the fact that it was moved by Mr. Musila who is a very experienced former civil servant, definitely the substance of this Motion is very significant to retirees in this country. The work of a Member of Parliament, when it comes to dealing with the pensions office, is the most frustrating aspect of his life. Pension is not a privilege as such. It is contributory and a right of the retiree. Different Ministries in this Government prepare their retiring officers' files and documents in good time.

Mr. Temporary Deputy Speaker, Sir, when it comes to a place called Marshalls House where these benefits are prepared, as far as pensioners are concerned, it is like the gate or reception to heaven. This is because if you go there, the corridors of that house have become a place where pensioners go to plead. For the last three years, I have had very nasty experiences in that office and this is basically in dealing with benefits of somebody who retired after serving in the public service with a lot of dedication for over 30 years. One, you find that our retiring officers are not fully prepared for the pension scheme. That is very unfortunate. Prepared in the sense that having got used to regular incomes at the end of the month, income which is substantially higher than the pension itself, when they are preparing to get the gratuity, normally, they are not very much prepared. However, that is besides the point because I do not expect an office that cannot even give out the little amount to which somebody is entitled--- I do not expect that office to prepare the same officer for receiving the lumpsum in terms of gratuity.

Mr. Temporary Deputy Speaker, Sir, you will find that retrenchment came out as sort of as a surprising form of retirement. Despite the fact that many people were prepared for it and they were told that they were going to be retired, to date most of those people have not been paid. The regular process of retirement is what we are talking about here and in bringing this Bill, I would urge the Mover of this Motion to include various other aspects including the amount to which the pensioners are entitled.

Coming back to the office, I would not blame any Ministry for not preparing the documents of the retiree, but it is as if the Marshalls House department that deals with the pension is not part of the Ministry of Finance. It is a very independent group of people. It reminds me of our local authorities that are run like any village committee. It does not look like a Government office. When I speak like that, I am doing so from experience. My father is a retired civil servant. It has to take a Member of Parliament to personally visit Marshalls House to fight for somebody's right and instead of struggling over the years to get my father paid Kshs500, I opted to pay his pension. I realised I will be paying more in terms of time, energy and even finance to look for my father's pension. I would rather pay Kshs500 and that is very shameful for that department. When dealing with secretaries in that office, you will think you are dealing with Mary the mother of Jesus Christ because of the arrogant way they talk to you. Before you even get to the bosses, clerical officers and even subordinates there are not in uniforms. They have white aprons which remind you of lab technicians. If they could handle a Member of Parliament - after introducing yourself - very nastily you can imagine how they will handle an old man who has come all the way from Moyale or Marsabit to look for his pension. Not every pensioner in this country can take that department to court like the former Chief Justice did. They cannot afford it. If I was one of the persons to be consulted about the retrenchment programme, I would recommend that, that whole department be the first to be retrenched in this country so that they will also come back and look for their benefits, just

to experience how nasty it is to look for somebody's pension.

You will find that the Public Trustee channels the claims of the dependants through the District Commissioner. The Public Trustee deals with the District Commissioner at the district level. It takes a long period of time before the DC responds so that the dependants of the deceased are paid their dues. An independent tribunal should be established at the district level, comprising of elders and religious leaders who will sit fortnightly to reply back to the Public Trustee so that the authenticity of the dependants is established, instead of dealing with the Provincial Administration.

It is very unfortunate that the people of Northern Kenya are specific targets of this office. I do not know why it is perceived that these are people who have a lot of money. Somebody might argue that corruption is a two-way traffic where you give and take. While I am not condoning corruption, I would not blame somebody coming from Mandera to look for a Kshs5,000, for spending Kshs300 or Kshs400 to grease the hand of a corrupt officer in Marshalls House to get his benefits. I agree it is wrong to give out money as bribe, but it is expensive for that person to stay in Nairobi because he needs money for accommodation, food and transport. He is compelled to do that by circumstances. Unless that office is overhauled we will always be singing the same song about the receipt of these terminal benefits.

Lastly, there is an inter-related office when we talk about benefits. The population in the urban areas like Nairobi is constantly increasing because of the migration of people from the rural areas. Most of these people come to seek for low cadre level employment. Workers in this country who have worked in Asian firms for five or ten years normally have their employment terminated after say, ten years without a single cent. The labour office which is supposed to assist them in getting their benefits colludes with these firms to deny these poor workers employed at the lower level their rights. This has become the order of the day. In a way, the labour office may be referred to as a "pension scheme" because it deals with issues of employees' benefits. For example, somebody may have invested ten years of his life in a company. However, he may be sacked because the factory has been robbed or for some other reasons. When such an individual reports to the labour office, the labour officer always summons the Asians, but they do not come to the labour office because they have a lot of contempt for our officers. When they are summoned by the labour officers they do not appear. So, instead the officers collude with them. They go to their offices and agree on the amount payable to this officer. If, for example, the employee who has been sacked is entitled to Kshs70,000 the officer would rather take Kshs20,000 and give a paltry Kshs5,000 to the person whose employment has been terminated. The labour office and the pensions office in Nairobi must be completely overhauled. Something miraculous must be done about it through this Bill. Unless this is done then we will always be crying for our pensioners.

With those few words, I beg to support this Motion.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Katuku, you have only three minutes.

Mr. Katuku: Thank you, Mr. Temporary Deputy Speaker, Sir. I will be very brief in contributing to this important debate.

I would want to start with the issue of the Pensions Department. When the Minister is called upon to reply, I expect him to tell this House how much he has done so far since last year to improve efficiency in that department. Even though we are blaming the department, this being an era of computer technology, I expect the Minister to tell us how much money they have put towards computerising this department so that whenever our workers step in there, it is just a question of retrieving the details of pensioners from the computer and paying them straightaway. It is very important that the Government allocates money to this department. We can pass Motions of this kind, here every year, but as long as that department is not efficient, we will never move.

I also want to touch on the issue of remuneration. I want to concur with those who have said that the amount paid to the pensioners is very little. If we remunerated these retirees properly, this House would not become a dumping ground for retirees. We need to have a minimum and maximum age for being in this House. Judges serve up to 74 years before retiring. They are the ones who interpret the laws we make in this House. I do not want a scenario whereby laws are made by people who are above the age of that interpretation. We should have Members of Parliament retiring at the age of 65 because we do not want this House to be a House for deadwood.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Katuku. Your time is up. I will now call upon the Government respondent to respond.

The Assistant Minister for Finance and Planning (Mr. Arap-Kirui): Thank you, Mr. Temporary Deputy Speaker, Sir. I will start by thanking Mr. Musila for bringing this Motion and particularly for being very consistent and persistent in his concern for retirees. I believe we have answered two or three questions on this subject and we are now dealing with a second Motion on the same subject by the same individual. This persistence is to be commended. As a Government, we are sympathetic to the intentions of this Motion. I will limit myself to the intentions specified in the Motion, which is the timely payment of retirees' benefits.

Last year when we debated a similar Motion, the regulations we have within the Government are, in fact,

extremely good and they are intended to ensure that retirees are paid promptly on retirement. I did indicate and I would like to reaffirm that the Treasury advises all Ministries, 12 months in advance, of the retirement of employees. The employees are also advised, 12 months before they are due to retire that they are due for retirement a year from that date.

Ministries are expected to submit to Treasury applications for retirement benefits nine months before the due dates of retirement. In fact, if these regulations are followed, we would have in Treasury, nine months within which to prepare the retirees dues. Unfortunately, this does not happen. The reason why this does not happen is often due to the retirees not co-operating in the finalisation of their applications forms. It is unfortunate, but it is true that most of our people are reluctant to retire. When you tell them that they are 55 years old and due for retirement, it is as if you are sentencing them to death. They shy away from completing the retirement forms and submitting the documents that are required. So, the nine months elapse and the officer has to leave office before he has completed his retirement benefits forms.

Mr. Temporary Deputy Speaker, Sir, if every individual was to co-operate in the preparation of these documents, this Motion would be superfluous. Unfortunately, majority of the retirees do not co-operate. Quite a few retirees co-operate. In these instances, we have had a number of cases of retirees who are paid their retirement benefits immediately they retire, and thereafter, they are paid their monthly dues on time. At present, we have cases where individuals who are due to retire have had their documents processed and their pensions waiting for them when they retire. This is where, as I said, the individuals have co-operated, have filled all the necessary forms and supplied all the necessary documents. We have the documents ready and they are quite a number. When the individuals retire, their cheques will be waiting for them and, thereafter, they will be paid on a regular basis. I want to emphasise that if our people co-operated and did not run away from the need to realise that there is no way one can avoid retirement, then this situation would not arise.

In order to strengthen the present procedures further, we are presently holding discussions with the Director of Personnel Management. Under the present circumstances, the personnel officers are required to assist retirees in preparing their pension application forms and putting them together with their documents. Since this has been a slow process, we are in the process of negotiating and, hopefully, seconding officers from Treasury to various Ministries to assist in the process of speeding up the presentation and preparation of these documents, and also in advising the individuals on the need to prepare themselves for retirement. They should ease this process and make it faster.

Mr. Temporary Deputy Speaker, Sir, may I also point out that, in response to a Question in this House on the same subject, we recently pointed out that over the last five years - and Mr. Musila referred to our response - only about 500 retirees and 160 of those who died in employment, remained unpaid. What Mr. Musila neglected to mention was that this was out of a figure of nearly 40,000 workers. Out of 40,000 workers, only 660 remain unpaid. This is less than 1 per cent of the total workers who were supposed to be paid their dues. The Treasury, and in particular the Pensions Department, is to be commended.

As I said during earlier debate, when these documents arrive at the Pensions Department, they do not take more than a month to process. In fact, the period is usually in the order of two to three weeks before the individual is paid. What the hon. Member was referring to when he talked of going to Marshalls House and knocking at the gate as being more difficult than going to heaven, I believe was a situation where most people instead of going to the Ministries to find out the state of their pensions documents, end up at Marshalls House because they have heard that, that is where pensions are paid. In fact, the Pensions Department offices have been moved to Uchumi House. The retirees usually come to the Pensions Department offices even when their documents have not even arrived there. Instead of chasing their documents at the Ministries, they used to go to Marshalls House and they have to be referred back to the Ministries. But as I said, payments are made within a month of these application forms being received at Marshalls House.

Mr. Temporary Deputy Speaker, Sir, I should also touch on the issue of pension benefits payments through the District Commissioners (DCs). As we have pointed out in the past, the preferred payment is to the individual's bank account. Where the individual has a bank account, this is normally what happens. Persons are only paid through the DC's office when they do not have bank accounts. We would encourage retirees to maintain bank accounts so that their need to travel to the DC's office and to encounter any problem is minimised.

Mention has been made of payment of bribes by the retirees in order for them to get their files. We do not condone this and everybody should understand it. In any case, the payment of a bribe is a two-way process. If possible, our retirees should be discouraged from paying bribes because this is their right and they should insist on it. If enough of them desist from making such payments, we will be on the way to killing the vice completely. At the end of the day, the retirees will have to be paid. This is their right and there is absolutely no need to be pay a bribe. What seems to happen is that there are temptations of individuals to try and jump the queue. They seek favours by paying bribes to some clerks. This is illegal and we do not want to see it. I hope pensioners will desist from paying bribes.

May I also give a word of caution. I believe some hon. Members are expecting something to the effect that this Bill should provide, if and when it is introduced, for where an individual has not been paid his pension benefits, to be presumed to continue to be in employment. We would be creating an impossible situation by doing this. I have particularly explained that the delay is principally caused by the individual who is reluctant to go on retirement. In fact, by doing that we will be opening a loophole for such individuals to continue in employment through the back door. I can say very clearly and loudly, that the Government would strongly oppose such a proposal should it appear in the Bill. This is because we would be creating a situation that would not be tenable, and one that would encourage the same individuals to try and continue in employment through whatever means possible.

As I said, we are sympathetic to this Motion, but we need to be very cautious, if and when the Bill comes before this House. As I have pointed out, the Government is, in fact, already doing everything possible to ensure that our people are paid their retirement benefits on time. I would like to further appeal and urge officers who are involved in this process to be diligent and respect retirees, because, as we have said earlier and continue to say, we respect and value all public servants.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Poghiso): Hon. Members, we have a little time left before the Mover is called upon to reply. So, I will give one Member some time to complete the next few minutes.

Proceed, Mr. Karauri!

The Assistant Minister for Education, Science and Technology (Mr. Karauri): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for allowing me to make my contribution on this Motion. First, I wish to congratulate the Mover, hon. Musila, for bringing this very good Motion. I hope that when this House passes it, it will not take more than two months before the necessary legislation is put in place. Many people are suffering and dying before they get their pensions. Many of them have their children's education curtailed due to lack of fees. Members of Parliament struggle to conduct harambees for such people, when whoever is left behind cannot be able to pay fees through the money that is paid. I would like the Mover, when he is drafting the Bill, to remember that there are people who get a pension of just about Kshs100 per month each, and the fare from where they come from to the DC's office or to the nearest bank is more than that. I would like the Bill to include the aspect that, those who earn less than Kshs1,000 per month be paid their pensions in lump sum every year, or for 12 months. That would be something substantial to cater for transport between where the pensioner is living, the DC's office or the nearest bank!

Mr. Temporary Deputy Speaker, Sir, I would also like to warn the Mover and let him know that when an employer pays promptly on retirement, it is too soon. I was not here when he was contributing but there will be no time to prepare. That is wrong! That is because every employer knows when the employee would retire. I do not want to dispute what the Assistant Minister said. The employer should ensure that all the records that are required are there! It is the records that normally delay the process. When you employ somebody, he produces his testimonials, school certificates, birth certificate and identity card. Now, what are those other records that are required when you retire, that cannot be there all the time? The employer should ensure that those records are in the file of the employee so that, when he or she retires, it is just a question of transferring those records to the Pensions Department for the employee to be paid. So, the onus of producing the documents should not be on the pensioner, but the employer who, in most cases, is the Government. We are told that in the private sector, people retire with their cheques. They are given their cheques the same day they retire and go to their homes.

Mr. Temporary Deputy Speaker, Sir, I want to plead a case for the councillors. The councillors are also politicians like us. I know that they earn very little. The little that they earn can enable them to make a scheme in their own councils so that when they retire, they do not go home like paupers. They could have something small, even if it is a payment of Kshs10,000 or Kshs5,000 a month, or maybe a lump sum of Kshs100,000. That could be a benefit because they work so long as councillors and, finally, go home with nothing! I know that Members of Parliament earn their pension. We work and pay for it. We are not like the civil servants or private sector employees whose pensions are paid by their employers namely, the Government or the private companies. But Members of Parliament contribute to their own pension schemes. As I am pleading the case for councillors, I would also like them to be reduced. There are many councillors in any district. Even the meaning of the council is not there any more. They were supposed to provide services but today, whatever revenue they collect is used to pay salaries and allowances. If the councillors could be reduced to a manageable number, they could provide services and, at the end of ten years or so, be paid some pension. That way, they will not live as paupers.

With those few remarks, I beg to support.

The Assistant Minister for Labour and Human Resource Development (Mr. arap Leting): Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to say a few words concerning the Motion. First, I rise to support the Motion as an interested party because I am a retiree. From what you have heard from the earlier speakers, one of the torture chamber offices in this country is the Pensions Department. I am not saying that because of my personal

experience, but because of the public who come to us as their Members of Parliament, wanting our intervention to get their dues from the Pensions Department. I think one of the Members who spoke before me put it rightly, and showed how terrorising the Pensions Department is to the beneficiaries.

Mr. Temporary Deputy Speaker, Sir, speaking from my own experience; imagine a person of my level taking about four years to be paid? If a person like me who knew everybody in the public service and in all the Ministries could take between three to four years to be paid, what about the ordinary person?

The Temporary Deputy Speaker (Mr. Poghiso): Order! Hon. Members, it is now time to call upon the Mover to reply.

Mr. Musila: Thank you, Mr. Temporary Deputy Speaker, Sir. I am overwhelmed by the positive contribution that hon. Members have made towards this Motion. Firstly, I would like to thank all hon. Members who have contributed so positively and who, by their own contribution, have made it quite clear that this Motion is timely and necessary, so that we could put the proper legislation in place to assist our people. I would also like to thank the Assistant Minister in the Ministry of Finance and Planning who has responded rather positively, on behalf of the Government. He said that the Government is sympathetic with the plight of the civil servants who retire. In effect, he has accepted the spirit of the Motion.

However, I would like to mention that the Ministry continues to repeatedly mislead the public and the House that, it is the fault of public officers who retire that their retirement benefits are delayed! We have heard that over and over again. Why are there delays? Why does the Ministry have to insist on a person who is retiring, to bring certain documents in order that they may calculate his pension? I have seen that because I also retired from the public service. They write you a letter and say: "Bring us your letter of appointment." You were appointed 40 years ago and some of the old men who retired do not have those letters! They also ask for identity cards and other things. Unless the Ministry and the Government are saying that they are inefficient, and they do not keep records of their employees, there would be no need for the Ministry to demand those letters. This House should, therefore, pass this Motion, so that we can put in place legislation that will enable retirees to receive their benefits on the retirement dates. If we fail to do so, retired officers will remain on the payroll and be deemed to be working until they receive cheques for their retirement benefits.

Mr. Temporary Deputy Speaker, Sir, you heard my former boss, Mr. Leting, who was once Head of the Public Service and Secretary to the Cabinet tell you about his case. I am surprised to hear that he had to wait for four years before he could receive his pension. A former Chief Justice had to sue the Government because he could not receive his retirement benefits.

While I appreciate that there has been some positive change at the Pensions Department, particularly following the appointment of the current Director of Pensions, I still insist that matters at that Department are still very bad. It is, therefore, my hope that this morning, this House is going to clear the way for us to legislate on this important matter.

While initiating debate on this Motion, I said that the legislation being sought should provide for a minimum amount that pensioners should earn. With me here is a copy of the Pensions Act, Cap. 189. Some regulations issued by the Minister in 1986 state that the minimum pension payable as of 1st July, 1977 shall not be less than £60 per annum. That is the equivalent of Kshs1,200 per year. That means that today there are people who earn Ksh100 per month as pension. What a shame! That is why I propose that we settle for a minimum amount that will give a retiree some income that will enable him to walk tall and say: "I served the Republic of Kenya with dignity. I am, therefore, able to live the way I am living."

Mr. Temporary Deputy Speaker, Sir, I also talked about fixing a time frame within which one should receive his retirement benefits. Retirees should be paid their dues promptly upon retirement. I also said that we must legislate for the minimum amount a pensioner should earn. Also, there must be periodic reviews of pension payable to retired public servants. I also proposed that gratuity payable to dependants of deceased public servants be paid out within 30 days of an officer's death.

You will recall the nasty road accident that involved a lorry ferrying prison warders to Nyayo Stadium for rehearsals in preparation for national celebrations some time back. To date, the relatives of the prison warders who perished in that accident have not been paid. The Director of Pensions may say: "We gave the cheque to the Office of the Attorney-General." The Attorney-General may say: "The cheque is with the Public Trustee", who may, in turn say: "A certain lawyer took the money", but our concern is about the dependants of the deceased persons. We have been kicking our people left and right as they chased their dues. So, the proposed Pensions (Amendment) Bill will fix 30 days as the time frame within which gratuity shall be paid. Beyond that period of time, interest shall accrue to one's gratuity at the prevailing bank rates. So, if the Government decides to take ten years before paying one's gratuity, it must be prepared to pay interest on it at the prevailing bank interest rates.

Mr. Temporary Deputy Speaker, Sir, I would like to assure this House that, if this Motion is passed, I will

move with speed, of course, in consultation with the Attorney-General to draft the necessary amendments to the Pensions Act. I will, indeed, endeavour to consult as many hon. Members as possible so that we come up with an Act. At the end of the day, we will make sure that the pensioners of this country and, indeed, the public officers who are serving today feel that their future is bright because, on retirement, they will not have to queue for their cheques. I do hope that this House will do a favour to the public servants of this country today and pass this Motion so that, in future, all will be well for those who retire from the public service.

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

(Question put and agreed to)

LEAVE TO INTRODUCE THE PROMOTION OF
NATIONAL UNITY AND RECONCILIATION BILL

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House do grant leave to introduce a Bill for an Act of Parliament entitled The Promotion of National Unity and Reconciliation Bill to establish a Truth and Reconciliation Commission to investigate the causes and effects of political and ethnic violence and gross violation of human rights in Kenya since 1966 and to recommend just and permanent solutions that will promote and enhance peace, national unity and national reconciliation and to provide for matters connected therewith and incidental thereto.

Mr. Temporary Deputy Speaker, Sir, this very august House had on 29 April, 1998 adopted the following resolution which was contained in a non-legislative Motion and which read as follows:-

"THAT, in the view of the fact that the resurgence of ethnic violence has caused the death of thousands of innocent Kenyans, the destruction of property and the displacement of hundreds of thousands of Kenyans from their homes, farms and places of work and schools, and considering the adverse effects of persistent ethnic violence on the economy and socio-economic development of our nation, this House urges the Government to facilitate the establishment of a Truth and Reconciliation Commission with judicial powers and authority to carry out extensive investigations into these matters in order to establish the root causes and remedy."

Mr. Temporary Deputy Speaker, Sir, therefore, Parliament had the intention of urging the Government to establish a judicial commission of enquiry. It is true that the President set up a judicial commission. But the President set up that judicial commission under the Commission of Inquiries Act. There is a difference between a judicial commission appointed under the Commission of Inquiries Act and one appointed by Parliament. Currently, we have a constitutional review commission which was established as a result of an Act of Parliament. Which means, therefore, that it is Parliament which has set the terms of reference. It also means that the Commission will report to Parliament. That indeed the report will be debated here and a decision will be made by Parliament and recommendations made for action by Parliament. The one appointed by the President under the Commission of Inquiries Act does not report to Parliament. It reports to the President. The terms of reference are also set up by the President. In the same way, for example, the Akiwumi Commission on Tribal Clashes has reported to the President. The Ouko Commission, on the death of the former Minister for Foreign Affairs and International Co-operation, also reported to the President. The President is not obliged to publicise the findings of such a commission. This is the difference. Our commission which will investigate and report on the Constitution of Kenya will report to this Parliament because it is set up by an Act of Parliament. That is what this House wanted; a Judicial Commission set up by this Parliament, whose terms of reference have been drawn by this Parliament, whose findings will come back to this Parliament and whose funding will come directly from the Consolidated Fund, so that it is not manipulated by the Executive. It is not possible that the Executive, which was responsible for the acts of ethnic violence through acts of omission and commission, would release the report of such a finding and yet, Kenyans are entitled to know what it is that caused ethnic violence in order for us to deal with this once and for all. Therefore, the spirit of this Motion has already got the support of the House when we first passed the Truth and Reconciliation Motion. But the Government has not responded and has not, therefore, set up a Truth and Reconciliation Commission and yet, it is of great public interest. More than 3,000 Kenyans were killed in the three years during this so-called ethnic violence which was basically an act of genocide by our own leaders against their own people. The holocaust in Kenya was worse than the bomb which exploded at the American Embassy. We have widowers, widows, orphans, displaced relatives and family members who are all crying for justice for what happened during that time. The solution is to establish a Truth and Reconciliation Commission so that we can address the problem that caused this sad state of affairs.

Parliament, as the legislative body of the people of Kenya and the supreme legislative authority in our land,

must reassert its leadership and bring to an end the culture of political violence. We can only do so by addressing what causes political violence in the first place. It must end thuggery, assassinations and genocide. Parliament must, therefore, promote stability, democracy and freedom. That is the spirit behind this particular Motion. Political violence is used to silence defence. When you assassinate your opponent, you are silencing him so that he does not speak. It also compels compliance. The architects of political violence invoke the myths of tribal solidarity to protect their loot. They are architects of tribalism and tribal ideology and prepared to go to any length to plunge this country into chaos and civil strife. That is why this Parliament must rise to the occasion to stop the culture of political violence, assassination and genocide. This group of people who promote political violence enjoy chaos because, in chaos, they benefit. It gives them greater opportunity to gain more than they can obtain if there was peace and stability in our country.

Mr. Temporary Deputy Speaker, Sir, I want to return to an incident which occurred in our history. That on Friday, 10th February, 1984, a contingent of the Kenya Army and the police rounded up 5,000 people, men and boys, and took them to Wagalla Airstrip in Wajir. They were stripped naked and their clothes set ablaze. Their personal effects and valuables like watches and money were looted by these security forces. They were made to lie down on their bellies on the hot airstrip for four days and four nights without food and water. Many of them died of thirst, and they were shot when they tried to flee. A number of them were maimed, and some were slapped, and that was violence by our own forces during the Wagalla Massacre.

Mr. Temporary Deputy Speaker, Sir, on the fourth night, many of them had died of starvation and torture meted on them by Kenyan security forces against the Kenyan people. They could be of Somali origin, but they were Kenyans. It could happen to any other community, and yet it happened with impunity because no action has been taken. Then, the survivors were transported to the Somalia and Ethiopia borders and were ordered to go to Ethiopia and Somalia. The Kenya Army officers and the Provincial Administration made frantic efforts to do that. What I am saying here was beautifully recorded in the HANSARD, and I can give the details of that HANSARD at the end of my submission, so those who will look at the HANSARD of 4th April, 1984, will find therein, the debate on the Wagalla Massacre. It was raised by the then Member for Wajir West, Mr. Ahmed Khalif, in the interest of exposing what was a major holocaust by our own security forces against the people of Kenya.

Therefore, the then hon. Member deserves congratulations for exposing that issue, but he was not alone. There were other expatriates; a lady called Ms Analena Tolle and other European expatriates who were working in Wajir and who took pictures of that particular holocaust. They recovered dead bodies from the forest and took them to their families and relatives for decent burial. Since Ms Analena Tolle traced those who had been sent to Somalia and Ethiopia and returned them to their homes in Wajir, what then happened to this sister and the other expatriates? The sister was deported from Kenya by the Government to forestall the leakage of what had transpired at the Wajir Airport. But it was too late, because the Norwegians, who were witnesses to that incident, published a book and raised the issue with the United Nations. The world body stood up in one minute silence in honour of the victims of the Wagalla Massacre. The Government of Kenya maintained its deep silence and denied that genocide. Hon ole Tipis - I remember that when I was in this House at that time - and it is in the HANSARD, told Parliament that only 57 Somali bandits had been killed at Wagalla, in a cross-fire after provoking a military tribunal.

But up to this day, no judicial commission has been set up to investigate that serious breach of human rights; the massacre of innocent Kenyans. The Government has not set up a judicial commission, and it has not made any other report to this House on what transpired at Wagalla Airstrip.

Mr. Deputy Speaker, Sir, this is not the only incident that occurred in northern Kenya. Recently, we had an incident of Bagalla Massacre when the Ethiopian militia crossed the border, came into the country and travelled over 600 miles, killed people, maimed others and took their livestock back to Ethiopia. Again there was no report made to this House about the incident.

Be that as it may, Kenya is a sovereign country and has an elected Government whose first duty is to protect Kenyan citizens from criminal violence and external aggression. The duty of the Kenyan Army was to repulse foreign invaders and drive them out of the country. The Kenyan taxpayers maintain Army Garrisons in Moyale and Takaba and also a police division at Bute, along the Kenyan-Ethiopian border. Besides, there is a network of Provincial Administration, which covers every part of this country. We are paying taxes to maintain all these security forces to secure our people and their properties and yet insecurity is rampant in northern Kenya.

This situation is complicated, but of course, there are international civil wars in the horn of Africa, resulting in immigration of refugees and pseudo-chiefs and the proliferation of deadly arms. But you are not going to tell me that our Government has given up the job of protecting the Kenyan citizens wherever they are. We expect our Government to protect Kenyans wherever they are. The people of Kenya elect their Government to provide them with security, social justice and socio-economic development and to protect their freedom and human rights. They, in turn, pay taxes to maintain the Government, whose primary function is to effectively guard the collective interests of the individual citizens who cede personal power to the custody of the State to be deployed for the collective good of the individual in

society. When the individuals cede their power to defend themselves to the State, they are giving up their individual powers to the custody of the State so that the State can use the Army, the police and the prisons to guard their individual and collective welfare.

Mr. Deputy Speaker, Sir, I spent some time on this work and I want to refer to the HANSARD because this matter was debated in this House. But it was one act of holocaust by the Kenya Government against its own people. More recently, a second holocaust took place and it started at Miteitei Farm in the Rift Valley Province in Nandi District, on 29th October, 1991. Three years after the Miteitei Massacre, the organisers of the holocaust had brutally murdered 3,000 innocent Kenyans in the Rift Valley, Nyanza and Western Provinces. We also had the Likoni Massacre at the Coast. In Eastern and North Eastern Provinces, every Kenyan community lost relatives and friends. Fortunately, this particular incident involving the ethnic violence has been very well documented. The Seventh Parliament set up a Committee under the Chairmanship of Mr. Kennedy Kiliku, which compiled a full Report, which was debated by this House.

Mr. Deputy Speaker, Sir, the second report was that of the National Council of Churches of Kenya, and this public document is also available. The Government also has its own record through the Akiwumi Commission, but it has refused to publish the findings of the Akiwumi Commission, ignoring the fact that, it has spent over Kshs300 million of the taxpayers money to investigate the tribal clashes, forgetting that, large numbers of Kenyans were affected by the tribal clashes.

Mr. Deputy Speaker, Sir, apart from this Report, the media, the civic and Non-Government Organisations, like the Law Society of Kenya, have all investigated these incidents and have found gross violation of human rights. How do we shut our eyes to this reality? How do we say it did not happen? The weakness of Parliament has also been addressed, so we can now speak with more force and with more honesty and with more truth, as Parliamentarians because we have continued to assert our independence and more Members, therefore, are able to vote independently because Parliament is more free and it is going to be even more free.

Mr. Deputy Speaker, Sir, the Sixth Parliament addressed this problem by setting up a Select Committee. The Eighth Parliament must go further and embark on national reconciliation, rehabilitation and reconstruction of our country. Let me quote Mr. Mandela. Mr. Mandela, has set an example of honourably departing from his high office. When he was handing over the Chair to President Mbeki, he had the following to say, and I want to quote him:

"The experience of others have thought us that, nations that do not deal with their past are haunted by it for ever. The quest for reconciliation was the fundamental objective of our struggle to set up a Government based on the will of the people and to build a South Africa that belongs to all."

The desire to attain a nation at peace with itself is the primary motivation of our reconstruction and development programme. The Truth and Reconciliation Commission, which operated from 1995 to 1998, was an important component of that process as well. The group uncovered crimes committed during the Apartheid era and could choose to give amnesty to those who confessed. Its work was a critical milestone in a journey that had just started."

Mr. Temporary Deputy Speaker, Sir, why do I

quote Mr. Mandela here? It is because he addressed the whole question of national reconciliation and has made South Africa an outstanding example of how a country can live with its past. In our country, Kenya, we have been torn apart by political violence, thuggery, assassination and genocide, corruption and gross violation of human right. The perpetrators of these crimes were oblivious that the wind of change that is sweeping aside dictatorship is also ushering in democracy. Now, we have to be more transparent and address these problems without fear and favour so that we can live in peace.

I understand well that there are those people who have benefited from this situation; that there are those people on the other side who are benefiting from this oppressive system and have genuine fear in the Kenya they will live in, in post-Moi era. This is because, as true as the sun rises from the East and settles to the West, President Moi will also leave office in the next 18 months. Their concern is how they will survive in Kenya in post-Moi era. That fear is genuine and we must address it. Then there are the victims; people who were detained. For example, Mr. Kihoro, brought a Motion to this House in connection with those people who were victims of torture in Nyayo House. This will not just go away because you want it to go away. The victims of police torture want to know--- These people are angry, but we are saying that we should have reconciliation. The only way to have reconciliation is to give these people a chance or a forum where they can express themselves; where people can cleanse themselves. That is the purpose of this Motion; to give Kenyans a chance to address the past; to give Kenyans a chance to turn to the future. I am saying that Parliament, as a supreme organ of governance in our country must recognise the evils of dictatorship and take the initiative to promote national reconciliation and reconstruction. This is why we debate about amnesty to the criminals in the Government and public offices. It is a very healthy thing. Let us face it. I would like to say that some of them

were criminals by accident or because they had excessive power. Let us listen to them.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghisio): Order! Mr. Oloo-Aringo, you have exhausted your time! Hon. Members, it 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.