

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 8th May, 1997

The House met at 2.30 p.m

*[Mr. Speaker in the Chair]*

PRAYERS

## ORAL ANSWERS TO QUESTIONS

*Question No.131*

### BENEFITS FROM THE NATIONAL FUND FOR THE DISABLED

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

(a) if he is aware that disabled persons in Samburu District have not benefited from the National Fund for the Disabled; and,

(b) if the answer to "a" above is in the negative, if he could enumerate the support he gave and the beneficiaries.

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

(a) No. I am not aware that disabled persons in Samburu District have not benefited from the National Fund for the Disabled.

(b) The National Fund for the Disabled of Kenya has provided assistance to various institutions in Samburu District to the tune of Kshs445,000 since 1987 and extended the assistance to various individuals in the form of tools, sewing machines and artificial legs worth Kshs322,480.

**Mr. Leshore:** Mr. Speaker, Sir, it is not true that such assistance has been provided to the disabled, especially in my constituency. More than six disabled youths have approached me for assistance. Last year and this year I referred that matter to the Ministry of Culture and Social Services and no assistance has been received by those disabled persons. Could the Assistant Minister state the specific cases in Samburu East where assistance has been given by the Fund?

**Mr. Sunkuli:** Mr. Speaker, Sir, I have a long list that has been provided by the Disabled Fund and since 1987 up to 1996 there are so many cases that have been assisted. I have a list of 26 individuals that have been provided with this assistance between 1994 and 1995.

However, Mr. Speaker, Sir, I will table this document but what I would like to say in connection with this, is that the hon. Member may actually see me with the other list he has so that I can be able to draw that to the attention of the Disabled Fund so that they can be assisted.

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

**Mrs. Asiyu:** Mr. Speaker, Sir, can the Assistant Minister tell this House who monitors these funds and the individuals that are issued with tools to determine whether or not they benefit from the programme?

**Mr. Sunkuli:** Mr. Speaker, Sir, the proper procedure is that, since the money is sent to the district, it is supposed to be under the charge of the District Development Committee. Therefore, the actual supervisory authority is the DDC.

**Mr. Leshore:** On a point of order, Mr. Speaker, Sir. The Assistant Minister is misleading this House. He is saying that those funds are monitored by the DDC and yet, I have been sitting in DDC meetings since 1993 and at no time have such funds been discussed in such meetings. Could the Assistant Minister tell us the truth? We know the national committee in charge of those funds is the most corrupt committee in this country. Could he tell us who is monitoring those funds and who distributes them to each district?

**Mr. Sunkuli:** Mr. Speaker, Sir, each district applies for funds directly to the Office of the President and

then it receives these funds.

**Mr. Speaker, Sir,** if there is a particular problem about a particular district, I do not wish to deny here that there may be a problem with some districts. Let the hon. Member draw that to my attention and I will look into the cases, district by district.

**Mr. Falana:** Thank you, Mr. Speaker, Sir. The problem is not only with Samburu District. This is a national issue and it is very bad when able people are in charge of the funds for the disabled. They do not even fear God when the able bodied abscond and misuse money meant for the disabled.

**Mr. Speaker, Sir,** for the information of the Assistant Minister, no DDC deliberates on this money. There are forms which are filled from the District by the disabled persons and forwarded to the national headquarters, Office of the President. They "sit" on those application forms and that is the end of it.

**Mr. Speaker, Sir,** could the Assistant make an undertaking to this House now, that he will ascertain the truth from the Fund and if need be, before we close this Session, produce audited reports of how that money has been used?

**Mr. Sunkuli:** Mr. Speaker, Sir, I take very seriously the comments that have been made by hon. Members about the Disabled Fund. I will make sure that every case that is reported, every district that complains, I will look into it and make sure that the Fund functions properly.

*Question No. 119*

TRAVEL CLEARANCE FOR CIVIL SERVANTS

**Mr. Orengo** asked the Minister of State, Office of the President, the legal basis requiring that civil servants obtain clearance from the Government to travel out of Kenya even when on private trips, and, if this is not in breach of the Constitution and the law.

**The Minister of State, Office of the President (Mr. Koech):** Mr. Speaker, Sir, I beg to reply.

The requirement that civil servants obtain clearance before travelling out of Kenya has its basis in the code of regulations which regulates the conduct of all civil servants. The code is enhanced from time to time by circulars from this office.

The practice does not breach the Constitution and the law, as civil servants who wish to travel out of the country on private trips have normally been allowed to do so. This practice is important as it enables the Government to keep track of the whereabouts of its employees whenever they are outside the country.

**Mr. Orengo:** Mr. Speaker, Sir, I have with me here the Code of Regulations for the Civil Service and it is quite clear that, that requirement has no basis at all in law and in the Code of Regulations. Could the Minister point out which regulation under the Code of Regulations give him the basis to say what he is saying? The Code of Regulations is here and he can point it out to the House - instead of going back to your answer, the Code of Regulations is here, just point it out to us the regulation which empowers you to require civil servants to get clearance.

*(Mr. Orengo laid the Code of Regulations on the Table)*

**Mr. Koech:** Mr. Speaker, Sir, every firm has got its own regulations which, from time to time, are revised according to the conditions of the day. The circulars which have been issued to modify the Code of Regulations have come into existence from time to time, requiring the civil servants to get clearance before they travel out of the country.

**Dr. Lwali-Oyondi:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to evade the Question? He said that, that requirement is in the Code of Regulations and he has been given the Code of Regulations in order to point out where that requirement is stated. Is he in order to keep on blubbing?

**Mr. Koech:** Mr. Speaker, Sir, I think one of the biggest problems we have in Africa is the "disease" of impatience. I was coming to answer that question. I am aware of the Code of Regulations. Now from time to time, there are circulars from my office based on the circumstances prevailing at that particular time. Even all firms in the world are dynamic because we are living in a dynamic world and not a static one. That is why such changes come up from time to time.

**Mr. Manoti:** Mr. Speaker, Sir, sometimes we fail to understand some of these rules. Even when Government Ministers are travelling out on official duties, they are required to get clearance from the Office of the

President. Can the Minister tell us why these Ministers are required to get clearance even when they are going out on official duties?

**Mr. Koech:** Mr. Speaker, Sir, it is because they are governed by the same rules.

**Mr. Speaker:** I do not think that is quite right, Mr. Koech. I think Ministers are required under the Constitution to get clearance before they travel out.

**Mr. Shikuku:** Bw. Spika, Wabunge. wakiuliza swali, huwa wana sababu ya kuuliza swali hilo. Nashukuru kwa sababu umeeleza huyu Waziri kwamba Mawaziri wanahitajika kupata kibali cha kutembea inje ya nchi kulingana na Katiba. Ile sheria kuhusu wafanya kazi wa Serikali kupata hicho kibali haiko kwa Katiba na pia haiko katika sheria hizi ambazo amepewa na mhe. Orengo na hataki hata kuguza hicho kitabu kwa sababu anajua kuna ukweli hapo. Ni kifungu gani katika hizo sheria za wafanya kazi wa Serikali ambacho kinasema mfanya kazi wa Serikali akitaka kuenda Egypt ama pahali pengine, ni lazima aulize ruhusa. Jambo hilo haliko katika Katiba kwa sababu Katiba inasema kila mtu ana uhuru wa kuingia na kuondoka Kenya. Kama Katiba inasema hivyo, mbona jambo hilo haliko katika hizi Sheria? Ni kifungu gani? Kama hakuna hicho kifungu, anaweze kuambia Bunge hili, kutoka leo wafanya kazi kama wako likizo ama wapi, watakuwa na uhuru wa kuondoka na kuingia Kenya bila kuuliza mtu rusa?

**Mr. Koech:** Mr. Speaker, Sir, I believe that I have answered that question. I have explained that point, that the code of regulations from time to time--- There are circulars which---

**An hon. Member:** Where are the circulars? Table them!

**Mr. Koech:** I have the circulars to that effect and I will table them next week. The Code of Regulations has been formulated to guide the role of the Public Service and the Code of Regulations can be modified from time to time and this is what has happened.

**Mr. Mathenge:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order! Order, Mr. Mathenge! I know that you are a retired civil servant. Unfortunately, in this House we do things quite differently from what you did in the administration. So, until you are given the Floor, you will sit down. I had given the Floor to Mr. Falana.

**Mr. Falana:** Mr. Speaker, Sir, the Minister talked of his authority through circulars. Circulars have nothing to do with the Code of Regulations and the law. A circular is just a letter drafted and written by someone in the office. That is nothing binding as far as this House is concerned. This requirement is very discriminatory.

If, as the Minister says, the Government would like to know, at any given time where civil servants or a Kenyan in this country is, why has it been so discriminatory here, that Members from the Opposition are less free to go anywhere on earth and yet, they are Kenyans. This Government has the responsibility to safeguard and care for the Opposition as they do for this side and the civil servants. So, this is a very discriminatory regulation. Can the Minister consider, as from now, doing away with it totally?

**Mr. Koech:** Mr. Speaker, Sir, I know that this is clear in the Code of Regulations. I do not want to refer to the Code of regulations. This document---

**Mr. Anyona:** On a point of order, Mr. Speaker, Sir. This matter infringes on the Constitution. We have all sworn in this House, including the Chair and the President, to defend and uphold the Constitution. The Minister keeps talking about a circular and yet under section 81(1) of the Constitution, this is a constitutional right. Can we allow a statement of this kind to go on record of Parliament, that a circular supersedes a constitutional provision?

**Mr. Koech:** Mr. Speaker, Sir, this is not something to make a lot of fuss about.

*(Several Members stood up in their places)*

**Mr. Koech:** You must give me time, because I have not finished what I was saying.

**Mr. Icharia:** On a point of order, Mr. Speaker, Sir. The Minister is deliberately misleading this House. He is talking about the Code of Regulations, but there is nothing in it which talks about what he is saying. I do not know which Code of Regulations he is referring to. I worked in the Public Service Commission for ten years as a Commissioner, and I know the Code of Regulations forward and backward. There is nothing in it which refers to what the Minister is talking about. He is misleading this House. Is he in order to mislead this House?

**Mr. Koech:** Mr. Speaker, Sir, I was answering another question, and so many other questions have arisen. I want to make it very clear that the reason for this is to keep track of our employees. Suppose anything happens and one of the employees is not there? If we may want to know certain information concerning an officer, we should not come here and say we do not know where he is. We want to keep track of our employees

and that is simple.

If there is any civil servant who wants to go for private business, it is automatic. He is given permission to go. Then we have it in our records that so and so has gone outside the country. If we need his services or require something from him, we can search for him because we know his whereabouts. This is just a formality and it has got nothing to do with preventing any officer from going outside the country.

**Mr. Mathenge:** Mr. Speaker, Sir, a short moment ago, you said quite rightly, that I used to be a senior civil servant, and that what we used to do is not what we do here. May I say here that when I was in the administration, we governed this country according to the Constitution, the written laws of this country and the regulations as contained in the Code of Regulations. We never used to govern this country according to unwritten laws. We used written laws. How come that now we are told that unwritten laws are being used to restrict free Kenyans from moving outside this county, which is contrary to their Constitutional rights?

**Mr. Koech:** Mr. Speaker, Sir, hon. Mathenge has stated it very well. He used to be my Provincial Commissioner in the Rift Valley and I know him well. I only do not want to say much. I have stated the Code of Regulations and it is very clear. Somebody can bring a code which has not been updated. I do not want to read it here. This is because some people are due for some form of embarrassment. The updated Code of Regulations stipulates that regulation.

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

**Mr. Speaker:** Order! I am afraid we cannot spend the whole afternoon on one Question, however interesting it is. I am sorry!

**Mr. Mutani:** Mr. Speaker, Sir, I beg to ask 'Question No. 185', but for your information, I would like to dispute this paper which has no signature at all, and which the Assistant Minister is going to read. I thought that---

**Mr. Speaker:** Hon. Mutani, that is not part of your Question!

**Mr. Mutani:** No! No! I am saying that there is no written answer!

**Mr. Speaker:** Order!

**The Assistant Minister for Education (Mr. Komora):** Mr. Speaker, Sir, we do not have Question No. 185---

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. If you listened very carefully, hon. Mutani begged to ask Question No. 185, which is not on the Order Paper. So, what is the Minister going to answer?

**Mr. Mutani:** Mr. Speaker, Sir, I said Question No. 187!

**Mr. Speaker:** Well, they understood each other!  
Proceed!

#### *Question No. 187*

#### UPGRADING OF AGRICULTURE TEACHERS

**Mr. Mutani** asked the Minister for Education:-

(a) whether he is aware that many secondary school agriculture teachers are untrained technical teachers; and,

(b) when the Minister will upgrade them to approved graduate teacher status.

**The Assistant Minister for Education (Mr. Komora):** Mr. Speaker, I beg to reply.

(a) I am aware that about one third of secondary school agriculture teachers are untrained. Out of 3,052 teachers of agriculture in secondary schools, 2,027 are trained university graduates or trained diploma or trained technical teachers; 613 are untrained university graduates and 78 are untrained diploma teachers.

(b) My Ministry does not upgrade untrained technical teachers to approved teacher status. Instead, there is currently a programme in progress at the Kenya Technical Teachers College (KTTC) under the Ministry of Research, Technical Training and Technology, in which serving secondary school untrained technical teachers employed by the Teachers' Service Commission undergo formal professional training, after which they are incorporated into the current scheme of service for technical school teachers and lecturers. Trained technical teachers join this scheme at appropriate level, depending upon their attained professional qualifications.

**Mr. Mutani:** Mr. Speaker, Sir, if I followed the Assistant Minister well, he left out a number of words which are very important here. These words are: "Out of the total figure, 334 are untrained". I did not hear him read that.

The paper I have has no signature of anybody. It is a paper I got as an answer and I wonder whether it is

a formality. While you advise me on this one, I am wondering whether the Minister will make use of KTTC to train the remaining 334 untrained technical teachers who are currently teaching.

**Mr. Komora:** Mr. Speaker, Sir, I read out very clearly that those who are untrained are one third of those in the establishment. There are 613 untrained technical graduates and 78 untrained technical diploma teachers. I said these are currently due for training at the KTTC.

**Mr. Munyasia:** Mr. Speaker, Sir, could the Assistant Minister consider taking the 78 untrained diploma agriculture teachers to places like Bondo Teachers' Training College where they have a similar programme for untrained teachers of A-level status, and where they can be converted, within one week, into S1 qualified teachers? Can he have a similar programme for the untrained agriculture teachers so that within one week, we can finish with them and they get the right qualification?

**Mr. Komora:** Mr. Speaker, Sir, we have a duty to maintain educational standards, and we are not going to convert people just by name without training them adequately.

**Prof. Ouma:** Mr. Speaker, Sir, the Assistant Minister has said that they have a duty to maintain standards. First of all, they have allowed the standards to corrode by having at least one-third of the teachers untrained in a very key sectoral education in agriculture. What assurance does he give that this will not go on? What assurance does he give that they will eliminate this imbalance of untrained teachers in a key sector and, within what period shall we be sure that teachers in this particular subject are all trained or are in the pipeline to take over?

**Mr. Komora:** Mr. Speaker, Sir, the period will be determined by the needs of the secondary schools in relation to the manpower available. But I would like to assure the House that we do not want untrained teachers in our education institutions. So, we will train them as fast as it is practically and administratively possible.

**Mr. Speaker:** Very well. Mr. Gitonga's Question is deferred to Thursday next week.

*Question No.118*

ILLEGAL LAND ALLOCATION IN LARI

*(Question deferred)*

**Mr. Speaker:** Next Question, Mr. Kinyua Mbui.

*Question No.091*

PAYMENT OF COMPENSATION TO NDIA FARMERS

**Mr. Mbui** asked the Minister for Land Reclamation, Regional and Water Development:-

- (a) if he is aware that the Ministry is holding over Kshs1 million as compensation to Ndia farmers whose property was damaged during the construction of the Ndia Water Project; and,
- (b) when the money would be released to the farmers.

**The Assistant Minister for Land Reclamation, Regional and Water Development (Mr. Ligale):** Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that Ndia farmers are owed a total of Kshs926,120.20 as compensation for their property which was damaged during the construction of Ndia Water Supply Project.

(b) In view of the fact that this is a long outstanding payment, my Ministry is liaising with Treasury with a view to having sufficient funds allocated for the project to enable my Ministry to pay the farmers their dues as soon as possible.

**Mr. Mbui:** Mr. Speaker, Sir, last year, I got the same answer from the same Assistant Minister, and I thanked him for the good answer, and he said that farmers would be paid within that financial year. Right now, he is telling us that he will approach the Treasury. Why is he misleading this House and, in fact, the public at large, that the Ministry will pay the farmers their money? For more than eight years, the farmers have not been paid. Can he really say whether this money was "eaten" by somebody or the Ministry does not have it, because during the contract somebody must have been paid that money? Why are you punishing the poor farmers in my constituency?

**Mr. Ligale:** Mr. Speaker, Sir, the money has not been taken by anybody. In fact, when I promised last year that the money would be paid, I had been assured that re-allocation was in the process. And although we got

the proof of the allocation, unfortunately, the Exchequer Issues did not come through and that is why the promise I had given did not materialise. But I do promise this time, it will be paid.

**Mr. Nthenge:** Mr. Speaker, Sir, for eight years, Kshs1 million kept in a bank should have accrued quite a sound interest and those who were never paid have also suffered quite a bit. Is the Assistant Minister ready to make sure that these people are paid with interest since they have been inconvenienced? In any case, had they got the money and saved it, they would have got interest.

**Mr. Ligale:** Mr. Speaker, Sir, while I do sympathise that this matter has taken a bit too long, unfortunately, I cannot promise any interest.

**Mr. P.N. Ndwiga:** Mr. Speaker, Sir, this Ministry is in the habit of not paying compensation to farmers. For example, with regard to Ngagaka Water Project in Embu, since 1986, this Ministry has not paid even one cent. Now, how soon is your "very soon?" When will you pay Ndia farmers and other people? When will you start paying, in the first place?

**Mr. Ligale:** Mr. Speaker, Sir, the project the hon. Member is referring to is unknown to me, but in the case of Ndia farmers, I know the case very well. I will personally follow it up and ensure that the farmers are paid.

**Mr. Speaker:** Very well. Next Question, Mr. Obwocha.

*Question No. 102*

REFUND OF APPLICATION FEES

**Mr. Obwocha** asked the Minister for Local Government:-

(a) if he is aware that depositors for Nyansiongo Township plots in Nyamira District paid a total of Kshs850,000 to Nyamira Country Council as application fees; and,

(b) In view of the hardships experienced by many unsuccessful applicants, when their -deposits would be refunded.

**The Minister for Local Government (Mr. F.P.L. Lotodo):** Mr. Speaker, Sir, I beg to reply.

(a) Nyamira County Council received a total of Kshs386,000 from the applicants for Nyansiongo township plots, but not Kshs850,000 as the hon. Member has put it.

(b) The Council is making arrangements to refund deposits to unsuccessful applicants.

**Mr. Obwocha:** Mr. Speaker, Sir, I beg to dispute what the Minister is saying. This money was paid in 1995 by the applicants. The probe report to the Nyamira County Council revealed that there was Kshs850,000 which the Council has used to pay salaries. If, indeed, he is telling us that it is Kshs386,000, can he table the names of the applicants here with the amount they paid?

**Mr. F.P.L. Lotodo:** Mr. Speaker, Sir, I cannot table the names. The plots were advertised in 1994, allocated in 1995 and there were 20 plots. That is all I can say here.

**Mr. Anyona:** Mr. Speaker, Sir, the issue of those plots has been a very controversial matter in Nyamira County Council because the allocation was done in a fraudulent manner in which the DC Nyamira took most of the plots. Can the Minister lay on the Table of the House the list of those who got the plots?

**Mr. F.P.L. Lotodo:** Mr. Speaker, Sir, I said just a minute ago that I cannot give the names. I have been asked whether the Council is prepared to refund the money to the unsuccessful applicants and I said "yes." The Council is in process of sending letters to those people to come and collect their cheques.

**Mr. Manoti:** Mr. Speaker, Sir, the applicants' money has been in the bank for all these years. Can the Minister undertake that they will be paid with the interest which has accrued since then?

**Mr. F.P.L. Lotodo:** No, Mr. Speaker, Sir.

**Mr. Obwocha:** Mr. Speaker, Sir, there was a very legitimate question from hon. Anyona that amongst these applicants, there were 20 people who received these plots. Could he give the list of the names of 20 people who were allocated these plots?

**Mr. F.P.L. Lotodo:** Mr. Speaker, Sir, the Question is not about who got the plots, but it is about whether Nyamira County Council is prepared to give money back to those unsuccessful applicants which I have said "yes". But if they want the names of those who got the 20 plots, then that is a different Question and I can answer it next time. I do not have the answer for it!

*(Laughter)*

**Mr. Speaker:** Order! In fact, that bit of the question is irrelevant to the Question before the House! Next Question, Dr. Lwali-Oyondi.

*Question No.057*

PAYMENT OF RETIREMENT DUES TO MR. KHAMALA

**Dr. Lwali-Oyondi** asked the Minister for local Government:-

(a) why Mr. Burudi Khamalla, P/NO.0599, a former employee of Nakuru Municipal Council, was forced into retirement after working for 29 years; and,

(b) when Mr. Burudi Khamala would be paid his dues.

**The Minister for Local Government** (Mr. F.P.L. Lotodo): Mr. Speaker, Sir, I beg to reply.

(a) Mr. Burudi Khamala, P/No.0599, was an employee of Nakuru Municipal Council as a labourer from 6th March, 1964 to 31st December, 1993.

According to the Council's records, he was born in 1938 and was due for retirement on 31st December, 1993 after attaining the normal retirement age of 55 years. He was, therefore, not forced into retirement as alleged.

(b) Mr. Burudi Khamala was paid all his dues which had accrued and is not entitled to any other payment.

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, the Minister claims that Burudi was paid but I know he was not paid. Could he tell us what those dues were, how much money Burudi was paid and the cheque number?

**Mr. F.P.L. Lotodo:** Mr. Speaker, Sir, I do not have the cheque number but---

**Mr. Speaker:** Order, Minister! Order Members! I have in the past ruled that it is actually unnecessary to disclose the amount of money that is going to be paid. It is not in the interest of a Kenyan who has been paid that the whole world should know how much that person was paid. You can insist to be told when he was paid; that is the date and the cheque number. But certainly not the amount. It is irrelevant and confidential.

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, this mwananchi was not paid anything and if he was paid at all, then it was a long time ago and we would like to know when and how much he was paid.

**Mr. Speaker:** Order, Dr. Lwali. You are perfectly in order to insist on getting that information. As a matter of fact, he was paid. You can even ask for the date but I do not think it is in the interest of the person concerned that the amount should be disclosed.

Proceed Minister! When was he paid?

**Mr. F.P.L. Lotodo:** Mr. Speaker, Sir, he was paid in April 1995, the sum of Kshs6,000---

**Mr. Speaker:** I have already told you not to say that!

*(Laughter)*

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, that is what we wanted to hear; the figure paid to him. This man has worked, as he claims, for 29 years and then he was paid only Kshs6,000 by the Ministry of Local Government and not by a mhindi. Now, you can see the importance of disclosure. That is why the man says that he has been paid nothing for his work. But will the Minister now pay this particular person the exact amount that he is supposed to be paid?

**The Assistant Minister for Education** (Mrs. Ndeti): On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Michuki to stand behind the back of the hon. Member on the Floor?

**Mr. Speaker:** Order, Members! I think you all know the rules. No Member shall ever stand between the person on the Floor and the Chair. Any Member who is not seated must be mobile.

Now, can we proceed.

**Mr. Michuki:** On a point of order, Mr. Speaker, Sir. I was fully aware and ran and sat down.

**Mr. Speaker:** Then you are right, Mr. Michuki.

Proceed Minister.

**Mr. F.P.L. Lotodo:** Thank you Mr. Speaker, Sir. Mr. Khamala was paid every penny on April 1995.

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, I know of Mr. Burudi's age-mates who retired with him at the same time and who were paid Kshs30,000 to Kshs40,000. Why is it that the Minister announces this payment of Kshs6,000 to somebody who has worked for 29 years?

**Mr. F.P.L. Lotodo:** Mr. Speaker, Sir, this Nakuru Municipal Council employee was not paid

Kshs6,000 but more than Kshs18,000.

*Question No.157*

PAYMENT OF WORKMAN'S  
COMPENSATION AT NZOI

**Mr. Busolo** asked the Minister for Labour and Manpower Development whether he could list all the claimants of compensation from accidents at work at Nzoia Sugar Company Limited in each of the past fifteen years indicating:-

(a) claimant's name, file number, date and nature of accidents, the respective work department, date and amount claimed and the date and amount of compensation paid; and,

(b) the company's policy regarding workman's compensation regulations.

**The Minister for Labour and Manpower Development** (Mr. Masinde): Mr. Speaker, Sir, I beg to reply.

In the last 15 years, that is, between 1982 and 1996, a total of 755 accidents were recorded at Nzoia Sugar Company. The accidents comprised of 47 fatal and 708 non-fatal cases. The total compensation payments disbursed to claimants amounted to Kshs9,744,664-55.

The Questioner also wants to know the claimant's name, file number, date and nature of accidents, respective work department, date and amount claimed and the date and amount of compensation paid. Obviously, it will take me a very long time to read out all the names of the over 700 claimants. But I have a document here containing the names of the claimants and all the details required and I will lay it on the Table.

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

**Mr. Speaker:** Order, Mr Minister! I think part (b) of the Question is inadmissible since it is asking for policy issues. That is not right. But, maybe, you could make a general statement.

**The Minister for Labour and Manpower Development** (Mr. Masinde): Yes, Mr. Speaker, Sir. The Company operates within the laid-down regulations and also within the Workmen's Compensation Act. So, really it does not operate outside the Workmen's Compensation Act. For those employees who are above the payments which are looked after by the Workmen's Compensation Act, the company has taken special insurance for them.

**Mr. Busolo:** I thank the Minister for his answer, but nonetheless, I would like to raise a general matter.

On Monday and Tuesday, I accompanied the hon. D.M. Mbela on his tour of Mumias, Chemelil, Muhoroni, Miwani and Nzoia sugar factories and during our movements within the factories we found out that the work conditions of workers are extremely bad. They are very dusty. The workers are inhaling a lot of dust. They do not have safety equipment. Some machinery is very dangerous to workers. We wondered if the Department of Occupational Health and Safety at Work within the Ministry actually exists. For some time we are aware that this is the source of corruption within the Ministry of Labour and Manpower Development. I am aware that for instance in March---

**Mr. Speaker:** Order, Mr. Busolo! You have no choice. Either you now ask your question or I will ask another Member who has already framed his question to participate.

**Mr. Busolo:** Mr. Speaker, Sir, in view of this large number of fatal and non-fatal cases, is the Minister satisfied that the Occupational Health Services inspectors in his Ministry are doing their work within the factory?

**Mr. Masinde:** Mr. Speaker, Sir, the hon. Questioner has no comparative figures to show that this is excessive. This is because within 16 years these sort of accidents are not excessive, especially given the fact that the industry is in a rural area where most of its employees are a bit careless in handling the machinery. On the other hand, I am quite satisfied that my officers from the Occupational Health and Services are doing their job. In fact, I have positioned an officer to look after the area. He is permanently stationed at Kakamega from where he operates throughout Western Province.

**Dr. Kituyi:** Mr. Speaker, Sir, an assessment of whether industrial security precautions are followed is not measured relative to other factories, but relative to how many people are getting accidents. Is this Minister satisfied that with an average of 49 accidents per year regardless of what happens in other factories, the security measures at Nzoia Sugar Company are adequate?

**Mr. Masinde:** Mr. Speaker, Sir, as far as I am concerned, I would be a very happy man if no accident at all took place in any of the factories within the country. Accidents are accidents, but bearing in mind that this company employs 2,300 workers on permanent basis and about 4,000 on casual basis, a total of nearly 7,000



workers by and standard, I do not think it is excessive, unless we compare with any other company with a similar population.

**Mr. Busolo:** Mr. Speaker, Sir, I am glad that the Minister spoke about this person on the spot in Kakamega. I would like to ask him if he is aware that, that gentleman in conjunction with the Director of Occupational Health and Safety at Work are very corrupt? For instance, the Director of Occupational Health and Safety at Work, in March, received Kshs3 million from the Pan African Paper Mills Ltd, so as to acquiesce to the dismissal of 300 workers who had claims from accidents at work and the company was forcing them to withdraw the claims from the court. Is he aware that these gentlemen are very corrupt?

**Mr. Masinde:** Mr. Speaker, Sir, I am not aware. However, if he has any specific proof or documents to prove, I will definitely take the necessary disciplinary action.

**Mr. Speaker:** Next Question, Mr. Njehu Gatabaki.

*Question No.152*

NUMBER OF CHIEFS CONVICTED OF MURDER

**Mr. Icharia,** on behalf of **Mr. Gatabaki,** asked the Attorney-General:-

- (a) how many chiefs and assistant chiefs have been arrested on murder charges since 1990;
- (b) of those arrested, how many were tried and convicted of murder charges; and,
- (c) in view of the serious implications of "a" and "b" to the constitutional right to life and the rule of law, what measures are being taken to ensure that chiefs and assistant chiefs uphold the law.

**The Attorney-General (Mr. Wako):** Mr. Speaker, Sir, I beg to reply.

(a) A total of 14, two chiefs and 12 assistant chiefs have been arrested on murder or manslaughter charges since 1990.

(b) All the 14 suspects have been arraigned before the courts of law. Three, one chief and two assistant chiefs, have been convicted of manslaughter and sentenced to terms of imprisonment of three years in respect of the chief and five years in respect of each assistant chief. Nine cases are pending before the courts and the accused, in two cases, have been acquitted.

(c) One, Kenya is a country that cherishes respect and upholds the rule of law. Chiefs and assistant chiefs are governed by the laws of the land and any breach of the same is dealt with in accordance with the laws and regulations as appropriate. Two, those chiefs and assistant chiefs who have committed offenses which violate the right to life, have been subjected to the due process of law and prosecuted. Three, the Government has issued a strong warning or circular to chiefs, assistant chiefs and officers working under the Office of the President, that those involved in cases which, by their very nature, are abusive of the laws and regulations governing the discharge of their duties or misuse of powers conferred upon them by such laws will be severely disciplined.

**Mr. Icharia:** Mr. Speaker, Sir, it is a very serious matter to hear that chiefs have been involved in murder cases because, by nature of their work, they are leaders and they are supposed to protect life and to advise the people under them on how they can solve their problems. It is very difficult to understand how a chief would be involved in murdering the same people he is supposed to be protecting. I do not know whether they are allowed to use weapons. I do not know how they killed those people whether they used rungun, arrows or guns. Considering the way these chiefs have committed these offenses, can the Attorney-General establish ways of training them so as to ensure that they protect the lives and the properties of the citizens rather than injuring and killing them?

In a civilised society, Mr. Speaker, Sir---

**Mr. Speaker:** Order! Order! Mr. Icharia, I think that is fairly adequate!

**Mr. Wako:** Mr. Speaker, Sir, I think he was asking a question; but I do agree with the hon. Member that this is a very serious matter. That is why we take a very serious view of it and we prosecute those who have committed the offenses without fear or favour. As to whether there are any training programmes for chiefs and assistant chiefs, I do confirm that there are such training programmes and I believe the Office of the President is trying to see if they can have crush programme for the training of chiefs and assistant chiefs in the responsibility that they have on their shoulders, to protect the lives and property of people.

**Ms. Karua:** Mr. Speaker, Sir, would the hon. Attorney-General tell us whether in view of the violence inflicted on the citizens by the chiefs as revealed by his answer, he will consider putting up very visible warning outside the chiefs offices in this country, informing the public that the use of violence by the chiefs is unlawful and

should be reported immediately to higher authorities?

**Mr. Wako:** Mr. Speaker, Sir, as I stated in my reply, a strong warning has already gone out, in a circular which I have here. I know that Kenyans know very well that excessive use of force is wrong, so they do not need any education on that matter.

**Mr. Kapten:** Mr. Speaker, Sir, the chiefs who inflict violence on the citizens of this country do so through the Administration Police (APs). They instruct the APs to assault the people. Can the Government consider banning the APs who accompany the chiefs and assistant chiefs from carrying firearms when they are moving around?

**Mr. Wako:** Mr. Speaker, Sir, I believe that the Minister of State, Office of the President, answered that question a few weeks ago.

**Mr. Maore:** Mr. Speaker, Sir, the Attorney-General did give a list of 14 chiefs and 12 assistant chiefs as having been arrested on murder charges. He also did say that three of them were convicted of manslaughter and nine cases are pending in court. That adds up to 12 cases. What did he do with the other 14 cases? Can he table the circular he said he had written?

**Mr. Wako:** Mr. Speaker, Sir, I think I said in my answer that three chiefs have already been convicted and are serving sentences, nine cases are pending before court and two chiefs have been acquitted. I think those three figures add up to 14 cases. As for the circular, I will lay it on the Table.

**Mr. Shikuku:** Jambo la nidhamu, Bw. Spika. Mkuu wa Sheria ameahidi kuliweka agizo lake juu ya Meza lakini hajafanya hivyo.

*(Mr. Wako laid the circular on the Table)*

### QUESTIONS BY PRIVATE NOTICE

#### DEATH OF MR. KULUNDU

**Mr. Munyasia:** Mr. Speaker, Sir, I beg to ask the Minister for Home Affairs and National Heritage the following Question by Private Notice.

(a) Is the Minister aware that Mr. Reuben Manyonge Kulundu, who has been in remand custody in Industrial Area, since early March, 1997, died in the same remand on 26.3.97?

(b) What caused his death?

(c) Could the Minister release the body of the late Mr. Reuben Manyonge Kulundu to his relatives for burial?

**The Assistant Minister for Home Affairs and National Heritage (Mr. Mutiso):** Mr. Speaker, Sir, I beg to reply.

(a) The late Reuben Manyonge Kulundu was committed to prison by the Resident Magistrate's Court, Kikuyu, on 23.12.96 for the offence of housebreaking and stealing contrary to sections 304(1) and 279 of the Penal Code in Criminal Case No.5012/96. Mr. Kulundu died in remand custody while admitted and undergoing treatment at Mbagathi District Hospital on 26.3.97. (b) His death was caused by dehydration/gastroenteritis.

(c) The death report was made to the relatives through the normal procedures on 10.4.97. The wife of the deceased, Anna Nekesa Reuben, of P.O. Box 290, Bungoma, reported to the Officer in charge, Nairobi Remand and Allocation Prison, and was told to witness the postmortem and collect the body, but did not do so. On 25.4.97 the body was collected by the deceased's brother, Mr. Amos Juma Kulundu, ID/No.10719744/97, at 17.40 hours in motor vehicle registration Number KSP 215. Permit No.2605449/97 was issued for burial in Bungoma District.

**Mr. Munyasia:** Mr. Speaker, Sir, it is true that the body of the late Kulundu has at last been [Mr. Munyasia] given to the family. But you will notice that it has taken this Government a whole month to hand over this body to the family. It is natural that we would, therefore, be suspicious of the circumstances surrounding the death of the late Mr. Kulundu. Could the Assistant Minister tell the House how long Mr. Kulundu had been in hospital before his death?

**Mr. Mutiso:** Mr. Speaker, Sir, the information I have is that the deceased was admitted to hospital suffering from some illness I have just mentioned. However, I do not have the information on how long he had stayed in hospital before dying.

**Mr. Shikuku:** Bw. Spika, kutokana na jibu hilo, Waziri Msaidizi anaweza kuliambia Bunge hili kama

kifo cha mtu huyo hakikusababishwa na mapigo na hali chafu katika rumande zetu ambapo watu wanapangwa kama sabuni? Mmoja wao akitaka kugeuka upande wa kulia au kushoto mahabusu wote wanalazimika kugeuka kwa sababu wamepangwa kama magunia ya mahindi. Hii haiwezi kuwa ndio chanzo cha kifo cha mwananchi huyo?

**Mr. Mutiso:** Mr. Speaker, Sir, the hon. Member knows that very well that the conditions of our prisons, particularly in remand, are not all that good. The Government is doing its best to improve them, but they were not the cause of Mr. Kulundu's death.

**Mr. Munyasia:** On a point of order, Mr. Speaker, Sir. Since the people at home are suspicious of the circumstances surrounding the death of the late Kulundu I had asked the Assistant Minister to tell this House how long the late Kulundu had been in hospital before his death, but he has not answered that question. Is he in order to fail to answer it? If he is not ready to answer it, can he undertake to provide the answer to this House at a later date?

**Mr. Mutiso:** Mr. Speaker, Sir, the late Kulundu was committed to remand prison on 23.12.96. Immediately he fell sick and was admitted to hospital, where he died on 26.3.97.

**Mr. Speaker:** Mr. Mutiso, what Mr. Munyasia is asking is very simple. You said that before Mr. Kulundu died he was admitted to hospital, and Mr. Munyasia wants to know for how many days he was in hospital before he died. Or, specifically, when was the deceased admitted to hospital?

**Mr. Mutiso:** Mr. Speaker, Sir, that is a very simple question, but I do not have the facts. I undertake to give the hon. Member and the House that information next week.

#### PROHIBITION OF MUSLIM HEAD-DRESS

**Mr. Kiliku:** Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Is the Minister aware that in March, 1997 the Headmaster of Gede Secondary School in Malindi District forced out of classes all the Muslim girl students who wore the hijab (head-dress), and told them to remove them (hijab) from their heads before they could be allowed back?

(b) Will the Minister take urgent action to ensure that these students are allowed back to their classes without having to remove their hijab?

**The Assistant Minister for Education (Mr. Komora):** Mr. Speaker, Sir, I beg to reply.

(a) I am aware that in March this year some Muslim girls at Gede Mixed Secondary School boycotted classes, demanding to be allowed to wear hijabs and pyjamas. It was not the headmaster who forced them out of class.

(b) The school administration and parents agreed that the same colour, and not different colours, of hijabs should be worn by all female students for uniformity. The students thereafter continued with classes and are still doing so.

**Mr. Kiliku:** Mr. Speaker, Sir, while appreciating the reply from the Assistant Minister, could he assure this House that such situation will not occur again because of this minor problem?

**Mr. Komora:** Yes, Mr. Speaker, Sir.

**Mr. Cheserek:** Mr. Speaker, Sir, I would kindly seek your guidance because this is a question touching on security---

**Mr. Speaker:** Can you ask your Question?

#### OPENING OF SCHOOLS IN KERIO VALLEY

**Mr. Cheserek:** Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Is the Minister aware that schools in Kerio Valley could not open on 5th May, 1997, for second term due to the tense and insecure situation in the area?

(b) What action is the Minister taking to ensure that the schools open and are run without interference?

**The Assistant Minister for Education (Mr. Komora):** Mr. Speaker, Sir, I beg to reply.

(a) I am aware that when schools opened for second term on the 5th, May, 1997, some schools in Kerio Valley could not open.

(b) The local and Provincial Administration has already taken adequate security precautions in the affected areas and the schools affected have been opened. My Ministry is in close collaboration with the local

administration in monitoring the situation in those schools to ensure that operations of normal school programmes continue.

**Mr. Cheserek:** Mr. Speaker, Sir, the Assistant Minister is misleading this House. The other day, a Standard Six school girl was killed and the schools have not opened at all. Even the PC was fearing to use the road and he opted to go by air. Is the Assistant Minister in order to mislead this House and the nation that some schools have opened when even the PC himself, who was there could not dare to go there on road?

**Mr. Komora:** Mr. Speaker, Sir, I am not misleading this House. I know that the schools have opened and the Provincial Administration has taken security measures and teachers are now available to teach in the affected schools.

**Mr. Nthenge:** On a point of order, Mr. Speaker, Sir. We have understood that. We learnt that from the hon. Member here now. The hon. Member from the area says one thing while the Assistant Minister is saying another thing. What is the position of the House now? He says that practically the schools have not been opened while the Assistant Minister says that they have been opened. Whom should we believe?

**Mr. Speaker:** It is up to every Member in this House to choose who to believe.

**Mr. Muluya:** Mr. Speaker, Sir, can the Assistant Minister tell us which schools have re-opened and how many children and teachers have reported in those schools if he has information to the effect that the schools have re-opened? As the hon. Member is saying, I heard it from the BBC myself the PC urging the parents to take children to schools this coming Monday. Can he deny that information that the PC had urged children to go to school next Monday.

**Mr. Komora:** Mr. Speaker, Sir, as far as the Ministry of Education is concerned all schools in Kenya have opened subject to prevailing circumstances in any particular area. All schools in Kenya have opened.

**Mr. Cheserek:** Mr. Speaker, Sir, I do not know what the Assistant Minister is telling this House. He has been told to name the schools which have opened and the teachers who have reported. The teachers have not gone to school because they are fearing for their lives. Can he tell us which schools have opened, the teachers and children who have reported to schools?

**Mr. Komora:** Mr. Speaker, Sir, my records show that there are four schools which have not opened; Toroko, Pangani and Leteni Primary Schools and Leta Secondary School. Arrangements are being to provide security for them to operate.

**Ms. Karua:** Mr. Speaker, Sir, could the Assistant Minister consider sending more security personnel to these insecure areas instead of deploying them to dramatise and assault innocent people in Nairobi as it happened last Saturday?

**Mr. Komora:** Mr. Speaker, Sir, there are adequate security personnel in the area to monitor security in those schools. With regard to those who got problems in Nairobi, the Opposition Members on that side were responsible for disobeying the law and inconveniencing the public in Nairobi.

**Mr. Cheserek:** Mr. Speaker, Sir, it is wrong for the Assistant Minister to mislead us further by saying that we have enough security on the ground when we know that he has not been there. Although Marakwet is a new district, it has about 80 security personnel. Are those enough to man a district? Can you tell us whether the Government by virtue of collective responsibility is sending some personnel officers to take care of the schools?

**Mr. Komora:** Yes, Mr. Speaker, Sir.

#### IRREGULAR LAND ALLOCATION AT CITY PARK

**Mr. Ruhiu:** Mr. Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that 50 acres of City Park in Nairobi have been irregularly allocated to some influential persons without regard to the welfare of Nairobi dwellers?

(b) Is he further aware that more land is at risk of being hived off the 223 acre at City Park as there is mounting pressure to allocate more of this land?

(c) If the answers to "a" and "b" above are in the affirmative, will the Minister give the identities of those illegal allottees and assure this House that he will protect this heritage from further alienation?

**The Minister for Local Government (Mr. F.P.L Lotodo):** Mr. Speaker, Sir, I am asking for extra time until next Thursday.

**Mr. Speaker:** What is your recreation, Mr. Ruhiu?

**Mr. Ruhiu:** Mr. Speaker, Sir, my reaction is very simple. This being the only reaction ground that we inherited from our colonial masters and a heritage for prosperity in Nairobi and in view of the secrecy surrounding

this scandal, I wish the Minister carried out investigation so that next week Tuesday, he will be able to give me an answer, failure of which, I will let the cat out of the bag.

**The Minister for Local Government** (Mr. F.P.L Lotodo): Mr. Speaker, Sir, I am asking for extra time until Thursday, not Tuesday.

**Mr. Speaker:** Okay, I will defer Mr. Ruhui's Question to Thursday, next week. But, in the mean time, please keep the cat there.

*(Question deferred)*

#### KILLING OF SUSPECT BY FOREST GUARDS

**Ms. Karua:** Mr. Speaker, Sir, I beg to ask the Attorney-General the following Question by Private Notice.

(a) What action has been taken against the forest guards who tortured and shot to death Mr. Samuel Nyagah Kiura on 12th, March, 1997, at the Mount Kenya forest in Gichugu Division?

(b) Could the Attorney-General confirm that assaulting and/or torturing or killing of suspect by the forest guards, administration police or anybody else is a crime under our penal code and also actionable under our civil law?

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, I beg to reply.

(a) A suspect has been arrested and charged in a court of law with the offence of murder contrary to Sections 2 and 3 of the Penal Code.

(b) I can confirm that assaulting, torturing, killing or excessive use of force on a suspect by any member of the forces or anybody else is an offence under the laws and also actionable under civil law where such offenses have been committed and those responsible will be prosecuted without fear or favour.

**Ms. Karua:** Mr. Speaker, Sir, can the hon. Attorney-General give the name of the suspect, the criminal case number, the court in which he was charged and the date this suspect was charged?

**Mr. Wako:** Mr. Speaker, Sir, I may not have the exact number of the case, but he was charged before the Senior Resident Magistrate's Court at Kerugoya on 21st, March, 1997 and the suspect's name is Joseph Onyango Odhiambo, No.91056604.

**Mr. Speaker:** I think, that is enough now.

**Mr. P.N. Ndwiga:** Mr. Speaker, Sir, I wanted to---

**Mr. Speaker:** Order, Mr. P.N. Ndwiga! I do not think you have the right to take liberty with the Chair the way you think you can. Take notice that thou shall not play with the Chair any further.

Next Order.

#### MINISTERIAL STATEMENT

##### DISCIPLINARY ACTION AGAINST KISUMU COUNTY COUNCIL CLERK

**The Minister for Local Government** (Mr. F.P.L. Lotodo): Mr. Speaker, Sir, I wish to give a Ministerial Statement on the County Council Clerk of Kisumu.

On 17th March, 1997, the Ministry effected several personnel transfer deployment within the local authorities. These changes were necessitated by both exigencies of service and efficiency. Among other officers, Mr. Richard Wanga Opicho, Clerk to Kisumu County Council was to move to Migori County Council in a similar position and his place taken over by Mr. Tom Gwai of Embu County Council. Mr. Opicho was to take over from Mr. Abdi Shukri in Migori County Council, while Mr. Shukri was to move to Embu County Council in a similar position. The transfers were to take effect immediately.

On 26th March, 1997, the purported Chairman of Kisumu County Council, accompanied by some councillors, obviously at the instigation, and perhaps, even funding of Mr. Opicho came to my office to plead that Mr. Opicho be retained in the Council. I rejected their request, which was communicated to the Council on 10th April, 1997. The Ministry's stand was further re-stated by the Provincial Local Government Officer in Nyanza on 17th April, 1997, further directing Mr. Opicho to hand over by 21st April, 1997 and proceed to Migori County Council. The incoming officer reported on 21st April, 1997 and found that Mr. Opicho had gone away, pretending to attend to a sick person. On that same day, some Kisumu Councillors, aligned to the purported

group Chairman, manhandled Mr. Tom Gwai. Mr. Opicho has since adamantly refused to hand over and has recently shifted his official operations to his residence, obviously with the aim of frustrating the Government's efforts to streamline Local Government management in Kenya.

My Ministry has, therefore, decided to take immediate disciplinary action in accordance with the Service Regulations as contained and required by the Public Service Commission Act; (Local Authority Officers' Regulation, 1984 and the Terms and Conditions of Service for Local Authority employees).

Thank you.

**Mr. Karan:** On a point of order, Mr. Speaker, Sir. Yesterday with I sought this Ministerial Statement, I required the Minister to confirm that the records of Kisumu County Council are safe because there were rumours that the Clerk was destroying the records. Secondly, I also wanted him to confirm that the Kshs10 million which was realised as a result of the sale of plots at Migosi is safe and banked in the Council's account. He has not said anything about that.

**The Minister for Local Government (Mr. F.P.L. Lotodo):** Mr. Speaker, Sir, the office has been locked and Mr. Opicho is in his residence. So, the question of tampering with the County Council's property is not there.

**Mr. Karan:** Mr. Speaker, Sir, on Tuesday, Mr. Opicho was in his office. He was addressing the press in his office and the Minister is saying that he is in his residence. Can the Minister assure this House that his Ministry will ensure that the property of Kisumu County Council is safe?

**The Minister for Local Government (Mr. F.P.L. Lotodo):** Mr. Speaker, Sir, we have askaris there. In fact, the Provincial Local Office is just a few kilometres from the office. This is not just an ordinary person's property. It is the County Council's property and we are not going to allow anybody to mess it up.

## BILL

### *Second Reading*

#### THE RETIREMENT BENEFITS BILL

*(The Minister for Finance on 30.4.97)*

*(Resumption of Debate interrupted on 30.4.97)*

**Mr. Speaker:** Mr. Muite, you were on the Floor?

**Mr. Muite:** Mr. Speaker, Sir, I was criticising this Bill. One of the points that I would like to make is that when one looks at Clause 22, it contains a mandatory statement that says: "No person shall establish a retirement benefits scheme except in accordance with the provision of this Act and the authority of a certificate issued under this Act." I wonder whether the Minister is going to clarify whether this mandatory requirement also covers the National Social Security Fund (NSSF) because the NSSF is, of course, a retirement benefits scheme, and yet the Bill does not make it clear whether it is intended to bring the NSSF, which by all accounts, is a retirement benefits scheme. Is it the intention of the Government that this Bill should govern the NSSF? This is an important issue, which the Government should clarify. The Bill should come out very clearly and synchronise the private pensions schemes with the NSSF if that is the intention of this Government.

The private sector, by conservative estimates, currently controls a sum in excess of Kshs50 billion. This is what the private sector controls in terms of retirement fund pension schemes. It is a very large sum of money. One cannot but feel a little suspicious that in an election year, this Government is trying to access, control and direct how that Kshs50 billion is going to be invested, where and how. Is it possible that the Government's intention in bringing this Bill and giving it priority over all the other Bills which it has, is that it is looking for easy money with which to fund or buy electoral victory? We know--

**The Assistant Minister for Finance (Mr. Keah):** On a point of order, Mr. Speaker, Sir. I would like to inform hon. Muite and re-assure him simultaneously that it has never been, it will never be, and it is not the intention of this Bill for the Government to access any money for purposes of the General Elections in 1997. I want to assure him on that.

**Mr. Speaker:** Mr. Muite, there is something I want to clarify so as to make the Bill easier for Members to follow. You posed a question to the Assistant Minister wanting him to clarify whether the NSSF will be governed by this particular Bill. If you look at the Order Paper, there is the National Social Security Fund (Amendment) Bill. In that Bill, Clause 3, 2A states "The Provisions of the Retirement Benefits Act, 1997 shall

apply to the Fund".

**Mr. Muite:** That is a strange way of going about it, but I am grateful for the information. That is quite right. Even without that Clause 2A, that clarifies the issue because under the existing Clause 2A of Retirement Benefits Bill, the matter is left hanging and here the NSSF is, indeed, a Retirement Benefit Scheme. If that has been done, that makes it clear. But that makes the position even worse. Then the Government is accessing a total of Kshs100 billion. I think the NSSF controls about Kshs50 billion and the private sector an equal amount. What this Bill is now doing in Section 18, is giving the Minister power and authority to direct how that money is going to be invested and that sort of thing. This is not regulating this money, but controlling it.

So, in an Election year the Minister for Finance will be able to say how both the Kshs50 billion that is controlled by the private sector is going to be invested and how the Kshs50 billion that is controlled by NSSF is going to be invested. Therefore, the Government has got direct access to that money in an Election year. All we have at the moment is an assurance from this Government that they are not going to use this money for the purposes of the General Election. We want nothing more.

This is a Government that is to be judged by its conduct and actions, not by its promises. In 1992, this Government "pumped" into the economy an amount of money in excess of Kshs25 billion with which they "bought" an electoral victory. This Bill should not be supported by this House, but instead thrown out. The motive behind this Bill is not sincere. Everything that this Government is doing points to its insincerity. For example, why does the Electoral Commission suddenly give Kenyans a month within which to register? Is this not part and parcel of the scheme of this Government to again fraudulently rig itself back into power? Even in 1992, Kenyans were given three months within which to register. Logistically, it is simply not possible for Kenyans to register within a month.

The same Electoral Commission makes a very vague statement; that all Kenyans who are 18 years and over with valid identification---" What is valid identification? The Chairman of the Electoral Commission should come out clearly and state what the Electoral Commission is going to regard as valid identification.

**Mr. Speaker:** Are you talking about retiring?

**Mr. Muite:** Mr. Speaker, Sir, I am saying that the intention of this Government is to access this money for the elections. That is the irresistible inference.

**Mr. Speaker:** Very well, that may be your opinion, but as far as the Chair can gauge, the issue of the operation of the Electoral Commission and retirement benefits are worlds apart and you are, therefore, irrelevant. Will you come back to the earth?

**Mr. Muite:** Mr. Speaker, Sir, with utmost respect, these things are not unconnected. Even the elections have been brought forward to the last week of August. This is why this Bill is being rushed.

This is a Government that has panicked---

**Mr. Speaker:** Order! I really do not know about those things. I must confess of my ignorance of what maybe within your knowledge. What I know are the rules of relevance. There is a difference between election and retiring, unless you are talking about the National Assembly Act which provides Members of Parliament their retirement benefits. Maybe, there you can be relevant. Can you talk about this Bill?

**Mr. Muite:** Mr. Speaker, Sir, Clause 18 of the Retirement Benefits Bill seeks to give the Minister power and authority to control the money currently controlled by the private sector which in my research, amounts to a sum of Kshs50 billion. It is the Minister for Finance who will now have access to that money by saying where it is going to be invested and how. The logical nexus between what I am saying and this Bill is that this Government is trying to access that money for the purposes of election. With due respect, I am being relevant and I am entitled to persuade hon. Members of this House to vote against this Bill for those reasons. That is why I am laying the basis of this argument. I am persuading Members to see this Bill for what it is and, therefore, vote against it. Both Members of that side and Members on this side should vote against this Bill. That is why what is happening in the country is directly related to this Bill. It is brought in bad faith.

**Mr. Speaker:** Mr. Muite, you are entitled to convince Members to vote the way you want, but in addition to that, when the question of relevancy comes, you must convince the Chair more than anybody else that when you divert from the Bill, you are truly relevant.

So, proceed.

**Mr. Muite:** So, Mr. Speaker, Sir, I am saying that the Bill is brought into this House in bad faith in an election year. Everything is being rushed and that is why the Electoral Commission is not even saying whether the old identity cards, passports or birth certificates are acceptable. Everything is being done in a rush. In any case, this is a Bill which Members of this august House, should throw out for the reason that this Government has no moral authority to bring any legislations to this Houses at this point in time. The Government itself is not

respecting law. The Government is acting mala fide. I would like to persuade the hon. colleagues in this House to see that this Bill has been brought at this point in time in bad faith because all that the Government is interested in is the General Elections and they are not prepared to level the play field. They have refused to give in on minimum constitutional, legal and political reforms in order to make these elections fair. Is it right, therefore, that this House should enact this Bill into law and thereby give access to over Kshs50 billion of pensioners' money controlled by the private sector when it has not even complained? We have not heard any outcry in this country from any employee that their monies have been mismanaged. The outcry that has been there has been from Kenya National Assurance Company and NSSF which are managed by the Kenya Government. Should we, therefore, entrust this Government with control of this additional Kshs50 billion, which I believe they want to access in order to conduct elections? I am trying to persuade hon. Members to see that because this Government is not interested in free and fair elections, they will not allow reforms. It will not even review the Public Order Act. It has panicked because of the people power shown in Kamukunji. Because the Government will not repeal the Public Order Act, do not try to bring the elections forward as you have done. We know that the elections are intended to be held in the third week of August. Bring in the reforms, and we can have them even in July. But without those reforms, we cannot pass this Bill because we are not prepared to give you a step to that money.

Mr. Speaker, Sir, we know that it is the intention of this Government not to allow free and fair elections. That is why the Registrar-General, Mr. Omondi Mbago, has finally been directed to formally write to SAFINA, stating that it will not be registered. How can the elections be described as free and fair when there are many parties which have applied for registration and they are denied registration? There are many Kenyans who would [have wanted to vote for SAFINA civic and Parliamentary candidates, but they are being denied that opportunity. It is a blatant violation of the Constitution.

Mr. Speaker, Sir, one day, some of us will return to this Parliament on a SAFINA ticket and it will be the pleasant duty of one of us in SAFINA, when that day comes, to sit on that Chair to perform the pleasant duty of State Opening of Parliament.

Mr. Speaker, Sir, this is a Bill that must be thrown out. This is a Government that has got a record of misusing public money. This is not a Government that can be trusted whatsoever with managing and controlling money that is currently very well invested by the private sector. All companies today have retirement benefits schemes that are working very well, that are yielding good returns for their employees. How is it that this Government is only interested in things that are working and yet its record is that, where it gets in, within a matter of years, the thing goes up in flames? If Kenya National Assurance Company was not being managed by this Government, employees would not have lost their benefits.

Mr. Speaker, Sir, we cannot, at this point in time, be expected to support this Bill and I would like to appeal and persuade my hon. colleagues, with all the powers that I can command, to reject this Bill.

With those few words, Mr. Speaker, Sir, I beg to oppose.

**Mr. Mulusya:** Thank you, Mr. Speaker, Sir. I would like to echo what my colleague hon. Muite has been saying. For sure, a Government which has been a non-performer in all areas of investments should not be given another opportunity to manage people's finances.

Mr. Speaker, Sir, when you look at the taxes this Government is collecting, for example, all the money which has been collected for road maintenance in this country, is not benefitting anybody. There was a Bill which came to this Parliament, and was enacted in good faith, that the Government will be able to get all those funds which are earned by Kenyans and then eventually Kenyans would benefit. Now, why should you tell those who are retiring to give the Government money or the authority to control the finances they are getting, and yet they have seen what has been happening vis-a-vis what should be legally done? The number of potholes which some foreign authority referred to as "Moi holes" are so many. You cannot understand why the Government is coming back to tell those who have been working for as many as 20 to 30 years, to surrender their money into the hands of the same people.

Mr. Speaker, Sir, if you go to every district headquarters, those who have retired from the Civil Service, Kenya Army and other sectors of Kenyan Government, are crying. Today is the 8th May and yet, they have not been paid their pensions which they are supposed to get at the end of every month. Particularly in Machakos District, pensioners are told to pay Kshs30 per person so that around 15th or 17th of the month, when they receive their pension, somebody is sent either from Kangundo, Mwala or any other divisional headquarters to go to Machakos to collect pension for these pensioners. Has it been authorised by the Government that there should be additional taxation on those poor pensioners? Money is being collected from those pensioners by civil servants to cover for transport to Machakos to collect the pensions.

Mr. Speaker, Sir, even if you talk to the DC, Machakos, or the relevant DOs, they do not seem to be bothered just because the money does not belong to them. It is the clerks in their offices who are collecting Kshs30



from each pensioner, so that they may send somebody to go and collect their pension. Why are these pensioners being punished? Why are they not being paid promptly like anybody else? Why is it that they have to wait up to 17th, 18th or 20th of the month whereas they are supposed to have been paid instantly on 30th of the previous month when their pension is due for payment? You cannot understand this situation. Now, the same Government which is not paying pensioners who have worked for the Government for so many years, wants to collect this money to make sure that money for those other people who are now active, working and want to earn something at the end of their working period, is controlled.

Mr. Speaker, Sir, if you look at what has happened to Kenya National Assurance Company, it has collapsed with money for very many pension schemes. Many workers of parastatals and even Members of this Parliament had their money stuck in Kenya National Assurance Company. This Government has not even been kind enough to tell Members of Parliament, who have their money in the collapsed Kenya National Assurance Company, whether they are going to sink in the same fate with other Kenyans.

Mr. Speaker, Sir, this time Members of Parliament are contributing to the Provident Fund and yet, we have not even been told where that money is being kept. We do not know where that money is being kept. We do not know whether we are going to have access to that money after we have left this Parliament. I can say that deduction of money from our salaries has been by force because we do not know---

**Mr. Speaker:** Mr. Mulusya, do not belabour the point. I think if you look at the Act, on top of what you contribute, the Government contributes a certain amount and you will collect it from the Treasury like every other retiree.

**Mr. Mulusya:** Mr. Speaker, Sir, I do not want to challenge your ruling.

**Mr. Speaker:** No, I am advising you. So, do not belabour the point.

**Mr. Mulusya:** Mr. Speaker, Sir, but it is that same Treasury which authorised that money to be invested in Kenya National Assurance Company. Every Government organisation, Parliament included, has to get authority from the Treasury to invest surplus funds elsewhere other than in Treasury bonds and Bills.

The other issue here is that those people who ransacked Kenya National Assurance Company are moving around freely in big limousines and nobody is even talking about taking them to court. When somebody has committed a crime against a society like the ones who were running Kenya National Assurance Company they should not be employed or appointed in the Civil Service or the public sector where they can have access to public funds. This Bill requires that the PS Treasury and other civil servants should be appointed to the Board. When it comes to the appointments, those---

**The Assistant Minister for Land Reclamation, Regional and Water Development (Mr. Ligale):** On a point of order, Mr. Speaker, Sir. There is nowhere in this Bill where it has been stated that public servants shall be appointed. In fact, it specifically says "apart from the PS Treasury the other people who will be appointed on the Board will be non-public servants." It says so very clearly! Why dwell on lies?

**Mr. Mulusya:** Mr. Speaker, Sir, why would the PS Treasury in the first place, busy as he is, be appointed in the Board and more often than not, in all the Boards where the PS is a Member, he delegates that authority to junior officers? We have seen this in the administration of parastatals. When those junior officers are delegated to sit in those Boards, they do not sit with the full authority of the PS and decisions are made and the PS will overrule them later. Where the PS has not appointed somebody to be sitting in that Board, you will find that the PS is permanently absent with apologies from the Board meetings. Why should he be a Member of the Board if he is extremely busy? In this country, if one is the PS to the Treasury, he must attend all the public rallies addressed by His Excellency the President, so that he may receive verbal instructions in that rally. You do not know what instructions are going to be issued that day and so, you cannot fail to attend that public rally. This is what has been happening. When His Excellency the President travels to Western Province to address a public rally, all the PSs and all the heads of parastatals will travel there and sleep at Kakamega Golf Hotel.

**The Assistant Minister for Finance (Mr. Keah):** On a point of order, Mr. Speaker, Sir. Is hon. Mulusya in order to make very gross mis-statements here that wherever the President goes, the PS Treasury must always be there and that all the PSs follow him wherever he goes? This is a gross mis-statement. It is not factual and is he in order to be allowed to continue making such gross mis-statements?

**Mr. Mulusya:** Mr. Speaker, Sir, all you need is to read the papers to know who was in attendance other than the Ministers. If you know these PSs, and I hope the Assistant Minister knows them--- During news broadcasts, you will recognise the PSs sitting close to the President. Even the people who come from different parts in the rural areas do not even get seats because of these PSs and the Ministers in the President's entourage. If you go to any of the Ministries to see the PS and the President is in Mombasa, you will never get a PS unless you follow him to Mombasa. This also applies to heads of parastatals. They go in large numbers to Presidential

functions. Even in this House, when His Excellency has gone to Western Province, the Ministers will not be here to answer Questions and yet, their duty is to this Parliament and not to follow the leader of their party wherever he goes. Hon. Kibaki has been addressing many public rallies when we are here. We do not follow him there. We have to come and participate in the deliberations of this House. He goes there in his capacity as the head of the party. On a similar footing, the head of this Government can work on his own and with a few people. When he is going somewhere, he is going for a--

**Mr. Speaker:** Very well, can you now come back to the Bill?

**Mr. Maore:** On a point of order, Mr. Speaker, Sir. I do not think we have a quorum in the House

### QUORUM

**Mr. Speaker:** Well, I do not think I really need to count. It is apparent that the Chamber is empty. Ring the Division Bell.

*(The Division Bell was rung)*

**Mr. Speaker:** Order! We have a quorum now.

You may proceed, hon. Mulusya.

**Mr. Mulusya:** Mr. Speaker, Sir, as pointed out by hon. Muite, Clause 32 Sub-Section (3) on page 204 reads:

"Subject to the provisions of this Act, the Minister may, in consultation with the Authority, make regulations with regard to funding, investing, management and transfer of the scheme funds and the accounting of those funds".

I think the Minister should bring an amendment here to give the Authority utmost powers to conduct its affairs, without consulting the Minister. This will give the Authority a free hand in investing its money, rather than going to the Minister. These investments should be made, subject to Treasury regulations. In the past, many parastatals have been influenced and forced by the Ministers in charge and Treasury, to invest surplus funds in shaky banks. Most of the parastatals have lost their entire investments after the collapse of the shaky financial institutions. It should only be the Board to decide where the surplus funds should be invested. We do not want a repeat of what has been happening in the past.

*[Mr. Speaker left the Chair]*

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

When the heads of parastatals lose their investments, they come to say that they were given the authority to invest in certain banks by the Ministers and the Treasury. They use that as a scapegoat. They should be given a free hand in the investment of surplus funds.

With regard to Clause 35 on page 205, we have actuarial evaluations. It reads:

"The Board may require the trustees of such schemes or categories of schemes as it may specify, to cause the schemes to be evaluated by an actuary appointed by the trustees with the approval of the Board, and to present the actuarial report to the Chief Executive Officer at such regular intervals as the Board may specify".

Mr. Temporary Deputy Speaker, Sir, an actuary is a valuer who specialises in insurance investments. In the past, we have seen valuers who give figures to suit the requirements of a particular head of a parastatal. We have had cases where valuers have acted against professional ethics and put valuations which do not represent the actual value of the properties being valued. This makes it very necessary for the Valuers' Act to be amended to put in some deterrent measures against any valuer caught in such influences. It is because the higher the value of the property assessed, the higher the fees paid to the valuer. Some of these valuers are my professional colleagues. A very good example is what happened to Kenya Commercial Bank. Tysons Limited arrived at two valuations for a property in Komarock. Unfortunately, the values arrived at by the junior officers were more acceptable than the ones that were arrived at by the Director. It is because there was an earlier discussion of what values needed to be arrived at. The workers of Kenya Commercial Bank would have lost not less than Kshs200 million if the Board had gone ahead and purchased the property at Kangundo Road in Komarock. This is very

bad and the person who did that valuation should have been taken to court because his action was fraudulent. He should have been charged with the intention to aid the committing of a crime against the workers of Kenya Commercial Bank. We are saying that when a valuer has been contracted to carry out a valuation of the assets of the Authority, he should do it at market values and follow all the laid down rules and regulations.

So, Mr. Temporary Deputy Speaker, Sir, we have to be more careful in this. I want to tell the "sleeping" Minister that he should impose a penalty for those who carry out valuations fraudulently. I would like him to wake up!

Mr. Temporary Deputy Speaker, Sir, Clause 37(2) states that:-

"The investment policy of a scheme shall be implemented subject to the provisions of any regulations the Minister may, in consultation with the Authority, make for that purpose."

Mr. Temporary Deputy Speaker, Sir, today, we have seen the Co-operative Act being repealed. There is a Bill which is supposed to be tabled in this Parliament to repeal the Co-operative Act. The co-operative movement has been wrecked because the Boards of management have all the time been directed by the Commissioner of Co-operatives on investments. The Commissioner of Co-operatives will only allow investments in which he has direct benefits. For example, the former Commissioner of Co-operatives, Mr. Alfred Birgen who was jailed some time ago for converting property of TARDA into his name. That was stealing. When he was still the Commissioner of Co-operatives, it was not possible for a co-operative organisation to invest in any property, unless, the management committee had "seen" him and "talked" to him in person. It was not a question of taking an appraisal or a proposal to the Commissioner of Co-operatives to be approved. It has been taking so long time for the Commissioner of Co-operatives to approve investment by certain co-operative organisations; such that where they had been given an offer to buy a property, the time elapses before even the Commissioner of Co-operatives has made a decision to approve the investment. So, unless, you are able to solicit direct for investment from the Commissioner of Co-operative in person, then you cannot invest.

In other cases, Mr. Temporary Deputy Speaker, Sir, the Commissioner of Co-operatives allowed some investments by co-operative societies to be done in very highly-exaggerated values. Such that a property whose value is Kshs20 million will be bought by a co-operative societies at a price of Kshs50 million to Kshs60 million. That is why most of the co-operatives investments in the property market, except a few, have ended up collapsing and most of those properties have ended being auctioned by the banks which lend them.

Mr. Temporary Deputy Speaker, Sir, we do not want workers' benefits scheme to fall into that trap. We want managers of the scheme to decide freely where to invest their funds without seeking authority from the Minister. The Minister, at this time of liberalisation, has no moral authority, in good keeping with the trend of economic changes in this country and worldwide, to control or regulate how these private schemes and how they are going to invest their funds.

Mr. Temporary Deputy Speaker, Sir, I would like the Minister to come up with some amendments or total deletion of Clause 37(2).

Lastly, Mr. Temporary Deputy Speaker, Sir, what this country wants to see is a good example of Government management of affairs of this country. The Government should manage investments of this country will so that it can be given moral authority to manage retirement benefits schemes.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to oppose the entire Bill.

**Prof. Anyang'-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, I rise to contribute to this Bill. First of all, I would like to make certain preliminary remarks about the Bill.

Mr. Temporary Deputy Speaker, Sir, in the Memorandum of Objects and Reasons, the Attorney-General argues that the object of this Bill is to provide for the establishment of Retirement Benefit Authority to regulate and supervise the management of retirement benefit schemes in order to ensure that they are managed prudently and professionally.

The Bill also seeks to provide a harmonised legal framework to govern the establishment and management of Retirement Benefit Schemes in Kenya. Currently, some schemes fall under the Income Tax Act, Cap.470 of the Laws of Kenya, or the Insurance Act Cap.487 of the Laws of Kenya, while others are regulated by statutes.

Mr. Temporary Deputy Speaker, Sir, that is where I want to begin. The first question we need to ask ourselves is the following: How has the Government been re-running its retirement benefit schemes? Because the Bill says that the retirement benefit schemes have not been put under one legal framework so that the Government can ensure that they are managed prudently and professionally.

Mr. Temporary Deputy Speaker, Sir, benefit schemes are some of the most important factors in the welfare of the people. If it is after more 30 years that the Government now realises that this thing should be prudently and professionally managed so that when people retire they can benefit from their sweat, it all means

that this Government has been doing nothing to the people or has callously not been taking care of the working person. Hence one should ask: Has the Government itself had, in the past, a retirement benefit scheme that was run prudently and professionally so that it can set an example to the others? This is because there is no need coming out and say "people out there have not been running their thing prudently and professionally" when you have no example to give.

Mr. Temporary Deputy Speaker, Sir, in that regard, I would have thought that it was more logical for us to have discussed Bill No.7, the National Social Security Fund (Amendment) Bill, before we come to Bill No.4, because Bill No.7 deals with a discussion of how the Government itself has been running its benefit schemes. The National Social Security Fund (NSSF), as far as I understand it, is the only largest parastatal that deals with the benefit schemes of the people who retire. And the NSSF is an example of one of the most mismanaged parastatals in this country.

If the Government was to take the private sector as an example of how benefit schemes are managed professionally and prudently and put the NSSF as an example, then definitely the private sector would tell the Government "you have no authority whatsoever to tell us how to run our benefit schemes because yours stinks". Maybe, this is one of the reasons why the NSSF (Amendment) Bill comes after we have discussed the Retirement Benefits Bill. I think this House should be very cautious that this Government is in no position to tell the private sector how to run benefits schemes prudently and professionally when its own has landed workers in this country in a quagmire. I would have wanted us to discuss Bill No.7 first before we come to deal with this Bill and hence the illogicality with which these Bills are brought to the House. It, therefore, makes it imperative that this side of the House must reject this Bill in its totality.

Mr. Temporary Deputy Speaker, Sir, the second thing that I would like to say is that there have been parastatals which have had very good retirement benefits schemes in this country. One of them was the University of Nairobi. When I was a lecturer at the University of Nairobi, in fact, before I even joined the University of Nairobi, it had a benefit scheme which was inherited from colonial times whereby some of the old dons at the University for example, people like Professors Ogot, Ominde and so on, had their benefit schemes run from Britain. When that was terminated and a local benefit scheme was established for the University of Nairobi, in which the Government could have put its hand in the till, that is the first time the University of Nairobi started going downstream with regard to benefit schemes.

Mr. Temporary Deputy Speaker, Sir, one of the things that the Government should have stated first is that a retirement benefits scheme's main objective is to ensure that when somebody retires, he or she continues to enjoy the same standard of living that you had when you were working. If your standard of living goes down after you stop working then you really have no benefit scheme whatsoever. This is because the whole philosophy behind retirement benefits schemes is that after you retire, you will still continue to be a useful human resource to the economy. That is human resource in terms of consumption because you must participate in the market. You must get an income which enables you to participate in the market and buy those goods and services that maintain your standard of living and that keeps the machinery of the economy going. If you retire and you can no longer buy goods and services that keeps the machinery of the economy going, then indeed you are a burden to the economy. One of the basic philosophies of a retirement benefits scheme is to say that an individual who retires must continue to get that kind of income that maintains you at the standard of living that you were used to before.

Mr. Temporary Deputy Speaker, Sir, I met a former permanent secretary who retired sometime in 1979 or 1980 and I asked him what is it that he gets every month in terms of his pension and he told me that his pension per month is Kshs4,500. Now, that is where the Government should begin; that the object of this Bill should have been to ensure that every retirement benefit scheme ensures the retiree a standard of living he was used to when he was working. The Government should begin by examining its own house and bringing evidence to this House for example, that when a Permanent Secretary retires who has been earning a salary of maybe, I do not know what they earn--- If you find that your salary is reduced by 75 per cent after retirement then obviously there is something wrong. That is one of the reasons why, while you are still in Government, you ensure your own retirement benefits by being corrupt. Corruption is a way by which people ensure their own retirement benefits because they know that when they leave that position their standard of living will go down. So, having a good retirement benefits scheme in the public sector is one way by which the Government can cut down on corruption. This is because corruption brings in inefficiency, mismanagement and destruction of the economy. Now, at this point in time, I would have wanted the Minister for Finance to have come out here and given to this House the facts about retirement benefits in the public sector today and tell the House how this Bill is going to address that issue.

Mr. Temporary Deputy Speaker, Sir, the Bill is more concerned with regulations of retirement benefit schemes than with introducing efficiency in those benefit schemes. I think that the private sector could have given

the Government a very good model of establishing a retirement benefit scheme which could have gone into the formulation of this Bill than the one presently formulated which, right from the beginning, is much more concerned about regulations than efficiency. The paragraph that I have just read really sets off to me a very weak objective in terms of Memorandum of Objects and Reasons. It sets out a very weak objective from the beginning for this scheme. I think an objective aimed at ensuring that retirement benefits schemes increase the amount of benefits that individuals get when they retire would be a much better objective. That is what workers are looking for. For anybody in the public or in the private sector, their interest is not how effective regulating of the benefits schemes is, but how productive those benefit schemes are to them in terms of what they get when they retire.

Mr. Temporary Deputy Speaker, Sir, in that first Memorandum of Objects and Reasons, the Attorney-General says that:

"Regulations so far of benefits schemes have been in under Cap 470 the Income Tax and Cap 487 the Insurance Act--"

I have looked at Cap 470 which is being invoked and I have failed to see why these Caps are being invoked in terms of their regulatory capacities. Cap 470, Section 8, only talks about whether or not the Income Tax Department can tax pension benefits. Section 57 only talks about returns as to salaries, and pensions. It has nothing to do with regulations. If I could read them, unless the Ministry can point out certain other sections which are relevant--- But let me read it. It states:

"For the purposes of Section 32(c), a pension received by a resident individual from a pension fund or pension scheme established outside Kenya shall be deemed to have accrued in or have been derived from Kenya to the extent to which it relates to employment or services rendered by the individual or the husband or parent of the individual in Kenya and the amount so derived shall be proportion of the total pension with the length of the employment or services in Kenya including periods of leave earned thereby bears to the total length of employment or services in respect of which the pension is paid".

And then the rest of that section simply elaborates on that first sub-section; on what the income tax man can or cannot get from pension benefits.

Section 57 states:

"The Commissioner may by notice in writing require an employer or any other person making the payments herein referred to, to furnish him within a reasonable time not being less than thirty days from the date of service of the notice with a return containing

(i) The names and addresses of all persons to whom or in respect of whom payments and allowances were made by him in respect of their employment and the amounts of the payments and allowances made to each of them.

(ii) The names and addresses of all persons to whom he paid pension in respect of past employment with him or with any other person and the amount of the pension paid to each of them".

Again, Mr. Temporary Deputy Speaker, Sir, all these stipulations do not give the Income Tax Department regulatory powers over pensions schemes or those who run pensions. They simply give the Income Tax Department powers to know who has been paid what pension and whether that pension is taxable. So, the invoking of Cap 470 with regard to establishing regulatory procedures on pensions schemes, to me, is highly irrelevant and defective. The Attorney-General should have come up with a better object of the Bill than this one.

Mr. Temporary Deputy Speaker, Sir, when we go to Cap 487, the Insurance Act, again, even if you go through the table of contents very carefully, you would find that the Insurance Act, like the one I have just referred to, the Income Tax Act, gives no powers whatsoever to the Insurance Department or insurance authority or whomsoever has any authority in the Insurance Department any regulatory powers over pensions schemes. There is absolutely no section in the Insurance Act to which the Attorney-General could have referred in invoking the Insurance Act with regard to regulation, unless, of course, the Minister can give me a specific information to that regard.

That having been said, why is it necessary that the Government should regulate pensions schemes and pensions funds? The Government gives two reasons; one, that these funds have not been prudentially managed, and two, they have not been professionally run. Let us look at the Bill, as it is presented to us, and see the extent to which the Bill seeks in its provision to ensure that there is prudence in the management of pension funds and that pension funds should be professionally run. The best way to begin this is to look at the composition of the Board of Directors. Suppose we accept that this Authority whose headquarters is going to be in Nairobi, is worth establishing, and suppose for the sake of argument accept that this Authority will ensure that pensions schemes are prudently and professionally managed, let us see how they are going to go about it. First, by establishing a Board

of Directors.

Before the Board of Directors is given responsibility, section 6 of this Bill states:-

"The management of the Authority shall vest in a Board of Directors of the Authority which shall comprise:-

- (a) a chairman appointed by the Minister;
- (b) the Chief Executive Officer appointed under Section 11, and we shall refer to that Section,
- (c) the Permanent Secretary in the Ministry of Finance or his representative; and,
- (d) five members, not being public officers, appointed by the Minister by virtue of their knowledge or experience in matters relating to the administration of scheme funds, insurance, law or actuarial studies".

Mr. Temporary Deputy Speaker, Sir, this is a Board of eight people. These five other members are appointed by the Executive and it is the Executive which is expected to determine whether they have these qualities. Supposing, even with regard that we agree that the Executive is going to be broad-minded and fair, and look at all those qualities and make sure that they are fulfilled in the appointment of these members; I would have wanted the Executive to specify certain professional societies, categories and private sector enterprises which would be in the best position to advise the Executive on who these five members should be. That one should have been put in the Bill because the Board of Directors is such a critical and important institution in ensuring that this Bill succeeds, that we cannot leave it so opened-ended. That is one.

Secondly, I would have wanted it stated in this Bill that the chairman who would be appointed by the Minister with approval of Parliament, we, in this House have said that if the public sector is going to be run efficiently and professionally, the law making-body in this land, the National Assembly, should have a say in approving those who head these parastatals and possibly, those who are appointed to this Board. We do not want to say that the Minister should have no powers whatsoever because, when we are on the other side, we would like to exercise those powers and straighten this nation. Yes, we want those powers of appointment, but we want them to be controlled by this House because this is the House that approves the funds that the Government uses and this is the House that is given the responsibility of ensuring that the interest of wananchi are taken care of.

So, Mr. Temporary Deputy Speaker, Sir, I would like the Minister to note the following amendments which I would hope they would propose because the whole purpose of discussing this Bill is to make suggestions that can lead to amendments that the Minister can bring to the House. One, that the chairman appointed by the Minister should be approved by an appropriate committee of Parliament. Secondly, that these five members who are expected to be people of knowledge or experience in matters relating to the administration of scheme funds, insurance, law or actuarial studies, that specific professional and private sector institutions which we know in Kenya today have direct interest in matters relating to pension schemes and insurance and so on, that they be named. For example, I know that the Kenya Association of Insurers would be one of the qualified bodies to advise the Government or the Minister on the appointment of these members rather than leave it vague. I think that should be specified. I am saying that because I assume that the objective of trying to run pension schemes prudently and efficiently is at the heart of appointing a Board that would be aware of that objective.

Mr. Temporary Deputy Speaker, Sir, let us for the moment then go to the objectives and functions of the Authority. I, myself, I am very sceptical that this Authority, as conceived in this Bill, is even going to fulfil these objects. I am very sceptical because I would have wanted the Bill to incorporate more private sector and professional participation in the way it is run. But let us look at the object. Section 5 of the Bill says:-

"The object and functions of the Authority shall be:-

- (a) regulate and supervise the establishment and management of retirement benefits schemes;
- (b) protect the interest of members and sponsors of retirement benefits schemes;
- (c) promote the development of the retirement benefit sector;
- (d) advise the Minister on the national policy to be followed with regard to retirement benefits schemes and to implement all Government policies relating thereto; and,
- (e) perform such other functions as are conferred on it by this Act or by any other written law".

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

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

Mr. Temporary Deputy Speaker, Sir, retirement benefits schemes are usually a relationship between the

employer and the employee. Normally, what a retirement benefits scheme builds before retirement is that the employer contributes a certain amount and the employee also contributes another amount. In this Bill, unless, I have under-read it, there is no mention whatsoever of what equity exists in several pensions schemes regarding the contributions of employers and employees so that finally, what the employee gets when he retires reflects equitably and reasonably in his or her productivity while they were employed. I know at the moment when you are employed - employers in this country are authoritarian, as the Government itself - you get a form where it is stated without consulting you that you would be contributing Kshs20 and the employer will be contributing Kshs5 towards your retirement benefits and you have no say whatsoever whether this in the long run is equitable or not. Then you are told also that when you go on retirement, you will begin getting your benefits after so many years or something like that. All kinds of percentages are worked in as to how you are going to get your benefits. These are some of the things that the Bill should have addressed itself to. But at the moment, when these objects are stated so generally, quite honestly, the workers are not that interested. They want a Bill to specify how pension are scheme worked out. Is the Government aware from one enterprise to the other that pension scheme in East African Industries or East African Industrial Plant or Spectre International, what kind of pension schemes do they have, how are they calculated and at what extend are they equitable, as far as the employees are concerned? That is where the issue is.

Secondly, Mr. Temporary Deputy Speaker, Sir, one of the things that this Bill, if, indeed, it is to regulate pensions schemes, should have done is to say that in establishing a retirement benefit scheme employers and workers must agree on what the scheme is to be about. I know that the Minister will say that is why the trade unions are there. He will say that the trade unions should fight and make sure that the argument between employers and employees leads to proper retirement benefits schemes.

But we know that this very Government has been responsible for the destruction of the trade union movement in this country. The trade union movement has been completely (*inaudible*). The Central Organisation of Trade Unions (COTU) is but a branch of the State. First of all, the Act that establishes COTU and trade unions gives the President power to choose from three names handed over to him who the Secretary-General of COTU should be. When COTU was started there was at least some competition as to who became the Secretary-General. But these days there is absolutely no competition whatsoever.

I followed very closely the trade union elections of last year. All that happened was that people would meet to discuss who was going to represent them, and then in the evening a bunch of them would escape to a place where they were given money by the big barons in the Government, who told them who they were to elect as so and so in the trade union movement. So, the movement has become a branch of the State. The trade union movement cannot argue on behalf of workers in things like pensions. So, if the Government is really interested in streamlining things, those are some of the things it should tackle. It is no need thinking that it is going to leave them to trade unions when the same Government has been responsible for the destruction of trade unions.

The first clause is meant to "regulate and supervise the establishment and management retirement benefits schemes"--- When you are liberalising an economy, as all the policy-framework papers have been meant to do, it is contradictory to say that you are going to regulate and supervise the establishment and management of retirement benefits schemes. I do not know how the Government is going to do it. Suppose an enterprise says: "Well, we are not going to have a retirement benefits scheme." Will the Government force it to have it? What this Bill really says is that, where a retirement benefit scheme already exists there will be regulation. But another question can be asked: Suppose somebody has an enterprise where he does not have a retirement benefit scheme, how will the Government intervene and ensure that a retirement benefit scheme is established? That is not specified in the Bill. If there is no such scheme, how will the Government protect the workers?

I was thinking that one of the most important initiatives which the Government could have is--- First, it is better to give inducements rather than to regulate schemes. For example, the Government could say that when an enterprise establishes a retirement benefits scheme, which ensures that workers get benefits when they retire, that enterprise will get certain benefits in terms of tax relief in corporate taxation. This kind of thing will encourage many enterprises to have good retirement benefits schemes for their workers. Secondly, even if the Government gives such tax relief to such enterprises--- We know that the trend in the Government at the moment is to move towards more and more indirect taxation. The money it gives as corporate tax relief will be recovered when people spend the money and pay Value Added Tax (VAT) and other taxes. So, the Government does not lose. There is a way in which it still gains from inducing companies to have good retirement benefits schemes: When the workers retire they will still participate effectively in the economy.

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

*[The Temporary Deputy Speaker  
(Mr. Ndotto) resumed the Chair]*

At the same time the workers will also spend more money because they are earning more. My theory is that in an economy like ours---

### QUORUM

**Mr. Angwenyi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum in the House.

**The Temporary Deputy Speaker (Mr. Ndotto):** Can you ring the Division Bell? We have fewer hon. Members in the House than the required number.

*(The Division Bell was rung)*

We have the required number of hon. Members now. Can you proceed now, Prof. Anyang'-Nyong'o?

**Prof. Anyang'-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, the Government also says in Clause 5(b): "The objects and functions of the Authority shall be to protect the interests of members and sponsors of retirement benefits schemes".

If you go to Clause 38, you will see how this Government is going to protect our interests by introducing this Bill. Clause 38 is entitled "Restrictions on Use of Scheme Funds". This is how the Government wants to protect our interests, and I want to quote:-

"1. No scheme funds shall be:-

(a) used to make direct or indirect loans to a member, sponsor, trustee or manager of the scheme; or

(b) invested contrary to any guidelines prescribed for that purpose; or

(c) invested with a bank, non-banking financial institution, insurance company, building society or other similar institutions with a view of securing loans, including mortgages, at a preferential rate of interest or for any other consideration to the sponsor, trustee, members or the manager of such schemes.

The Authority may disqualify anybody from the provision of this section participating anywhere in the management or administration of any schemes' fund."

Mr. Temporary Deputy Speaker, Sir, why do people contribute to pensions schemes while they are still working and they cannot benefit from such schemes? I have stated several times in this House that one of the reasons why the Singaporean Pensions Schemes have been so successful is because in Singapore, once you contribute to the equivalent of the NSSF, you are entitled to a mortgage for a house, loans for your children's school fees, health insurance and your benefits when you retire are at the level of the salaries you were used to when you were working. But here, this Government is now telling us that the way they are going to protect the interests of those contributing to the pensions fund is to stop them from getting such benefits. Why are you saying in your objective that you want to protect the interests of the members and sponsors of retirement benefits schemes, when in Section 38 you are negating it? What is the reason?

Mr. Temporary Deputy Speaker, Sir, since NSSF has been mismanaged and misused, there is no reason why the Government should now extend the iron hand to pensioners in other sectors when they know very well that they have failed to use that iron hand in NSSF. Secondly, when you say that these people should not invest their monies in banking and non-banking institutions; those non-banking institutions which mushroomed in 1970s and 1980s collapsed because of mismanagement, is no reason to punish those non-banking institutions which may come up and may be efficiently and properly managed. Those banking and non-banking institutions which may now be established and are properly managed should be able to get investments from pensioners because otherwise, there is no other source of domestic saving as big as pensions schemes in this country.

Mr. Temporary Deputy Speaker, Sir, thirdly, let the Government realise that without the savings and credit co-operative societies that came up in this country and most of which used pension funds to build their capital, very many Kenyans would not have access to mortgage housing in this country because the Government owned housing schemes like National Housing Corporations, they were deliberately ruined.

When the late Ayany was managing the National Housing Corporation, low level workers and ordinary civil servants, had access to houses in Otiende, Onyonka, Ayany and Ngei, name it. Once that generation of



Kenyans left the scene and the "Nyang'aus" of this world came into the Government and started the strategies of "grabbiosis", the public housing scheme in this country collapsed. For the last 15 years, I would like this Government to point to us any successful public housing scheme that has succeeded. When the civil servants put up their scheme near Onyonka Estate, that scheme was harassed by the Government. First of all, they banished the Civil Servants Union at a wedding in Machakos. Even the University Staff Union was also banished at a wedding in Machakos by a person you know.

Mr. Temporary Deputy Speaker, Sir, when this Government resorts to making public policies at weddings then you should know that this country is really in the doldrums. I am sure that a Bill like this, perhaps, was conceived at a wedding for that matter.

**Mr. Shikuku:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Ninafuatia hotuba ya mhe. Mbunge lakini yaonekana kuwa huko Machakos ndiko makao makuu ya kuamua mambo muhimu hasa katika harusi. Mhe. Mbunge anayezungumza anaweza kueleza ni harusi gani hizi ambazo mambo muhimu uamuliwa badala ya kuambia watu wakae vizuri, wanaenda kuamua mambo ya Serikali? Mhe. Mbunge anaweza kueleza ni harusi gani hizi?

**The Temporary Deputy Speaker (Mr. Ndotto):** Order, Prof. Anyang'-Nyong'o!

Can you proceed with your contribution?

**Prof. Anyang'-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, I am going to proceed with my contributions, but surely, when we have weddings for--

**The Temporary Deputy Speaker (Mr. Ndotto):** Can you start right from where you were?

**Prof. Anyang'-Nyong'o:** No, I am not repeating.

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

**The Temporary Deputy Speaker (Mr. Ndotto):** Hon. Shikuku, can you, please, let Prof. Anyang'-Nyong'o proceed. Utauliza hilo swali wakati hazungumzi.

**Mr. Shikuku:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Wanaamua mambo katika harusi tu!

**The Temporary Deputy Speaker (Mr. Ndotto):** Order! The Member is debating the Bill according to our rules.

**Prof. Anyang'-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, I would like the Government to review that Section 38 very critically because it directly contradicts the objects you have stated; protecting the interest of members in retirement benefits schemes. I would like, when we come to discuss Bill No.7, which I thought should have been discussed before this the Government shall state much more clearer how workers can benefit from their pension funds while they are still working. There are some people who die before they retire and they never benefit and we have examples like in Mauritius, Singapore, and so on, where workers have access to pension funds for mortgage purposes or health insurance while they are still working and this works very efficiently and there is no reason why we should bring Bills to this Parliament in this day and age, without incorporating such experiences and practices.

Mr. Temporary Deputy Speaker, Sir, thirdly, one of the objects; they say that to promote the development of the retirement benefit sector, if you are going to promote the development of the retirement benefit sector, you must put something into that retirement benefit sector to develop it. Unfortunately, the whole of this Bill does not tell us how the Government is going to raise certain resources to develop the retirement benefit sector, if anything, what the Government is trying to do is to levy taxation on the retirement benefits schemes to run this Authority. In other words, this is yet another case where a bureaucratic leviathan is being created to feed on the productive sector, so that, that bureaucracy could do what it calls regulation.

Mr. Temporary Deputy Speaker, Sir, if the Government is saying that they are going to promote the development of retirement benefit sector, this Bill should have stated how the Government is going to raise certain resources to ensure that retirement benefits are increased and, indeed, are more beneficial to the retirees. As at the moment, when the civil servants particularly retire, they cannot enjoy the standard of living they enjoyed while they were working because their benefits are too low. For example, the Permanent Secretary is given Kshs4,500 a month as a retirement benefit. That cannot work. I have a senior chief in my area who travels to Kisumu every month to go and collect Kshs1,200 as his retirement benefits. That Kshs1,200 cannot even buy a lamb in this day and age in Kisumu Rural Constituency!

Finally, you say in this Bill that the purpose of the Authority is to advise the Minister on the national policy to be followed with regard to the retirement benefits schemes and to implement all Government policies relating thereto. This Authority, the whole of the Bill and all its functions is to do with regulation. The Government cannot rely on a regulatory Authority to advise it on national policies. What the Government needs

to have is a national economic board, like the National Board of Trade in Britain, which brings together the public sector and the private sector, which regularly sits and which has membership from people who are experienced, who can holistically advise the Government on major issues like retirement benefits schemes. You cannot give a body regulatory functions and again charge it with the responsibility of advising you on macro-economic policies. That is a contradiction in terms.

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

**Mr. Kibaki:** Thank you, Mr. Temporary Deputy Speaker, Sir. Whoever advised the Minister for Finance to bring this Bill has actually mis-advised him, and he is acting contrary to the policy which was announced on this House; that we are privatising the economy. The Government is withdrawing from controlling the economy and allowing the citizens to run and manage their own affairs of the economy. In this particular regard, the pensions funds schemes is a sector which was freely and is still freely managed by the private sector. But this law seeks to enforce that all those privately managed pensions schemes shall come under some civil servant, who shall be called an executive officer, and who shall give orders regarding pension investments, which he does not know anything about. How do you expect a civil servant in Treasury or anywhere to know how to manage the investment of pension funds in private sector? He has never done any trading or even owned a kiosk.

He does not know a single thing about which investments have the highest and the best return and which are safe. Yet the power he is going to be given is to order people who are managing pensions funds in banks, insurance companies, in large corporations, like East African Co-operation. Take a big bank like Barclays, they have a huge pension scheme, which has been running very profitably. Where did the Government get the notion that they are needed in this particular sector? Who gave them that notion? That is what we are asking.

Private people in this nation have not complained about how pension schemes now running have been managed. Nobody has complained. I would like the Minister to name one person who has wanted the Government to intervene in the management of pension schemes to date. Nobody has complained; neither the sponsor, nor the members have complained because they are all being paid. The only pensioners who complain are Government pensioners. If the Government would do something about Government pensioners, people who have retired from Government service, they should bring regulations which have to do with the Government pension. We would understand. But these others have not complained, and they have not even asked to be assisted by the Government because they know the Government is not capable of assisting anyone. The only thing the Government is capable of doing is looting National Social Security Fund (NSSF). They have looted it and it is "dry".

Today, when the people from my constituency who have retired come to this big house, this monument on the hill here, which was built with huge quantities of money, they are told to come back after another week. The NSSF is broke. That is the only thing which was being run under Government influence and direction. Now that has run broke, the Government wants to bring the private pension schemes under its control so that they may also rob the pensioners who are in private sector. That must be the intention. We do not want anyone to pretend that we are imputing any improper motives. There can be no other reason which can be discerned from reading this Bill, and I have read it six times. The only intention must be that the Government wants to control this money for its own purpose, the same way they have done with the NSSF. The NSSF has been controlled to enrich about 10-15 people in this nation. They are very rich; they are robbing the rest of the nation; they now want to invest their money in politics and they want to come to Parliament.

**An hon. Member:** Who are they?

**Mr. Kibaki:** You know them. I am sure they have entertained you. So you must know them. What we are really saying is; the Government has no proper motive in bringing this Bill, and the Minister must be able to speak here and give us that proper motive. Above all, they say this Bill is a "legislation to help in the development--- Imagine the words "development of the private pension schemes," and the development of that sector. "Development", according to our definition, involves investing the money so that you may create employment, so that the money itself may increase, so that above all, in the end, that money when it has increased, is shared amongst those who are being secured by these schemes. But from the arrangement being made now in these new rules, nobody, who is insured, is going to be allowed to say where his money may be invested. He must seek permission from some civil servant. This is a contradiction. Surely, there is a hidden agenda behind this. It is to control this money, and we are not talking about small money. We are talking of more than Kshs100 billion, and that is the intention.

The Government has surveyed the economy, they have finished looting the parastatals and also the NSSF.

They now want to see the private pensions which are securely invested, they now want to direct them as to where to put the money. They now want to be able to say: "You will give a loan to a friend of mine there, who in turn will give me 15 per cent of that loan." That is actually the intention. There is no other intention.

*(Applause)*

The Assistant Minister for Finance can shake his head. He can shake his head until it breaks, but it has no meaning. There cannot be any genuine reason for disturbing very well managed pension schemes. Imagine all the large companies in this nation, oil companies, distribution companies, banks, insurance and others. They all have very well run pension schemes, and above all, pension schemes which benefit the people when they are young, alive and active; not when they are 90 years old and are not capable of even enjoying a cup of tea. What are you talking about? This is mischief, nothing else. It is mischief because the Government does not give anybody pension when he is young.

In the Government scheme you cannot enjoy your pension when you are still active and young. In the private pension schemes, people begin to borrow money from those pension schemes when they are still working. Soon after they are married, they want to build a house. A man may want to borrow money so that he may live in a good house with his wife and his first child. There is no Government scheme of that nature. Only private ones. These are the ones the Government wants to grab and control. Is that not mischief? Is that development? It cannot be. It is not possible. It is conceivable. I am quite sure whoever drafted this law did not mean well towards the workers of the nation of Kenya. Although the workers of the nation of Kenya and COTU were celebrating nonsense on Labour Day, they should have, at least, told the President, who was their guest that this law is absolutely mischievous. It is intended to make them poor.

**An hon. Member:** They said it!

**Mr. Kibaki:** Okay, they said it. I congratulate them because the workers should oppose this Bill by all means. Under the Memorandum of Objects and Reasons, this Bill starts off by saying:

"The object of this Bill is to provide for the establishment of a Retirement Benefits Authority to regulate and supervise the management of retirement benefits schemes in order to ensure that they are managed prudently and professionally."

Mr. Temporary Deputy Speaker, Sir, the Government has been incapable of managing NSSF prudently or professionally which had at one time more than Kshs70 billion. They have been tested and found wanting. Beyond it, they have been found only willing to lend money to those who will in turn give them the money to "eat". Therefore, the Government has condemned itself as being inefficient, imprudent, unprofessionally and totally incapable of managing any pension scheme. They have ruined NSSF and now it is totally broke. How can they be trusted to manage the private sector pension scheme when they have run down the public pension scheme? It is not possible. I am requesting that all of us in this House should not join in this conspiracy to take money for private pensioners, squander it and impoverish Kenyans. Where did this Government get this idea from?

There are many laws which we want amended like the Public Order Act, Chief's Authority Act and so on, and they are not amended. Who has complained about the present management of pension schemes? Nobody! I oppose the Bill totally.

Let me give my other reason for doing so. Mortgage companies in this town, today, cannot borrow money from banks because the rate of interest is 30 per cent. With that rate of interest, they cannot build houses and lease or sell them out to ordinary workers at a price affordable to them. The activities in that whole sector of mortgage has dried up, and yet the Government has the audacity to attack the only remaining area where mortgages were operational. This is where a company is able to give preferential treatment to its own employees by guaranteeing that they will bank their money with a particular mortgage company and that mortgage company in turn agrees to give to the workers of that company loans at a preferential rate of interest in order to buy houses.

Now, that scheme under Section 38(c) of this law is going to be out of order. What will happen to the workers who have already enrolled in those kind of arrangements? Will their houses have to be sold? You can imagine somebody who for the last five years has been buying a house and then the Government comes round and says that he may not continue with that scheme so that now the house will have to be sold. These workers are Kenyans. How can the Government behave like it has no responsibility over Kenyans? It wants their houses to be sold and the people to go back to zero. They are saying that in future such investments will be forbidden. This is all what the Bill is saying. If you read Section 38, that is what it says. It clearly says that in future, such arrangements will become illegal. Then this Government goes ahead to state that they are going to behave professionally, prudently and to assist the persons who are insured by these pension schemes. Is this possible? How are you going to assist me, if I cannot use this money to buy a house? By being impoverished because my employer's contribution will now be controlled by a parastatal. Who has asked for this thing? There is no need for this law and the intention of this law is to defraud Kenyans.

Surely, Kenyans have a right to oppose this Bill and the Government must say who advised this law to be brought here. It is not needed. It has not been requested because the private schemes, as they are today, are running very well and they should be left alone. In any case, the Government, having promised us that they are

divesting in so many private sectors and they are giving gauging programmes and leaving the sector to private entities, why do they want to attack this sector and bring it under Government control? This is because there is a lot of money. As we said, there is more than Kshs60 billion in it and whoever has this idea has his eyes on this money. Having set up the Board, then they will have a channel of robbing Kenyans and they have already robbed NSSF. Can you not get tired of robbing Kenya? Can you not be ashamed that God sees you and that even if you have power in your hands, the good God cannot be bribed? There must be an end to this game.

Whoever planned this is very intelligent and you can see it in his use of language. In the Memorandum of Objects and Reasons, he states that the aim of this Authority is to "help the worker", when he means to "rob the worker". We have never seen such misuse of language. How can you help the worker by robbing him of his money and by stopping his employer from investing in housing which would help him?

Although we can attack parts of this law, what we need to say is that this law is not needed. The Minister must explain why it is needed and who has asked for it because I know that there is no one who asked for it. I have checked with at least five companies who run pension schemes efficiently and profitably. In this town, there are at least 15 buildings owned by workers' pension funds. Even the two most recent ones on Loita Street are owned by workers' pension funds. These people have increased the total amount of money available to the workers because rents are very high and the prices are very good. That money is reinvested back into the pension scheme. So, the workers' pension grows, the employer is happy and the worker is happy. Now, why does the Government want to interfere with that arrangement? This is because of greed. They are told there is Kshs60 billion in that particular sector and if properly organized, it can be robbed and nobody will catch them because no police can get them. You will be robbing in authorization of the law. Why do you want to centralize these services and control them? How can you be privatizing what is already private? You are actually removing what is private and bringing it under the Government. It is centrally what you are doing in all other sectors, including banking and insurance sectors.

One of the Bills here is the Kenya Reinsurance Corporation Bill. It is intended that Kenya Reinsurance Corporation should now be privatized. We are being asked - I do not want to anticipate the debate - that we should agree that Kenya Reinsurance Corporation become private. If Kenya Reinsurance Corporation becomes private, its pension funds will not be private. They will be taken by this new Authority. You can see the contradiction. We are being asked that in insurance policy we want the Kenya Reinsurance Corporation to go private.

**The Assistant Minister for Finance** (Mr. Keah): On a point of information, Mr. Temporary Deputy Speaker, Sir.

**Mr. Kibaki:** I am very well informed in these matters.

**The Assistant Minister for Finance** (Mr. Koech): On a point of information, Mr. Temporary Deputy Speaker, Sir.

**Mr. Kibaki:** Mr. Temporary Deputy Speaker, Sir, I do not need his information. I specialise in it, I read it and that is why I understand what he is up to.

Mr. Temporary Deputy Speaker, Sir, if Kenya Reinsurance Corporation is to be privatised, in other words, Government is withdrawing from it, but the Kenya Reinsurance Corporation has a pension scheme which falls under this private arrangement. Now that one is not going to become private because under this law it will have to be controlled by the Authority we are setting up under this law. That is what is going to happen. So, why are we doing contradictory things? Seeking to privatise the Kenya Reinsurance Corporation, we should also leave them to manage their own pension in privacy like all other insurance corporations. In any case, when the Government tried to manage an insurance company called the Kenya National Assurance Company which was very well managed, and it was built till it became very big and powerful, then it was gradually "milked" until only blood could come out of it, then the Government had to run away from it. There was no milk coming out, so they let the cow die now, because only blood was coming out. So it has died and the workers are unemployed and not being paid.

**Mr. Shikuku:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Whereas I am enjoying the contribution by the hon. Member, is he in order to say that they went to the extent of "milking the cow until blood came out", when the former Chairman of the collapsed company is seated here?

**The Temporary Deputy Speaker** (Mr. Ndotto): Hon. Shikuku, you only rise when you have a point of order. We are discussing something different from what you are raising.

Proceed, Kibaki!

**Mr. Kibaki:** Mr. Temporary Deputy Speaker, Sir, I was only giving an example of where the Government has failed to manage an insurance corporation. It has also failed to supervise what happened to the pension funds of the same workers of Kenya National Assurance Company. In fact, their houses are being sold. Their houses are being sold and the same Government now says we should trust them to fail in managing one, but

to succeed in managing 200 companies in Kenya. Is that not a contradiction? Who would trust that? In any case, it is not necessary. Why do you want to manage pension schemes of 200 companies? They have not asked for this help.

Mr. Temporary Deputy Speaker, Sir, finally in this law, we are being told - and I have heard it said by one person outside this House - that what they are trying to copy is what has happened in other parts of the world. So one fellow went as far as telling us that this has happened in South America, Argentina, Chile and the rest. That is misinformation. What has happened in those other countries is not to bring government into management of pensions. It is to bring the managers of those pension schemes into a common bond where they discuss programmes of investment. So, if what is needed in Kenya is to bring the management of all these 200 or 300 pension funds into one common bond which would harmonise their investments, that is alright, but we do not need a law for that purpose. Under the Companies Act, they can do that perfectly well. So we do not need this law. It has also been stated that they will be directed to invest in projects of high economic priority.

Now, Mr. Temporary Deputy Speaker, Sir, I am asking you, the Government and the Minister in particular, what can have a high economic priority which is higher than a young married couple seeking to own a house? What can have priority?

**Mr. Mulusya:** On a point of information, Mr. Temporary Deputy Speaker, Sir. What can have priority is the intention to steal from that young couple.

*(Laughter)*

**Mr. Kibaki:** Mr. Temporary Deputy Speaker, Sir, I do not intend to reply to the Member for Kangundo. What I am really saying is: The Government has stated here that the purpose of centralising these pensions schemes is to be able to invest these monies in projects of high economic priority. A young man, who married recently cannot have a higher economic priority than to own a house because he is already married. His next project is to own a house because he has a wife and they are expecting a child. This private sector arrangement is what helps him because they give him preferential treatment - they give him a special rate of interest through this special arrangement and that is what is going to be banned.

Under Section 38, these mortgage companies in Kenya will not be allowed to have such preferential schemes for the contributor. Above all, the law here now will say--- And I do not see how a Member of Parliament can pass such a law with a clear conscience, particularly with regard to your own constituents. It says that any Member of a pension scheme may not borrow from that scheme. Then in what sense is one a Member? This law is so contradictory and it pains one to imagine that it originated from intelligent minds with a peculiar hidden agenda.

This means that if I am a member of a pension scheme, I cannot be allowed to borrow from it, but somebody else can borrow. What is the scheme set up for? It is set up in order to benefit the members who contribute to it and even the sponsors. As the head of a company, if your staff are satisfied and settled, of course, you will also be satisfied because you have helped them and they will feel happy working with you and labour turnover becomes less. If you are now forbidden as a sponsor---

In this City, about six companies have already sponsored housing schemes and they have used the pension funds to build these housing schemes. You can see the housing schemes with the BAT and very many other people. They have used pension funds. The houses which are there are sold to their own members and they become the security for the money which is borrowed from outside. But now, such activities, where you combine the borrowing from a mortgage company, a private bank and the contributions by the members of the fund - these three sources put together will make sure that one gets a house which is cheap. That kind of combination is going to be forbidden under Section 38. So, how and in what terms will the schemes be of benefit to anyone? If that source is blocked, we are being told to only go into the commercial source of funds - where you have to borrow money at 30 per cent. Can you imagine somebody who is just recently employed borrowing money to buy a house and paying from his/her salary at the rate of 30 per cent interest? It is not possible. So, do we really mean that we want people to have no new houses because that is what the purpose will be? This is because it is the only way which is left for utilising this money. When you read all these prohibitions, you will find that this money amounting to billions of shillings will have to be lent to some private companies to go to invest somewhere. People who are members and sponsors cannot use the money themselves. They must lend it to somebody else.

Why do you want to force them? It is their money! Why do you want to have rules over them? It should be them to decide the scheme in which to save their money! Why do you want to make a rule on how they should invest? There is no reason at all! What I am trying to say to the Minister is that if he is an honest person,

he should withdraw this Bill and have a discussion with about six or seven of the people who run these schemes now, and genuinely learn that they do not need these restrictions. This is because as a Government, I cannot see why we are undertaking this new law.

Mr. Temporary Deputy Speaker, Sir, in the same law, the Board that is to be appointed - to show you the agenda which is hidden and it is truly there - the Minister will appoint everybody. He is going to appoint the Executive Director and all the directors. So, you will have a Board which is a tool for utilisation. There is no other reason and he shall appoint his own friends and other people, and then order them to loot Kshs60 billion which is now available. As we are growing, we are going to have even more than Kshs60 billion. I think this is terrible. If there were good intentions, at least the Board might be made of people whose money we are going to manage. But that is not the case. It will be other people appointed from wherever; people who have never run even a small scheme of any kind. Actually, it is a painful thing to imagine that this thing was designed by people who call themselves a "government", seeking to help Kenyans. It cannot be possible.

This Bill has been drawn by somebody who sees a loophole for robbing Kshs60 billion. He wants to have a scheme approved by the Government and Parliament, and then we shall be complaining later. At least, the Opposition will not have approved it. It was approved by those thieves who were there, when they become history. They will soon be history and it is a fact of life.

**The Assistant Minister, Office of the President (Mr. Sunkuli):** On a point of order, Mr. Temporary Deputy Speaker, Sir. I am quite worried whether the term "thieves" is Parliamentary in reference to hon. Members. The hon. Member for Othaya is also pre-empting our decision. He is trying to convince us that, that paragraph is wrong, and he should not think that we are not listening. Can he withdraw the use of the word, "thieves"?

**The Temporary Deputy Speaker (Mr. Ndotto):** Order! Hon. Kibaki, not only have you used an unparliamentary word, but you have used it in relation to Members of Parliament, and I want you to withdraw it and apologise.

**Mr. Kibaki:** Mr. Temporary Deputy Speaker, Sir, I did not use the word, "thieves" with regard to the hon. Member although he was looking at me, but I was talking about people who have a grand scheme, which I believe I have shown, that---

**The Temporary Deputy Speaker (Mr. Ndotto):** Order! Hon. Kibaki, I have asked you to withdraw the word, "thieves", and apologise, and then proceed.

**Mr. Kibaki:** I withdraw the word, "thieves", but then, what if "robbing" happens? I am just saying that from this scheme which is explained here, the money will be collected from the private sector pension funds, controlled by a very narrow Board appointed by the Minister only, and they will be prohibited from investing in housing schemes to help the workers who contribute the money.

So, the only place they will be able to invest is to lend money to friends or whoever will be approved by the Minister and Government, and that scheme we have seen in NSSF. The NSSF has only been allowed to invest in blocks of property in Nairobi; land and other things, which have been so over-valued that even the Government got very ashamed by the over-valuation of those properties. So, it was a scheme of withdrawing money when a small plot of four acres can be bought for Kshs50 million or Kshs100 million.

All I am saying, Mr. Temporary Deputy Speaker, Sir---

**Mr. Muluya:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not intend to interrupt my chairman, but is hon. Mwai Kibaki in order to say that the Government has been ashamed by the over-valuation? Can he prove that the Government has been ashamed by the over-valuation? They are "enjoying" in that over-valuation. They are riding in what they have looted in that over-valuation. Can he prove that they are ashamed?

**Mr. Kibaki:** Mr. Temporary Deputy Speaker, Sir, whether the Government has any shame or not, I do not know. But I would imagine that when the reality of properties sold for Kshs2 billion has come to light and everybody even those who are in Government know that, that property was not even worth one-quarter of that money, I would imagine that, in the normal process, ordinary normal human beings, would feel very ashamed that they bought a thing for four times what it was supposed to be worth. I am just imagining! So, I have no way of joining the hon. Member for Kangundo in presuming that people on the Government side have ceased to be normal human beings. They have not! They are still human beings and I am sure that this matter must have sank in their mind, when case after case was brought to this Parliament showing that NSSF was buying properties at 100 times their value. I am sure, they could not be allowed by their own conscience to lie asleep and forget that "robbery" is happening. So, even if they do not say so, it is because of other considerations which are beyond them.

*(Laughter)*

I am, therefore, saying that this law is not actually capable of amendment because part II of the Bill is intended to explain how this will be managed and how the corporation levy and everything will go on. The more I read it, the more I appreciate that these pension schemes will be so controlled. None of them will be able to continue with the work they are doing now.

Mr. Temporary Deputy Speaker, Sir, if the Minister cannot withdraw this Bill for whatever reason, can he look at it again and withdraw parts II and III? We are going to have a law which would allow the existing pension schemes, private ones, which are already investing in housing which is benefiting workers that they go on with those schemes, because if they do not, as they will be blocked out now, the impact of the economy will be actually downward. There will be more unemployment, there will be schemes which are beneficial, but which are not being capable of being completed. I do not know when a law is passed or whether instructions will be issued to stop projects which have already started and in which people have put deposits. Some of the houses being constructed in Nairobi, people have put down deposits. They are expecting to benefit. When this law is passed, are we going to send out a circular saying, "Stop development, stop those houses or sell them." What are we going to do? These are the issues which are not minor because they affect lives of people. I am sure that, if the Minister took more time and abandon whoever gave this advice and sought advice from Kenyans, that is good. These are the only people he should listen to seriously.

The only people who have invested in this nation are the people who have shown their commitment in this nation and they have shown they mean well. The minimum that we can do is to treat them well. So, all I am only pleading is that, before the Minister proceeds with this Bill, he could withdraw it or suspend its debate and have a meeting with those who own and run, very efficiently, pension schemes in Kenya. And let him hear from them. Above all, if nobody else, could the Minister postpone this Bill, adjourn the debate, go and meet with the workers who are benefiting from these housing schemes and then come back? This is because the only alternative left to him is to use the power of numbers which they have in this House to bulldoze this Bill through. But in six months, we shall learn that we created a monster. I hope the Minister will not seek to go that way. There is no benefit to anybody in Kenya. It is not good to be obstinate. We are not saying there is no benefit. Just withdraw the Bill and consult with Kenyans and above all, consult with people who have put their money in these investments in housing and then the law which will come thereafter will be only for co-ordination but not to ban.

But above all, Mr. Temporary Deputy Speaker, Sir, I think we have all agreed that we do not want the Government in the management of private pension schemes. We do not want! We do not need Government in that sector. So, the Government shall have no business getting into that sector. So, the Government must withdraw from it. In any case, if they are withdrawing from all the other sectors, why are they wanting to go to this sector? It is precisely in order to rob this Kshs60 billion.

Mr. Temporary Deputy Speaker, Sir, I stop there and I cannot support this Bill. In fact, I oppose it 100 per cent.

**Mr. Murungi:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to oppose this Bill. According to paragraph 2 of the Memorandum of Objects and Reasons, the Bill reads that:

"The major purpose of the proposed regulation is to protect the interests of the members and sponsors of retirement benefits schemes and to promote the development of retirement benefits sectors. The Bill proposes to protect the interests of the members of the schemes through supervision of trustees and managers of scheme funds".

Mr. Temporary Deputy Speaker, Sir, I would like to begin from the beginning. I would like to imagine about the first group of Kenyans who sat down to imagine that Kenyans need a Bill like the one before the House. I would like to question the motives of that first group.

Mr. Temporary Deputy Speaker, Sir, the Attorney-General appears to be living in a fools' paradise; he seems to be living in a world where other Kenyans do not live. I always have tea with my colleagues, that is my fellow Members of Parliament, both from KANU and the Opposition almost on a daily basis out there. I have never heard, even on a single day, any Member of Parliament talking about pension schemes. I drink with friends and we socialise with them everyday and I have not heard of any Kenyan talking about pension schemes. The question is whose interests does this Bill serve? The question is who has been the force which has moved the Attorney-General to bring this Bill before the House? And what is the logic and purpose of this Bill? When we meet as Kenyans, we talk about burning issues in this country and the top issue that we are talking about now is constitutional reform. We have pleaded, begged and requested the Government to consider constitutional, legal and administrative reforms to make this country better but the Attorney-General and his clique have turned dumb and deaf as far as that issue is concerned and that is why we suspect that there is a hidden agenda. This Bill is a

red herring.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to impute improper motive on the Attorney-General? The hon. Member is misleading the House by saying that we have rejected the Opposition's proposals for constitutional reforms when they have never brought any before this House and when we have confirmed that we are going to institute constitutional reforms after the elections. Is he in order to mislead the House?

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, I am praying for my dear friend, hon. ole Sunkuli, to be promoted to the Cabinet where matters of constitutional reforms are discussed. As of now, he is only an Assistant Minister, so he would not know what the Government is discussing---

**Mr. Nyagah:** On a point of information, Mr. Temporary Deputy Speaker, Sir. Thank you very much, hon. Murungi, for giving me this opportunity. Through you, let me enlighten the Assistant Minister who has been up in arms---

**The Temporary Deputy Speaker**(Mr. Ndotto): Order! You have to inform him through the Chair.

**Mr. Nyagah:** Mr. Temporary Deputy Speaker, Sir, I want to inform the hon. Member through hon. Murungi and through the Chair---

**Mr. Temporary Deputy Speaker** (Mr. Ndotto): Order! Order, hon. Nyagah! I hope you are serious with your point of information. You are always supposed to address the Chair, not any Member.

**Mr. Nyagah:** Mr. Temporary Deputy Speaker, Sir, I am usually very serious on my point of information. I have been very quiet the whole afternoon listening to the contribution, but I would like to inform the hon. Member through the Chair, that the Government is most unreliable and he must not believe that this is a reliable Government because two years ago, the Head of State promised that constitutional reforms would take place; but to date, that has not happened. All we are now hearing is that the reforms would be done after the General Election. Let me inform the hon. Member through the Chair that, that opportunity would not arise because they would not be in the Government. Thank you.

*(Applause)*

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, let me thank hon. Nyagah for that very useful information. These pension schemes are like insurance schemes. Recently, somebody came to sell to me a life insurance policy and when I told him that I already had one for many years, he said that I needed to increase it. I told him that, in fact, we, as politicians, work on higher insurance schemes. I reminded him that the people of Somalia had life insurance schemes, but when civil war broke out in the country, even those who were insured and those who were not insured, there was no difference. I was trying to tell him that the real insurance scheme of the people of Kenya is guarantee to peace and security in this country. The only way to guarantee peace and security in this country is through constitutional reforms and not through Bills like this, not through a pension scheme.

Mr. Temporary Deputy Speaker, Sir, the purpose of this Bill is to "kill time" and to keep hon. Members busy and divert our attention from the critical issues affecting the country today. You remember that there was a big rally at Kamukunji Grounds last week, and I had a meeting on Sunday in South Imenti which was dispersed by riot police and they chased women through the bananas, and the Attorney-General is not focusing on that "time-bomb"! The Government is pretending that nothing is happening.

Mr. Temporary Deputy Speaker, sir, the Government is turning a blind eye; it is closing its ears to the aspirations of the people of this country! The Government has become arrogant and insensitive. That is why if you look at the Bills the Government is bringing to the House you will see that they are an insult to hon. Members.

They read as follows: Retirement Benefits Bill, the National Social Security Fund (Amendment) Bill, The National Crime Research Centre Bill and the Kenya Reinsurance Corporation Bill. I ask the Attorney-General: Where is the Constitutional (Amendment) Bill, a Bill to amend the Chiefs' Authority Act, the Public Order Act and a Bill to repeal the Preservation of Public Security Act. Those are the Bills that Kenyans are interested in at this moment in time. We want to guarantee our old age. Then when we know that we shall be there and shall not die in a civil war, then we can be talking about pension schemes and similar matters. Until you know that you are going to be there, you should not put the cart before the horse.

There is a group of people in this country who think that they can guarantee their peace and security, political power and economic privileges by dodging reforms, blocking the aspirations of the people of Kenya, cheating and frustrating the people of this country. Those people are cheating themselves.

**The Temporary Deputy Speaker** (Mr. Ndotto): Mr. Murungi, you are on a Bill which is very clear, but



you are now diverting your argument to other matters. Can you come back to the Bill?

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, I am on the first point that I want to make on this Bill. We are at the Second Reading Stage of the Bill when we discuss matters of policy which touch on the Bill. I am giving the Bill's overall policy. I am discussing the environment under which this Bill---

**The Temporary Deputy Speaker** (Mr. Ndotto): Hon. Murungi, I am clearly asking you to stick to the Bill.

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, I do know that in a country like Zaire there is a pension scheme. I believe that President Mobutu and his clique, who have taken off in an aeroplane, were also covered by various pension schemes.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. I know that hon. Murungi is generally disgruntled about the Government. But can you bring him back to relevance, so that he can address this particular Bill? He is prevaricating and bringing in diversionary arguments and irrelevancies. Can he be told that, this is the Retirement Benefits Bill?

**The Temporary Deputy Speaker** (Mr. Ndotto): What is your point of order, Mr. Sunkuli?

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Can you ask Mr. Murungi to be relevant in accordance with the Standing Orders?

**The Temporary Deputy Speaker** (Mr. Ndotto): Order, hon. Sunkuli! I think it is my responsibility to control the House, and I have already done what you are asking me to do.

Proceed, please.

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, I want to move away from this point. In fact, the point I am trying to make is that we, as a country, have got our priorities wrong. What the country needs today is not the Retirement Benefits Bill because we do not know whether we shall be here to retire and benefit from this Bill.

*(Hon. Achola stood up and tried to  
adjust the cushion of his bench)*

**Mr. Mulusya:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Members are insecure in this House. This House was renovated when we were on recess just the other day, but one Member is falling down and almost breaking his spinal cord. Can you assure hon. Members of their security as they sit in the House?

**The Temporary Deputy Speaker**(Mr. Ndotto): Hon. Mulusya, you can raise that in form of a Question because it is not a point of order.

Can you continue, hon. Murungi?

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, that is the point I wanted to make. Coming back home, as a Member of Parliament---

**Mr. Shikuku:** Jambo la nidhamu, Bw. Naibu Spika wa Muda. Ni wajibu wa Kiti kuhakikisha kwamba Wabunge hawako hatarini. Umeona kiti kikitoka na mhe Achola alikuwa karibu kuingia shimoni. Si ni wajibu wa Kiti kuona kwamba Wabunge hawavunjiki migongo au mikono? Hili ni jambo la maana sana kwa sababu pesa zimetumiwa kulirekebisha Bunge hili.

**The Temporary Deputy Speaker** (Mr. Ndotto): Yes, the point noted is important. The security of members is guaranteed and certainly your point, hon. Shikuku, is noted and the matter will be looked into.

**Mr. Murungi:** Thank you, Mr. Temporary Deputy Speaker, Sir. Fortunately, I was safe, my feet did not go under the bench.

As a Member of Parliament, I have met a lot of pensioners both at the constituency and those who come to Nairobi to chase for their pension from Treasury. The Government is offering leadership and it is saying that it is going to help inefficient management of the pension schemes sector. The Government has not been able to manage its own pension schemes. When civil servants retire, some of them stay for three or four years before they get their retirement benefits. We have teachers whose shoes have been worn out as result of coming from various places to Treasury here in Nairobi to chase for their benefits. I have a case where some three officers got cheques written "000" and they were sent by post. They had come to Nairobi to collect the cheques and they were told to go home and wait because their cheques had been sent by post.

The Minister who is in charge of this section at Treasury has the audacity to come and see how better they can manage pension schemes when issuing dud cheques to retirees. We should have a situation where when a person retires, the day he or she is told to go home, he or she is given a cheque.

**Mr. Shikuku:** Kama vile Mzungu alivyokuwa akifanya.

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, hon. Shikuku says that during the colonial days, one could not go home without his cheque. What has happened to the Government of an African?

**Mr. Shikuku:** On a point of information, Mr. Temporary Deputy Speaker, Sir. Wabeberu walikuwa wabaya sana na tulipigana noa hadi wakaenda. Lakini walikuwa na haki. Akikuambia kuwa umefutwa kazi, anakwambia enda kule kwa uhasibu, utapata haki yako "na toka nje mara moja. Onyango kwenda ofisi ya accounts na utapata haki yako". Ukienda huko, unapata haki yako, lakini katika hii Serikali ya Mwafrika "hawa ni nyoka".

**Mr. Murungi:** Thank you, hon Shikuku. We are saying that our Government has a very primitive and a very barbaric retirement policy. I am not talking about the Members of Parliament; I am talking about the Government.

**Mr. Maundu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I am not standing to attack the Government but to defend it. I respect my hon. friend for his use of language, but he is using a very strong language like "barbaric". I am wondering whether that is really parliamentary.

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, the way my hon. learned friend, who is a Member of Parliament was sacked as an Assistant Minister was "primitive and barbaric"; he was not even given a letter. All Ministers here carry radios and listen to the 1.00 p.m. news. That policy of retiring senior Government officials through the 1.00p.m. news, so that when they get to their office, their secretaries tell them "pole", and they start shaking, must change.

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Ndotto): Order! Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until next week, Tuesday, 13th May, 1997, at 2.30 p.m.

The House rose at 6.30 p.m.