

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 18th October, 2000

The House met at 9.00 a.m.

*[The Temporary Deputy Speaker
(Mr. Imanyara) in the Chair]*

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

The Statistical Abstract, 1999.

The District Allocation Budget for the Ministry of Finance and Planning for the year ended 30th June, 2001.

The annual Report and Accounts of the Retirement Benefits Authority for the year ended 30th June, 1999 and the Certificate thereon by the Auditor-General (Corporations).

*(By the Assistant Minister for Finance
and Planning (Mr. Arap-Kirui) on behalf
of the Minister for Finance)*

ORAL ANSWERS TO QUESTIONS

Question No.342

CONSERVATION OF HIROLA

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

- (a) how much money has been allocated for the conservation of the Hirola from 1994 to date;
- (b) what programmes he has initiated to conserve this endangered species; and,
- (c) what happened to the 40 Hirola that were translocated to the Tsavo East National Park in 1986.

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

(a) No money has been allocated for the conservation of the Hirola since 1994. However, to conserve the Hirola, the Kenya government, through Kenya Wildlife Service, in conjunction with the Hirola Management Committee, conducted a population survey of the Hirola in 1995, after which 35 Hirola from the Range were translocated to Tsavo East National Park for protection, research and monitoring. The Hirola Management Committee has recruited eight scouts from the local community to monitor Hirola herds in their natural abode and other national parks.

(b) We did initiate a Hirola Research and Monitoring Study to look into the factors limiting the abundance and distribution of Hirola in Tsavo East National Park, Ijara and Tana River districts. This Management Committee started a public awareness campaign in liaison with other organised groups in the Hirola Range to educate the local communities and involve them in the conservation exercise.

(c) The Hirola translocated to Tsavo East National Park in 1996 - together with others which were translocated later - have multiplied and their number now stands at 150.

Mr. Weyrah: Mr. Temporary Deputy Speaker, Sir, I am not satisfied with the answers given by the Assistant Minister. There is no conservation of Hirola taking place in Ijara and Tana River districts. As a Member of Parliament from that area, I know what is happening in that area. I would like to know what the Ministry is doing to conserve the remaining Hirola in Ijara.

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, the translocation of these animals was for their protection, research and monitoring. Because of the threat which this group of animals was facing, the Government thought it wise to translocate some so that effective research could take place. That research could be used to help in monitoring and

in protecting the Hirola in their natural abode in Ijara and other national parks. So, the Government's intention is not to tame the animals. We are looking at a wider scope of making them survive in their natural environment. The efforts made go a long way in achieving that effort. However, I will take seriously the sentiments expressed by the hon. Member about poaching in that area. I will investigate and take the necessary action.

Mr. Shill: Mr. Temporary Deputy Speaker,

Sir, this Hirola issue has been given a lot of publicity because the Hirola has been classified as one of the most endangered species in the world. As a result of that, donors from all over the world have brought in money for conservation purposes. Could the Assistant Minister confirm or deny that over Kshs30 million is being misappropriated in Nairobi under the pretext of conserving the Hirola?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, I deny that allegation.

Mr. Achola: On a point of order, Mr. Temporary Deputy Speaker, Sir. We seem to be talking about something which is very important here. I would like to know what this Hirola is. Could the hon. Members from the bush explain to us what this animal looks like so that we can participate in this debate?

(Laughter)

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, Hirola is a species of the family of the antelopes that is found specifically in Ijara and that particular area of our country. Unfortunately, I do not have the scientific name for it with me.

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Achola has referred to those of us who do not know what that particular word means as "Members from the bush". Could he be asked to withdraw, because we are not "Members from the bush"? I represent Sirisia Constituency.

Mr. Shill: Mr. Temporary Deputy Speaker, Sir, I think this is a very important issue and I do not like the way the Assistant Minister is down-playing it. This is an endangered species which is found only in Kenya. The rate at which it is being poached and eradicated is alarming. It is a worldwide concern. Could the Assistant Minister tell the House what immediate steps the Government is going to take, to make sure that poaching does not go on? Secondly, how is that money that has been donated going to be utilised so that the community can benefit?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, I admit that this is a very serious issue and were it not for the wild allegations made by the hon. Member--- I was going to specify the efforts being made by Government to protect, manage and monitor the survival of that animal. I am not aware of the colossal amounts of money mentioned by the hon. Member. However, if the hon. Member cared to listen, I earlier mentioned the efforts being made by Government. I gave an undertaking that as for the poaching, I will take specific measures to make sure that the animal is not endangered.

Mr. Weyrah: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has stated that there are 35 Hirolas which have been translocated to our national parks. Does he mean that the 35 hirolas which have been translocated will be protected and the rest will be left to poachers?

Secondly, what will the local community benefit from the 35 Hirolas you have translocated to the national parks?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, the purpose of translocating the 35 animals was for research purposes because of the threat facing these animals. The Government thought it wise to put in place a research mechanism, so that it would help the Government in the management and protection of those animals in their natural environment in Ijara. It was not meant to neglect the other animals. Because of this research, the Government is now better placed to manage and protect the animals in the hon. Member's constituency.

Mr. Shill: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister tell the House how much money was spent for the research on the 35 animals?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, no specific amount of money was set aside specifically for that effort. The money that has been spent is from the Kenya Wildlife Service in their management efforts to conserve these animals and others.

Question No.399

SHOOTING OF WAGALLA DETAINEES

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Muchiri is not in? Next Question!

Question No.420

REVENUE COLLECTION FROM NATIONAL
THEATRE CAR PARK

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

(a) under what arrangement the Norfolk Hotel constructed a wall around the Kenya National Theatre in Nairobi; and,

(b) who collects rent on the parking constructed on the land belonging to the National Theatre and why.

The Temporary Deputy Speaker (Mr. Imanyara): Could somebody from the Front Bench answer this Question? What is your reaction Mr. Vice-President? Who is answering this Question?

The Minister for Labour (Mr. Ngutu): Mr. Temporary Deputy Speaker, Sir, it appears there is nobody here from the Ministry of Home Affairs, Heritage and Sports.

The Temporary Deputy Speaker (Mr. Imanyara): There is collective responsibility!

The Vice-President (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, let me apologise because there is nobody from the Ministry. I will ensure that the Question is answered.

Dr. Kituyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. You will notice from the new cluster of Ministries, that the Minister for Home Affairs, Heritage and Sports is the Vice-President, and he is speaking like an alien. He does not know that--

The Temporary Deputy Speaker (Mr. Imanyara): Order, Dr. Kituyi! We will come back to the Question.

Question No.452

REFUND OF SHARES TO MR. ODHIAMBO

Mr. Kajwang asked the Minister for Agriculture:-

(a) whether he is aware that Samuel Odhiambo, TSC No.165235, a member of South Nyanza Co-operative Savings and Credit Society, has not been refunded his shares in the said society amounting to Kshs24,000 since June, 1999, when he withdrew from the said society and joined Suba Teachers Sacco Society Limited;

(b) whether he is further aware that the said society has refused to respond to letters from the member, the Homa Bay District Co-operative Officer and the Registrar of Co-operatives; and,

(c) what steps he is taking to prevail upon the society to refund the shares to the member.

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

(a) I am not aware that South Nyanza Co-operative Savings Society has refused to refund Mr. Samuel Odhiambo his shares at the society, amounting to Kshs24,780.

However, I am aware that the member applied for withdrawal from the society on 18th October, 1999 giving the reason that he had joined Suba Teachers Sacco Society Limited along with other teachers. Due to those mass applications for withdrawal, the TSC remitted some funds to Suba Teachers Sacco Society, amounting to Kshs1,665,832 meant for South Nyanza Co-operative Sacco Society Limited. The two societies are now in the process of reconciling their books to know the beneficiaries of this amount. Mr. Odhiambo might be one of them.

In the meantime, South Nyanza Co-operative Sacco Society paid Mr. Odhiambo part of the refund of his shares, amounting to Kshs10,000, on 23rd June, 2000, *vide* cheque No.001306 which he encashed immediately.

(b) I am not aware that the society has refused to respond to letters from my officers. The letter addressed to the society by the Registrar of Co-operatives, through the District Co-operative Officer, Homa Bay, reached the society on May 3rd, 2000 and was replied to on 4th May, 2000.

(c) As the society has already paid Mr. Odhiambo part of his shares refund, while awaiting reconciliation by the two co-operative societies, there is nothing much my Ministry can do at the moment.

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister says that the only reason why the teacher has not been refunded his shares is because there is some confusion as to who is the beneficiary of the Kshs1.6 million, paid by the Teachers Service Commission (TSC) to Suba SACCO. But really, is this not merely an excuse rather than the reason because when TSC pays money to any co-operative society, there is always a list attached to it and the amount each teacher has contributed to the society? Does it take almost half a year to determine whether an

amount was paid to a certain teacher or not? Why was Kshs10,000 paid and not the whole amount? Is it the Kshs10,000 which is owing or Kshs24,000?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, as I said earlier on, the reconciliation is still going on. Mr. Odhiambo was paid Kshs10,000 because by the time he applied for the refund of his shares at the society, he had a financial strain due to some illness within his family. On realising this, the management committee of the society decided to refund part of his shares to assist him with his medical case while waiting for the reconciliation between the two societies to be completed.

Mr. Ngure: Thank you, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister says that Kshs10,000 was paid to Mr. Odhiambo. On what basis was that amount of money paid? Is the Assistant Minister sure that Mr. Odhiambo was not overpaid?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, I think this is a figure that was agreed on between the management committee and the shareholders. They agreed that, whenever a member had problem within his family, he or she would be paid Kshs10,000.

Mr. Angwenyi: Thank you, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister saying that the Kshs10,000, which was paid to Mr. Odhiambo was an additional loan, an emergency loan, or was it a refund of the shares?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, as I said earlier on, Mr. Odhiambo had applied to move out of the Suba SACCO and this amount was part of the refund of his shares in the SACCO.

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister should appreciate the fact that when most members buy shares in these co-operative societies, they expect to be paid their shares in full when they leave the societies. Nobody can wait for almost six months when the society is purporting to reconcile certain figures. If they cannot reconcile them for a month, then they will never reconcile them at all. So, could the Assistant Minister confirm when this gentlemen will be paid the balance of his shares?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, this will be done as soon as the two SACCO societies come to an agreement.

Question No.605

PAYMENT OF COMPENSATION TO
UFUNDI CO-OPERATIVE SOCIETY

Mr. Wambua asked the Minister for Agriculture:-

- (a) how much money was paid as compensation for the August 1998 bomb blast damage to the Ufundi Co-operative House;
- (b) whether the co-operative society has acquired a plot to build another house, and if so, where and for how much; and,
- (c) why the Members of the society are not getting any dividends and loans as they did prior to the bomb blast.

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

(a) Ufundi Co-operative Society has not been paid any compensation money towards the destruction of Ufundi Co-operative House.

(b) Through the assistance of the American Government, the society has acquired a new building known as Garden Plaza on Moi Avenue, worth Kshs230 million.

(c) The society has not been able to declare dividends due to loss of revenue as a result of withdrawals by members, lack of records as result of the bomb blast and lack of good management, even prior to the bomb blast calamity.

Mr. Wambua: Mr. Temporary Deputy Speaker, Sir, now that Ufundi Co-operative has been given another house from which they are collecting money, and given the fact that the Assistant Minister is aware that, there was mismanagement of the society's funds, what steps has he taken to make sure that there is no more mismanagement of the society's funds and the shareholders are given dividends or their money is refunded?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, the flow of loans and payment of dividends at the society has been hampered by factors such as mismanagement, panic withdrawals by some members, as result of the bomb blast, high death rates that demand refund of shares, normal resignations from the society causing refunds, retrenchment of members at the parent Ministry and loss of records during the bomb blast. My Ministry will ensure that members of this co-operative society are paid their dividends as soon as enough money is collected from the new

building.

Mr. Muchiri: Thank you, Mr. Temporary Deputy Speaker, Sir. During the day the bomb blast incident occurred, it is more than obvious that, several Kenyans lost their lives within the Ufundi Society Building. What arrangements has the Government made to ensure that those Kenyans who died, or were injured at the Ufundi Co-operative building, compensated, either by the American Government or by Ufundi Co-operative Society Insurance?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, as all of us in the Republic of Kenya are aware, after the bomb blast catastrophe, there were many well wishers who made donations to the society and to the victims of that unfortunate incident. The society is now under reconstruction. These donations were both in cash and kind. An amount of Kshs7,535,813.50 was received in cash. Items donated were given to the victims of the bomb blast. Everybody is also aware in this country that most of the victims were helped by the Government to be treated abroad while, some of them had been paid by insurance companies. As the Chair knows, this was a very unfortunate calamity which affected most of our citizens. The negotiations are still on, with the insurance companies, to see who will be paid by the insurance companies and who will be [Mr. Sumbeiywo] assisted by the Kenya Government and friendly countries.

Mr. Katuku: Thank you, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister, in his answer to part "a" of the Question, said that no compensation was made. In part "b" of his answer, the Assistant Minister said that the Ufundi Co-operative was assisted by the American Government to purchase a house at a cost of Kshs230 million. Could the Assistant Minister tell this House the total cost of damage which affected the Ufundi Co-operative Society? Why has the American Government not fully compensated Ufundi Co-operative Society?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, the building itself, Ufundi Co-operative House, was worth that much and the American Government agreed to purchase the new building for the Ufundi Co-operative Society.

Mr. Wambua: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has agreed and everybody knows, that many lives were lost in the bomb blast. He also says that there was mismanagement even before the bomb blast. What is the Ministry doing to make sure that there is no more mismanagement, since the shareholders of this co-operative society rely on their shares? What further steps will the Ministry take to ensure that the shareholders are paid their dividends?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, after the bomb blast, an inquiry was carried out by the Ministry and the report was submitted to the new management of the Ufundi Co-operative Society which is going to implement the recommendations.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Achola's Question!

Mr. Achola: Mr. Temporary Deputy Speaker, Sir, I do not have the written response and I am wondering what is happening.

Question No.145

LEVEL OF STAFFING IN MIGORI PRIMARY SCHOOL

Mr. Achola, asked the Minister for Education:-

- (a) how many school teachers are required to man all primary schools in Migori District;
- (b) what the current staffing is in the district; and,
- (c) how the Ministry intends to correct the shortfall.

The Assistant Minister for Education, Science and Technology (Mr. Awori): Mr. Temporary Deputy Speaker, Sir, the practice is for the Ministry to send the written replies to the Clerk and I assumed that this has been done. If the Member has not received the written reply, then I must apologise.

Having said that, I beg to reply.

- (a) Migori District requires 4,005 teachers to man all its primary schools.
- (b) At the moment, it has only 3,700 teachers and, therefore, it has a shortage of 305 teachers.
- (c) My Ministry is making every effort, particularly at the beginning of the year, to ensure that the shortfall is made up through rationalisation.

Mr. Temporary Deputy Speaker, Sir, as it will be remembered, when the Ministry had undertaken the exercise of transferring teachers in order to balance out, there was an outcry and His Excellency the President put it on hold until next year.

Mr. Achola: Mr. Temporary Deputy Speaker, Sir, that response is not satisfactory. The shortage of teachers in Migori District has been outstanding since last year. This is now the second year running and the Assistant Minister's response, that rationalisation will be done next year, cannot be taken as something that we can rely on. What

is he going to do in the meantime to ensure that the classes which are not manned are rationalised so that we can have upper primary schools combined with the adjoining schools, so that we can have teaching continuing in those classes while he is awaiting to rationalise the rest of the primary schools?

Mr. Awori: Mr. Temporary Deputy Speaker, Sir, as I said, rationalisation will resume at the beginning of next year. Between now and the end of the year, we cannot do anything because of the school examinations and the coming holidays. I want to assure the hon. Member that we will ensure that the shortfalls, not only in Migori District but also other areas, are corrected for, so that schools have the teachers they require.

Mr. Omamba: Mr. Temporary Deputy Speaker, Sir, besides the understaffing in primary schools in Migori District, so many teachers come from very far to the remote area. Therefore, what plans does the Assistant Minister have to improve the salaries of these teachers and the attendance, on time, of teachers who report late?

Mr. Awori: Mr. Temporary Deputy Speaker, Sir, once a teacher has been sent to a school, he is expected to stay in the vicinity. So, I do not think I understood the question by hon. Omamba. Once a teacher has been transferred to a school, he or she is expected to stay in the neighbourhood of the school.

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister tell us what policy the Ministry has on the transfer of teachers? This is because I suppose that teachers, like other civil servants, should sign in their employment agreements that they can serve anywhere in the Republic of Kenya. Why is it that when teachers are transferred from schools which are overstaffed to understaffed ones, they complain that they are being harassed? What is the policy of the Government and why is the President interfering?

Mr. Awori: Mr. Temporary Deputy Speaker, Sir, the policy is very clear as the hon. Member says; that, teachers are public servants and they can serve anywhere within the Republic. However, while applying that, we must put a human face on it. If we have a man and his wife, and his wife is expecting or has just had twins and someone transfers that wife some 300 kilometres away, even though legally the person transferring her would be right, we cannot accept that. We must put a human face on it and this is the reason why we accepted the appeal to reduce or stop the transfers.

Mr. Katuku: Mr. Temporary Deputy Speaker, Sir, in view of the fact that the Ministry is serious on the issue of rationalisation, and that it has been interfered with politically, could the Ministry stop the practice of ranking schools in terms of performance until rationalisation of staffing is done in this country? This is because it is so unfair for a school with five teachers to be compared with a school which has 20 teachers and they have the same number of classes and pupils. Could the Assistant Minister stop that practice of ranking schools?

Mr. Awori: Mr. Temporary Deputy Speaker, Sir, in the first place, the exercise of rationalisation has not been interfered with politically. I think I should make that point clear. As to the question of ranking, yes, this is under consideration. I cannot say that it will be stopped or continued. We are looking into the matter to see the merits and demerits of ranking.

Mr. Achola: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister explain to the House why this situation arose in the first place? Why did you allow this shortage to develop in the first place? Where were your planners when teachers were being employed in these schools?

Mr. Awori: Mr. Temporary Deputy Speaker, Sir, I think it would be more productive if we looked at the solution, instead of looking back, to find out how this came about. We are seriously improving the situation and that is the way forward.

Question No.304

ALLOCATION OF TUNYAI DISPENSARY LAND

The Temporary Deputy Speaker (Mr. Imanyara): Is Mr. Mwenda not here? We will leave his Question until the end. Let us move on to the next Question.

Question No.253

RURAL ELECTRIFICATION IN KITUTU CHACHE

Mr. Angwenyi asked the Minister for Energy:-

- (a) whether he is aware that no major rural electrification project has been undertaken in Kitutu Chache Constituency;
- (b) why he has not undertaken any rural electrification programme in the constituency using

European Union, STABEX Fund, or any other funds; and,

(c) whether he could, as a matter of urgency, undertake rural electrification in the constituency.

The Minister for Petroleum Energy (Dr. Masakhalia): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) No. To the contrary, I am aware the following centres and institutions within Kitutu Chache Constituency have been supplied with electricity under the Rural Electrification Programme:-

(i) Marani Health Centre and market, at Kshs5.2 million.

(ii) Kiage Secondary School, at Kshs1.5 million.

(iii) Nyakoe Market, at Kshs1.2 million.

(vi) Mosochi Water Pump, at Kshs1 million.

(v) Nyaore Polytechnic, at a cost of Kshs1.8 million.

(b) The Government has undertaken rural electrification programmes in the constituency using rural electrification funds.

(c) The Rural Electrification Programme is a continuous programme and more projects will be undertaken in the constituency as and when funds become available, and in accordance with the District Development Committee (DDC) priority ranking.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, the Minister is not aware that all those institutions and centres he has mentioned are in one market. The electrification he has talked about was supposed to serve a senior politician in that market. When will they extent rural electrification to all areas in the country, especially in the coffee factories which earn foreign exchange for this country?

Could the Minister tell this House how much money he intends to allocate for rural electrification in my constituency in the current cycle of MTEF?

Dr. Masakhalia: Mr. Temporary Deputy Speaker, Sir, as to the concentration of the projects, that was really not the business of the Ministry. I think the intention was to supply the constituency with electricity. The decision was made by the DDC. It is they who decided where those projects were to be located. Secondly, the STABEX Fund scheme will cover all coffee factories in the country. The programme was based on the least-cost approach. No such factory in Kitutu Chache Constituency was found to be eligible. Thirdly, under the current programme, I can assure the hon. Member that something will be done because arrangements are underway, now that we have opened up with our development partners, to get more funds for rural electrification programmes. So, I want to assure hon. Angwenyi that something will be done in his constituency under the current programme. However, I cannot ascertain the exact amount of money that will be spent. But we have already allocated Kshs11 million for rural electrification projects in Central Kisii District in the current Financial Year 2000/2001. I think the hon. Member can assist us by pushing through the respective DDC and ensure that this money will be utilised in his constituency.

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, I think you are aware that every time the Ministers do not want to give positive answers, they hide behind DDCs. There are so many cases of rural electrification projects, especially in Maragwa District, where the DDC has already approved projects, but the Ministry has not been able to avail funds. So, could the Minister be specific and tell us what is happening? He should not hide behind DDCs because there are cases where DDCs have approved projects, as a matter of priority, and nothing has been done.

Dr. Masakhalia: Mr. Temporary Deputy Chairman, Sir, two wrongs do not make a right. But we are trying to streamline everything and that is why we are insisting on going through DDCs. Secondly, I would advise the hon. Member for Maragwa to bring a specific Question about that area, so that we can address it.

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, we have heard all these stories before. A lot of projects are approved every month by the DDCs. When I visited the Ministry, I found that the Minister had a long list of all the projects that they received from around the country. Could he tell this House what he is doing with the list because all the projects in Meru, on that list, have not been implemented? Could you tell us what happens after the projects have been put on the list? There are projects which have been on that list for more than one year.

Dr. Masakhalia: Mr. Temporary Deputy Speaker, Sir, the implementation of these projects depends on the availability of funds. We could have identified numerous projects, but when it comes to financing them, we have problems. I would like to tell hon. Members that the purpose of having this information is for planning. As I said, the Ministry is very keen to identify funds to carry out these projects. But in the circumstances where we do not have enough funds, we cannot implement all of them.

Mr. Keriri: Mr. Temporary Deputy Speaker, Sir, recently, the Ministry asked districts to submit additional information about rural electrification. In my district, we were asked to submit five top projects. That means, after the Ministry went through the main list, they found they could only finance five projects. Was that priority listing useful? Is the Ministry following it up? Has the Ministry got the money to finance the priority list they have asked for?

Dr. Masakhalia: Mr. Temporary Deputy Speaker, Sir, I think it is just the same question asked in another

way. As I said, we are trying as much as possible to identify projects through DDCs which can be funded. When the funds are available, they will be funded. Right now, we do not have sufficient funds to finance the programmes. But it is very useful that we have the information available, so that we can also use it when we shop for funds to carry out these programmes.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, Kitutu Chache produces 70 per cent of the coffee that is produced in Nyanza Province. The EU gave Kenya Kshs6.3 billion as STABEX funds, to have coffee factories supplied with electricity. It is sad that the Minister says Kitutu Chache Constituency cannot qualify for this programme. Why can the Ministry not allocate these funds according to the production of coffee in the entire country? This Kshs6.3 billion has been hoarded or looted. Could the Minister assure this House that he will find out where the money is being hoarded, or whether it has been looted, and give us our share of the funds according to our production?

Dr. Masakhalia: Mr. Temporary Deputy Speaker, Sir, I am not aware of funds being hoarded. But I would like to assure this House that the first phase of the STABEX funds was not limitless. I think there is another phase which we expect to receive so that we can finance some of these projects. Let us hope that coffee factories in Kitutu Chache Constituency will now merit to be financed through the second phase of the scheme.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Muchiri's Question for the second time!

Question No.399

SHOOTING OF WAGALLA DETAINEES

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

(a) how many Kenyans were detained in March 1984 at Wagalla Airstrip after being arrested by the security forces and what offences they had committed;

(b) whether he is aware that some of the detainees were shot dead by the Kenyan security forces; and,

(c) what action he has taken to punish the security officers involved in the killings.

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

(a) Three hundred and eighty one people were detained at Wagalla Airstrip in Wajir District in 1984. They were arrested and detained pending screening of those in possession of illegal firearms and those involved in banditry activities.

(b) I am also aware that some of the suspects were shot dead when they tried to attack the security personnel with the intention of escaping from lawful custody.

(c) Since the officers then at the District Security Committee (DSC) were charged with the task of maintaining law and order in the district, no criminal offences have been preferred against them.

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, 381 unarmed people were held for more than 12 hours without water and food. How do you screen unarmed people for guns? When people break out because they are being detained illegally, they are shot dead in cold blood. How can you claim that slaughter of innocent citizens was necessary action because they were attacking the police when they were not armed at all?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, the chronology of events that led to this unfortunate incident speaks for itself. The arrest and the rounding up of those people, and their presence at Wagalla Airstrip, was a result of earlier events that had taken place; that is, the fighting between the clans in North Eastern Province. Subsequent appeals by the Government, that all those involved in that fighting should surrender firearms, were not heeded. Some of the members, especially the Ajuran community, did surrender firearms. But the Degodia community refused adamantly. The DSC did take action and, on 10th February, 1984, there was an operation which resulted in the rounding up of those people. I do admit that the way that operation was handled did not meet the security requirements then. It was unfortunate, but that situation was formented by the adamancy of those communities. While the Government is charged with the responsibility of maintaining law and order, it is incumbent upon all and sundry, to respect the law. I do admit that, that incident was unfortunate. About 13 people were shot. When the DSC visited Wagalla Airstrip, where those people were being held, those people tried to ambush the policemen there and that occasioned the shooting that took place. I admit it was unfortunate but it did take place.

Mr. Keynan: Thank you, Mr. Temporary Deputy Speaker, Sir. What we have heard is deliberate misinformation. It is unfortunate that 15 years down the line, first of all, the Government has not established any commission of inquiry to find out exactly what happened. Secondly, this did not happen the way the Assistant Minister is reporting. The people who were killed were over 5,000. Their skulls are still lying at Wagalla Airstrip. We have not buried them; we are waiting for civilised Kenyans, maybe the next generation, to come and see them. So, what the Assistant Minister has said is unfounded.

Thirdly, instead of considering the psychological, social and economic trauma which that particular event has had on the residents of Wajir West, the Assistant Minister continues to mislead this House. That is why this Government is very unpopular in Wajir West Constituency, which I represent. He should come to terms with what happened and say the truth of what led to it, and what the Government has done about that particular incident. Is it in order for the Assistant Minister to continue misleading the House when we know that it is a DC called Benson Kaaria, who still holds a senior position in this Government, who ordered for the massacre of those people? The Government has rewarded him with a senior position after removing him from the Provincial Administration.

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, the hon. Member has said a lot of things, but I have admitted that the handling of that particular situation was not up to the mark. I confirm that 13 people were shot dead at that particular incident, but in total, 57, and not 5,000 as the hon. Member is alleging, died as a result of that exercise. The DC, or the member of the Provincial Administration mentioned by the hon. Member, was actually sacked after that incident as opposed to what the hon. Member is saying, that he was promoted.

An hon. Member: He was promoted!

Dr. Ali: Thank you, Mr. Temporary Deputy Speaker, Sir. As the Assistant Minister has said, that problem was caused by insecurity in the area. From 1984, we still have tribal clashes and insecurity in the North Eastern Province. What action will the Government take because up to now, even in my constituency, people are killing one another and the Government is not doing anything? What action is the Government going to take to make sure that the problem of tribal clashes and banditry in North Eastern Province is contained?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, while I admit also that there are still cases of insecurity and banditry in the North Eastern Province, since 1984, the scales have gone down drastically. We do have a more safe North Eastern Province now than it was 10 to 15 years ago. The hon. Member also should realise that, as much as we try to provide security in that area, the onus is also on the people concerned in the North Eastern Province. Unless we have one policeman per person, which is a tall order, we will not be able to bring the security situation to the level we expect. We do and we will welcome efforts made by community leaders, including the hon. Members, in helping the Government to bring down the levels of insecurity in that province.

Mr. Muchiri: Thank you, Mr. Temporary Deputy Speaker, Sir. I hope you are going to give me my two chances. The figure the Assistant Minister is giving differs with the information I have. My information is that 5,000 people were killed and 3,000 others disappeared within the periphery. Nobody knows where they are. Those people were arrested illegally and then confined in an airstrip. Will the Assistant Minister agree to accompany me to Wagalla Airstrip and witness the residents counting the bones at the airstrip, and come back to this House with a definite report because he has misled this House and the country?

(Applause)

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, the primary reason why my figures do not tally with the ones given by the hon. Member is because his figures are wrong. I do not think that our going to count the bones at the airstrip will help in determining the number of people who were killed then. I think it will be a futile exercise and I would not want to engage myself in it.

Mr. M. Galgalo: Mr. Temporary Deputy Speaker, Sir, the records of this House will prove this Assistant Minister wrong. I remember that immediately after the occurrence of the Wagalla incident, the then Member of Parliament for Wajir West asked a similar Question. The number of victims of that massacre given by the then Minister of State, Office of the President, was different from the 13 that we have been given by this young Assistant Minister, who may not even have been to Wajir. Could he go back and get the proper records on this incident, otherwise, we will retrieve those details from the HANSARD of that time.

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, the hon. Member is free to go ahead and bring those records to the House.

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. This House started sitting in 1963 and all the business that has been transacted here since then is on record. Some of those records are within the precincts of this House. Hon. M. Galgalo said that a Question similar to the one before the House now was asked by a former Member of Parliament from that area, and that the answer that was given, which is on record, was different from what has been given by this Assistant Minister now. The Government has not changed since 1984; it is the same KANU Government.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Ndicho! Could you now raise your point of order?

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, in view of what hon. M. Galgalo has said, would I be in order to ask the Chair to order that we get the records of what transpired here when a Question similar to the one before the House was asked immediately after the massacre occurred? The Question is about Kenyans who were killed.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Mr. Ndicho, you have already made your point.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, could you then order that we get those records?

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ndicho, it is up to Mr. M. Galgalo to provide me with that information as recorded in the HANSARD of that time.

Mr. Shill: Mr. Temporary Deputy Speaker, Sir, the issue of the Wagalla massacre will haunt this Government for ever, whether those in Government like it or not. Questions on this issue will be asked here this year, next year, and many years to come by different generations. Is it the Government policy to mete out communal punishment to the people of North Eastern Province whenever insecurity incidents occur?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, it is not the Government policy to mete out communal punishment any more. I still maintain that 57 people died as a result of that incident. Indeed 13 people were shot dead, and the rest died from excessive sunshine. I still maintain that it was a very unfortunate incident. The best was done to make the most out of a very bad incident.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, it appears to this House that the Wagalla massacre, as hon. Shill said, is an incident which is very difficult to wipe out of the memory of the society as well as the conscience of the Government. The Assistant Minister has said before this House that the Government regards this incident as very unfortunate, and that it was not properly treated. Since the Government is on the defensive, and people have been wronged and we, as a House, are looking for justice, why is it difficult for the Government to establish a commission of inquiry to look into this matter?

(Applause)

The commission of inquiry should be composed of people who can stand in between the Government and the people of Wajir District to establish exactly what happened, so that justice cannot only be done, but be seen to be done.

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, in good faith, in February, 1984, indeed, a Committee was appointed to investigate the circumstances that led to that incident. It was that Committee that recommended that, that particular incident was, in fact---

Prof. Anyang'-Nyong'o: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like the Assistant Minister to be very transparent. I asked for the establishment of a commission of inquiry into that incident, and not a Committee. A committee can be composed of senior policemen, who are definitely not neutral.

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, I was saying that, indeed, a Committee was appointed then. In fact, it was that Committee that recommended that the then North Eastern Provincial Commissioner (PC) be dismissed from Government service. I think it was not possible for the Government to take any more drastic action than what was taken then, because the provincial administration personnel in that area then were facing threats on their lives from the perpetrators of insecurity incidents. I believe that the best was done out of that situation.

The Temporary Deputy Speaker (Mr. Imanyara): Could you ask your final question, Mr. Muchiri?

Mr. Muchiri: Mr. Temporary Deputy Speaker, Sir, now the Assistant Minister has admitted that a mistake occurred. He has accepted the fact that an illegal activity occurred; those people were illegally arrested. Could the Government now consider compensating the victims of that activity and prosecuting the officers who committed the murder and made illegal arrests?

(Applause)

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, I did not say that something illegal took place. I said that a legal dispensation was undertaken, but was mishandled. I further added that, as a result, we took some disciplinary action against the responsible Provincial Administration (PA) personnel then. We do not have any provision for paying compensation or accepting any other request that the hon. Member has made.

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

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Angwenyi!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister in order to---

The Temporary Deputy Speaker (Mr. Imanyara): Order! Mr. Angwenyi, I ordered you to be orderly; I have not given you the Floor.

Hon. Members, let us proceed to Dr. Kituyi's Question.

Question No.420

REVENUE COLLECTION FROM NATIONAL
THEATRE CAR PARK

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

(a) under what arrangements the Norfolk Hotel constructed a wall around the Kenya National Theatre in Nairobi; and,

(b) who collects rent on the parking constructed on the land belonging to the Theatre and why.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Choge): Mr. Temporary Deputy Speaker, Sir, before I reply to the Question, I would like to apologise for coming late.

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

(a) The Norfolk Hotel agreed with the Kenya Cultural Centre Governing Council to construct a perimeter fence for the mutual benefit of both institutions. The arrangements were made as follows: The Norfolk Hotel would bear the cost of erecting a perimeter wall from the Kenya Broadcasting Corporation to the Theatre's border with the University of Nairobi, with two gates fitted as per the existing plan, and a proper gatehouse. The hotel would also be responsible for landscaping the grounds outside the wall and maintain the same. The Kenya Cultural Centre Governing Council would then lease the centre's car park to the Norfolk Hotel for a period of 10 years. During that period, the hotel would undertake the development of the centre drive ways and parking bays at its own cost. There would be no charges payable by the hotel during the first three months of the period of development of the wall and the car park. Thereafter, the Norfolk Hotel would be paying the centre Kshs50,000 per month for the said lease period. The hotel would, further, provide security for the car park gate, and its guests and clients would have access to free parking at the centre as per the lease agreement.

Mr. Temporary Deputy Speaker, Sir, the Kenya Cultural Centre members of staff and the Kenya National Theatre will enjoy free parking at the centre as usual. The management of the Kenya Cultural Centre will collect the car-park rent as appropriations-in-aid. Rent is one of the sources of income for the centre, and the revenue collected would be utilised in running the operations of the centre, including maintenance of its facilities.

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, the main users of the territory now in question, are embers of the Kenya Free Artistes Association who have survived and kept the Kenya National Theatre going, in spite of the total absence of the Government support. How do you explain a situation where the theatre community is against a certain type of wall being put on their property? Norfolk Hotel prepares the design and appearance of the wall and gate and hires its uniformed guards to stand at the entrance of the Kenya National Theatre against the wishes of the main people at the theatre. Under what authority does a neighbour decide for you how your guards should be dressed and what wall you should have around your property against your wishes?

Mr. Choge: Mr. Temporary Deputy Speaker, Sir, that is not true because the cultural centre and the Norfolk Hotel have had a mutual agreement, and they have agreed that nobody will be disturbed. Anybody going there will not be disturbed in any way.

Dr. Kulundu: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister table that agreement between Norfolk Hotel and the Kenya Cultural Centre for scrutiny?

Mr. Choge: Mr. Temporary Deputy Speaker, Sir, I did not expect to bring all the documents from the Norfolk Hotel and the Kenya Cultural Centre in order to table them in this House, unless I am requested.

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister does not know the details of what he is talking about now. The truth is that the Kenya Free Artiste Association, the main producers of theatre activities at the Kenya National Theatre have demonstrated, including quietly occupying seats at the Norfolk Hotel, complaining that they cannot design the facet of their national theatre in the image of the "Wazungus" who run the hotel. This Government, instead of standing with the people of the Kenya National Theatre, sent the police to arrest the actors because they refused to be imprisoned behind the wall which appears to be in the taste of Norfolk Hotel.

Can the Assistant Minister tell us whether the Government is on the side of Norfolk Hotel or with the people of the Kenya National Theatre who are Kenyans?

Mr. Choge: Mr. Temporary Deputy Speaker, Sir, the Government is with the Kenya National Theatre.

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, consequent upon that statement, could this Assistant Minister now say before this House that if they are on the side of the Kenya National Theatre, they will do what the

Kenya National Theatre fraternity wants in writing? Can he promise that he will implement the wishes of the community of the Kenya National Theatre if it conflicts with the parking interests of the Norfolk Hotel?

Mr. Choge: Mr. Temporary Deputy Speaker, Sir, I have made it very clear that there will be nobody inconvenienced by the agreement between the Kenya National Theatre and the Norfolk Hotel. Events in that area will continue as usual and, in fact, to the benefit of the people the hon. Member is referring to.

Mr. Mwenda: Mr. Temporary Deputy Speaker, Sir, first, my apologies to the House for coming late. May I be allowed to ask Question No.304?

Question No.304

ALLOCATION OF TUNYAI DISPENSARY LAND

Mr. Mwenda asked the Minister for Medical Services:-

(a) whether he is aware that land belonging to Tunyai Dispensary in Tharaka has been sub-divided and irregularly allocated to private developers; and,

(b) what steps he is taking to nullify the allocation and have the land revert to the dispensary.

The Minister for Medical Services (Dr. Anangwe): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that a portion of the land belonging to Tunyai Dispensary has been sub-divided and there is a dispute on land ownership between the community and the owners of the said land. (b) I have initiated action by taking up the matter with the Ministry of Lands and Settlement to ensure that the land belonging to the dispensary remains intact.

Mr. Mwenda: Mr. Temporary Deputy Speaker, Sir, that is a fairly good answer. However, could he tell this House who are the parties in that dispute?

Dr. Anangwe: Mr. Temporary Deputy Speaker, Sir, the parties involved are: The dispensary under the purview of the Ministry of Health on one hand, and Mr. Migwi, who was the then Chairman of the County Council between 1993 and 1997 on the other hand.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, we are having problems as far as that land that belongs to the public is concerned. Dr. Kituyi has just asked about land which belongs to Kenyans of African origin that was taken by whitemen. Here are people who are taking public land belonging to Tunyai Dispensary in Tharaka. The Minister in his answer, says that the dispute is between the community and the owners of that land. The land belongs to the dispensary in the first place, and the grabbers came and took it. The Minister said that the dispute is between the community and other people. Now that he has told us that he has raised the matter with the Ministry of Lands and Settlement, can he ensure that the allocation of that land is removed from the control of the Chairman of the County Council and reverted back to the dispensary. The Minister of Lands and Settlement is the person in charge of all dispensaries and all the parcels of land under their jurisdiction in this country? Can he also assure this House that he will not allow an inch of land belonging to any dispensary starting from Tunyai in Tharaka and all over the country to be grabbed?

Dr. Anangwe: Mr. Temporary Deputy Speaker, Sir, well, it was not an issue in the past. However, in the recent times we have had cases of such nature, and the Ministry has taken the requisite decisions and action to ensure that the land belonging to health institutions is secured. Indeed, we are encouraging the Medical Officers of Health (MOHs) and other staff involved in administration of public health facilities to ensure that they secure the titles to the land belonging to the public health institutions.

QUESTIONS BY PRIVATE NOTICE

ASSAULT ON MR. KANGANGI KUIRA

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

(a) Is the Minister aware that police officers, namely: Messrs Abdalla Guya and Ingosi assaulted Mr. Daniel Kangangi Kuira at Kagio Police Post on 22nd April, 2000, and a complaint lodged at Baricho Police Station?

(b) What action has the Minister taken to punish the officers involved?

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

I am aware of the allegation that Inspector Abdalla Guya and Police constable Ingosi assaulted Mr. Daniel

Kangangi Kuira. As a result, Kerugoya Inquiry File No.1 of 2000 was opened and it is still pending under investigations. I want to promise the hon. Member, and, indeed, this House that appropriate action will be taken once the investigations are complete.

Mr. Keriri: Mr. Temporary Deputy Speaker, Sir, this incident took place in April this year. It is now six months since that incident took place. It involved police officers and one individual who was tortured, including being beaten to the extent that his private parts were damaged and, as a result, he may not in the future be able to build the nation. Nothing has been done on the file that was opened. Could the Assistant Minister assure us that, that the matter will be treated as a matter of urgency and be finalised because even the police had refused to give the victim a P3 Form until the hon. Member went to the OCPD to get it? So, the police is hiding something, and we hope that this will not be the same case as another one narrated by one of the Ministers, where after proving that a man was tortured, an inquiry revealed that nobody knew who tortured him. Can you assure us about that matter because it is taking too long?

Mr. Samoei: Indeed, this incident did take place on 22nd April this year. It is now six months since then. There is a small delay because one of the witnesses who has not been available to make a statement. As soon as that statement is made by one of the witnesses who is very well known to the complainant, the matter will be speedily expedited and appropriate action taken. I want to promise this House and personally undertake to see to it that it is brought to a logical conclusion.

Mr. Kibicho: Mr. Temporary Deputy Speaker, Sir, this particular person, Mr. Kangangi, was assaulted on 22nd April this year. He was fetched from his farm by the two police officers who were in the company of the local sub-chief. They took his Kshs4,000 and led him to Kagio Police Post where they tortured him for about one hour until he became unconscious. They moved him to Baricho Police Station. From April up to August, the OCS, Baricho, had refused to issue P3 Forms to Mr. Kangangi until I talked to the OCPD. We are now in October and these officers have not been suspended or taken to court. Is this not a case where the Assistant Minister has allowed the police officers to behave the way they want? This is a serious threat to administration of justice in this country.

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, I was not aware that Mr. Kangangi was denied a P3 Form. The information I have was that, in fact, a P3 form was availed to him and it was duly filled by a doctor. In fact, the injuries were classified as bodily harm. I will take appropriate action. I want to promise this House that I will suspend the two policemen, if they are not yet under suspension and that this issue will receive my personal attention to make sure that it is brought to a conclusion.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Mr. Maore and Mr. Ochilo-Ayacko, I am afraid that we are eating into Mr. Ojode's time and I have to defer your Questions by Private Notice to tomorrow.

CLARIFICATION OF ISIOLO/MERU
/THARAKA BOUNDARIES

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

- (a) Why has the Minister delayed to clarify the boundaries of Isiolo and Meru North Districts and Tharaka and Igembe Districts?
- (b) When will these boundaries be made public?

(Question deferred)

IMMINENT CLOSURE OF SONY SUGAR COMPANY

(Mr. Ochilo-Ayacko) to ask the Minister for Agriculture:-

- (a) Is the Minister aware that South Nyanza Sugar Company Limited is facing imminent closure as a result of cash flow problems arising from lack of cane?
- (b) What remedial measures has the Minister put in place?

(Question deferred)

Next Order!

MINISTERIAL STATEMENT
REVOCATION OF APPOINTMENT
OF NOMINATED COUNCILLOR

The Assistant Minister for Local Government (Mr. Hashim): Last week, hon. Twaha had asked a question

regarding revocation of a nominated councillor and the Chair gave a ruling that I should bring to this House a clause which allows parties to nominate and revoke nomination of councillors. Under the Inter-Parties Parliamentary Group (IPPG), the resolution relating to nomination by a political party or persons for appointment as a nominated councillor is provided for under Section 5 of the Constitution of Kenya Amendment Act which commenced on 7th November, 1997. For your information and future reference, these parties have been also---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Hashim, just a moment. I had already called Mr. Ojode and the next Order had already been called out. May I ask you to do that tomorrow because this is Mr. Ojode's time and the Order had already been called out?

Mr. Ojode!

MOTION

INTRODUCTION OF SESSIONAL PAPER ON RETRENCHMENT PROGRAMME

THAT, in view of the fact that the retrenchment of public servants under the ongoing Public Service Reform Programme has tremendous adverse financial, psychological and social impact, and noting that the programme lacks a legislative initiative; this House urges the Government to introduce a Sessional Paper detailing the criteria for retrenchment, financial package and retraining of the retrenched public servants.

(Mr. Ojode on 11.10.2000)

(Resumption of Debate interrupted on 11.10.2000)

Mr. Ojode: I moved the Motion last week.

The Temporary Deputy Speaker (Mr. Imanyara): You had already exhausted your time? I was under the impression that you had not exhausted your time.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I stand to very strongly support this Motion. The Civil Service, in this country is set up under Chapter Eight of the Constitution of Kenya. That is where we have the constitutional validity setting up Civil Service. The Chairman of the Public Service Commission enjoys security of tenure in terms of that Chapter Eight of the Constitution of Kenya. As a lawmaker in this House, I question the constitutional validity in the first place, first of all, with regard to the appointment of the "Dream Team". Where is the legal constitutional validity because it appears to have been superimposed on the Civil Service outside the constitutional and legal provisions? The very concept of the "Dream Team" which is now retrenching the civil servants is wholly unconstitutional and illegal. The civil servants in this country are governed by the Public Service Commission constituted under Cap.8 of the Constitution of Kenya. Their schemes of service and terms of service are as set out by the Public Service Commission. In those terms, legally a civil servant can only be disciplined and dismissed from employment in accordance with the terms of service constituted by the Public Service Commission in terms of Cap.8 of the Constitution of Kenya. There is no such thing as retrenchment. Without bringing the total Sessional Paper or establishing the legal validity giving legal authority for the Public Service Commission to retrench public servants, the whole exercise is unconstitutional and illegal. We should not act illegally or permit any authority in this country to act unconstitutionally or illegally. The exercise being undertaken is unconstitutional, outside the provisions of the law and Cap.8 of the Constitution of Kenya.

I would also like to state that the way the retrenchment is being done under the auspices of the "Dream Team" is adding poverty and not eradicating it in this country. In fact, those salaries that they are earning are not justifiable. The services they are rendering do not allow that at all. There is a fundamental error on the part of the "Dream Team" and its leader that retrenchment of the civil servants and focusing on economic reforms will lead to economic recovery. That is a misconception. It will not have that effect under any circumstances. Recovery of the economy depends on confidence. Do we have enough confidence in our nation? Do the foreigners have confidence in this country so as to invest? If the economy is going to recover in this country, we must target on how we are going to restore confidence in this country so that people can save, invest and the economy can grow. Retrenchment of the civil servants and focusing purely on economic reforms will not result in economic recovery.

Before we can restore confidence and the economy in this country can recover, it is a condition precedent that there must be in this country a constitutional and political settlement. That is a condition precedent. Unless we have got a new constitutional order; unless the economic reforms go hand-in-hand with constitutional and political reforms, there will not be any confidence in this country and the economy will not recover. So, the question which arises is: What is the purpose of this retrenchment? Why should the ordinary Kenyans pick the tabs of bad leadership? Our

problems in this country have never been managerial, but they have always been political and constitutional. It is an issue of leadership. That is the disease. Really, we must get a way from treating symptoms. Sometimes, if a patient is suffering from malaria and you give him or her half the dose, you make the viruses resistant. Eventually, when you have got the correct dose and give it to that patient, he or she will not recover, because the viruses have become resistant. We are like that patient, as a country. It is better to wait and get the correct dose and give it to Kenya, so that we can recover. The correct dose is to take an overall picture or approach to the resolution of the Kenyan problems by accompanying economic reforms and Civil Service retrenchment with constitutional and political reforms. If you do not do that, then whatever effort you put would resort in a worse situation. It is like giving half doses and making the viruses more resistant.

I wonder whether the "Dream Team" is not really doing this deliberately. It is not in the interest of the Kenyan nation. Look at the people who are in the forefront defending the "Dream Team" and the retrenchment in the Civil Service. Who are these people? It is the East African Association (EAA), the Federation of Kenya Employers (FKE) and the Association of Kenya Manufacturers. Who are these people? These are people who live in a little world of their own. As long as they can get their income--- The EAA consists of elderly and retired *Wazungu*, whose sole purpose is the protection of British investment in this country. It is not the long term development of the economy of this country. As long as their multi-nationals can reap profits and repatriate them, they are happy. They do that by entering into a very unholy alliance with the political power of the day. It is an unholy alliance. I reject that sort of economic arrangement. It is similar to what was in South Africa, where the economy was growing because of the sweat of the black people. There was unholy alliance between manufactures, big businessmen and the apartheid regime in South Africa.

We need to have a new economic arrangement that caters for the majority of the Kenyan people; that will economically empower the majority of the Kenyan people and not a small group of elites, like the EAA and the Association of Kenya Manufacturers. How many indigenous Kenyans do we have as manufacturers in this country, like the FKE? They have got the guts to get together and issue a statement, defend retrenchment and the "Dream Team" and the salaries they earn. What about the middle class people in this country? What about the ordinary Kenyan in this country? What about the employee who makes it possible for the Association of Kenya Manufacturers to manufacture goods? Who looks after their interests? How can we allow this sort of situation in this country?

Mr. Temporary Deputy Speaker, Sir, I would like to say that the concept of retrenchment is a dream of the leader of the "Dream Team", Dr. Richard Leakey. If you go back into history, you will see that this misguided style of management with a small group of people who are paid very highly just to eliminate the majority of the workers was being pursued when he was at the National Museums of Kenya. You eliminate the majority, pick on a few privileged people and pay them salaries four or five times much more than you were paying the former members of staff. It is a way of frustrating the majority. You need management structures with terms of service and not a personalised sort of management. It is the same style when you go to the Kenya Wildlife Service (KWS). This Government appointed two probe Committees to probe the style of management when the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service was running the National Museums of Kenya and they found that he had eliminated the majority, because his style of management was wrong. That report is there. When he was confronted, he issued an ultimatum that he would not work with the then Chairman of the Board of National Museums of Kenya and that if the Chairman would continue being there, then he was going to resign. He resigned and went round the globe. He went and told the husband of the Queen of England and the King that he had resigned from the National Museums of Kenya, and the Kenya Government was prevailed upon to reinstate him. It is the same style of holding the country at ransom.

The Assistant Minister, Office of the President (Mr. Haji): On a point of order, Mr. Temporary Deputy Speaker, Sir.

Mr. Muite: Please, allow me to finish. I have only got two minutes.

The Assistant Minister, Office of the President (Mr. Haji): Mr. Temporary Deputy Speaker, Sir, we are talking about retrenchment in the Civil Service and not about Dr. Leakey. If the hon. Member has a personal problem with Dr. Leakey and SAFINA, he should sort it out with him.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I am talking about retrenchment in the Civil Service and he just wanted me to finish before I dropped the bombshell.

Mr. Maundu: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to make a few comments. The issue of retrenchment has been revisited by this House a number of times. It is an issue that is now typical. It is eye on the agenda of the national programme. It is an issue that this House must analyse carefully and give direction that is concise and clear. We, as a Parliament, have complained that Parliament has not been involved in this particular process. Now, that we have a Motion before us, I think we should give clear direction and indication as to how this problem of retrenchment should be handled.

In my view, I do not want this programme to be personalised. In any sense, Dr. Leakey alone cannot retrench

Kenyans. We would like to see a Government programme which is clear and transparent, because the tendency has been that whenever you isolate an individual to carry a national blame, then the Government sits back and refuses to do anything because they know that the burden is taken by somebody else. That sort of arrangement has been disastrous, detrimental and has hurt immensely the national character of our country.

I would like to say that we have got to be very sincere about retrenchment; we must be very clear. The cards must be on the table. There should be no gains behind the scenes, or a political agenda greater than the one that is being played on Kenyans. This is because how can you ever, in a civilised society where young people are the majority, start retrenching them? How on earth will you develop the national capacity for a country for now and in the future, if the young people who are the majority of a country find that there is no future in their own country? Will you satisfy the national urge that you are not punishing the young people of this country at the same time giving advantage to those who have been at the top of Government management for a long time? These issues must be tackled without fear or favour. We should not be seen as if we are attacking the Government as such, but we should give direction and make sure that the retrenchment process is a transparent one, whose benefit is to give this country economic recovery and political direction.

I remember an incident sometime back when hundreds of employees working in the Kenya Airways were retrenched, but soon thereafter, what happened? Other people were employed in hundreds. What type of a game is that one? Is that the game we will revisit in this massive programme as a nation? We must be told quite clearly. These are the fundamental issues. We should be told that this is the criteria and this is the process. In my own view, I would like to suggest, first and foremost, that we must hate anybody or person who thinks that retrenchment should be done on a tribal line. Any person who comes up with a programme that tries to indicate in any way that it is intended to isolate or punish civil servants from certain ethnic groups, that programme must be rejected in totality.

Mr. Temporary Deputy Speaker, Sir, we must see sufficient rationalisation of the Public Service with a clear balance and indication that we are above ethnicity. We want a Civil Service that serves Kenya. If we start a future programme which tends to indicate that those who have been retrenched have now paved way for another group of people to penetrate the Civil Service, it should be rejected with all force. We see this indication coming along in the sense that young graduates who have only served for five years in the Public Service are being retrenched. In law, what is important is not the big print, but it is the isolated footnote which does say much. When you ignore that footnote, you run the risk of your life. The footnote on the letter of discharge of these retrenchees says that they will never again rejoin the Public Service. What could be the catch word in this? What is intended here? It appears as if whenever there will be competition when this economy improves, that Kenyan who has been retrenched will not find a better place to serve the nation. We have retrenched men and women in this country on whom the nation has spent money. They are young people and should go back and work when the appropriate time comes.

Mr. Temporary Deputy Speaker, Sir, before we begin the total process of retrenchment, we would like to know the remaining number of employees in the Civil Service. In all the Ministries, from the top officials down to the clerks, we would like to see that balance printed correctly and clearly for Kenyans to see. We would like Kenyans to see the list of all retrenchees in all the districts of this country. Whenever there is any reason for one to suspect that one civil servant has been retrenched unfairly, we should have a register that clearly indicates the reasons for the retrenchment. I am wondering why the Government did not follow the following method. First and foremost, the Government should have called on civil servants who wanted to voluntarily retire. That was not done. We are leaving some civil servants in service, who are aged 78 years and are chairmen of Government organisations. These are not even grandfathers, but great grandfathers, yet they want to serve the country in that capacity, when their great grandchildren are still loitering in the streets of Nairobi looking for jobs. What are we trying to satisfy? There should be an end to satisfying political whims and personal idiosyncrasies, so that we assume a national character that befits a nation called Kenya that is so pivotal within East Africa.

Mr. Temporary Deputy Speaker, Sir, we must make sure that the process of retrenchment is transparent. If a civil servant for any reason finds that he has been retrenched unfairly, the method of redress must be open and clear to all of us. There are some civil servants who have approached me on this issue, not necessarily from Ukambani. There is a practice that makes us look like a decayed society. Whenever I think as an hon. Member of Parliament, I start thinking about my community. I should think as a Kenyan first and not like a Mkamba. If my father think like a Mkamba, I should now start to change that image and think like a Kenyan. Unless we think like Kenyans, the older generation that thinks in terms of their communities will destroy Kenya. At the same time, we must also understand that those who are at top leadership have a difficult task. It is in the interest of this nation that we, as hon. Members of Parliament, should put our heads together and work together for Kenya.

In the process of change, we are likely to be caught up napping. This is because we want to operate like the Government on this side and the Opposition on that side. We cannot create a nation through that process. I know that those hon. Members on the Opposition side want to be on this side and those of us who are on this side would want to remain here almost on a permanent basis. However, there must be compromise and understanding so that issues that

affect the nation must be tackled together and collectively. The moment we isolate ourselves and say: "As the Government, we have no interest in what the Opposition says", we will have started to dream and our exit from this side will have began and with speed. But the Opposition again cannot lead this country if what it pursues is an antagonistic political position that does not give a national direction to any person.

We have come to the crossroads. When we talk about this tricky issue of retrenchment, we must think about our country and issues that affect our country must be tackled by all of us. If an hon. Member of Parliament from the Opposition side agrees with a Government point of view which is correct, that hon. Member should not be condemned. We must support those programmes that give our country a future. If we, from the Government side, find something persuasive and workable from the Opposition, we should not be described as "moles", or as an appendage of some hon. Member within the Opposition. We must be individuals, think about the country and talk about it loudly and everywhere.

Mr. Temporary Deputy Speaker, Sir, to end my speech, I would like to say that the dream team should understand its role to be purely economic. We should try to assist that core team and tell it to incorporate in its task other civil servants so that the dream that it has may succeed. If the team business is purely economic, and I am happy to say that, in my judgement, it has not engaged itself in open politicking or acting in a manner that is prejudicial to its call, we should support it and help it to chart the course for our nation for economic recovery. But if we find the team digressing and pursuing the whims and interests of individuals or even politicking, we will condemn it.

When I was away last week, I found out that the mood in Europe about our country is ambivalent. In fact, the World Bank and the IMF are concerned that the retrenchment process is coming to a halt. Let us pursue this issue and give the Government direction through this Motion so that this matter should be settled once and for all.

With those few remarks, I beg to support.

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, when talking about retrenchment of the civil servants in this country, one cannot help pitying those who have been retrenched. I would like to agree with what hon. Maundu has said, that these people need redress. We need to establish methods for redress. Civil servants do not have a workers' union, which is unfortunate, even though many years ago this House passed a motion which provided that civil servants must be allowed to form their trade union.

Pursuant to the sentiments that were expressed in this House, I wish to move the following amendment to this particular Motion.

Immediately after the words, "public servants" we should add the words "and that in the meantime, the Government allows appeals for those retrenched to be carried out fairly and expeditiously".

There is no doubt that this particular exercise has been carried out haphazardly. The fact that the exercise could not even wait for a Sessional Paper to be drawn up and brought to this House testifies to the haphazardness of the whole exercise. Senior officers have been asked to look around and recommend the officers who are to be retrenched. I know that there are people who have been retrenched who had, a month, or two months earlier, been promoted by the same Government. An employer promotes an employee when he is satisfied that the employee has been giving services efficiently.

Following immediately after the recognition that you are an efficient civil servant is retrenchment. It beats all logic. How do you retrench those that you have said are efficient? That has happened. There are those who have been retrenched when they have barely worked for three or four years, even after they have been sent for further training by the Government. There are those who had their own plans. In an exercise like that, it is only humane that you allow someone to mitigate and give his impressions about what has been imposed upon him. We have had many of our constituents coming over to us, to complain about the exercise. So, it is only fair that we put a machinery in place to hear appeals. Let that be done very fast, and let the exercise be very fair. Let the people not be retrenched because they belong to a particular tribe. I understand that there are certain tribes that might be feeling fairly secure. But there are those that might be called "fringe" tribes. If you are from the "fringe" tribes, you are in trouble. Even after your promotion, you will go!

Mr. Temporary Deputy Speaker, Sir, anxiety has even spread further. Recently, there was a proposal by the Ministry of Education to reduce the syllabus. The number of examinable subjects will be reduced. That has started causing a lot of worry among the teachers. So, we do not know whether the Government will not ambush the teachers. I understand that, in a round-about manner, teachers have been asked to give their preferences, although in primary schools, teachers are supposed to teach all the subjects on the syllabus. But they have been asked to give their preferences. When they are asked which are their subjects, some say: "Oh! Mine are art and craft! I teach music! I teach business education!" Now, we have been told that those subjects will not be examinable. If they will not be examinable and schools are competing for favourable ranking on the national examinations, it is obvious that many schools will not want to teach those subjects. They might be on the timetable for the inspectors, but when it comes to actual teaching, no one will waste the schools' time on subjects which will not be examined. That is what happened to

physical education (PE) in schools. Teachers now want the assurance that, that is not a behind-the-scene manoeuvre to get them out again. We have been told that the transfers of teachers from one region to another have been suspended. That is from the excess established areas to the under-established areas. Now, the fear that we have is that, even from the excess established areas, there are teachers who have retired. So, those who are supposed to move to other areas might have to remain. So, might it be that the Government wants to use that round-about way to retrench the teachers? The teachers must be allayed of that particular fear.

Although it is not for me to put it, I thought there would be intervention. When teachers were being transferred from one area to another, and there was an outcry, there was high-level intervention. The transfers were stopped. I thought those who are being retrenched haphazardly have also cried. I was expecting similar intervention. I have been disappointed in that particular manner. I thought that those on the Government side did not inform those who can intervene. But it is time they intervened in that particular matter, to save the people from suffering.

Mr. Temporary Deputy Speaker, Sir, this House needs to be told what particular benefits the nation will derive from the retrenchment. Will it merely mean a reduction in the number of employees and that, work that was being done by four people will now be done by one? Is it following some research that when you have workers reduced from four to one, the work will be done more efficiently? It beats the logic. We should have been told what particular benefits will be derived from the retrenchment. Is it because we will spend less? If the salaries will remain as low as they are now, how will that be an incentive when the work load of the remaining employees will be increased by the retrenchment? Those are some of the things that we should have discussed.

Mr. Temporary Deputy Speaker, Sir, having moved that amendment, I do not wish to continue. I will end there and request hon. Affey to second.

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to second the amendment moved by the hon. Member. The request by the hon. Member that the appeals should be heard fairly and expeditiously, is a justified appeal. We know that initially, and even now, the intention of the Government was to produce the best out of the Civil Service. While the retrenchment programme is a fairly justified exercise, I stand to request the Minister and the Directorate of Personnel Management (DPM) to hear the appeals as soon as possible. I know there are certain areas in this country that have been affected by the retrenchment exercise.

Mr. Temporary Deputy Speaker, Sir, initially, the guidelines from the Minister told us that considerations will be given to the disabled, people who come from marginalised areas of this country, and marginalised groups like the women. It looks as if the exercise has not taken into account all those considerations. I know of two disabled people, Mr. Rashid Hassan Mumin and Mr. Abdulahi Dahil from the Ministry of Information, Transport and Communications and Ministry of Labour and Manpower Development respectively, with huge family responsibilities, who have been retrenched. We know that they should not have been affected. We also know that North Eastern Province should be excluded entirely from the retrenchment programme. Already, we have got very few people from that region in the Civil Service. We know that the Government is not recruiting people into the Civil Service because of financial constraints. Therefore, what we expected was to be saved from the retrenchment exercise. If the few officers that we have in the Civil Service are retrenched, we will never come to terms with other people in this country. We will always be considered to be behind.

Mr. Temporary Deputy Speaker, Sir, we expected the Minister to give us a quota system in terms of recruitment, so that we can have a sizeable number of civil servants in the professional cadres. We are disappointed that, that was not considered. I would like to appeal to the Minister that, when he hears those appeals, he should take into account the plight of our people. We have got nurses and clinical officers who used to serve in the province previously, but who are no longer there. We do not have any replacement for them. There is a risk of those institutions being closed down. If that happens, health services will not be provided. In my own constituency in Habaswen Sub-District, we have a DO1 there, and two support staff; that is a typist and a support staff. The two officers were retrenched. The other day, when I passed through the town, I only saw the DO1 there. He did not know whether to do the sweeping or typing!

Mr. Temporary Deputy Speaker, Sir, in situations like this, we have to consider those who are serving in marginalised areas of this country so that when we retrench, we do not affect the services of particular departments. The Habasweni DO1 is now suffering because all his support staff have been retrenched. We have submitted appeals to the Government and I hope they will be heard as fast as possible so that these officers can go back and continue with their duties.

Mr. Temporary Deputy Speaker, Sir, appeals are necessary because I know of officers who were sent by the Government for training but now, they have been retrenched. It defeats the purpose of training those people. The Government needs those services and that is why it allowed those officers to pursue higher education in order to come and serve the Government better. In our attempt to retrench, we might have overstepped the mark and retrenched

people whom we should have protected. We might have retrenched mothers, disabled people or even people from marginal areas of this country. The retrenchment guidelines clearly stipulate that people from marginal regions or disabled persons will not be affected. But all these people have been retrenched. So, in the light of what I have put forward, I want the Minister and the staff at the DPM to facilitate the hearing of these appeal cases very fast.

With those few remarks, I beg to second.

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

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

The Temporary Deputy Speaker (Mr. Imanyara): We will now revert back to the original Motion.

(Debate on the original Motion resumed)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I beg to move the following amendment to the original Motion:

That, immediately after the words "public servants", the following words be inserted; "and recommend that the on-going retrenchment of staff be suspended and that those already retrenched be reinstated until the said Sessional Paper is debated and passed by this House."

Mr. Temporary Deputy Speaker, Sir, it is quite clear that the current exercise does not have legal or constitutional validity. Hence those retrenched should be allowed to go back to their offices until such a time that this House authorises their retrenchment through a Sessional Paper.

With those remarks, I beg to move.

Mr. Ndicho: Mr. Temporary Deputy Speaker, I rise to second the amendment moved by hon. Muite. The reasons given for the retrenchment of civil servants are not justifiable either politically or constitutionally.

Mr. Temporary Deputy Speaker, Sir, the question which we need to ask ourselves is: Why did the Government decide to deprive people of their jobs? The only reason could be that there is no money in the Treasury to pay these people, but we know very well that there is enough money collected by the Government through taxation everyday. If the "Dream Team" can be paid Kshs10 million, how come we cannot pay all the other civil servants? In 1985, this Government gave an order that 10 per cent of Kenyans be employed by the private sector as well as the public sector. But the current trend of retrenching people is giving the private sector, especially the foreigners who own factories in this country, a chance to harass, insult, abuse and even sack our people.

Mr. Temporary Deputy Speaker, Sir, we are trying to question the validity of the retrenchment process. Who gave the Government the permission to do this thing? The "Dream Team" is drawing Kshs10 million every month, which was never sanctioned by this House. Where are they getting that money from? This renders the budgetary process nugatory! If the Government is spending Kshs10 million every month whose origin is suspect, then the only option is for this Government to stop stealing public money collected from taxation. That money is enough not only to pay civil servants good salaries, but also to increase their salaries every month.

Mr. Temporary Deputy Speaker, Sir, Members of Parliament were privy to the amount of money that goes into the Exchequer and that is why we justified the increment of our salaries. We know that there is enough money. The Kenya Government collects enough money from Kenyans, but the unfortunate thing is that it allows that money to be misappropriated by Government officers. This trend must stop!

Mr. Temporary Deputy Speaker, Sir, this retrenchment is a "white" man's programme. The World Bank and the IMF have a "white" man in every African country who is a point man to make sure that Africans are retrenched, all in the name of shaping the economy. In Kenya, the IMF and World Bank's point man is Dr. Leakey. Why is it that in Europe or even in Latin America there is no retrenchment? Why is it only in Africa and why are African governments dancing to this tune? We have enough money collected from, for example, tourism where the Minister told us that they collected Kshs20 billion. If this Government did not run down the coffee, tea and sugar industries, we would not be in the same situation. These industries were capable of bringing in enough foreign currency to stabilise our economy.

Mr. Temporary Deputy Speaker, Sir, I would like to request all hon. Members of Parliament to agree to contribute Kshs10,000 from our hefty salaries---

Mr. Maitha: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Vice-President to "whip"?

The Vice-President (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon.

Member in order to impute motives without knowing exactly what my position is?

The Temporary Deputy Speaker (Mr. Imanyara): He is absolutely out of order!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, the retrenchment exercise has also been done selectively. There are some sectors of the Civil Service that have not been affected at all. Why is it [Mr. Ndicho] that there are no police officers or Kenya Army officers who have been retrenched? It is only affecting a small number of people aged 25 years to 40 years. Those are people whose future depends on their employment by this Government. Hon. Members of Parliament should agree to contribute Kshs10,000 so that we put on hold this retrenchment exercise.

Mr. Temporary Deputy Speaker, Sir, on Moi Day, the President talked of IMF and World Bank conditions that the Government is unable to meet. The President ought to have told us what those conditions are. One of the conditions that the IMF gave was the retrenchment. The Government should have told the World Bank and IMF that we were not going to retrench our people, because it is a difficult thing to do. Why did we embrace very easily, the conditionality of retrenching civil servants?

I beg to support.

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

Mr. Twaha: Mr. Temporary Deputy Speaker, Sir, perpetrators of this retrenchment exercise are the so called "Dream Team" whose appointment itself, was an act of corruption. It would not be fair to give an 800 per cent pay rise to Judges or allow a drug dealer to appoint his own Commissioner of Police.

Mr. Temporary Deputy Speaker, Sir, this Government pays Kshs30 billion in interest rate to the banks and the banks are the biggest clients of this Government through the Treasury Bills. Barclays Bank of Kenya seconded Mr. Oduor-Otieno as PS, Treasury, whereas the Treasury is supposed to be regulating the commercial banks. They are paying his salary and have assured him that when he leaves the job, he could go back to Barclays Bank and continue working as before. There is a clear conflict of interest. This appointment by itself is an act of corruption.

Mr. Temporary Deputy Speaker, Sir, now this "Dream Team" has decided to lay off 25,000 civil servants. The savings that will be realised will go towards paying interest to the same commercial banks. This is exploitation and *ukoloni mambo leo*. I would have made my own amendment to this Motion had time allowed, that this House should declare the "Dream Team" illegal and promote civil servants.

Mr. Temporary Deputy Speaker, Sir, if a sugar importer makes a vague promise to the Government that he will some day give it US\$205 million, would he be allowed to appoint the chief executive of the Kenya Sugar Authority or would a clearing agent who makes a vague promise to the Government that he would give it US\$200 million, be allowed to appoint the Commissioner of Customs? In the same breadth, they should justify why they allowed Barclays Bank to appoint and pay the PS, Treasury, when it is his job to regulate the banking sector. The Kshs30 billion we are paying them per year is a lot of money and this issue should be looked into.

I beg to support.

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

Hon. Members: Division! Division!

The Temporary Deputy Speaker (Mr. Imanyara): Order, Members! Those who will not vote, I remind you, please, record your names with the Clerk at the Table. Those who wish to vote, please, proceed.

DIVISION

(Question put and the House divided)

(Question carried by 57 votes to 30)

AYES: Messrs. Achola, Angwenyi, Awiti, Ayoki, Gatabaki, Gitonga, Kaindi, Kajwang, Kamau, Katuku, Keriri, Keynan, Khamasi, Kibaki, Kihara, Kimeto, Dr. Kulundu, Messrs. Kuria, Maitha, Maundu, Mbela, Mugeke, Muihia, Muiruri, Muite, Munyao, Murathe, Murungi, O.K. Mwangi, P.K. Mwangi, Mwenda, Mwiraria, Ndicho, Ndwiga, Ngure, Manyara, Nyagah N., Nyang'wara, Dr. Oburu, Messrs. Obwocha, Ochilo, Odongo, Ojode, Opore, Otita, Otula, Parpai, Shakombo, Shitanda, Sungu, Toro, Twaha, Wafula, Waitthaka, Wamalwa, Wambua and Wanjala, Tellers of the Ayes: Messrs. Ndwiga and Maundu.

NOES: Mr. Ekirapa, Dr. Galgalo, Messrs. Haji, Kalweo, Kamolleh, Khaniri, Kiangoi, Kochalle, Maizs, Marrirmoi, Mkalla, Mohamud, Mokku, Mukangu, Muturi, Nassir, Ndambuki, Ngutu, Ntimama, Obure, Okemo, Rotich, Sajjad, Prof. Saitoti, Messrs. Samoei, Sang, Sasura, Sunkuli, Too and Weyrah.

Tellers of Noes: Messrs. Obwocha and Weyrah.

(Question of the Motion as amended proposed)

The Temporary Deputy Speaker (Mr. Imanyara): We will now have debate on the Motion as amended.

The Minister of State, Office of the President (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I want to make a few comments before I conclude my response to this Motion. The most important thing that must be realised is that when we attained Independence we had about 60,000 civil servants. Twenty-seven years later, in 1991, the Civil Service grew to an astronomical number of about 270,000. There was an increase of about 350 per cent of civil servants. Indeed, the employment of these people brought a problem. There are several factors that led to the Civil Service to grow into the numbers that I have just mentioned. One of the most important factors was the fact that there was a total excitement after Independence and people of this country wanted to be employed in the public service. Other factors like the increase of population and literacy levels in the country brought a lot of pressure on the Government to employ. Definitely, the Government was under pressure and it accepted the social responsibility of employing its own citizens.

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

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

Mr. Temporary Deputy Speaker, Sir, there is so much noise in the House that I will be very grateful if you can help. I think it is because of the excitement of the vote and I will be very grateful if you can make these hon. Members not to consult too loudly, so that they can listen to what I am saying.

(Loud Consultations)

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Members!

Mr. Wambua: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister to say that hon. Members are making noise? Hon. Members do not make noise.

The Minister of State, Office of the President (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I think the hon. Member is putting words into my mouth. I said they were consulting very loudly. The hon. Member should not put words into my mouth.

The Temporary Deputy Speaker (Mr. Musila): Mr. Ntimama, you are right. I did not hear those words. But in any case, hon. Members, could you, please, consult quietly and give the Minister a chance to reply.

The Minister of State, Office of the President (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I was just explaining the reasons why we got a bloated Civil Service. As I said, the Government was under obligation and pressure to employ its own citizens after Independence. The other most important thing is that the Government had to guarantee the employment of graduates from public universities and colleges in this country. It also undertook to absorb those people who were then employed by the defunct East African Community when it collapsed.

Mr. Temporary Deputy Speaker, Sir, there was another element; most Ministries and Departments had freedom to hire personnel. However, most personnel that were hired were in the lower level cadres. That was the clerks, junior clerks, typists, drivers and messengers as well. So, we had a really bloated Civil Service. What happened? It created an imbalance, especially in the payment of personal emoluments and delivery of services. Just for the records, personal emoluments alone take about 75 to 95 per cent of all the recurrent budgets allocated to Ministries. Therefore, there was no money left to do any development or deliver services. There was no money to fuel vehicles, buy computers, typewriters and technical equipment like survey equipment. As a matter of fact, people were unable to visit their own projects outside their work stations. Generally, the whole system of the Civil Service collapsed. What is known in Civil Service jargon as "operation and maintenance" collapsed completely. There were no tools of trade. So, the Government decided that they must reduce the number of civil servants to save resources that

would be channelled to development in the country. This was the decision. Since 1993, this scheme has been going on for a long time. It has not been done hurriedly, but it has been done carefully and with definite involvement of all those concerned in the Government.

Mr. Temporary Deputy Speaker, Sir, I want to say that hon. Members should not forget that we definitely went out of our way to try and involve them in some of the discussion that took place outside this House, before I become back to matters of this House. There was a high profile Mbagathi meeting, and I am sure hon. Members were involved there. We told everybody what was happening about the reduction of the Civil Service. The meeting at Mbagathi was chaired by none other than His Excellency the President. There was another one in the School of Monetary Studies at Ruaraka, which involved all the stakeholders and Members of Parliament were invited.

Hon. Members: No, we were never invited!

The Minister of State, Office of the President (Mr. Ntimama): In any case, all these fora were in public domain and nobody will deny that. I saw most of the hon. Members in the School of Monetary Studies and they had an opportunity to give their views.

Mr. Ndwiga: On a point of order, Mr.

Temporary Deputy Speaker, Sir. While I do not want to interrupt the Minister, is he in order to mislead this House and the nation that this House was actually involved when he knows very well that Members of Parliament were never invited? In fact, it was a cartel of Government officials who met at the School of Monetary Studies, Ruaraka, and decided to retrench our people without involving Parliament.

The Temporary Deputy Speaker (Mr. Musila): Mr. Ndwiga, your point of order is taken; let the Minister reply.

The Minister of State, Office of the President (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, apart from that, the Government did definitely throw this discussion into the public domain, which included all of us. There is a very fundamental issue here; if hon. Members will refer to the 1998/99 Budget Speech of the then hon. Minister for Finance, they will see very clearly that in that Financial Statement, it was agreed that there should be a reduction of the Civil Service because the wage bill was so high and unsustainable. It was there and it was passed in this House. In the 2000/2001 Financial Statement of my friend, hon. Okemo, there is a whole paragraph about the retrenchment of the Civil Service. I did not hear any opposition to that and I was here most of the time. There was no substantive opposition from anybody over this retrenchment issue. At least, it did not surface.

I want to say very clearly that this---

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to say that nobody raised an issue when we complained in this House that, that Budget was drawn in Washington and there was nothing we could do about it? They were reading to us what was proposed in Washington.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Ndicho! That is a point of argument. Continue, Mr. Minister!

The Minister of State, Office of the President (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I have said that it was in two financial statements and hon. Members should have raised this issue.

Mr. Temporary Deputy Speaker, Sir, before I go on, I want to challenge what hon. Muite said; that the retrenchment exercise was not constitutional. He is a lawyer, I am not. Section 107 of the Constitution reads: "Subject to this Constitution, the power to appoint persons to hold or act in offices in the Public Service and in the service of the Local Authorities, including the power to confirm appointments, the power to exercise disciplinary control over persons holding or acting in those offices and the power to remove those persons from office shall vest in the Public Service Commission." It is entrenched in our Constitution. What the Government did was definitely legal.

Mr. Murungi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I know the Minister is not a lawyer, but is it in order for him to mislead the House by reading a section of the Constitution he does not understand? What that section says is that, subject to this Constitution, the President has power to---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Murungi! Hon. Members, we should distinguish between points of order and points of information. What Mr. Murungi is doing is to argue his case against what the Minister has said. I think the Minister has the right to put across his point.

The Minister of State, Office of the President (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I know what hon. Murungi is implying, but I think I have read the Constitution as it is. It is also true that the Public Service Commission is the body that hears the appeals. Again, in the Public Service Commission Act, Section 32 states that, "Subject to Section 13 of the order, an appeal by public officer shall lie in the Commission through authorised officers." There was no need of passing an amendment to allow the Public Service Commission to hear appeals, it is herein in the laws of this country. It is an on-going process. I wish to oppose the amendment as presented by hon.

Muite.

Mr. Temporary Deputy Speaker, Sir, first of all, I want to say that we must be careful because the whole issue of retrenchment is in the High Court. I think what this amendment is doing is definitely *sub judice* and we are going to interfere and influence the judicial process, which I think is wrong.

The Vice-President (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. As you have heard, the Minister has said that the matter is in court. If, indeed, it is in court, are we then not really contravening the *sub judice* rule? I think the Minister will be able to explain that one because we are barred from that.

An hon. Member: What is the case number?

The Minister of State, Office of the President (Mr. Ntimama): Mr Temporary Deputy Speaker, Sir, I want to seek your intervention in this one because it is common knowledge that this case is in court. It has been in the newspapers and everywhere.

The Temporary Deputy Speaker (Mr. Musila): Order! Order, Mr. Ntimama! I think you are bringing up this matter too late. The Chair did approve the amendment and the matter was put to the vote. I think there is no point now labouring on whether it is *sub judice* or not.

(Applause)

The Minister of State, Office of the President (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, before my time is up, I definitely want to put it on record that as far as I am concerned, the whole exercise has been legally finalised. A lot of water has passed under the bridge and I would have accepted a situation of bringing a Sessional Paper here. But definitely, I cannot accept a situation where we are going to stop the whole retrenchment process which is finalised and complete.

I beg to oppose.

The Temporary Deputy Speaker (Mr. Musila): It is now time for the Mover to reply.

Mr. Ojode: Thank you, Mr. Temporary Deputy Speaker, Sir. I will give Messrs. Kibaki, Otieno-Kajwang, Ngure and Ochilo-Ayacko two minutes each.

Mr. Kibaki: Mr. Temporary Deputy Speaker, Sir, I am very grateful for those two minutes. First and foremost, the Minister should understand what we are objecting to. There is a fundamental policy involved in these changes. Above all, the guidelines which are to be used in retrenching some of the staff. But before the guidelines have been worked out and passed by this Parliament, civil servants are meeting in corners deciding in collaboration with the World Bank who they want to sack. These are Kenyans who were properly employed. If the Minister will look at the regulations made by the Public Service Commission, they state the terms under which you are appointed and once you are appointed, you are given a letter of appointment which also tells you the conditions under which you may be sacked.

The civil servants being sacked have not contravened any of those rules. We are saying that Parliament has a right to declare policies in this country and pass guidelines on such issues. Civil servants have rights, too. If they had a union - the Government has denied them the right to belong to one - the retrenched civil servants would already have fought for their rights. On the basis of the appointment letters issued to those civil servants on appointment, the Public Service Commission (PSC) should have been asked to explain why it sacked them. The PSC should be required to explain why young and better trained than others who have just joined the PSC have been sacked when some old people, who have proved incapable of doing their work well have been retained.

These are issues of importance to Kenya, and should be brought here, so that we can debate them, after which implementation can be effected. We do not want the PSC and Ministers to usurp the powers of Parliament.

With those few remarks, I support.

Mr. Ngure: Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion as amended.

As we look across the Benches, we see people who have voted themselves out of Government; they are people who are supporting an act that was not even in their manifesto; people who have betrayed the electorate, who voted for them on the basis of a manifesto that did not contain the issue of retrenchment; people who have abdicated their responsibility to the IMF and the World Bank; people who have betrayed the whole country, and who have voted to destroy a major industry. There are some constituencies in this country where employment is a major industry, which looks after people's kith and kin in the rural areas.

Mr. Temporary Deputy Speaker, Sir, those hon. Members who are opposing this Motion are voting for what we call "human resource genocide". To retrench people from their employment is to kill an industry, and that is human resource genocide. What shall we do with the young men who have been retrenched? Some of the young men we are retrenching have young mothers who are looking upon them for support, let alone their own children. A time has come when we should rise above the forces of the IMF and the World Bank and say "no". People said "no" to Hitler during the Second World War. We are not going to go on with the policy of retrenchment? Up to when should we continue

with this policy? Let us think rationally and meet our pledges to the electorate. Thank you.

An hon. Member: *Waambiwe!*

Mr. Ochillo-Ayacko: Mr. Temporary Deputy Speaker, Sir, other than the fact that the retrenchment exercise is unlawful, the Government is not serious about the whole exercise. If the Government was serious about retrenchment, it would have started carrying out the exercise at the Office of the President first, and reduce by half the brutal officers of the Presidential Escort Unit.

(Applause)

The Office of the President should have closed down half of the State Lodges that we have in this country. However, that has not been done. So, it appears that the retrenchment exercise is designed to affect the helpless Kenyans, who are not in positions of privilege. As we are all aware, the Cabinet is bloated, and that is where the retrenchment exercise should have begun; some hon. Members on the Government Front Bench should be retrenched. However, before that is done, this House would do Kenyans some good by having the retrenchment exercise stopped forthwith.

In conclusion, I would like to remind this House that the retrenchment exercise is not founded on law, and that the retrenched civil servants have contracts of employment, which enjoin the Government to follow the law as enacted.

With those few remarks, I support the Motion as amended and urge the Government to support it, too.

Mr. Ojode: Thank you, Mr. Temporary Deputy Speaker, Sir. I will begin by thanking my colleagues for having supported this Motion. We are saying that the retrenchment exercise is being done unprocedurally. That is why we are asking the Government to bring a Sessional Paper to this House in order to set a criteria by which public servants would be retrenched. The retrenchment exercise was full of nepotism, tribalism and personal hatred. The retrenched public servants are aggrieved because they have been retrenched unprocedurally. We are saying that every hon. Member should stand up and be counted; that you do not want the retrenchment exercise to go ahead as it is unprocedural, so that Kenyans will read your names tomorrow in the Press.

With those few remarks, I beg to move.

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

Hon. Members: Division! Division!

The Temporary Deputy Speaker (Mr. Musila): Order! Over 20 hon. Members have stood up and, therefore, we require a Division. May we have the Division Bell rung?

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Members! The doors have been locked and the Bar drawn. I now wish to announce the names of the tellers. The tellers for the Ayes are hon. Ochillo-Ayacko and hon. Peter Maundu. The tellers for the Noes are hon. Francis Wambua and hon. Weyrah Mohammed.

Hon. Members, the Ayes will go to the right and the Noes to the left. Those who are abstaining should register with the Clerk at the Table. May we now proceed with the Division.

DIVISION

(Question put and the House divided)

(Question carried by 66 votes to 39)

AYES: Messrs. Achola, Angwenyi, Awiti, Ayoki, Gatabaki, Gitonga, Jirongo, Kaindi, Kajwang, Kamau, Katuku, Keriri, Khamasi, Kibaki, Kihara, Kihoro, Kimeto, Kirwa, Kiunjuri, Kones; Dr. Kulundu,

Messrs. Kuria, Maitha, Maundu, Mbela, Mboko, Michuki, Mugeke, Muihia, Muiruri, Muite, Munyua, Murathe, Murungi, Mwangi O.K., Mwangi P.G., Mwangi P.K., Mwenda, Mwiraria, Ndicho, Ndwiga, Ngure, Manyara, Nyachae, Nyagah N., Nyang'wara, Dr. Oburu; Messrs. Obwocha, Ochilo-Ayacko, Odongo, Ojode; Dr. Omamo; Messrs. Opopo, Otita, Dr. Otula, Messrs. Shitanda, Sungu, Eng. Toro, Messrs. Twaha, Waithaka, Wamae, Wamalwa,

Wambua, Wamunyinyi, Wanjala and Weyrah.

Tellers of Ayes: Messrs. Ochillo-Ayako and Maundu.

Noes: Dr. Anangwe, Messrs. Biwott, Ekirapa, Gumo, Haji, Kalweo, Khaniri, Kochalle, Kofa, Koske, Lengees, Lotodo J.D. Maizs, Marrirmoi, Mkalla, Mohamud, Mokku, Mukangu; Mrs. Mwewa; Messrs. Nassir, Ndambuki, Ngutu, Ntimama, Nyenze, Obure, Okemo, Kiangoi, Prof. Ongeru, Messrs. Osundwa, Rotich, Ruto; Prof. Saitoti; Messrs. Sajjad, Samoei, Sang', Sasura, Sunkuli, Too and Weyrah.

Tellers of Noes: Messrs. Wambua and Weirah.

Abstentions: Nil.

Resolved accordingly:

THAT, in view of the fact that the retrenchment of public servants under the on-going Public Service Reform Programme has tremendous adverse financial, psychological and social impact, and noting that the programme lacks a legislative initiative; this House urges the Government to introduce a Sessional Paper detailing the criteria for retrenchment, financial package and retraining of the retrenched public servants and further recommends that the on-going retrenchment of staff be suspended and that those already retrenched be reinstated until the said Sessional Paper is debated and passed by this House.

ADJOURNMENT

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

The House rose at 12.35 p.m.