

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 19th November, 1996

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Mr. Orengo: On a point of order, Mr. Deputy Speaker, Sir. There are two Order Papers and we do not know the one that we are proceeding with.

Mr. Deputy Speaker: What do you mean by two Order Papers?

Mr. Orengo: There are two Order Papers. There is a Supplementary Order Paper and another Order Paper, and I think---

Mr. Deputy Speaker: Order! Order! It is clear that you are being trivial hon. Orengo, with all due respect. There is an Order Paper and the Supplementary Order Paper and you know from the practice of the House, it means that the original Order Paper stands amended as per the information on the Supplementary Order Paper. That regards the part which does not include Questions. So, we go by the Supplementary Order Paper. You read the two Order Papers together. The Supplementary Order Paper came in subsequently and that is in the practice of the House.

Mr. Orengo: Mr. Deputy Speaker, Sir, when there is a supplementary order paper, it means there is---

Mr. Deputy Speaker: Order! Order! In any case, I think we have not yet come to the business of the day. Let us deal with the Questions first.

Mr. Orengo: But you should have made it clear!

Mr. Deputy Speaker: I think I have made it clear. If you want me to repeat, I will make it absolutely clear, if you will want to understand it.

Question No.388 by Rev. Ommani!

Question No.388

MURDER OF MS. GLADYS AYOYI

Rev. Ommani asked the Minister of State, Office of the President:-

(a) whether he is aware that Ms Ohongwa Gladys Ayoyi, ID/8019829/70, was murdered at Usalama Bar, Butere Market; and

(b) if the answer to "a" above is in the affirmative, if he could consider compensating the parents and the only child left behind.

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

(a) Yes, I am aware.

(b) The issue of compensation can only be determined by a court of law.

Rev. Ommani: Mr. Deputy Speaker, Sir, arising from the answer given by the Assistant Minister, is he aware that the deceased has two children, one in Standard Eight and the other one in Form One and that she was a single mother? Is he also aware that Policemen in Kenya are on 24 hours service and that this Policeman used his official gun? Since these poor children cannot go to a court of law, could he consider compensating them, so that they can also live and get education in their lives?

Mr. Awori: Mr. Speaker, Sir, I am very sympathetic to the case. May I suggest that my colleague actually takes up the matter and I will co-operate fully with him. But the correct procedures have to be taken. There has to be a proper application through a court of law for a civil case.

Mr. Achieng-Oneko: Mr. Deputy Speaker, Sir, the Assistant Minister's is giving answer is on compensation, but he has not told us who murdered the lady or the cause of the murder.

Mr. Deputy Speaker: Well, that was not part of the Question really. Is that not so?

Mr. Awori: Yes, in fact.

Mr. Deputy Speaker: Okay, go on you might give assistance to him.

Mr. Awori: Mr. Deputy Speaker, Sir, the question, in fact, is answering itself. It is just that the hon. Member is not aware of what happened. That lady was killed in a bar by a Policeman who was out off duty.

Question No.1096

REDUCTION OF STATUTORY DEDUCTIONS

Mr. Wamae asked the Minister for Agriculture, Livestock Development and Marketing:-

(a) whether he is aware that coffee farmers are statutorily being deducted over 20 per cent from their coffee earnings before payments are made to them or their co-operatives;

(b) if he could give details concerning the deductions and the total amount actually deducted in 1993, 1994 and 1995; and

(c) what action he is taking to reduce the deductions since the farmers are not making any profit due to costly inputs.

The Minister for Agriculture, Livestock Development and Marketing (Mr. Nyachae): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that coffee farmers are statutorily being deducted over 20 per cent from their coffee earnings before payments are done. However, the statutory deductions are as follows:-

1 per cent County Council Cess

2 per cent Presumptive Income Tax; and

3 per cent Advalorem Levy which is used for research activities, administrative and regulatory services by the Coffee Board of Kenya.

(b) Mr. Deputy Speaker, Sir, the statutory deductions for the years 1993, 1994 and 1995 are as follows:-

Year	Cess(1%)	P.I.T.(2%)	Advalorem Levy
1993/94	2,372,283.6	nil	7,546,315.02
1994/95	2,364,132.18	nil	7,722,467.67
1995/96	1,904,853.52	4,016,122.36	6,140,630.12

(c) Mr. Deputy Speaker, Sir, the Government does not levy tax on farm inputs in recognition of the need to support the coffee farmers. However, the actual level of advalorem levy is decided upon by the coffee farmers themselves through the annual delegates conference, I gazette the levy as per farmer's recommendations, subject to a maximum of 3 per cent sales realizations.

Mr. Mulusya: On a point of order, Mr. Deputy Speaker, Sir. According to the way the Question has been framed, the answer which has been given by the Minister seems not to tally with these---

Mr. Deputy Speaker: Order! Order, Mulusya! You should not insist on raising a point of order when the hon. Questioner is about to ask his supplementary question, and then grab the opportunity from him, and proceed to raise a point of order which you are not even sure whether it is a point of order. You should not start saying "it seems" there is a difference between the answer given and this Question when you are definitely not sure about what you are talking about. Proceed, Mr. Matu Wamae.

Mr. Wamae: Mr. Deputy Speaker, Sir, I think the hon. Minister has not told us everything. He should tell us how much money is deducted for the auctioning of coffee, and also how much is deducted for milling coffee by the Kenya Coffee Planters Union (KPCU) and other agencies. He should also give us information because the total figure is not only six per cent that he is giving here.

Mr. Nyachae: Mr. Deputy Speaker, Sir, the question is very specific. It talks of statutory deductions, and what I am being asked, as a supplementary question, is not part of the statutory deductions.

Mr. Mulusya: On a point of order, Mr. Deputy Speaker, Sir. The Minister is deliberately refusing to answer the Question. He is answering this Question as if it is relating only to coffee farmers in Mathira, while it is supposed to be a national issue on coffee growing, but he is just confining himself to Mathira. Can he now re-look at the question afresh and give us appropriate answer, because this answer is highly misleading?

Mr. Nyachae: Mr. Deputy Speaker, Sir, the Question is on co-operative movement statutory deductions. If you want an answer on global deductions, then the word "co-operatives" should not have come in the Question.

Mr. Obwocha: On a point of order, Mr. Deputy Speaker, Sir. Are you satisfied that this Question should actually be answered by the Ministry of Agriculture, Livestock Development and Marketing, because this

Question is talking about co-operatives? It should have been directed to the Ministry of Co-operative Development, or the Ministry of Finance. Therefore, I do not know whether you can direct the Minister for Co-operative Development to answer this Question?

Mr. Deputy Speaker: They are arms of the same Government and they help one another.

Mr. Wamae: Mr. Deputy Speaker, Sir, is the Minister aware that the answer he has given cannot be true, because Mathira farmers pay cess of this magnitude per year, and this cannot be the co-operative movement in the whole country?

Mr. Nyachae: Mr. Deputy Speaker, Sir, there is a problem of language on the part of Mr. Ndicho. When I talk of global deductions--- We are talking about statutory deductions which can only apply globally within Kenya.

Mr. Mbui: On a point of order, Mr. Deputy Speaker, Sir. Can the Minister answer this Question properly? If he does not have the answer now, can he go back and bring to the House the correct answer regarding the co-operative movement in Kenya, but not in Mathira?

Mr. Nyachae: Mr. Deputy Speaker, Sir, the issue here is on the framing of the Question. But if they want to know the total deductions in the coffee industry in Kenya, what is done statutorily, then I will come with the answer on Tuesday next week, because I have other engagements this week.

Mr. Deputy Speaker: Next Question, Mr. Samson ole Tuya.

Question No.961

NUMBER OF TEACHERS AT NAIKARA
SECONDARY SCHOOL

Mr. Deputy Speaker: Mr. Tuya is not here? Therefore, we will leave his Question until the end. Next Question, Mr. Mulusya.

Question No.489

SLOW PACE OF ELECTRIFICATION PROGRAMME

Mr. Mulusya asked the Minister for Energy, why the Kenya Power and Lighting Company Limited is implementing the electrification programme for the coffee factories in Kangundo, which is being financed by SCIP, in a very slow pace when the funds are already available.

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

The Kenya Power and Lighting Company Limited had not received any funds from Small Holders Coffee Improvement Programme (SCIP) to implement any electrification programme for coffee factories in Kangundo. The question of slow pace of progress does not, therefore, arise.

Mr. Mulusya: Mr. Deputy Speaker, Sir, maybe the Assistant Minister does not know what is happening within the Ministry, or he has been sent here to deliberately mislead this House and this nation, especially the people of Kangundo. In 1993, Machakos DDC approved the electrification of all coffee factories in the whole of Machakos District, which are being funded by SCIP, which is a World Bank project. Recently, the World Bank lifted the ban on funding of projects in this country, and this money has been availed, and it is being disbursed in other areas. How can the Assistant Minister now come to say that SCIP has not given any money to KPLC? Can he find out why the KPLC is not following that money, if it wants to do business, because the World Bank is funding this electrification programme, and the money is available?

Mr. Marita: Mr. Deputy Speaker, Sir, perhaps, the hon. Member does not know the programme he is talking about. What I can say here is that this programme, (SCIP), is a programme of the Ministry of Co-operative Development. It is the Ministry which can give money, or lend money to the coffee factories. When the coffee factories receive that money, then they can ask the KPLC to come and effect the electrification in those coffee factories. This money does not belong to the Ministry of Energy.

Mr. P.N. Ndwigwa: Mr. Deputy Speaker, Sir, I think the Assistant Minister needs to be given a bit of tutorial on the Smallholders Coffee Improvement Programme (SCIP). As hon. Mulusya has said, this programme is a World Bank funded project, which is being implemented by the Co-operative Bank of Kenya. All co-operative societies and factories in Eastern Province, as far as I am aware, have applied for electricity through this programme. Why is the Kenya Power and Lighting Company (KPLC) not giving these factories power given

that the money is readily available?

Mr. Marita: Mr. Speaker, Sir, I have already said that if any factory applies to the KPLC for electricity and pays for it, the company will supply it. This is because it is a commercial organisation.

Mr. Nthenge: Mr. Deputy Speaker, Sir, does the Assistant Minister realise that when an organisation like the World Bank has given an assurance that money is available, then KPLC should immediately give the services and get paid later? The World Bank is not like an individual who might have to look for money. This international organisation is ready to pay, if the work is done. Can he tell us why the KPLC is dragging its feet in this matter?

Mr. Marita: Mr. Deputy Speaker, Sir, if the hon. Member is talking about the STABEX Fund or European Union which will give money to the KPLC---

Mr. P.N. Ndwiga: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to continue misleading this House? I have already told him that I have information that this money has already been released by the Co-operative Bank of Kenya, Machakos Branch, to the KPLC. Right now farmers are paying interest on this money and yet they have not received electricity!

Mr. Marita: Mr. Deputy Speaker, Sir, this is the hon. Member's information which might be wrong. Let me tell him that the---

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

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

Mr. Marita: Mr. Deputy Speaker, Sir, I have already said that the "United Nations Union" will give us money next January. So, we have not yet received this money.

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. Can you save this House from this charade?

At one stage the Assistant Minister is telling us that they are looking for money from the World Bank while at another stage he is telling us that they are expecting money from "United Nations Union". When he is given free information he is talking about "an information which must be wrong". Could he just answer the question as to why implementation of the programme has been slow and forget getting into things he does not understand?

Mr. Marita: Mr. Deputy Speaker, Sir, I do not want to tell lies to this august House. What I am saying here is the truth; that we will get money next January from the "United Nations Union".

Mr. Mulusya: Mr. Deputy Speaker, Sir, in the history of this House we have never been treated to such a comedy. The Assistant Minister is grossly misinformed and does not know what is going on. The KPLC has done a survey for all the factories in Eastern Province, including those in Kangundo Constituency. Is the Assistant Minister aware that the money for this project has already been disbursed by the World Bank? There is no question of going to look for money! It is the KPLC which is slow in implementing the programme. It does not want to work like a profit-making institution.

Mr. Marita: Mr. Deputy Speaker, Sir, let me correct something which I have said here. I talked about a "United Nations Union", which is an incorrect term. I meant to refer to the European Union. Hon. Members should understand that, that is what I meant to say.

As I have said, hon. Mulusya does not understand what he is saying. I have said that this company is dealing with the Ministry of Co-operative Development. We in the Ministry of Energy, have not received that money. When we get it, work on the factories will start next year. Let the hon. Member wait until we get the money.

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

Mr. Deputy Speaker: Order, Mr. Mulusya! I am afraid we have spent inordinate time on this Question.

Question No.931

ELECTRICITY SUPPLY IN OL-JORO-OROK

Mr. Deputy Speaker: Hon. Members, this Question was put on the Order Paper by mistake because it was answered on 6.11.96; barely two weeks ago. So, it will be dropped because it is not properly on the Order Paper.

(Question dropped)

Question No.1048

CONGESTION IN MERU HOSPITAL MORTUARY

Mr. Mwiraria asked the Minister for Health:-

- (a) whether he is aware that in the last few years Meru Hospital has been holding more than five times its normal capacity;
- (b) what plans does the Government have to facilitate speedy removal of bodies in which the police have an interest since they are the main cause of congestion in the mortuary; and,
- (c) when the Ministry intends to expand the mortuary in order to ease congestion.

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

(a) Yes, I am aware that the Meru District Hospital Meru mortuary has been holding more bodies than its normal capacity, most of them involving police cases.

(b) My Ministry has impressed upon the police both in Meru and Nyambene Districts to ensure that bodies related to police cases are disposed off within 10 days. The police have since been co-operative in this matter.

(c) The Meru District Development Committee (DDC) has given the expansion of the mortuary top priority in the public investment programme and its forward budget for 1997/98 to 1999/2000. This proposal will be implemented when further funds are made available by the Treasury. In this financial year, Kshs6000 million has been allocated for the rehabilitation of the mortuary cold room.

Mr. Mwiraria: Mr. Deputy Speaker, Sir, I beg to thank the Assistant Minister for that reply. First of all, I would like to state that the Ministry of Health has done a good job. Recently, it restored cold storage in the mortuary. But this cold storage is for only 12 bodies and, as of yesterday, the Hospital had more than 60 bodies, and the place around the morgue was stinking to the extent that some of the people around it wanted to run away. In part (b) of his reply, the Assistant Minister says that the police have since been co-operative in this matter. But the place is still full of decaying bodies, most of which are related to police cases. How does he judge the co-operation of the police when there are so many decaying bodies in the mortuary, which are really related to police cases?

Mr. Criticos: Mr. Deputy Speaker, Sir, I must thank the hon. Member for informing me about the bodies which I was aware of. However, this morning, when I did pursue the matter with the MOH, he assured me that the police are removing the bodies. Therefore, I will further investigate on this information because the mortuary was built in 1973 and it has only a capacity of 12. As a matter of fact, as the hon. Member said rightfully, the bodies are related to police cases. They are not for the Ministry of Health. However, they fall under our Ministry and, therefore, we are pushing the police to take immediate action.

Mr. Mwiraria: Under answer (c), I have got the proverbial answer, that the matter is in the next five-year development plan and the proposal will be implemented when funds become available. This, of course, would mean the year 2000. What will happen to the mortuary between now and the implementation stage of this programme?

Mr. Criticos: Mr. Deputy Speaker, Sir, I gave supplementary information to the hon. Member, that Kshs600,000 has been allocated for now as a temporary measure, for the expansion of the facility and more money will be allocated when it is available.

Mr. Farah: Mr. Deputy Speaker, Sir, whereas I know that mortuary facilities are not very important in areas like where I come from, because muslims bury their dead the same day, is the Assistant Minister aware that there are no mortuary facilities in Wajir and yet, we have so many people who are non-muslims who live in Wajir and cannot be preserved in mortuaries when they die?

Mr. Criticos: Mr. Deputy Speaker, Sir, I am not aware that we do not have mortuaries there.

Question No.895

SUPPLY OF ELECTRICITY TO JUA KALI SHEDS

Mr. Achola asked the Minister for Research, Technical Training and Technology:-

- (a) when were *Jua Kali* Sheds in Migori Town built and how much did they cost; and,
- (b) when the sheds will be supplied with electricity.

Mr. Deputy Speaker: Is there anybody from the Ministry of Research, Technical Training and Technology here? Nobody is here from that Ministry and the Question will be skipped for the moment.

Next Question!

Question No.938

TELEPHONE SERVICES IN KANGEMA

Mr. Michuki asked the Minister for Transport and Communications:-

- (a) what plans does the Ministry have to ensure that Kangema Constituency has locally accessible telephone services in all locations comprising the constituency, namely: Kamacharia, Kiru, Gitugi, Rwathia, Kanyenyaini, Muguru and Iyego; and,
(b) when the plans, if any, will be implemented.

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

(a) Kangema Constituency is adequately served by four automatic exchanges namely: Kangema, Kiriani, Kihoya, Kahuhia and three manual exchanges namely: Mugeka, Ichichi and Kairo. A fourth manual exchange is being installed in Gitugi and will be commissioned very soon.

However, due to the hilly terrain in some parts of the constituency, the distance to some telephone services centres may appear to be long.

(b) The Corporation is making efforts to extend the services closer to the people. This will be done using by cost-effective technologies that will have minimal operational costs on things like solar operated cardphones. Centres in this constituency that are far from existing telephone facilities will be considered according to their viability and accessibility.

Mr. Michuki: Mr. Deputy Speaker, Sir, any sensible person listening to the answers given by the Assistant Minister cannot help, but come to the conclusion that the Ministry has not addressed this Question. The Question is: Could the Assistant Minister tell this House whether he has any plans rather than addressing the issue in general terms? What plans does the Ministry have to provide telephone services in Kangema Constituency?

Mr. Ahmed: As I answered in part (b) above, plans are there to serve the people in Kangema Constituency and give them all the necessary telephone services which they need.

Mr. Maore: Mr. Deputy Speaker, Sir, could the Assistant Minister go back to the Question? The Question was not asking about those areas that are having telephones. It is asking about these specific areas that are named here, and the plans that are there. The Assistant Minister has totally avoided that. Can the Assistant Minister state specifically what plans they have for this area and explain if in 1996, KP&TC is still hanging around with manual telephones, while they should be installing STD?

Mr. Ahmed: This area will be supplied with solar operated cardphones and the negotiations are almost completed.

Mr. Michuki: Mr. Deputy Speaker, Sir, the Ministry has no plans as shown in the answers given here. It would appear that the Ministry is incapable of extending this service. Could I be in order to ask the Assistant Minister to tell this House why, in the circumstances, the Government has not allowed private investors to come and supply telephones under the privatisation programme?

Mr. Ahmed: We are not refusing private investors to supply telephone services. The Parliamentary Act which governs the KP&TC does not allow private investors to supply private telephone services.

Question No.620

INSTALLATION OF A TELEPHONE BOOTH

Mr. Ndzai asked the Minister for Transport and Communications whether he could arrange to instal a telephone booth near Sabaki Bridge to serve Misufini and Majenjeni residents.

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

The Kenya Posts and Telecommunications Corporation has already awarded tenders for the supply of booths to be installed in all needy areas in the country as from January, 1997. Therefore, the Kenya Posts and Telecommunications Corporation will provide a public telephone booth at the Sabaki Bridge as soon as the first batch of 100 booths arrive in January, 1997.

Mr. Ndzai: Can the Assistant Minister give a specific date when this booth will be installed at Sabaki Bridge?

Mr. Ahmed: In January, 1997, as soon as we get the first supply.

Question No. 678

PAYMENT OF TERMINAL DUES TO EMPLOYEES

Mr. Nthenge asked the Minister for Labour and Manpower Development:-

(a) when the Kenya Times Media Trust Limited will pay terminal benefits to the employees it declared redundant in 1983; and,

(b) whether the dues include accrued interest.

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

(a) Kenya Times Media Trust Limited has already paid terminal benefits amounting to Kshs1,351,313.40 to employees who were declared redundant in 1993.

(b) The dues will not include any interest.

Mr. Nthenge: Mr. Deputy Speaker, Sir, can the Assistant Minister tell us what right anybody has got, not to pay interest on another persons money which he has been keeping?

Mr. Ali: Mr. Deputy Speaker, Sir, payments are being effected on normal monthly basis from the proceeds realised from the company's normal operations until the balance is fully cleared.

Mr. Nthenge: Mr. Deputy Speaker, Sir, can the Assistant Minister tell the House why there was this delay? If people are made redundant, they have the right to be paid immediately so that they can be able to do something else with their dues. Why was there that delay?

Mr. Ali: Mr. Deputy Speaker, Sir, the company did not have sufficient money and, as I said earlier, they are actually being paid from the monthly proceeds.

(Loud consultations)

Mr. Deputy Speaker: Order! I want to give this the chance to Mr. Ole Tuya. Question 961, for the second time.

Mr. Ole Tuya: Mr. Deputy Speaker, Sir, I apologise for coming to the House late.

Question No. 961

TEACHERS AT NAIKARA SECONDARY SCHOOL

Mr. Ole Tuya asked the Minister for Education:-

(a) how many teachers are supposed to be teaching at Moi Naikara Secondary School; and,

(b) how many teachers are there as of now.

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

(a) Moi Naikara Secondary School is supposed to have 15 teachers.

(b) On the 31st of July, 1996, they had 10 teachers. But now, there are 15 teachers.

Mr. Ole Tuya: Mr. Deputy Speaker, Sir, this time I appreciate the action taken by the Minister because he has posted enough teachers to the school. But for a good number of years, this school has been understaffed. I do not know who will be blamed if the students do not pass.

Mr. Deputy Speaker: Let us hope the school will not be understaffed again. At least, now you are happy.

Mr. Ole tuya: Yes, Mr. Deputy Speaker, Sir, I am happy, but I am afraid for their performance in the exams of the previous years and even for this year because, it had been under-staffed for a long time. However, I appreciate the effort made by the Assistant Minister.

Mr. Komora: Mr. Deputy Speaker, Sir, I would like to allay the fears of the hon. Member and assure him that we are on the move towards the staffing of schools adequately.

Mr. Deputy Speaker: Hon. Achola's Question, for the second time!

Question No. 895

SUPPLY OF ELECTRICITY TO JUA KALI SHEDS

Mr. Achola asked the Minister for Research, Technical Training and Technology:-

- (a) when the Jua Kali sheds in Migori Town were built and how much they cost; and,
- (b) when the sheds will be supplied with electricity.

Mr. Deputy Speaker: Is there anyone here from the Ministry of Research, Technical Training and Technology?

Mr. Achola: On a point of order, Mr. Deputy Speaker, Sir. This is now the third time I have been asking this Question and receiving no answer from the Ministry. Is it because the late hon. Dr. Onyonka died or what? Where are the Assistant Ministers?

Mr. Deputy Speaker: Order! I sympathise with you, hon. Achola. This is the Ministry under the former Minister, the late Dr. Onyonka, but I think even in his absence, it should be possible for somebody in Government to hold the responsibility to approve the Question. I hope the message will be conveyed to the Leader of Government Business to ensure that the Question is answered next time. I direct that the Question be put on the Order Paper, at the earliest, next week.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

REDRESS TO MRS. MUTHONI MUTHUMBI

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

- (a) What steps is the Minister taking to provide redress to Mrs. Lucy Muthoni Muthumbi, who was arrested on Koinange Street on 17th October, 1996, on the basis of mistaken identity and incarcerated in custody for twelve days?
- (b) What steps does the Minister intend to take against the officers who allegedly tortured this lady for twelve days?

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

- (a) The matter is being investigated by Embakasi Inquiry File No.1/96 and appropriate action will be taken when investigations are finalised.
- (b) Arising from my reply in "a" above, part "b" of the Question does not arise.

Mr. J.N. Mungai: Mr. Deputy Speaker, Sir, it seems the hon. Assistant Minister is just trying to evade the truth by telling the House that an inquiry file has been opened on this case. I wonder what the inquiry is all about because the matter is obvious. This woman appeared in our local dailies with her hair plucked from her head with the skin. The medical report is showing that, that was done. I am sure the Minister's officers have this answer. What other inquiry do they want? Why can the Minister not take action from the report of the Medical Officer who treated this woman?

Mr. Awori: Mr. Deputy Speaker, Sir, my Ministry takes very serious view of any officer torturing any one who has not been found guilty in a police station. Even if a person has been found guilty, there is proper sentence. When I say we are making inquiries, it is just that. I have not got any information as to how her hair looked like just before she was arrested. These are some of the reasons why we are making inquiries.

Mr. Muite: Mr. Deputy Speaker, Sir, this lady was in my office this morning. I can state she is a very traumatized lady just by looking at her. What action is this Government taking to arrest the individuals concerned? They are known to be very quick to arrest hon. Members of the Opposition. While the Government is waiting for those inquiries to be done, has the Government interdicted the individuals concerned? Why are they not in custody as is the case with the hon. Members of the Opposition and other Kenyans?

Mr. Awori: Mr. Deputy Speaker, Sir, if hon. Members of the Opposition are aggrieved, they are not advocating that two wrongs could make a right. Hon. Muite is a lawyer and he knows that until a person has been proved guilty, you cannot sentence him.

Hon. Members: Arrest them!

Mr. Awori: Mr. Deputy Speaker, Sir, how are we going to arrest those people until we know that they

are guilty?

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Assistant Minister to mislead this House, that people are actually arrested after they are proved guilty when in fact, they are arrested because of committing crimes so that they can be taken to court? Why have these people who have clearly committed an offence not been arrested?

Mr. Awori: Mr. Deputy Speaker, Sir, they have not been arrested because there is no evidence that they committed a crime.

Mr. Orenge: On a point of order, Mr. Deputy Speaker, Sir. I want to help the Assistant Minister and, he should prove that he is neither a cook nor a watchman in the Office of the President by answering this Question seriously.

(Laughter)

In accordance with our Constitution, any Kenyan citizen or any person cannot be treated in an inhuman and degrading manner, whether he is under arrest or in custody. That is what our Constitution says. Can the Assistant Minister tell us what specific action has been taken? When this Government talks about inquiries, then we remember that the Attorney-General here has said that the Ouko and J.M. Kariuki murder cases are still open and are still under inquiry. All these matters are under inquiry, but no specific action is ever undertaken. Can he tell us what specific action they are taking to arrest those who tortured this lady in an inhuman and degrading manner?

Mr. Awori: Mr. Deputy Speaker, Sir, the Questioner is a lawyer and in all his speeches either in Parliament, courts or public platform, he exhorts this country to uphold the Constitution. I am sure he knows that we would be breaking the Constitution if we arrested a policeman on hearsay. We must get evidence before we can arrest him.

Mr. Anyona: Mr. Deputy Speaker, Sir, here is a case where a Kenyan has been arrested on the basis of mistaken identity and has been tortured. The Assistant Minister then comes to this House, this afternoon, to say that he is going back to investigate the matter which means that this House has abdicated its responsibility of protecting Kenyans. Are you satisfied that the Assistant Minister has addressed this issue? He was given a Question and he has investigated it. If he has not completed his investigations, he should tell us when he is going to come back to this House with a complete answer, otherwise, we will be making nonsense of this issue.

Mr. Awori: Mr. Deputy Speaker, Sir, we have been addressing only a part of the Question. We have been addressing the question of torture. As to the question of arrest through mistaken identity, we have no evidence that she was not involved in acts of crime. At the time that she was arrested, she was in the company of her husband, who even as we stand here now, is in custody because of the alleged robbery he participated in. When we have someone who is married to a man who was being looked for in a robbery case, there is no reason at all why we should not suspect her.

Mr. Shikuku: On a point of order, Mr. Deputy Speaker, Sir. You heard the hon. Member say that you can only be arrested after investigations. Is he aware that when I went to Kiambu Police Station to sign a bond for hon. Icharia, I was arrested? There were no investigations carried out before I was arrested. I was locked up at Gatundu Police Station. What investigations had been done? Is the Assistant Minister in order to mislead the House? The second point of order is in relation to what was said with a light touch that the hon. Assistant Minister is a cook and a watchman. This should not have been said because it is a very big insult on my community and I do not get amused when somebody says that. Is the Assistant Minister in order to mislead the House that one can only be arrested after investigations when I was arrested before any investigations had been done?

Mr. Awori: Mr. Deputy Speaker, Sir, if the hon. Member was arrested for having gone to sign a bond for his colleague, I am really sorry about it. I have not misled the House at all. A person can be arrested on suspicion.

Mr. J.N. Mungai: Mr. Deputy Speaker, Sir, I think the hon. Assistant Minister is totally misleading the House. He has said that this woman's husband is already in custody after having been charged with the same crime of robbery while we know that the husband has been charged with a different crime of robbery which, to me, is a frame-up. Is the Assistant Minister in order to say that?

Mr. Awori: Mr. Deputy Speaker, Sir, if I gave that impression, then I am sorry about it, only the HANSARD can state the truth. At no time did I say that the husband was in custody as a result of that particular robbery. I never said that.

Dr. Kituyi: Mr. Deputy Speaker, Sir, sometimes we blame people like hon. Kamotho when they call

hon. Members like these cooks and watchmen, but this kind of performance is really despicable. How can an Assistant Minister of Government justify the brutal torture of an innocent woman by policemen on the basis that she was in the company of a man who turns out to be her husband and who has been suspected of another crime? What does the criminality of her husband have to do with the rights of a citizen who is brutally tortured by policemen? This Assistant Minister just comes here and says that there is no evidence. Is this behaviour not like that of cooks and watchmen?

Mr. Awori: Congratulations for the beautiful language the hon. Member is using! I never stood here to justify the torture of the woman. At no time did I say that and it would be better if the hon. Member would listen from time to time.

ESTABLISHMENT OF PUMPING STATIONS

Mr. Kairu: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Land Reclamation, Regional and Water Development the following Question by Private Notice.

(a) Is the Minister aware that most parts of Kieni Constituency are semi-arid and majority of the people heavily depend on famine relief?

(b) Is he further aware that the Management of Solio Ranch are claiming the exclusive use of Moyo River in Mwiyo Location, Kieni Constituency, thereby denying the local community vital facilities of this river?

(c) In order to assist the residents of Muthuini and Labura sub-locations, could the Minister direct the District Water Engineer, Nyeri, to establish pumping stations along the Moyo River and restrain the Management of Solio Ranch from harassing the residents who are trying to make a living from small scale irrigation schemes using the waters of this river?

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

(a) I am not aware that most parts of Kieni Constituency are semi-arid and majority of the people heavily depend on famine relief. What I am aware of is that some areas in this Constituency do harvest inadequate food when the rains fail. Just like many other parts of the country in the medium potential zone, a few people from Kieni Constituency may require famine relief up to the next season.

(b) I am not aware that the management of Solio Ranch is claiming the exclusive use of Moyo River in Mwiyo Location, Kieni Constituency. What I am aware of, is that my Ministry, through the Nyeri District Water Office, is enforcing total water abstraction restriction on the use of water from the river for irrigation purposes.

The ban which was imposed by my Ministry four years ago is still in force and it is intended to enable the local community, particularly those in the lower parts of Moyo River, to get water for domestic use during the long dry spells.

(c) The hon. Member for Kieni is aware that I cannot direct the District Water Engineer, Nyeri, to establish pumping stations along the Moyo River because I would be going against the rules and the tenure of the District Focus for Rural Development Strategy which emphasizes on such projects being proposed by the local community and forwarded to the Government with the approval of the respective development committees for action.

If the Member for Kieni feels strongly about the establishment of the pumping stations, I would advise him to send his request through the normal channels and I will take up the matter with my officers.

Lastly, my Ministry is investigating the issue of harassment and if the complaints of residents of Muthuini and Labura sub-locations are true, I will certainly take appropriate action.

Mr. Kairu: Mr. Deputy Speaker, Sir, with regard to the answer to part "b" of my Question, it appears that the Assistant Minister is not aware that the two sub-locations that I have mentioned form the lowest part of Mwiyo Location and those are the ones which we are concerned about. They border Solio Ranch and there are no other people down-stream. So, when you say that water is being reserved for people down-stream, it is not correct. You better check your geography properly.

Regarding the complaint on harassment, a month ago, a farmer was taken to court because of irrigating two acres of tomatoes and the officers from your Ministry, accompanied by the management of Solio Ranch, visited that farmer. Is that not the harassment that we are objecting to? If you have those details I would undertake to give you the names of those people by next week and then you tell us what action you will take. In view of this clarification, could you now undertake to direct your officers to assist the people of those two sub-locations to establish a pumping station for irrigation purposes?

Mr. Ligale: Mr. Deputy Speaker, Sir, I have said that if a request for the establishment of pumping stations comes through the recommendation of the DDC, I shall take action on that. I have further said that if there is clear evidence of any resident from these two sub-locations being harassed by anybody from Solio Ranch, I am prepared to take action.

Prof. Muga: Mr. Deputy Speaker, Sir, this Question speaks of famine relief and badly managed irrigation systems. To speak of famine relief is to admit a great deal of insecurity. Approximately 78 per cent of this country is suffering from a very perennial food insecurity. Until we are able to supply---

Mr. Deputy Speaker: Put your question!

Prof. Muga: Mr. Deputy Speaker, Sir, I am phrasing the Question, so that the Assistant Minister can understand. I am saying that we are addressing the question of food insecurity. That food insecurity comes in dry areas of which Kyeni is not very far. I am asking the Assistant Minister to tell us whether they have any systematic programmes or strategies which will ensure that there is integrated management of the water resources in the rivers of the drylands and in lakes, such as Lake Victoria. Otherwise, the Kyeni situation will continue, and food security will keep on giving us shame. To ask for famine relief is a shame. When, through an integrated management of the water resources, are we likely to have food security? Do we have a programme?

Mr. Ligale: Mr. Deputy Speaker, Sir, the Ministry cannot handle that question on its own. It does require concerted efforts from various Ministries including the Ministry of Agriculture, Livestock Development and Marketing, the Ministry of Energy and the Ministry of Land Reclamation, Regional and Water Development. In fact, on the particular case of this river, the reason that we cannot allow integrated irrigated agriculture is because we do not have adequate water there, to even meet the basic domestic requirements of the local residents.

Mr. Omino: Mr. Deputy Speaker, Sir, in answer to an earlier question, the Assistant Minister said that, in order for the hon. Member's constituents to get water, they should go to the DDC. The Assistant Minister ought to know that water does not go to the DDC, but to the Water Apportionment Board, which is directly answerable to his Ministry. In view of that information, can he now undertake to ensure that these people are authorised to use water from this river for irrigation purposes?

Mr. Ligale: Mr. Deputy Speaker, Sir, I am very clear on my facts. If an individual wants to do an abstraction from a river, he applies to the Water Apportionment Board. But in this particular case, we are talking of a much larger project, which involves pumping. I suggested that, that prioritising should be done through the DDC.

Mr. Mutahi: Mr. Deputy Speaker, Sir, here, we are talking about human and animal rights. In Solio Ranch, there is a *mzungu* who keeps giraffes, zebras and cattle. They are the ones that are using water from this river. Can the Assistant Minister tell us what the priority will be? Will Solio Ranch go on pumping water for the animals, or, is he going to give priority to human beings, and stop Solio Ranch from pumping water for animals?

Mr. Ligale: Mr. Deputy Speaker, Sir, in fact, Solio Ranch does abstract water from this river mainly for domestic purposes. Clearly, where there is a priority between human lives and animals lives, we will go for human lives.

Mr. Deputy Speaker: Next Question!

PROVISION OF PROPER MEDICAL SERVICES

Mr. P.N. Ndwiga: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Health the following Question by Private Notice.

(a) Is the Minister aware that patients are not attended to at Kibugu Health Centre in Embu District during the night, as previously was the practice?

(b) If the answer to "a" above is in the affirmative, what urgent measures is the Minister taking to ensure that this Health Centre is open twenty four (24) hours and proper medical services provided?

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

(a) I am not aware that patients are not attended to at Kibugu Health Centre, as previously was the practice. Kibugu Health Centre has always been open, 24 hours a day, to attend to both out-patients and in-patients.

However, at night, the facility treats emergencies and in-patients only. A clinical officer is available on call during the night.

(b) This health facility has always been open to patients and this arrangement will continue to be afforded to the residents of the area.

Mr. P.N. Ndwiga: Mr. Deputy Speaker, Sir, this is a rather sad answer because, this health centre happens to be less than two kilometres from my home. In the last one month, two women have given birth in my car at night. In the last month, I have had to jump over the fence of the hospital, to get the clinical officer and the other hospital staff to admit patients at night.

The Assistant Minister does not seem to have the answer. But rather than grill him, could he undertake to do further investigations? This is a rather sad case because women are giving birth at the gate of the hospital and the coffee plantations next to the hospital. I feel very sad, because the Assistant Minister does not have an answer. Could he undertake to give us a proper answer at an appropriate time?

Mr. Criticos: Mr. Deputy Speaker, Sir, I would like to explain a few facts relating to this issue. The hon. Member says that I do not have an answer, but I am aware that he was there on the 13th of October. He was at the gate which was closed. There was a watchman who was supposed to be on duty but he was not there. I am investigating the matter, as we are speaking right now, in order to find out the whereabouts of the watchman. So, I am aware of it and the matter is under investigation. I am fully aware of what is happening.

An hon. Member: Where is the watchman now?

Mr. Criticos: We are looking for him.

Mr. P.N. Ndwiga: Mr. Deputy Speaker, Sir, I am not just talking about the incident of 13th October. I am telling the Assistant Minister that this health centre is hardly a kilometre away from my home. Even last weekend, that is on Saturday night, the gates were closed. I am telling him to go and investigate, because I know the situation, and he is telling me that---

Mr. Criticos: Mr. Deputy Speaker, Sir, I said that we are investigating the matter. The problem there was not that the nurse or the clinical officer was not there. We are talking about the gate that was locked and the watchman was not on duty on that night. So, we are taking action against the watchman.

Mr. P.N. Ndwiga: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is continuing to mislead this House. I am saying that, up to and including two days ago, I was at the hospital, and the gates were closed at night. The Assistant Minister says that it is only the watchman who was not there. If the gate is closed, where would the patients pass through? Could the Assistant Minister sincerely give an honest and intelligent answer?

Mr. Criticos: Mr. Deputy Speaker, Sir, the hon. Member is really insulting my intelligence here. I am saying that we are investigating the matter now. We are undertaking to do what the hon. Member wants from us. We want to know why this gate was locked. This is what I have said.

Mr. Deputy Speaker: Next Order.

POINTS OF ORDER

MINISTERIAL STATEMENT REQUIRED: TERROR REIGN IN KITUTU-MASABA

Mr. Anyona: Mr. Deputy Speaker, Sir, I rise on a point of order to demand a comprehensive Ministerial Statement from the Minister of State, Office of the President, on massive violation of human rights of the citizens of Kitutu-Masaba, on which subject I tabled a memorandum here just before we went on recess and demanded a Ministerial Statement, which I never got. I am demanding that Ministerial Statement in the light of additional violations and terror unleashed on the people of Kitutu-Masaba by the Provincial Administration.

Mr. Deputy Speaker, Sir, I have just received a letter today from the people of Kitutu-Masaba, members of Matunwa Village in Nyabiosi Sub-location of Mochenwa Location. The letter is entitled: "Terror Reign." The story is that at 3.00 a.m. on 8th November, 1996, two Administration Policemen (APs) from Gesima Chief's Camp raided the people of Matunwa Village. In the process, they terrorised people and arrested one person called Joshua Ratandi. They took him to Gesima Chief's Camp and tortured him until he was unconscious. On 9th November, 1996, the victim was taken to Kisii District Hospital unconscious and on the same day he died in Kisii District Hospital. On 10th November, 1996, the two APs were arrested after the matter had been reported to Keroka Police Station.

Mr. Deputy Speaker, Sir, the people looked forward to justice being done, instead the two APs were released and, as we are talking now, they are at large. I want a comprehensive Ministerial Statement from the Office of the President on the memorandum I laid here because that was the basis of what is going on and on this particular case.

In the earlier case, there was Mr. Thomas Mose Onkoba who was also murdered in the same manner and

nothing has been done. I will lay this letter on the table, but I would like a comprehensive Ministerial Statement.

(Mr. Anyona laid the letter on the Table)

Mr. Deputy Speaker: Hon. Members, we will now proceed with business before the House on the basis of the Supplementary Order Paper.

SEQUENCE OF GOVERNMENT BUSINESS
ON THE ORDER PAPER

Mr. Orengo: Mr. Deputy Speaker, Sir, I rise on a point of order on the basis of this Supplementary Order Paper. You remember last week, when the Opposition tried to have discussions and debates on the Sessional Paper No.2 of 1996 deferred, the Government declined and, in fact, they reasoned that this matter was extremely urgent and we had to proceed with the debate---

Mr. Deputy Speaker: Now that they have decided to defer it, what is wrong with that?

Mr. Orengo: Mr. Deputy Speaker, Sir, what I am saying is; this is an honourable House and we cannot be put in a situation where Government business is brought in and haphazardly. The Leader of Government Business needs to explain to this House what these changed circumstances are, and he will be in a good opportunity to give that explanation because they have just been conferring with hon. Biwott in about two minutes ago. The issue is even more serious because I understand hon. Nyachae was "off-loaded" from the Presidential plane in Rome to come back because of this matter.

(Laughter)

Mr. Deputy Speaker: Order, hon. Members! I do recall that even before Questions were asked, hon. Orengo did raise this matter, and I think I gave an explanation which--- For the avoidance of doubt, let us not engage in theatrics here. It should be absolutely clear to everybody that Standing Order No.33 states:- "The Government shall have the right to have Government business placed on the Order Paper in such sequence as the Government may determine."

The limitation is that on a Wednesday Morning, it is Private Members Day and the Government does not have the upper hand. The practice of the House has always been that where you have a Supplementary Order Paper you proceed on the basis of the business on the Supplementary Paper. You take it as superseding the prior Order Paper. Now, whether the Government has a duty to explain or not, I do not think they have a duty to explain, but of course, they are welcome to explain, if they want to explain the said sequence.

(Applause)

Next Order.

BILL

Second Reading

THE APPROPRIATION BILL

*(The Assistant Minister for Finance
Mr. Keah on 12.11.96)*

(Resumption of debate interrupted on 12.11.96)

Mr. Deputy Speaker: Mr. Kiliku was contributing.

POINT OF ORDER

DENIAL OF ALLEGATION: "OFF-LOADED" IN ROME

The Minister for Agriculture, Livestock Development and Marketing (Mr. Nyachae): On a point of order, Mr. Deputy Speaker, Sir. There has been a very serious allegation made by hon. Orengo that I was "off-loaded" in Rome. This is total misleading of this House. I left with a clearly detailed air-ticket for Rome and the same ticket covered my return according to the timetable I had. I never used any other plane and I was never "off-loaded." Therefore, I would like the hon. Member to withdraw his remarks and apologise.

(Laughter)

Mr. Deputy Speaker: Order! I thought I gave hon. Wamae the Floor to contribute on the debate. What is it?

Mr. Biwott: On a point of order, Mr. Deputy Speaker, Sir. The hon. Member should withdraw the remarks he has made on Hon. Nyachae and apologise.

Mr. Deputy Speaker: Order! In the circumstances, I take the fact that hon. Nyachae has sufficiently corrected and stated the correct version of events. I would rather we get away from this matter and we move on to the main business before the House.

Mr. Wamae: Mr. Deputy Speaker, Sir, I do not know why you have given hon. Biwott so much time, even when it is not necessary because we could have started with the business of the day. I would like to talk about--- There is so much noise in this House. How do we proceed?

(Loud consultations)

Mr. Deputy Speaker, Sir, interest rates on borrowing in Kenya have reached a stage where they are going to harm the economy of this country---

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek the guidance of the Chair as to whether it is constitutional to debate the Appropriation Bill which is before this House today?

Mr. Deputy Speaker: Order! I am sorry, I do not like stopping hon. Members in the midst before they have even made their points, but I think it is quite clear that the style in which you are making your point of order is the one which I should not allow to go ahead. I think, as a lawyer, you know that if you have a serious submissions to make and serious authorities to quote, it is only fair---

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

Mr. Deputy Speaker: Order! It is only fair that you notify the other side. The practice of the House has been that where you have important and serious matters of this nature to raise, you at least, consult with the Speaker in his Chambers---

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

Mr. Deputy Speaker: Order! You should not ambush him on issues where he would definitely need to make consultations to make serious rulings. So, I suggest that you consult with me first and if there is something serious, I will give you the Floor.

Hon. Wamae, continue.

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. We saw this Bill when we came in this afternoon. In the morning when I collected the Order Paper, it was different. This matter has just come to my notice.

Mr. Deputy Speaker: Order, hon. Muite! Well and good, I can understand the disappointment you may have had when you came in this afternoon to see that there was a Supplementary Order Paper which has over taken the main Order Paper. But surely, you know we are in the Second Reading of this Bill. We have already had many contributors during the Second Reading including the Mover. We have already had seven contributors.

In any case, there is no indication that you will be foreclosed. So, I think it is fair that you notify me about that kind of thing before you stop the hon. Member from contributing.

Mr. Orengo: On a point of order, Mr. Deputy Speaker, Sir. I thought to be fair to hon. Muite, you should have heard him first because the matter he is raising may be so much against the rules and practices of this House to the extent that you would actually agree with the point of order that he is trying to raise. I plead with you to give him a chance and rule him out or otherwise after you have heard him. But I think to rule him out of order---

Mr. Deputy Speaker: Order! I can assure you, I am a believer in the principle of fair hearing and I

will give hon. Muite due fair hearing. But at the moment, I have given the Floor to hon. Matu Wamae and, I would like him to continue.

Hon. Matu Wamae is on the Floor!

Mr. Wamae: Mr. Deputy Speaker, Sir, to avoid all these points of order, it is good if you have an office here in the House, so that hon. Members can consult you because this is taking too much time.

Mr. Deputy Speaker, Sir, I was discussing the question of interest rates because they have become a major drawback to the economic development

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order! Order! You can definitely see me consulting with hon. Muite and in the meantime, hon. Matu Wamae has a right to proceed without interruption.

Mr. Wamae: But, Mr. Deputy Speaker, Sir, you should protect me against the noise! The question of interest rates being charged by commercial banks is a major deterrent to the economic development of this country. The real cause of this high interest rates is the Government of Kenya. This Government has gone and borrowed Kshs81 billion in form of Treasury Bills at very high interest rates of around 25 per cent for 90 days bills. As a result, the commercial banks are not interested in lending the private sector money because they would take risks. If they have to lend, they want 35 per cent rate of interest. This high level of interest rates cannot be sustained by any business and if Kenya wants to develop and have industries and employment, we must have must have an interest rate which can be bearable so that the products of those industries can compete with the imported products.

As it is now, most of our industries and businesses are in problems because of these additional costs. Our manufacturers will not also be able to compete in the export market. When other countries are paying 8, 10 and 15 per cent rates of interest you have to pay 30 to 35 per cent rate of interest for the money borrowed in this country. One of the solutions to this problem is for the Government to reduce considerably the amount of money they are borrowing on Treasury Bills so that commercial banks can have an interest in lending to the private sector because the private sector and taken is the only sector which can be the engine of growth for this country and it cannot grow if the resources are going to be withdrawn from the private sector and taken to the Government. The reason why the Government has so much stock of Treasury Bills is not meant to protect us from inflation pressures. This is happening because the Government is misusing resources. After the Government decided to build projects like the Eldoret Airport and buy presidential private jets without making any provisions in the Budget, this had distorted the Budget provisions. Consequently, the Government fell short of cash, therefore, they have to resort to these high cost Treasury Bills mobilization.

Mr. Deputy Speaker, Sir, it is important that if we are serious, this country must move forward not at a rate of 4.9 per cent but, at a rate of 8, 9 or 10 per cent.

Like in the Far Eastern countries, we must enable the private sector to have the resources necessary to establish industries and create employment. Government borrowing from the banks and also the minimum cash requirements, is a matter which needs to be looked at very carefully and which the Minister for Finance has not fully addressed.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. The matter of the Budget is a very crucial matter particularly when we are discussing the Appropriation Bill because it means we are going to appropriate the taxpayers money to be used in various ways. In view of the provisions of Section 16 of the Constitution of Kenya---

Mr. Deputy Speaker: Order! Order!

An hon. Member: Give him time! Members of Parliament should know what section 16 is all about.

Mr. Deputy Speaker: Order! Order! Mr. Anyona, I am afraid that your point of order is obviously the same as the one on which I have been doing consultations with the hon. Muite and, I think, it will be fair that you refer to him. Proceed Mr. Matu Wamae.

Mr. Wamae: Mr. Deputy Speaker, Sir, this issue is a matter on which we would like the Government and the Minister for Finance to come out clearly by indicating to us what action he is going to take to ensure that the interest rates charged by commercial banks are reasonable. As I have said, the Government is the cause of these high interest rates. The agriculture sector and the manufacturing sector are all affected. Where are we going if we do not take care of this factor? Our economy should grow, not by 4.9 per cent, but at a higher rate and you cannot grow at a higher rate without investment. You are not only going to invest the shareholders funds but you must borrow money to get the working capital from the commercial banks. This is a matter which this KANU

Government should take very seriously. Many commercial enterprises are going to collapse because of these high interest rates. How do we expect our industries, when they are paying interest at the rate of 35 per cent to compete with other industries in other countries which are paying only 10 per cent interest? Even if those foreign companies were to pay 15 per cent duty, their products would still be cheaper here than our locally manufactured goods. It is not because our industries are inefficient but it is because they are paying unduly high interest rates on the loans that they have to borrow. This is not acceptable. Tourism is also affected. Many of our hotels are on the verge of collapse because of the reduction in tourism and the high interest rates that they have to bear to be able to finance their operations. These factors have a serious effect on our long-term development and I hope that the Ministry of Finance will come out clearly on this matter. To say that you are going to reduce the Treasury Bills by Kshs8 billion between now and December is not enough. You will still be left with Kshs73 billion worth of Treasury Bills and that is still very high. The banks are willing to go on buying Treasury Bills and lending money to the private sector because by so doing they are making more money. That is why Barclays Bank and Kenya Commercial Bank are making a profit of Kshs3 billion without lending money to the private sector but mostly through the earnings of the Treasury Bills. It is wrong for the banks to say that they are doing very well when, in fact, they are making this money from the Government. This must be stopped. Commercial banks must lend money to the private sector and they must take risks like anybody else. They should not hide behind the purchase of Treasury Bills where there are no risks at all; it is risk-free.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, we should find a better way of making sure that the private sector continues to have the resources necessary to move this economy. When discussing about the Appropriation Bill, it is also important to note that the resources being wasted in this country are tremendous. If you drive around in the country, for example, in every police station and every District Officer's office, you will find that there are grounded vehicles in these compounds. You will find that they have been vandalised. This is a matter which should be looked into because we want the vehicles to be repaired. How come the police do not have petrol for assisting wananchi when they are in trouble? Why is it that you have to buy petrol if you want the policemen to assist you? We always vote funds in this House for running the Ministries and even before three months are over, we hear that they have no money for running their vehicles. This is not acceptable. Unless the Ministries are diverting the resources we vote in this House to other uses--- This is because when they come to this House, they tell us that the money that we are voting is going to be sufficient to run these Ministries. How come we are told that they do not have money to run the police vehicles or the District Officers' vehicles? Even in my own constituency, the DO has no Government vehicle. He instead uses his own private vehicle because the Government vehicle available to him has a mechanical problem. He does not have money for repairs. This is a sad affair because we have passed money in this House for the repair and maintenance of vehicles in Government Ministries. These are matters which wananchi are worried about.

Mr. Temporary Deputy Speaker, Sir, we have talked about the shortage of drugs in hospitals and yet every year we come here and vote money for the purchase of drugs in hospitals. This shortage of drugs is evidenced even three months after the start of the financial year. It is further compounded by the fact that there is no money for the purchase of drugs. What is happening with the control of Government funds? Somebody should explain this to us. This is because if the Government is not able to control its own resources--- Kenya is among the most highly taxed countries in the world today and yet the Government resources are not being looked after properly. This is taxpayers money that is being used. We know that for instance, in Central Province, which is an Opposition area, roads there are in a very bad state. Many of the tarmac roads have been turned into murrum roads. This is because this Government does not appear to be allocating funds for the repair of roads in the Opposition areas. This is a matter that is not acceptable because we are still paying taxes. We are not being told not to pay taxes because we are in the Opposition areas. When it comes to the distribution of resources, we are not benefiting at all. We produce coffee, tea and other cash crops which are keeping this country afloat and yet our roads are the worst. Our roads in Nyeri are the worst; like the road from Marwa to Kiganjo which has turned into a murrum road and yet we still vote money in this House for the repair of roads. We have the Petroleum Levy Fund which was being misappropriated the other day so that the money can be used to buy anti-malaria chemicals. We want to know where these resources go to and we also want to see these resources benefitting the people through proper usage.

Mr. Temporary Deputy Speaker, Sir, with these few words, I support the Bill.

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): Mr. Temporary Deputy Speaker, Sir, I would like to thank you very much for allowing me to contribute to the Appropriation Bill. Through the passage of this Bill, this House is supposed to allow Ministries of the Government to spend money on different projects in this country.

I would like to start with the Office of the President. The Office of the President accommodates so many departments including the National Youth Service. We would like the money that is going to be released by this House to be spent properly in order that the chiefs, assistant chiefs who have not been appointed in the newly established locations and sub-locations, are appointed so that they can administer and help the people to develop.

Mr. Temporary Deputy Speaker, Sir, for the last three years, there have been vacancies for chiefs and assistant chiefs in my constituency, but they have not been filled because of flimsy reasons. So the public is left to manage their affairs and administer themselves. I would like to see that these assistant chiefs and chiefs are immediately appointed and are assigned duties, to be able to develop those areas.

Mr. Temporary Deputy Speaker, Sir, one day my constituency will be accused of housing National Youth Service personnel; yet those officers are not performing any duties since the time they were posted there. The only time you can see them, is when they are on parade on national days, putting on ceremonial attire. The purpose for which those officers were brought to that District, was to open up new roads in areas where schools were not accessible because of the bad roads. But they are not doing that because apparently, the graders and the bulldozers that they have are not serviceable. When we ask them the reasons, they claim that spare parts are lacking. But we would like to see them performing duties that they were assigned.

Mr. Temporary Deputy Speaker, Sir, the Office of the President also accommodates police officers. I have more than once said on the Floor of this august House, that there should be established a permanent commission to look into the terms and conditions of service of the police officers. I am speaking from experience, having served this country for 33 years in the security arm of this country. Among those officers, you will be surprised to find a graduate in the police force who is earning less than his counterpart in the private sector. This is because they are all lumped together under one code of regulations of the Civil Service. I urge that a permanent commission be established to separate the police force from the main Civil Service. The police officers are doing a commendable job. But they are let down due to communication equipment, for example, the vehicles that they are using called, Mahindra. Those motor vehicles cannot even accommodate more than three people and are not fast, whereas they need swift cars in order to chase speedy cars used by robbers, and not the Mahindras that they are having today. Accommodation in the police force also needs to be looked into properly and releasing funds now will mean that the stalled houses which were put up and stalled because of lack of funds, could easily be put up so that the officers also get habitable accommodation where they can live with their families. Mr. Temporary Deputy Speaker, Sir, we would like to see the youth in the National Youth Service level playing grounds for schools and other public utilities instead of only being seen during national days.

Mr. Temporary Deputy Speaker, Sir, we would like to see the Ministry of Land Reclamation, Regional and Water Development go into construction of dams in arid and semi-arid areas, so that those people can also get water. For example, in Kerio Valley, particularly in Chegilet and Keu Locations, those people are living in very bad conditions because they have no water and yet, there is water running to Kamnorok Lake which goes all the way to Lake Turkana. That water can be harvested during rainy season so that we have enough water for schools in Keu Location, in Kerio Valley and other arid and semi-arid areas. Most of the work that is being done in this semi-arid area is done by people who are attached to the Ministry from the Nordic countries. They are doing a good job but it needs to be supplemented by the Ministry officials.

Mr. Temporary Deputy Speaker, Sir, now that we are releasing funds, the Ministry of Education needs to look into the question of teachers serving in remote, arid and semi-arid areas. They should get their hardship allowance. I have said this more than once in this House. Their brothers and sisters who are living across the valley in Baringo District are drawing allowances, why not those who are in Keiyo District and other areas? These teachers who are suffering in remote areas should be given hardship allowance like in other areas.

Mr. Maore: Where?

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): Like in North Eastern, though I am not sure whether they get anywhere else where there is hardship.

Mr. Maore: Like in Baringo!

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): I said, their counterparts across, in Baringo District, are getting allowances and yet in Keiyo District, they are not getting. So, they should get that allowance because they are entitled to it. The climatic conditions there are the same on both sides of the river and

there should be no discrimination.

Mr. Temporary Deputy Speaker, Sir, I would like to support my friend hon. Osogo's sentiments that when we vote for funds year-in-year-out in this House, they should be used for the purposes for which they were intended. For example, in rural areas, roads which used to be passable and accessible by combine harvesters which are used to harvest wheat, today in my constituency, wheat is rotting because the roads are not accessible.

Mr. Temporary Deputy Speaker, Sir, the roads cannot accommodate the width of the head of a combine harvester, because it is 15 feet across. My friends, the farmers here cannot get the combine harvesters to the small farmers, the poor smaller farmers are not harvesting their wheat. They have to use their hands to harvest the wheat. Those roads should be made accessible for the combine harvesters to go and harvest wheat. Why should we be importing grains in this country when we can produce enough food to feed our own people just because somebody does not want to do the right thing?

Mr. Temporary Deputy Speaker, Sir, I have said once or twice in this House, that our people in Kerio Valley are suffering because the wild animals are killing them, and also destroying their crops. I would like to appeal to the Minister concerned, to demarcate the area so as to divide the wildlife sanctuary from the human area, where people have got to live. Otherwise, I will ask my people to do something about those wild animals, because they know what to do with them. They eat them and at the same time, they use the skin for ceremonial purposes. I would like to appeal to the Minister to establish a wildlife sanctuary in Kerio Valley, so that our people can also benefit from the income generated from the tourism industry. As I am talking now, we do not benefit from those wildlife, except to take our people to hospital and lose all our grain. I would like when the Ministry gets funds, to embark on that exercise.

Mr. Temporary Deputy Speaker, Sir, the Ministry of Health needs to do more than it has done in that area, because the health centres that we are having today, were established long time ago when I was in primary school. I wonder where the funds go that are voted for in this House every now and then, and year in year out, money is voted for different Ministries. I am happy that the Minister visited that area the other day, and I hope what he saw and recommended to his officers will be implemented. But in Kerio Valley, for instance, Keru Location, Kipturong Location, Kamogit Location and the other remote areas in Kerio Valley where there is no transport to take patients to Iten Town, which is about 15 kilometres away on a hilly landscape. I am sure you know what Kerio Valley looks like. The people are forced to use improvised stretchers to carry people all the way to Iten, because they have no health centres in the Valley, or the small health centres which are there are non-functional. When they get these funds, I would like to urge them to take medicine to the people in Kerio Valley, and any other part of this country where the conditions are very harsh.

Mr. Temporary Deputy Speaker, Sir, I wish to comment on the Ministry of Education. I am happy that recently some candidates from the remote areas such as the ones I have just mentioned were considered for the first time to go to Tambach Teachers' Training College. But that is not enough, because teachers who are posted to that area must come from the same area, because the conditions are very harsh. The students who come from the area, who were also born there and who are used to these harsh conditions must be employed so that they can go back and live in their natural live, because if we take people from other areas, they cannot do well there. We have experienced the problem of not being well used to the live in that area. So, the best way to tackle this problem is to train more students from Kerio Valley, so that they can go back to teach their students in their natural live.

Mr. Temporary Deputy Speaker, Sir, I want to comment about the Ministry of Transport and Communications. I am grateful to the Government for having considered the road from Iten to Nyaru to be murramed and be made all-weather road. You will be astonished if you travelled on that road today. When the contractor started the work, we were very happy clapping day and night, celebrating, and the road was supposed to start from Iten to Nyaru. But somebody somewhere decided to change on his own so that the road was made to start from Chepkorio to Iten. Whoever changed that decision God knows, and now our people have been left with very deep holes which were supposed to accommodate culverts. The holes have not been covered, and the road was supposed to be Iten-Nyaru, but now it has changed from Iten to Chepkorio. The Ministry of Public Works and Housing, should tell our people where the money which was voted for the road from Chepkorio to Nyaru is going to go to? This is very serious and somebody from the Ministry of Public Works and Housing should be answerable. When we give the money, we expect them to complete that road and on time. We do not want them to come back later on and say that the money was exhausted because they have not done anything. They have only bought culverts and to make it worse, the contractor has got only one grader and one pick-up. In all honesty, can somebody be expected to make a road with one grader and one pick-up? What we are asking for here about this road is transparency, all to be seen in practice.

Mr. Temporary Deputy Speaker, Sir, in conclusion, I would like to appeal to the Ministry of Local

Government. I have said more than once here that we cannot continue seeing our women hawkers being rained on and we keep quiet. We would like them to have shelters over their heads. For example, at Iten District Headquarters, there should be a market for those poor women who are being rained on and their children are having problems.

Sometime back money was voted for that area, but it was taken away. I would like the Ministry of Local Government to bring back that money, or to look for some other money and establish a market for those women. On top of that they should, at least, have a sewerage system and not the pit latrines which we used to see when we were in school. We should be advancing like any other place.

There is a water shortage in Iten Township. For example, the District Commissioner travels down to Tambach to fetch drinking water at the district headquarters. I wish a senior man in the Ministry was posted and lived there for about a month so as to experience the hardships that civil servants in that area are experiencing because of lack of water, sewerage system and a market. This august House voted money for those people to spend. I would like to see something being done, at least, before the next general election.

Mr. Temporary Deputy Speaker, Sir, in conclusion I think in Kenya today we do not need new political parties or petty-minded politicians. What Kenya needs are honest, courageous, visionary and upright leaders. We need leaders who can look after the money that we vote in this House. We are allowing the Ministries to spend money. Some funds were voted for a small health centre called Musekekwa, but they have not been released. The amount voted was Kshs500,000 and now somebody has already spent Kshs4,000 out of this amount of money. When You ask how that money was spent somebody tells you: "We sent an officer to Nairobi to check whether the money is there". You do not check whether voted money is available! The money will be sent to the right people to spend. While I support this Bill, which is meant to allow civil servants to spend voted money, I would like us to see a bit of honesty and transparency.

Thank you, Sir.

Mr. Muite: I thank you, Mr. Temporary Deputy Speaker, Sir. Parliament is, of course, supreme in terms of legislation. It enacts laws. This Parliament is established under chapter three of the Constitution. The legislative power is vested in this supreme organ. This being the highest organ which is entrusted with legislative power, it is extremely important that this institution must set an example in this country of acting constitutionally.

It would be a very sad day if this Parliament were to act in breach of the Constitution, or if it acted unconstitutionally. I am happy to see that the hon. Attorney-General made an appearance, a few minutes after I had conferred with the Deputy Speaker, and I can see that he is busy taking notes. That is the way it should be: He should be here when these issues are being raised.

The Constitution is the supreme law in terms of its Section 3. It is my view that debating and passing the Bill which is before Parliament today by this House would amount to a contravention of Section 16 of the Kenya Constitution. This Parliament would be acting unconstitutionally by enacting this Appropriation Bill into an Act of Parliament. Section 16 of the Kenya Constitution is under Part II. It is under the heading "Ministers and the Cabinet". The marginal note states "Ministers of Government of Kenya". This Appropriation Bill, as indeed it appears from its provisions and as the last speaker said - it is also a matter which is beyond any argument - is seeking to vote sums of money to the various Ministries of the Government of Kenya. We have the Ministries of Health, Education, Agriculture, Livestock Development and Marketing. We have some purported 24 Ministries with two Ministries being in the Office of the President, giving us a total, I think, of 26 Ministries. So, this Bill is seeking to give money to these 26 Ministries. They are set down in the Bill. For example, Vote R04 is for the Ministry of Foreign Affairs and International Co-operation and it is getting over K£95 million. Other Ministries are Home Affairs and National Heritage and Office of the Vice-President and Ministry of Planning and National Development. The various Ministries and their requirements are set out in this Appropriation Bill.

The basis on which it is quite clearly unconstitutional for this Parliament to enact this Bill is that Section 16 of the Kenyan Constitution clearly provides that there shall--- The word used in Section 16 is not "may" but "shall", which is mandatory. It provides that "There shall be such offices of Minister, of the Government of Kenya as may be established by Parliament". The section provides that the Ministries shall be established by Parliament and not by anybody else. According to Section 16 of the Kenya Constitution Ministries are to be established by Parliament. I am not aware that this Parliament has either been asked to establish or has established any Ministries. Nobody else is to establish the Ministries. The Section says that there shall be such offices of the Ministers of the Government of Kenya as may be established by Parliament. So, the authority and jurisdiction to create Ministries is vested by the Constitution exclusively in this House. The full text of Section 16(1) reads: "There shall be such offices of Ministers of the Government of Kenya as may be established by Parliament or subject to any provisions made by Parliament". In other words, Section 16(1) gives this Parliament the authority to provide for 10 or 20 Ministries. It is empowered to fix the number of Ministries and, in fact, to

distribute those Ministries. That jurisdiction is vested in this House by Section 16(1).

The second part says: "Subject to any provisions made by Parliament---".

Mr. Temporary Deputy Speaker, Sir, it means that in order for the President to establish Ministries, Parliament must make a provision. In other words, this Parliament must enact a provision to enable the President to establish those Ministries. When Parliament is given power, where it wants to give some leeway to the President to make those provisions, then it follows that Parliament can fix the number of Ministries to be established but attach conditions pursuant to which the President is to create the Ministries. For example, Parliament may say, there are going to be 20 Ministries, and leave it to the President to distribute and indicate how those Ministries are going to function. Parliament could also put a requirement that any proposals made by the President should come back to Parliament for approval.

The point which I am trying to put across is that this Parliament, under the first part, has not created those Ministries; and under the second part of Section 16, Parliament has not made any provisions in the law to enable the President to create these Ministries. It follows that these purported Ministries are unconstitutional and illegal. So, we cannot be asked to pass the Appropriation Bill into a law to allocate money to Ministries which are an illegality and which are totally unconstitutional. Parliament has to be asked to create those Ministries first or alternatively, this Government must bring provisions here to be enacted into law, to enable the President to create those Ministries. The rationale behind Section 16 of the Constitution is that the drafters of the Constitution did not intend that the Kenyan taxpayers should be left at the mercy of the unfettered discretion of the President who can create as many Ministries as he wants. That power is not given to the President. That power is preserved for this House. So, until we do that, the 26 Ministries that we now have are clearly unconstitutional. It would be a very sad affair for this House which is charged with the duty of respecting the Constitution, as the supreme authority, to breach it. We should be the last institution to even remotely, be seen as breaching the Constitution. This is not the first time that this Government is attempting to breach this Constitution. Section 99 of the Constitution states as follows: "No money shall be withdrawn from the Consolidated Fund without the consent of Parliament." In breach of Section 99 of the Constitution, this Government writes cheques as if the money belongs to it. It does not know that the money belongs to the taxpayers of this country.

For the moment, I am saying that we cannot proceed to appropriate money to Ministries that are unconstitutional.

With those few remarks, I beg to oppose.

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

Hon. Muite has come up with a very serious constitutional issue. I am asking the Chair to give us some guidance and opinion on this matter. I know it has been said from the Chair that the issue of interpreting the Constitution lies in the courts. But from the Standing Orders, that is not the case. If you look at Standing Order No.40--

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order, hon. Orengo! What is your point of order?

Mr. Orengo: It is clear that what we are about to do by passing this Bill will be tantamount to an illegality. We will be passing a law that is unconstitutional. Section three of the Constitution says that: "No law should contradict the Constitution." The Constitution is supreme to the extent of that contradiction. Standing Order No.40 says:

"If Mr. Speaker is of the opinion that any proposed Motion is contrary to the Constitution, without expressly proposing appropriate amendment of the Constitution, he may direct that either that Motion is inadmissible, or that notice of it cannot be given without such alteration as he may approve."

What I am saying is that we must preserve the dignity of this House. If we are passing a law, we must make sure that the law that we are passing does not contradict---

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order, hon. Orengo. I think you have finished your point of order and you want to continue with an argument. I will give you time to contribute on this Bill when you catch my eye. What hon. Muite said was a point of argument about the Constitution. We must continue with the debate. Listen to the arguments and if there is a question of interpreting the Constitution, the Speaker has got no powers or mandate to do that. If I feel that I have to use any Standing Order to stop any debate, I will do so, if I think it is necessary. But for the time being, we must proceed with the debate.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, before we go into those points of order and so on, it is important to touch and comment on a very important point raised by the hon. Member for Kikuyu. It is an important point, but I can assure this House that, it is an argument that cannot

stand, close and careful scrutiny of Section 16 of the Constitution. It is also touching on the issues of the Bill itself, *vis-a-vis* Section 3 of the Constitution. What the hon. Member has raised is not really anything new. I do recall that the Professional Committee of Democratic Change did raise these issues with the Attorney-General as the principal legal advisor to the Government. I did reply, basing my interpretation on Section 16 of the Constitution, Section 16 says: "There shall be such offices of the Ministers of Government of Kenya." That is mandatory. There must be Ministers of the Government of Kenya because of that word "Shall." I do agree that any Government, established under this Constitution, must, under Section 16 of the Constitution, have Ministers of Government.

The Key word in this Section then is "may". This is not mandatory. "Shall" is mandatory while "may" is not. "May", gives alternatives. In other words, Parliament may or may not do it. The people who formed this Constitution had a foresight to say: If Parliament does not do it, then the President will do it.

Mr. Orengo: Where does it come in?

The Attorney-General (Mr. Wako): The words are: "As may be established by Parliament, or subject to any provisions made by Parliament, by the President". That is very clear.

All that this Section is doing is: It is giving the Parliament priority in this issue. If Parliament does not establish the offices, or provide for the provisions, then the President can do it. If Parliament does not establish the offices, provide the offices or make the provisions, the President can do it. If Parliament makes the provisions, then the President, in doing it, must have regard to those positions. So, to sum up, a careful reading of this section means merely this: That priority is given to Parliament to establish the offices of the Ministers or to make provisions for those offices. If Parliament does not do so, the discretion is there for the President to do so. If Parliament has not established the offices but has made provisions, the President, in appointing those Ministers, will be subject to any provisions that Parliament may have made. But we are now in a situation where Parliament has neither established the offices nor made any provisions. Consequently, Section 16 of the Constitution vests that power in the President.

An hon. Member: Ah!

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I am still going on. This particular section of the Constitution came into force during the Constitution of Kenya Amendment Act of 1964, and the wording has not changed. My interpretation of this section, which is an interpretation that takes into account a careful reading of this provision, has been in practice since 1964---

(Hon. Orengo stood up in his place)

The Temporary Deputy Speaker (Mr. Ndotto): Order! May I request hon. Orengo to leave the Attorney-General alone to conclude his argument.

(Hon. Muite interjected)

Order, hon. Muite! Let him finish his argument and then I will give you a chance to also put your argument. There is no point debating when you are seated as we are not following the argument.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, when people become jittery, it means they do not have any reasons to put forward. As I said, and I want to repeat it very clearly, this section confers upon Parliament, the power to establish offices of the Ministers of Government or to make provisions thereto, but in that absence, it also gives the power to the President. The President will only be subject to Parliament where Parliament has made a provision. Here, Parliament has not made a provision. Therefore, the offices of the Ministers set out in the Appropriation Bill are clearly established and they are not in contravention of any Constitution. In interpreting this section the way it is, my interpretation is supported by the practice that has been there since this section came into force by the Constitutional amendment of 1964, a practice of 32 years. During this period, we have had a number of general elections; Ministers have been appointed by the President and they have been properly appointed by the President because of Section 16 which vests that authority also in the President, where Parliament has not established the offices of the Minister or made provisions, thereto.

Mr. Temporary Deputy Speaker, Sir, if you come to Section Three of the Constitution, it states that this Constitution shall have the force of law throughout Kenya. Subject to Section 47, if any other law is inconsistent with the Constitution, the Constitution shall prevail and other laws shall, to the extent of the inconveniences, be void. What does that mean? It does not say "a Bill". What it requires is an Act of Parliament. Who will declare that Act of Parliament to be inconsistent with the Constitution? It is not this House; it is the courts.

Therefore, I would say it is premature to raise the constitutionality of this Bill at this stage in Parliament because it is a Bill. Obviously, if it was clearly unconstitutional on the face of it so that all of us would know that it is clearly unconstitutional, then the Speaker would not even have allowed this Bill to come before the House. He would have exercised his powers and said: "No, it is unconstitutional, it cannot be debated." I can assure this House that this is a Bill which does not, in any way, contravene Section 16 of the Constitution and which is also consistent with the practice that has been there for 32 years in this country. This section has been there for 32 years and during these years, it has been given the interpretation that I have given to it today.

I conclude by saying that this Appropriation Bill does not in any way contravene the Constitution.

(Applause)

Mr. Shikuku: Bw. Naibu Spika wa Muda, mimi si wakili na sioni vibaya. Lakini nikiwa hapa kama Mbunge na Wabunge wenzangu, sisi tunatengeneza sheria, iwapokuwa sisi si wanasheria. Pia Waswahili wanasema: "Jaji asiyejua Kiswahili humfunga Mswahili." Mswahili atasema Kiswahili chake chote na Jaji anauliza: "What is he saying?" Halafu Jaji anaandika kidogo. Mwisho wake, huyu Jaji humfunga Mswahili, na yeye hajui Kiswahili.

Sisi tuko hapa kuzungumza kuhusu sheria. Haya mambo mhe. Mkuu wa Sheria amesema hapa, kwamba Bunge linahitaji kutoa Mswada ambapo kwamba Bunge linaweza kusema ni nani atakuwa Waziri na Mawaziri watakuwa wangapi, lakini Bunge haijafanya hiyo. Ukweli ni kwamba sheria haziletwi na Wabunge, bali zinaletwa na Mkuu wa Sheria. Kama hajaleta, basi makosa ni yake.

(Applause)

Kuna sharti moja tu ambalo linasema Mbunge anaweza kuleta "Private Bill", na tangu niingie Bunge hili, nimeona Private Bill moja tu ambayo ililetwa na hayati J.M. Kariuki.

Hon. Orenge: Hon. Seroney's Private Bill was taken over.

Mr. Shikuku: Bw. Naibu Spika wa Muda, Private Bill ya Seroney haikupita, waliichukua na wakaifanya yao. Hiyo ndiyo ilikuja kuwa National Assembly and Presidential Elections Act ya sasa. Kama Bw. Mkuu wa Sheria hakuleta sheria, asije akasema ni makosa ya Bunge hili kwa sababu hakuna sharti ambalo linasema kwamba Bunge iletwa sheria. Sheria inaletwa na Mkuu wa Sheria. Kwa hivyo, makosa hayo ni yake. Hata yeye amekubali kwamba Bunge halijafanya hivyo.

Mr. Orenge: On a point of information, Mr. Temporary Deputy Speaker, Sir. It is very difficult to rely on the interpretation of the Attorney-General on any matter. You will remember what happened when the Attorney-General helped to draft regulations under Chapter 7 of the Laws of Kenya regarding the National Assembly and Presidential Elections Act, particularly Section 13(3) which gave political parties a period of not more than 21 days to carry out a nomination exercise. When he interpreted these particular Acts and rules, and the matter was subject of court proceedings, the words that were used by the judge, who was determining that case were that, the conduct and the acts of the Attorney-General were mischievous because the rule that he had made went against Chapter 7 of the Laws of Kenya. So, I have no confidence at all in his interpretation of any law at all, including the Constitution. If he does not understand Chapter 7 of the Presidential and Parliamentary elections, I do not know how he can understand the Constitution.

Section 16 of the Constitution, which the Attorney-General is playing games with, is very clear. The whole section reads like this: "Part 1 - There will be such office of Minister of the Government of Kenya as, maybe, established by Parliament or subject to any provisions by Parliament by the President".

So, the section is very clear. The President can only establish such an office subject to the provisions made by Parliament. There are only two options that Parliament itself can establish, but where Parliament has not established, the President can only establish subject to provisions made by Parliament. So, the President has no powers whatsoever outside Section 16. He has no powers. I will ask the Attorney-General being the chief legal advisor of the Government, to give that advice correctly. You should be ashamed. There are so many Bills which have come here and they are withdrawn. I do not want to count the number of Bills which have been withdrawn. Afterwards he discovers that he has made a grave error in bringing some of these Bills before the House. I thank hon. Shikuku for allowing me to have the Floor.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Temporary Deputy Speaker, Sir. Given the fact that the interpretation of the Constitution by hon. James Orenge and by the hon. Attorney-General shows quite clearly---

The Temporary Deputy Speaker (Mr. Ndotto): Order! I hope you are not going to raise the same point of order which was raised earlier on and a ruling made.

Prof. Anyang'-Nyong'o: I am surprised you can read my mind, but maybe God is sitting on the Speaker's Chair today.

Given the fact that there is a crisis as to whether what we are doing is constitutional, is it all in order for us to go on with this debate?

The Temporary Deputy Speaker (Mr. Ndotto): If you ask that point of order again, I will order you out of the House for the rest of the sitting because that point was raised and a ruling given. I have also given a second ruling and now you are asking it for the third time.

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek your guidance because it looks like for the last 15, minutes the debate has actually focused on the Constitution rather than on this Bill. We know that this Bill has come the way it is for the last three years and nothing has been raised on this matter. Clearly, if there is a dispute on the interpretation of the Constitution, the practice has always been not to do it in this House, but in court. I am saying this because I sense an attempt to filibuster and I think we must as well discuss this Bill, but not the Constitution. I am sure the learned lawyers can only seek refuge in the court for interpretation.

Mr. Michuki: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek your guidance because when I got elected and came to this House, in front of the Speaker, I swore to uphold the law and defend the Constitution of this country. Now, does that oath have any meaning if in the defence of that Constitution, I have to go to court and not express my opinion here in this House? Is that in order?

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Michuki, my ruling is in line with what we are supposed to do when we are faced with a constitutional problem. This House is defending that same Constitution.

Mr. Shikuku: Bw. Naibu Spika wa Muda, siwezi kushtuliwa na hii Serikali kwa sababu nia yake kila siku ni kujaribu kutumia wingi wao kupitisha mambo, yawe ni ya kweli ama si ya kweli. Hata juzi nilisema kwamba Katiba yetu haina provision ya proportional representation. Hata Mkuu wa Sheria hakuwa hapa siku hiyo. Kwa hivyo, ijapokuwa wanatugandamiza, ukweli mwisho wake utashinda. Unaweza kufunika ukweli kwa muda lakini mwisho wake, unatoka kama moshi.

Nitaongea juu ya Mswada huu kwa vile ninaona mambo yanavyoenda. Nimewaambia wasije wakasema hawakuambiwa. Katika ukurasa wa 448, kuhusiana na Ofisi ya Rais, nina mambo matatu ya kuzungumza. Utaona kwamba wanataka kiasi cha fedha K£509,393,020. Kwa nini hawa watu wanataka pesa hizo? Wanataka hizo fedha ili walipe maofisa wa police wanaotumikia Press, Youth Service, Immigration, Police Departments, Chemists na kadhalika. Tunatoa hizi fedha ili maisha ya wananchi yalindwe. Wakati huu wanatuuliza tutoe hizi pesa ili zipelekwe katika Ofisi ya Rais. Lakini sasa, hakuna usalama kwa watu wetu na ilhali wanataka pesa hizi. Sehemu ya North-Eastern imechukuliwa na bandits. Hata sasa, sehemu ya Kitui iko chini ya hawa majambazi. Ninataka Waziri yeyote aliyeketi hapa asimame na kunikosoa kama nimesema uwongo. Hata watu katika sehemu ya mhe. Waziri Musyoka hawalali manyumbani mwao. The country is being dismembered. Na hapa Bungeni, wanataka pesa hizi. Na tukitoa, hazifanyi kazi. Leo, ukifika nyumbani kwako, lazima upige magoti uombe Mungu kwa kukufikisha nyumbani salama, na akufikishe utakapokwenda kesho. Tunalindwa na nguvu za Mwenyezi Mungu. Hakuna usalama. Sasa ni kama enzi ya "cowboys". Mara polisi wanapigwa risasi au wamepiga mtu risasi. Kila mara ni "papapapapapa", huku wengine wanapigwa risasi na polisi. Sasa, hatuko na Serikali.

Mhe. Awori anaposimama hapa kujibu maswali ya usalama, anatuambia mambo ambayo hatuikii kila siku. Dunia yetu imekwenda. Kenya imeshakatwa na majangili.

The Assistant Minister, Office of the President (Mr. Awori): Jambo la nidhamu, Bw. Naibu Spika wa Muda. Mhe. Shikuku ni mtaalamu wa mambo ya hapa Bungeni. Kila wakati ninaposimama kuzungumza juu ya usalama, yale ninayosema ni ya kweli. Yeye hajawahi kukanusha.

Je, ana haki ya kusema kwamba mimi napotosha nchi hii au Bunge hili nikisimama kuzungumza juu ya usalama kweli?

Mr. Shikuku: Bw. Naibu Spika wa Muda, hautakiwi kushindana na Waziri wakati wa maswali. Mimi najua kazi ya Bunge hili. Unauliza swali na Waziri anajibu. Ukipambana na Waziri wakati huo ni kinyume cha sheria za Bunge hili. Hakuna kukanushana wakati huo. Wakati huu ndio wa kukanushana.

Bw. Naibu Spika wa Muda, yeye kweli anaweza kusema mimi sisemi ukweli ninaposema kwamba eneo la Kaskazini Mashariki halina usalama? Je, yeye anaweza kutoka hapa aende Mandera katika mkoa wa Kaskazini Mashariki? Hawezi! Atakuwa maiti kabla hajafika Mandera. Hali ya usalama katika sehemu hiyo ni mbaya sana. Mimi ni Mbunge wa kitaifa wa Bunge hili. Upande wa Kitui, Tana River na kila mahali, hakuna na

usalama hata sasa. Wako chini ya usimamizi wa majangili. Nchi inakwenda sasa. Hapa Kiambu ni kama mchezo, na iko karibu na Nairobi, ambapo Kamishina wa Polisi, Bw. Kiruki, ambaye ameokoka, anakaa. Bw. Kiruki ni mtu ambaye ameshaokoka. Nafikiria yeye aambiwe aende aokoke kabisa na akae kanisani, kwa sababu hawezi kazi ya polisi. Utakuwa umeokoka na tena uue watu?

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

[Mr. Deputy Speaker took the Chair]

Haiwezekani! Lazima tutafute mtu ambaye hajaokoka na ni mjasiri wa kupambana na majangili na wezi bila msamaha wowote. Lakini huyu ambaye ameokoka, ni saa ngapi ambapo atatoa bunduki aue mtu? Hii ndiyo taabu yetu. Bw. Kiruki anatakiwa kwenda nyumbani na akae huko akiwa ameokoka. Anatakiwa atafute mahali ambapo kuna Yesu aingie huko. Lakini hawezi mambo ya usalama wa nchi hii.

Bw. Naibu wa Spika, watu wanapata taabu huko Butere. Ukienda kuambia polisi kuna mambo mabaya hapa, hawaji. Ukitaka waje, lazima uwambie chang'aa iko mahali fulani. Watakuja na bunduki, tena kwa haraka sana. Lakini ukiwapelekea shida za wananchi, wanasema hakuna petroli. Lakini ukiwambia kuna pombe, watakuja haraka sana. Hii ni Serikali ya pombe tu!

Na hapa tunataka pesa. Kwa hivyo, ukosefu wa usalama unaodumu hapa Kenya unatufanya sisi wengine kuona vibaya kutoa pesa kama hizi kwenda kuliwa na watu, na hawawapatii watu wetu usalama. Ni Serikali gani hii ambayo haiangalii usalama wa watu wake, na wanatambia hii Serikali ni ya wananchi? Ni wananchi gani na hamwachungi? Wanapigwa risasi ovyo. Hakuna usalama kwao.

Jambo la pili ni juu ya wizi wa mifugo. Ng'ombe huibwa kila siku. Maisha ya watu yanapotea na ng'ombe wao pia wanapotea na kuna polisi. Wanafanya kazi gani? Wizi huu unaungwa mkono na Afisi ya Rais katika Serikali hii. Nataka kuthibitisha jambo hili. Kuna watu wanaitwa polisi wa kawaida, polisi wa utawala, machifu, manambu wa machifu, maafisa wa tarafa, wakuu wa wilaya na wakuu wa mikoa. Hawa ndio hutawala.

Bw. Naibu wa Spika, nataka kukupa jambo la kusikitisha. Juzi katika Butere, mama aliefiwa na mumewe alienda akamwambia naibu wa chifu wa Manyala kwamba mtoto wake anafanya mpango wa kuiba ng'ombe wake. Ana ng'ombe mmoja tu! Alimwambia naibu wa chifu huyo kwamba, ikiwa mtoto huyo atakuja kuchukua barua ya kupeleka ng'ombe sokoni, asipewe. Kabla ya miezi miwili kwisha, matanga yakatokea kwao na akaenda. Yule kijana wake alienda kwa huyo naibu wa chifu na akapewa barua. Ajabu gani hii! Alimpatia barua hata baada ya kupewa onyo. Ukitaka kujua wanaunga mkono wizi wa ng'ombe, alimpa huyo kijana barua. Alikuwa na kuchukua ng'ombe wa mamake, lakini kulikuwa na mjukuu mmoja pale. Alipoona ng'ombe anachukuliwa, alienda kwa polisi. Nataka msikilize jambo hili kwa makini. Mtoto huyu alienda kwa kituo cha polisi na kuwambia ng'ombe wa mama amechukuliwa. Polisi walimuuliza: "Inakwenda wapi?" Yule mtoto akawaambia vile yule kijana ameenda kuuza ng'ombe wa mamake huko Shatsala. Walienda na huyu mtoto. Walipofika Shatsala, walipata kuwa ng'ombe ameshauzwa, na aliyenunua yungali pale. Wakamuuliza: "Huyu ng'ombe ni wako?" Akasema: "Hapana, mimi nimenunua na risiti na barua ya naibu wa chifu ndiyo hii!" Hii ni ajabu na nataka Mkuu wa Sheria asikie jambo hili. Badala ya polisi kumshika mtu yule pamoja na ng'ombe, walichukua ng'ombe na wakamwacha mwizi. Wakapeleka yule ng'ombe katika kituo cha polisi cha Manyala na wakamfunga huko. Mama aliporudi kutoka matangani kule kwao, akaambiwa ng'ombe alichukuliwa na mtoto wake na yuko katika kituo cha polisi. Alipofika kwenye kituo cha polisi, aliulizwa kama yule ng'ombe ni wake. Aliposema ni wake, aliambiwa atoe kitu kidogo kwa sababu ya vile walivyomfuata ng'ombe. Ni ukweli walimfuata ng'ombe na wakampata, lakini wanalipwa mshahara na hizi pesa ambazo tunaulizwa tupitishie. Wanamuuliza mama ambaye amefiwa na bwanake atoe kitu kidogo. Hakikuwa kidogo lakini kilikuwa kikubwa. Kilikuwa Kshs4,000. Alijaribu kujitetea mpaka kikafika Kshs1,700. Mambo ninayoyasema yako katika affidavit. Aliwaomba muda aende kuomba. Alipopata, akaleta hizo pesa na wakampa ng'ombe.

Naibu wa chifu, ambaye alikuwa ameonywa asipeane barua ya kuuza ng'ombe, akaja kwake jioni. Akamuuliza kama anajua kuwa yule aliyenunua ng'ombe amepata hasara ya Ksh11,500 na kumwambia auze vitu vya nyumba, ili wakamrudishie yule mtu ambaye amenyang'anywa ng'ombe na polisi. Mama akakataa! Alisema hawezi kununua ng'ombe wake, na hivyo ndivyo hayo yalimfikia Mbunge wa Butere, na ndipo nikaingilia. Sasa niambie! Naibu wa chifu alikwa ameambiwa asitoe barua na akatoa. Mimi najua kazi ya polisi sana, kwa sababu nilikuwa katika Wizara ya Mambo ya Nyumbani kwa miaka mitano kama Naibu wa Waziri. Ikiwa mtu anashikwa na kitu cha wizi, yeye hushikwa na kitu hicho na kupeleka ndani. Akisema Bw. Shikuku ndiye ameniuzia, mimi nitatafutwa baadaye. Lakini, atakayefungwa miaka mingi ni yule aliyenunua mali ya wizi. Atafungwa zaidi kushinda yule mwizi. Ajabu ni kwamba, mpaka leo, yule naibu wa chifu bado ana cheo hicho,

na hakuna kesi yoyote imefanywa na polisi wale, na ng'ombe yuko kwa huyu mama sasa. Je, kuna Serikali tena? Alipopeleka mambo haya kwa afisa wa tarafa, alisema hayo mambo ni ya utawala na atamaliza.

Bw. Naibu Spika, huu ni ukweli mtupu na Bw. PC anajua. Tunatenga pesa za kulinda watu wetu lakini hawalindwi bali wananyanyaswa na Serikali hii.

Bw. Naibu Spika, jambo lingine ambalo ningependa kuzungumzia juu yake ni kuhusu polisi wetu. Polisi zamani walikuwa na nambari ambazo walikuwa wakivaa katika nguo zao rasmi wakati walipokuwa kazini. Lakini siku hizi wanapokwenda kufanya kazi zao hawavai nambari zao rasmi za kikazi. Mimi hupata wengi wakiwa na tundu mbili na ukiwauliza kwa nini hawavai nambari zao katika mavazi yao rasmi, wanasema wamesahau. Inawezekana polisi kusahau nambari yake ya kikazi? Hawataki kuvaa nambari zao rasmi ili wanapowafanyia wananchi madhara wasitambuliwe. Kweli bado tuna Serikali, ikiwa polisi wamekuwa "wakora" na hawataki kuvaa nambari zao za kikazi? Ni Mungu tu ndiye anayelinda nchi hii. Tumekwisha! Hatuna Serikali!

Utaona ya kwamba katika Ofisi ya Rais kuna Immigration Department. Hapa kuna fedha ambazo zimetengewa idara hii ya Immigration. Immigration Department ni mbovu sana. All they are doing is "de-Africanisation." Kuna Wakenya wengi ambao wamesoma juu ya hesabu na akaunti katika viwango mbalimbali. Kuna Wakenya ambao wamepata shahada ya Phd, shahada ya MA na kadhalika. Benki nyingi za Wahindi hapa zinasimamiwa na watu kutoka Pakistan. Ndio wanaoajiriwa na ilhali tuna Wakenya wengi waliosomea akaunti katika viwango mbalimbali na kuhitimu, kwa mfano, kuna wale waliopata shahada ya BA(hons), MA na kadhalika na hawawezi kupata kazi katika benki hizi. Hawa wanatangatanga huko na kule mijini wakitaifuta kazi na Wahindi wa Pakistan wanapata kazi. Ukitaka, nitataja majina ya benki hizi. Kwa nini tuwaajiri wageni katika benki hizi? Ni kwa sababu viongozi wetu wanapewa "kitu kidogo" ili Wahindi wa Pakistan waajiriwe katika benki hizi. Ni kwa nini tutengee idara hii pesa? Ni bure tu, kutenga pesa katika idara hii kwa sababu wanapewa "kitu kidogo" na wanawakubalia Wahindi kuja hapa ovyo ovyo. Wengine wanataka kutafuta kura baada ya kunyonya wananchi.

Bw. Naibu Spika, wakitaka majina ya benki hizo nitazitaja. Kwa mfano, tuna ABN AMRO Bank katika Kenyatta Avenue karibu na Bank of Oman. Waafrika sasa wanafutwa kazi na Wahindi wa Pakistan wanaajiriwa. Wengi wa Wahindi hawa si wananchi wa Kenya, wengine wanakuja kama wageni au watalii lakini wanakuja na kuajiriwa kazi na baadaye wanakuwa wananchi wa Kenya. Hii Serikali imeoza kabisa, na wanataka pesa.

Bw. Naibu Spika, katika Wizara hii tuna awards au medali. Yaani mtu aliyefanya kazi vizuri katika Kenya anatumikiwa medali kama vile EBS, EGH, OGW na kadhalika. Wakati huu watu wanapata medali moja kwa moja bila pingamizi yoyotote, ukisha kuwa Waziri tu, unatumikiwa medali ya EGH. Umefanyia nini nchi yako? Wengine, ukitazama CV zao, utaona ni robo ya ukurasa. Inaonyesha walikuwa shuleni, baada ya hapo wakawa walimu na baadaye wakawa Wabunge. Na katika kipindi cha pili walipochaguliwa, wakawa mawaziri na hapo wanatumikiwa medali ya EGH. Umefanyia nini Kenya wewe?

Ni lazima mtu atunukiwe medali ikiwa amefanya kazi nzuri.

An hon. Member: Kwa mfano, Waziri Mulinge!

Mr. Shikuku: Mhe. Mulinge ninaweza kukubali apate medali kwa sababu alikuwa hapa wakati wa ukoloni. Akapambana mpaka akafikia cheo cha jemedari katika Serikali yetu. Yeye ana CV nzuri; wengine CV haziwezi kuwa na mistari minne lakini wao wanapewa medali ya EGH. Haina maana hata kidogo. "Watoto" katika Serikali hii wametunukiwa medali ya EGH na walikuwa shule wakati wa kupigania Uhuru wetu. Wameifanyia nini Kenya yetu?

Kuna watu ambao wamepigana katika nchi hii, watu ambao wametumikia nchi hii miaka mingi lakini hawatunukiwa medali hizo. Siku hizi, hizo medali zinapewa hata wezi! Kwa Mfano, Ketan Somaia, EBS! Na huyu alichukua pesa zetu kwenda kununulia Serikali hii silaha na vifaa vingine vya Jeshi na kadhalika, lakini hajanunua tangu 1986.

Bw. Naibu Spika, wengine wetu tunaposimama hapa kuzungumza, tunazungumza mambo ya kweli na ndio tunaishi. Ukiweza kumpa "mwizi" kama huyo medali ya EBS, basi hizi medali hazina maana hata kidogo.

Bw. Naibu Spika, bali na Ofisi ya Rais, tuna Wizara ya Mashauri ya Nchini na Turadhi za Kitaifa na ninamuona Waziri Lotodo yuko hapa.

Jana nilienda katika Industrial Area Prison kwenda kutafuta bail ya watu fulani ili waachiliwe kwa dhamana. Hawa watu walikuwa wameshikwa kutoka nyumbani kwao usiku wa manane na kupigwa na polisi. Mmoja wao alipigwa hadi akavunjika mbavu mbili kwa sababu askari walikuwa wameambiwa ya kwamba kulikuwa na wezi hapo. Kwanza, walikuwa wamepewa pombe na mama mwingine ambaye hawasilizani na mtu huyu. Polisi wakati huu tuwape shukrani kwa vile walimpeleka mtu huyo hadi Kenyatta National Hospital. Huko hospitali ya Kenyatta alikaa siku nne kisha akapeleka kortini na baadaye rumande. Mimi na watu wengine tukaenda kumtafutia dhamana ili achiliwe huru. Nilikuwa na vitu vyote ambavyo vinahitajika kwa

kumtolea dhamana. Ilinichukua karibu siku nzima kabla ya kufaulu.

Ninataka kumshukuru Mhe. Lotodo kwa sababu anakubali ukweli wakati mwingine na kusema jela zake zimejaa, kuna magonjwa, watu wanakufa na kadhalika. Niliielezwa na yule alikuwa ndani ya kwamba watu huko hulala ikiwa wameangalia upande mmoja na wakati wakugeuka ni lazima mmoja apige mbinja ili wote wageuki na kuangalia upande mwingine. Hii si jambo la mzaha! Kuna uchafu, chawa, kunguni, mende na kadhalika. Huu ni wakati wetu ambao tuko Uhuru na hali ni mbaya hata kuliko wakati wa Mkoloni. Bw. Naibu Spika, hapa Wizara inahitaji K£110,525,310. Yafaa hizi pesa ziwe zaidi ya hapo na rumande watu wasipate taabu kabla ya kuhukumiwa. Huyu mtu ambaye anakaa katika rumande hajapelekwa kortini na hana hatia yoyote. Ni mtu "innocent" na anafanyiwa mambo mabaya yote. Mwishowe akipelekwa kortini, inasemekana hana hatia yoyote na anaachiliwa huru kwenda nyumbani. Na shida zote alizozipata huko rumande hakuna mtu anayemfidia.

Mr. Gatabaki: On a point of information, Mr. Deputy Speaker, Sir. When this Government took me to Industrial Area Prison, as hon. Member of Parliament, I witnessed the death of four suspects. I also witnessed four suspects who have not been taken to a court for about a year.

Mr. Shikuku: Hiyo ndio hali katika rumande! Sabuni hakuna, wala mswaki na kadhalika. Na wale niliwatoa rumande jana walikuwa na chawa zikitembea nyweleni na kadhalika. Niliwabeba ndani ya gari langu hawa watu wakiwa na chawa zikitambaa nguoni mwao na mayai ya chawa yalikuwa katika nywele zao na hawa watu hawana hatia yoyote.

Mr. Shikuku: Bw. Naibu Spika, naona hapa kuwa lazima pesa ziongezwe ili magereza yapanuliwe na pia korti za nchi hii zifanye kazi kwa muda wa masaa 24 kwa siku. Hivi vitu vidogo vidogo vimalizwe mara moja, ili washukiwa wazijaze rumande. Unashangaa ukiambiwa kuwa mtu amekaa mwaka mzima katika rumande.

The Minister for Home Affairs and National Heritage (Mr. Lotodo): On a point of order, Mr. Deputy Speaker, Sir. Would the hon. Member for Butere say or mention the name of the person who has been remanded for one year without a mention? I know that those people who are remanded are taken to court after every two weeks.

Mr. Shikuku: Sijui, Bw. Waziri alikuwa amekwenda wapi. Habari hiyo ilitolewa mbele yako na ukasikia. Iitolewa na Mhe. Gatabaki ambaye alikuwa huko.

Bw. Naibu Spika, hayo maneno yamesemwa saa hii na Mhe. Gatabaki aliyekuwa huko na ambaye alikuwa amekaa huko kwa mwaka mmoja.

Mr. Deputy Speaker: Mr. Gatabaki, I am sure you can find information on this particular issue.

Mr. Gatabaki: On a point of information, Mr. Deputy Speaker, Sir. If I am given more time, I can give the name. I would like also to support--

Mr. Deputy Speaker: You are welcome to give that any time.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, we require those prisons to be expanded so that when we take over the Government, all these characters also can go there and experience what we experienced under the hands of this immoral Government.

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): On a point of order, Mr. Deputy Speaker. Is it in order for the hon. Gatabaki to call the hon. Members on this side "these characters"?

Mr. Deputy Speaker: There are only hon. Members on the other side, Mr. Gatabaki.

Mr. Shikuku: Bw. Naibu Spika, nilikuwa nasema kwamba hawa watu wanawekwa katika rumande kwa sababu korti zinachukua muda mrefu kuamua kesi zao. Pia mawakili walio hapa wanasababisha hali hii. Wanapoulizwa kesi itasikilizwa tarehe gani, wanasema:-

"Your honour, I have got another case to attend to; I think, three weeks will do".

Bw. Naibu Spika, ningetaka wale mawakili walio hapa wathibitisha jambo hilo. Wakili mmoja anashika kesi nyingi. Sasa ikifikia wakati wa mention ya kesi ya yule mtu aliye katika rumande, anasema:

"Your honour, I will not be there; I will be in court number 7; put it for next month"

Na yeye akitoka hapo anakwenda kwa bibi yake, ama anakwenda kwa bar kujiburudisha baada ya kazi. Na huyu mtu anakonda kwa kusumbuliwa na kunguni!

An hon. Member: Very bad!

Mr. Shikuku: Ni vibaya kabisa!

Mr. Ndicho: On a point of information, Mr. Speaker, Sir. I also want to inform hon. Shikuku that, people are staying at Kamiti Prisons for six months without being taken to court due to lack of police transport. I have witnessed 50 cases of convicts at Kamiti Prisons where cases cannot be heard in Thika law courts because there is no police transport to go for them at Kamiti to bring them to court. Last week, the police had to

request the PPO Nyeri to provide a truck for one day and when these suspects were brought to the court, the magistrate said that she was sympathetic with them but much as she would have liked to continue with their case, she was unable because the Government had no transport. That is another contributing factor to this problem.

The Minister for Home Affairs and National Heritage (Mr. Lotodo): Did they need transport from the Prisons or from where?

Mr. Ndicho: Not from the prisons but from the police department.

Mr. Shikuku: Bw. Naibu Spika, huu Mswada ni muhimu. Tunaweza kucheka katika Bunge hili, lakini wengi wetu hawajawahi kuona hata celi ya polisi. Hawajui tunasema nini?

An hon. Member: Mhe. Nassir, umewai kuingia huko?

Mr. Shikuku: Bw. Naibu Spika, kuwa katika celi nukta moja ya dakika ni kama mwezi moja! Hakuna kitu kizuri kushinda uhuru. Kwa hivyo wakati tunazungumza---

Mr. Michuki: On a point of information, Mr. Deputy Speaker, Sir. I would like to inform the hon. Member, now that he is talking about the courts and the remand homes that there appears to be a new law. I was sitting in a court in Murang'a two weeks ago to support some people who were in the courts. Before this case started, a group of about 20 women were brought before the magistrate to answer charges that: "Waliuza ndizi mahali pasipokuwa soko"; in a rural setting people can come to your shamba and buy bananas. Outside your gate, you can leave bananas for people to come and buy. So, I am informing the hon. Member that he might include in his speech that these are new laws which the Attorney-General and the Minister for Local Government for the sake of those farmers, should address. In Murang'a, that is what is going on because when the rural people sell their little produce, they are taken to court because wanauza ndizi mahali pasipokuwa na soko.

Mr. Shikuku: Bw. Naibu Spika, hatuna chuki na mtu yeyote, kwa sababu tumetumwa hapa kuwakilisha wananchi. Niko hapa kutoa maneno, na unasikia hayo wanayosema. Lakini watu wengine wanaweza kutabasamu katika hili Bunge. Nataka Mkuu wa Sheria athibitisha haya maneno. Wanasheria wanasema kwamba kesi hizi zinaweza kuchukua muda wa mwezi tatu wakati yule anayewakilisha anaka katika rumande kwa hiyo miezi tatu akisumbuliwa na kungunguni na chawa. Nataka, ikiwezekana, majaji wapelekwe katika jela kwa siku tatu tu, ili wapate kufahamu. Hawajui ile taabu mtu anapata akiwa katika rumande.

An hon. Member: Bw. Naibu Spika, si Mhe. Shamalla, ni wakili.

Mr. Shikuku: Bw. Naibu Spika, ni wakili na ananisikiliza na anawahurumia wale walio na shida katika rumande. Yeye hafanyi uwakili sasa, lakini wale marafiki wake wanaofanya uwakili, wanachangia shida za watu walio katika rumande kwa sababu wamechukua kezi nyingi.

Huko Marekani, unaweza kupelekwa kortini au kwa nyumba ya jaji. Nataka Mkuu wa Sheria asikilize hili jambo, ili akane. Huko Marekani, ukipatikana na kosa la traffic wakati wa usiku, hawangoji mpaka kesho yake; unaweza kupelekwa kwa nyumba ya jaji na yeye atauliza, kuna nini? Ataambiwa kuna kezi hapa; huyu mtu alikuwa anaendesha gari kwa kasi nakadhalika. Jaji atatoa nguo zake hata kama alikuwa anasafisha vyombo na kusema: "Sawa, sasa hii nyumba itakuwa korti" na mambo yanamalizwa hapo na mtu unakwenda.

Bw. Naibu Spika, nataka Mkuu wa Sheria akanushe kama huo si ukweli. We have got too many lawyers. Ni wengi kama kokoto. Wengine wao yafaa wateuliwe kuwa majaji ili wasikilize kesi hizi ndogo ndogo. Hii itawezesha watu kuachiliwa au kufungwa. Wanaojiita "learned friends: husema "justice delayed is justice denied." Hawa ndio wanaochelewesha haki. Mhe. Oreno hata akiwa mahali alipo anasikia ninachosema. Justice is always [Mr. Shikuku]

denied by the lawyers and the judges. Wanakubaliana ili kuchelewesha kesi wakisema "Will you be free?" "No, that day I will be busy."

Mr. Gatabaki: On a point of order Mr. Deputy Speaker, Sir. Is it in order for the hon. Shikuku to blame the lawyers when we know that none other than the Chief Justice of this country has issued a circular to all magistrates instructing them to deny bonds and bail for suspects so that they can remain forever in custody?

Mr. Shikuku: Mr. Deputy Speaker, Sir, that is a different issue. Mimi naongea juu ya Mswada huu.

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order Mr. Deputy Speaker, Sir. The hon. Member for Githunguri, who has become very famous for making outrageous statements, has now made a categorical statement that the Chief Justice of Kenya has written a circular saying that persons charged before court should not be given bond. That is not true. Could the hon. Member lay that information on the Table here?

Hon. Members: Huo ni ukweli.

Mr. Shikuku: That is his substantiation and not mine.

Mr. Deputy Speaker: Order! Order! I think, in the circumstances, to allow further dwelling on this

subject by the hon. Gatabaki, will be in contravention of Standing Order Number 73. Fortunately a statement was made but I think I do recall that a question to that effect was asked on the Floor of the House and I take it that everybody has heard the Assistant Minister in the Office of the President disputing that. I would rather hon. Shikuku continues.

Mr. Shikuku: Asante Bw. Naibu Spika. Ningependa Mkuu wa Sheria alitie maanani jambo hili kwa sababu mawakili ni wengi. Wengi wao yafaa wafanywe majaji ili haki itendeke upesi. Hata ikiwezekana wanaweza kufanya kazi usiku. They can go on working even at night to ensure that justice is done for all people as fast as possible. Tukifanya hivyo tutapunguza msongamano ulioko katika rumande. Kuhusu mambo ya magezea, nafikiri hakuna Mbunge anayeweza kupinga ikiwa Waziri anayehusika na magezea ataomba pesa zaidi. Yafaa yeye apewe pesa zaidi ili watu wetu waweze kuwa wakiishi kama binadamu wakiwa katika jela. Na pia yafaa wawe na vitanda. Yafaa Waziri huyu apewe pesa, nasi tutamuunga mkono, ili mtu akiwa mfungwa asipoteze utu wake. Ni kitendo cha unyama kumfanya mtu alalie sakafu baridi bila blanketi. Mimi nililala kule Gatundu juzi.

Bw. Naibu Spika, akigusia ukurasa wa 449, mhe. Matu Wamae ametoa hotuba ya maana sana; hotuba ambayo mimi ningeitoa. Namuunga mkono kwa sababu alisema kwamba hizi Treasury Bills zinatoa pesa na kwa hivyo wale watu wa banki wameongeza riba. Na imekuwa ni vigumu kwa wafanya biashara kuweza kukopa fedha kwa sababu riba ni za juu sana na kwa hivyo maendeleo hayawezi kupatikana. Ikiwa unalipa faida kiwango cha 31 asilimia ya pesa unazokopa katika banki, utakuwa na biashara gani ambayo inaweza kukuwezesha kulipa mkopo huo na pia uweze kuwalisha watoto wako? Tunaumizwa tunapolipa riba za juu. Waziri wa Fedha yuko hapa na yafaa afahamu kwamba imekuwa vigumu sana kufanya biashara siku hizi. Riba imepanda sana na tunarudi chini kiuchumi. Yafaa apunguze riba inayolipwa kwa Treasury Bills zake. Wakulima hawawezi kutoa chakula na mwaka ujao kutakuwa na njaa. I am repeating this. Kutakuwa na njaa mwaka ujao na ishaingia tayari katika sehemu fulani. Wakamba wanakufa kwa njaa. Watu wa Mkoa wa Kaskazini Mashariki pia wanakufa kwa njaa. Katika Mkoa wa Magharibi kwa sasa, bei ya *gorogoro* moja ni Kshs15. Je, kufikia mwezi wa Februari mwakani bei ya *gorogoro* moja itakuwa shilingi ngapi? *Gorogoro* ni ule mkebe wa uzani wa kilo mbili za mahindi. Wanakataza watu kununua mahindi kutoka Uganda na ile hali hapa hakuna mahindi. Njaa inakuja na watu wanakufa. Mawaziri wamekaa hapa bila kuwa na habari yoyote kuhusu jambo hili.

Bw. Naibu Spika, sasa nitagusia juu ya Wizara ya Afya. Hapa mhe. Angatia, ambaye ni Waziri wa Wizara hiyo, anataka tumpe kiasi cha K£400,825,130. Kila mwaka tunatoa fedha kwa Wizara hii. Kuna msemo usemao kwamba yafaa utoe kile kilichoko katika jicho lako ndipo uweze kutoa kilicho katika jicho la mwenzako. Ningetaka kumpeleka mhe. Angatia hadi kule Kakamega kwake. Hata nitagusia sehemu ya Malava ambako ni nyumbani kwake. Tunapotoa hizi fedha, watakuja kupiga kura hapa wakisema "Ayes" na zitapitishwa. Zikishapitishwa utaona kwamba hakuna dawa Malava; hakuna dawa Butere; hakuna dawa Khwisero. Kila pahali hakuna dawa. Hata ile karatasi ya kuandikiwa dawa inamlazimu mama aende anunue kitabu cha kuandikia. Hiki kitabu kinakatwa katikati ndio wamwandikie dawa. Na ile dawa wanayomwandikia haiko katika hiyo dispensari. Inambidi mama atafute dawa hii katika duka licha ya kwamba hapa Bungeni tumepitisha pesa za kununua dawa. Swali ni hili: Hizi pesa ambazo tunataka kupigia kura kwa kusema "Ayes" saa hii zinaenda wapi?

(Laughter)

Tunaweza kucheka lakini yafaa tujue kwamba wananchi wanaumia. Wananchi wanakufa kama inzi. Ukienda katika duka la dawa utapata kwamba dawa yenye bei ya chini kabisa ni ile inayouzwa kwa bei ya Kshs1,000. Juji nilipokwenda kumtafutia mtoto wangu dawa nilipata bei yake ni Kshs4,000. Je, wale watu ambao tunawakilisha wanaweza kununua dawa ya Kshs4,000? Kwa hivyo, kitu kilichobakia kwao ni kufa na huku tunaambiwa "Kaeni vivyo hivyo na Mungu awabariki." Watu wengine hupendelea kusema "Juu, Juu zaidi". Hawa watu wa KANU watakuja kummaliza Moi. Wanamwambia aende juu juu na huko atakumbana na Mungu. Atatoka uko akivingirika akija chini. Yafaa yeye akatae tabia ya watu kumsukuma juu juu zaidi. Juu ni kwa Mungu na si kwa Moi.

Bw. Naibu Spika, Waziri wa Afya anajua kwamba katika Wizara yake hakuna dawa. Na wakati ule utakapouliza: "As many as of the opinion say, "Aye" wote watasema, "Aye", lakini hakuna chochote kitakachotendeka. Tunataka dawa na hatuoni hizo dawa; kodi tunatoa na bado hatuoni dawa. Haya ndiyo maneno tutakayoulizana wakati wa uchaguzi utakapofika. Hapa tunakubali pesa zitolewe na hazifanyiwi kazi, wananchi wanarudi kuuliza Mbunge wao tena. Sasa mimi kama Mbunge nitafanya nini na nishatoa uamuzi wangu katika Bunge?

(Mr. Deputy Speaker left the Chair)

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

Bw. Naibu Spika wa Muda, nikizungumza juu ya Wizara ya Serikali za Wilaya, mhe. ole Ntimama ndiye amekalia hiyo Wizara. Yeye ana uwezo mwingi, kiasi ambacho ni karibu kushinda ule uwezo wa Mtukufu Rais. Kwa sababu, yeye akitoa umauzi katika serikali za wilaya, hakuna yule anayeweza kumpinga kamwe. Hata yeye mwenyewe, juzi alikubali kwamba, madaraka ambayo amepewa ni makubwa mno. Nami namtolea shukrani kwa kukubali hivyo. Alikubali kwamba, ana uwezo mwingi na uwezo huu anataka upunguzwe. Kwa sababu, mtu akishakuwa na uwezo mwingi hulewa. Hata ikiwa hunywi pombe lakini ukitambua kwamba una uwezo mwingi, unalewa pia. Mimi ningependa kumwambia Waziri wa Wizara hiyo kwamba, hata kabla hajaingia Bunge hili alikuwa anajua Butere, kwa sababu Mbunge wa Butere alikuja hapa mwaka wa 1963. Watu wa Butere walinituma nimuulize Waziri huyo ana chuki gani na watu wa Butere. Nami nikawaambia kwamba, nitafikisha ujumbe huo. Kwa sababu, mimi nikishatoa ahadi nimetoa. Imekuwaje Butere ambayo alianza kuisikia kabla hajafika katika Bunge hili na kabla hata wakati alikuwa hajapata wadhifa wa Uwaziri, hajawapa township status, ilhali wametoa maombi na hata yamepitishwa na DDC? Je ana chuki gani na watu wa Butere? Akipata nafasi atanjibu na siyo mimi, wala awaambie watu wa Butere ana chuki gani nao. Kwa maana, hata miji mingine ambayo ni midogo sana kuliko Butere imetanjwa township, ilhali Butere is very developed, lakini hatuwezi kupewa township. Hilo swali, atajibu akirudi.

Bw. Naibu Spika wa Muda, sasa naja kwa "Wizara mbovu". Na hiyo ni Wizara ya Ujenzi na Nyumba. Wizara hii wanataka K£165,877,780. Mhe. Kiluta ambaye yuko hapa, kila siku anapambana na maswali kutoka pande zote. Na mhe. Mwamzandi pia. Wao hupewa majibu mabovu; tunawatambua hapa na wanashindwa kutujibu, lakini huku wanataka pesa na hatuoni mahali palipo na barabara. Kwa mfano, hata hapa Eastleigh, kabla hujaenda Butere, maanake hii ndiyo Capital City ambayo ni headquarters ya administration ya Serikali. Ukienda kule Eastleigh, ukiingia kwa pothole hutamuona mtu kama mhe. Kiluta. Siku hizi wanaziita hizo potholes "Moi Holes." Mtu kama mhe. Kiluta akiingia katika hiyo "Moi hole" huko Eastleigh hawezi kuonekana.

Hii ni aibu kubwa katika mji mkuu wa Kenya, mimi na mhe. Kiluta tukiitumbukia katika "Moi Hole" hatuonekani! Wacha turudi kule sehemu za mashambani ambapo wengi wetu hapa pamoja na mhe. Kiluta, tunataka. Sisi ndio wengi ambao tunawakilisha watu wa mashambani. Ukienda Mkoa wa Kaskazini Mashariki, Mkoa wa Mashariki, Mkoa wa Magharibi na Mkoa wa Nyanza, barabara zote ni mbovu. Mkoa wa Bonde la Ufa ni afadhali. Hata ukimwambia shetani atakubaliana nawe. Na hapa tunaambiwa, "toeni pesa nyingine na zile tunazotoa kwa petroli, Serikali inachukua asimilia 50 ya mauzo ya petroli. Kwa mfano, ukinunua petroli ya Kshs100, Kshs50 zinaenda kwa Serikali. Lakini ukitaka barabara yako itengenezwe, nenda ukamwulize Mtukufu Rais aje kutembelea sehemu yako ya uwakilishi Bungeni na kama atakuja siku ya Jumamosi, barabara zote mbovu zinatengenezwa vizuri kutoka Jumatano, Alhamisi na Ijumaa hata wewe mwenyewe utastaajabu niko wapi hapa. Kumbe upo Butere kwa sababu Mtukufu atapatia huko.

Fedha hizi wanazipata wapi Mtukufu Rais anapokuja na tunaposema hapa kwamba tunataka barabara itengenezwe, haitengenezwi? Lakini Mtukufu Rais akitoka huko, utapata graders na kila kitu kimetengenezwa. Fedha hizi zinatoka wapi? Kuna mipango na wananchi wanajua kuwa Serikali hii inachukua fedha zao na kila Mbunge na kila mwananchi analipa kodi. Mbunge mmoja amesema hapa kwamba sisi ndio watu wanaotozwa kodi ya juu sana ulimwenguni. Tunaweza kuwa nambari mbili na hatupati chochote. Ukienda Switzerland, huna haja ya kutoa nauli. Ukiingia kwa gari la moshi, una ruhusa ya kutembea popote pasipo kutoa nauli yoyote. Nilipotia mkono wangu mfukoni kutoa nauli niliambiwa: "No! No! This is the service!" Hata mimi nimenufaika kutokana na kodi ya mwananchi wa Switzerland, sikutoa chochote. Unapanda vyombo vya usafiri na ukifika mahali unataka, unashuka na ukitaka kurudi tena, unangojea gari lingine la moshi, na kupanda bila kutoa nauli yoyote kwa sababu ya kodi wanayotoa ya juu. Hapa tunatoa kodi ya juu, lakini hatuoni huduma yoyote.

Bw. Naibu Spika wa Muda, tumekuwa maskini kabisa kwa sababu ya kuwa na Serikali ya wafisadi ambapo sasa hakuna mtu anayeweza kuvaa nguo mpya. Cherahani hazina kazi siku hizi kwa sababu hakuna kazi. Tumeshindwa na sasa tumegeukia mitumba. Hata motokaa ni ya mitumba na kila kitu kimekuwa cha mitumba. Hata majeneza huenda yakawa ya mitumba. Hii ndiyo Serikali ya KANU!

Ningependa kusema kwamba kodi hizi tunazotoa, ninyi watu wa Serikali mtaulizwa zilienda wapi. Wananchi wasimwulize Mbunge habari ya barabara na sitima kwa sababu fedha hizi zinatoka kwa kodi na kodi ndiyo hii tunataka kupitisha hapa. Waziri wa Fedha yuko hapa na atazipeleka katika wilaya, lakini utastaajabu kuona kwamba hakuna miradi yoyote itakayotekelezwa. Waziri huyu wa Fedha atakapokwenda kwa kura ndio ataona. Hili ndilo jambo la kwanza ambalo litamkabili na atalazimika kutetea kiti chake kwa sababu ataulizwa maswali huko!

An. hon. Member: Kama maswali gani?

Mr. Shikuku: "Hii barabara bona haijatengenezwa? "Barabara ile mbona haijatengenezwa?" Makao makuu ya Wilaya hayajakamilishwa na kodi tunatoa na wewe ndiye Waziri wa Fedha?"

(Laughter)

Nampatia Waziri wa Fedha mawaidha ya bure kwa sababu kushinda kura ni jambo moja, lakini kutetea kiti chako ndiyo shida kubwa. Mwaka 1963 wakati tulipojinyakulia Uhuru wetu, tuliingia hapa kwa urahisi, lakini tuliporudi mwaka wa 1969 kutetea viti vyetu, asilimia 65 ya Wabunge waliokuwepo katika kikao cha kwanza hawakurudi hapa Bunge, lakini sisi wengine tulirudi. Kwa hivyo, ninampa mawaidha haya ili ajue yatakayompata.

The Minister for Finance (Mr. Mudavadi): On a point of order, Mr. Temporary Deputy Speaker, Sir. I just want to tell the hon. Shikuku that in the last General Election, he campaigned very heavily in my Constituency, but he was unable to persuade them to vote me out, and it will be the same next time.

Mr. Shikuku: Bw. Naibu Spika wa Muda, mimi sikufanya kampeini kubwa katika sehemu ya mhe. Mudavadi. Mimi namsaidia mhe. Mudavadi lakini yeye hajui. Watu wanafikiri mhe. Mudavadi ndiye anayetengeneza barabara, kujenga hospitali na kadhalika. Hawajui kwamba wanatoa kodi, tunaidhinisha matumizi yake hapa halafu watu wengine "wanaikula". Ninajaribu kumsaidia. Inafaa Wabunge wote wawaelimishe wananchi wajue kwamba sisi tunaidhinisha matumizi ya pesa lakini sisi hatuzitumii. Ikiwa watu wanataka kutulaumu, basi tupewe pesa za kulipia miradi ya maendeleo katika sehemu zetu. Tunaidhinisha matumizi ya pesa ambazo zinatumwiwa na watu wengine halafu wananchi wanatuuliza: "Wapi barabara?". Mimi si dereva wa matingatanga ya kutengeneza barabara! Inafaa Wabunge wote wawaambie wananchi ukweli huu, la sivyo watalumiwa bure.

Mimi ninafahamu sana utoaji hotuba hapa Bungeni kwa sababu sina biashara. Wabunge wengine wanataka nimalize haraka kwa sababu wanataka kwenda kuangalia biashara zao. Ni heri waende kwa biashara zao na kuniacha niendelee na hotuba yangu.

(Hon. Ng'eno entered the Chamber)

An hon. Member: Waziri anayehusika na barabara ameingia!

Mr. Shikuku: Yeye haonekani katika Bunge hili. Kama ameingia hapa leo kutanyesha sana. Lakini sitarudia yale ambayo nimesema. Waziri wake Msaidizi, mhe. Kiluta, ambaye amekuwa hapa, atamweleza niliyoyasema kuhusu Butere.

Katika ukurasa wa 419 wa Mswada huu tuna Voti R19 - Wizara ya Habari na Utangazaji. Shirika la Utangazaji la Kenya liko chini ya Wizara hii. Wizara hii inahitaji K£17,626,700. Pesa hizi zinatokana na kodi ambayo zote tunatoa. Lakini Shirika hili halitaki kutangaza maoni ya watu wa Upinzani. Kufuatana na matokeo ya uchaguzi mkuu wa 1992 watu wapato 3.4 milioni waliupigia kura Upinzani, hali watu 1.9 million walikipigia kura chama cha KANU. Shirika hili lingetwa "KANU Broadcasting Corporation" badala ya kuitwa "Kenya Broadcasting Corporation". Ingawa sisi ni 3.4 milioni, na tunatoa pesa zaidi za kodi, sauti ya watu 1.9 million ndiyo inayosikika katika vyombo vya utangazaji. Shirika la Utangazaji la Kenya linataka tutoe pesa ili litangaze KANU. Isitoshe, chama cha KANU "kinakula" pesa za umma. Maoni yetu hayatangazwi ingawa tunatoa kodi. Tumelalamika lakini Wizara "imeziba masikio yake". Unaweza kuzungumza kwa masaa manne katika Bunge hili lakini hakuna lolote litakalotangazwa katika televisheni. Hii inafanyika na hali sisi watu wa Upinzani tunatoa kodi.

Juzi, mhe. Nassir alisimama hapa na kusema ni lazima KBC itangaze maoni yale inaona ni ya maendeleo. Anafikiria kwamba KBC inaendeshwa na ushuru wa KANU.

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Jambo la nidhamu Bw. Naibu Spika wa Muda. Nataka kukanusha dai kwamba KBC haitatangaza maoni ya waheshimiwa kutoka upande wa Upinzani. Televisheni ni ya kuelimisha wananchi kuhusu mambo yanayotokea katika nchi hii, watu wanaosaidia kwa kufanya harambee, na wale wanaosaidia kulipa karo za shule. Yale aliyoyasema si ya kweli.

Mr. Shikuku: Bw. Naibu Spika wa Muda, wakati mwingine, jambo la kufanya ni kumuomba mtu kama huyu. Mimi namuomba ili katika zile siku chache ambazo zimebaki, aone mwanga. Lakini---

Assistant Minister for Information and Broadcasting (Mr. Nassir): Jambo la nidhamu Bw. Naibu Spika wa Muda. Mimi nataka mhe. mwenzangu aseme---

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order, hon. Nassir. Proceed Mr. Shikuku!

Mr. Shikuku: Ahsante Bw. Naibu Spika wa Muda. Mimi nataka haki. Sisi zote tunatoa kodi ili KBC iwe ikitangaza maoni ya kila aina na siyo Harambee tu. Ninataka kujulisha Wabunge wenzangu kutoka pande zote za Bunge hili, ambao wanafikiria Harambee ndiyo maendeleo peke yake--- Basi, kama ni hivyo, hatuna haja ya kutoa kodi. Tufanye Harambee. Hatukuenda kule Lancaster House na Harambee ili tumpe yule Colonial Secretary, the late Duncan Sam. Isiwe kwamba kama uko na pesa, wewe ndio utasikika kwa radio. Maskini watasikika siku gani? Hii siasa imekuwa mbovu na italeta wezi wengi katika Bunge hili. Wanaibia Serikali halafu wanakwenda kutoa Harambee na wanachaguliwa kuja katika Bunge hili na baadaye, litajaa wezi.

An. Hon. Member: Wamejaa tayari!

Mr. Shikuku: Ninaambiwa wamejaa tayari. Bora uwe na pesa, wewe ndio utakuwa kiongozi. Ni lazima wananchi wajue kwamba pesa zinazotolewa na watu katika Harambee zinatoka kwa kodi ya wananchi. "Wale" hizo pesa na wawanyime kura. Wananchi wakiwapa kura, watakuwa wakiua ukoo wao wenyewe kwa sababu mtoto wa maskini hawezi kuwa Mbunge na hawezi kuwa President, kwa sababu mtoto hatakuwa na kitu cha kutoa. Hili Bunge litakuwa la wezi.

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Jambo la nidhamu Bw. Naibu Spika wa Muda. Mimi nilikuwa nafikiria mhe. Shikuku alikuwa anatoa maoni ya kusaidia wananchi, lakini si kufanya kampeini hapa ya 1997. Ikiwa hukufanya kitu, huwezi kupata kura. Hakuna cha kufanya kampeini hapa.

Mr. Shikuku: Bw. Naibu Spika wa Muda, kuombea mtu kama huyu mzee ni kuharibu wakati! Kitu ninachosema ni haki kwa wote. Mtu awe wa KANU au Upinzani, ni lazima apate haki. Hata katika TV, juzi nilitoa hapa hotuba na wale waliojibu ndio waliotangazwa. Hiyo ilikuwa ni KTN. Ukitaka kusikika kwa radio au kwa TV, ni lazima useme, "namuombea Mtukufu Rais Maisha Marefu kushinda yale ya Abraham." Hayo yatatangazwa saa moja, saa tatu, saa tano na hata kesho saa moja asubuhi. Utakuwa wimbo.

(Applause)

(Hon. Nassir moved to the Table)

Hon. Members: Wewe, kaa chini!

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, hata wakiniambia nikae chini---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order, hon. Members! Hon. Shikuku and hon. Nassir, we are discussing about the Appropriation Bill. I want you to stop that debate and stick to the Appropriation Bill.

Mr. Shikuku: Ahsante Bw. Naibu Spika wa Muda. Tafadhali mzuie kuniingilia, wakati wake ukifika aje aseme maneno ya kimalaika, mimi yangu ni ya Shetani. Ukitaka jina lako lisikike kwa redio, ni lazima umpinge mpinzani mwenzako, hiyo itasomwa.

An hon. Member: Mara tano!

Mr. Shikuku: Juzi tulikuwa Kerugoya, sehemu ya Kutus. Moja wetu aliongea na hii ni kawaida katika demokrasia. Yeye akasema kwamba tusipoungana, basi ni afadhali turudi katika KANU. Habari hizo mara moja zikaletwa mpaka kwa KTN, na KTN hawakuwa huko. Hata KBC haikuwa huko. Wakatafuta picha nyingine ambayo ilikuwa ikionyesha watu wakivurugana, hiyo pia ikaonyeshwa. Kama kazi ya KTN na KBC ni kuchafua Upinzani, ni sawa. Ningependa kuwaambia wasichana na vijana walio katika KTN na KBC wanisikilize. Propoganda ya Mbeberu ilikuwa hivyo hivyo. Ilikuwa ajabu kupata sentensi moja au mbili kwa magazeti. Lakini hiyo haikuzuia Kenya kupata Uhuru. Tunapoenda katika hii mikutano, tutawaambia waeleze watu yale waliyosikia, ili watu hao pia waeleze wengine, na wengine, kwa sababu pia wao wanajua kwamba propaganda ya KANU inatumia KBC na KTN. Siku ile tutashinda--- Na wakati huu, tutashinda---

Hon. Members: Ah! Ah! Ah!

Mr. Shikuku: Wallahi Nabi!

An hon. Member: KANU (A) na KANU (B) zitaangamia.

Mr. Shikuku: Watavuna matunda ya ubovu wao. Imemandikwa kwamba mshara wa dhambi ni mauti. Si Shikuku aliyeandika hayo mambo. Wafanye hizi dhambi wanazofanya, lakini watavuna mauti. Siku hizi wananchi hawasilizi sana redio kwa sababu wanajua ni propaganda tu ambayo inatangazwa. Kile mwananchi

anasikiliza ni matangazo ya vifo ili ajue kama ndugu yake au mtu mwingine wao amekufa. Tunataka tupewe saa pamoja, FORD(K) iseme maneno yake, FORD(A), DP, KANU na SAFINA. Kila mtu apewe nafasi kwa sababu sisi sote tunatoa ushuru. Lakini si vibaya wakikataa, tumekwisha sema. Wacha wajidai kwamba hawasikii kama lile jiwe ambalo fisi alisema nalo na likanyamaza. Lakini mwishowe, lilivuna.

Sasa nitaongea juu ya Voti R.29 inayohusu National Assembly. Ni muhimu sana kufahamu kwamba National Assembly is the highest authority in the land. Hata iko juu ya korti na Rais kwa sababu yeye ni Mbunge katika Bunge hili. Leo hii tukiketi na kusema kwamba tumetupilia mbali sheria zote za nchi hii, Chief Justice hatakuwa na kazi. Hata mawakili wote hapa hawatakuwa na kazi. We can repeal all the laws and they will be unemployed. Sisi tunaongumza tumepatiwa mamlaka na maelfu ya watu. Hata korti ilipomtupa nje mhe. Kiliku kwa maneno mengine, yeye aliongea na wananchi na wakamrudisha Bunge. Si mhe. Kiliku ni Mbunge tena, korti imefanya nini? Wananchi ndio High Court ya Kenya. Parliament is the highest authority here. Sisi tunataka kusema wazi. Kuna watu wengine hapa wanaofikiria kwamba High Court ina mamlaka kushinda Bunge.

Hawa Wabunge wana bahati sana kwa kuiondoa ile Hoja ya kutaka kubadilisha Standing Orders katika Order Paper. Ninasikia kwamba watairudisha tena. Wairudishe wasikie maneno ambayo hawajahi kuyasikia. Rudisheni hiyo Hoja kama ninyi ni wanaume!

Hon. Members: Itarudishwa kesho!

Mr. Shikuku: Mnasema Kesho? Irudisheni. Hizo shida zenu mlizo nazo katika chama chenu za vikundi vya "A", "B" na "C" msituletee.

Hoja ilipitishwa katika Bunge hili. Tulipitisha sheria hapa na kusema kwamba National Assembly ipatiwe mamlaka ya kujisimamia ili wafanyakazi wake wawe tofauti na wafanyakazi katika Wizara za Serikali. Hivi sasa ninaona kwamba wanajaribu kurekebisha majengo ya Bunge ili kuiweka katika hali ya usafi. Ninashukuru sana. Sisi tulisema kwamba mishahara ya wafanyakazi wa Bunge iangaliwe lakini hadi wakati huu haijaangaliwa.

Bunge hili limejaa maofisa wa Special Branch karibu 60,000. Hata ukiketi na mwenzako ili mzungumze kidogo, unaona mtu akisikiza mazungumzo yenu. Tuna taabu gani kutujazia maofisa wa Special Branch hapa? This should be an independent institution. Pahali ambapo watu wataketi na kuzungumza maneno ya kuendesha nchi hii. Hii ni nchi ya KANU na Upinzani. Sasa imekuwaje maofisa wa Special Branch wamejaa hapa. Kwa nini wasiende North-Eastern na Kitui kuangalia nchi yetu inavyochukuliwa na bandits?

Mr. Orenge: On a point of information, Mr. Temporary Deputy Speaker, Sir. I am informing hon. Shikuku because the matter he is raising is very serious. Only two weeks ago, a Special Branch officer was transferred from Nyayo House to occupy one of the offices in Bunge to replace an officer here of considerable experience, and for that reason, hon. Biwott is able to use that office continuously and bring disorder in the House when that officer should be looking after this House properly. I heard, with my ears, this officer being ordered that he was a police officer and that he should take action on persons who had come to this Parliament with a visiting card that I had given them. The officer was being told that he was a Special Branch officer and that he must get rid of my visitors. So, we should get rid of Special Branch officers from Parliament.

Bw. Naibu Spika wa Muda, namshukuru mhe. Orenge. Hata nimeona katika runinga ya Kenya Television Network (KTN), juzu walikuwa wanafanya mahojiano na watu wanaongojea kuona Wabunge. Ni kwa nini watu wanajaa huko kwenye mlango? Ni kwa sababu kuna watu kati yetu ambao wanahisi hawana usalama. Kuna Wabunge na Mawaziri wengine ambao ukiwaambia watoke hapa wafike City Hall peke yao, watalala chini huku wakilia. Atalala chini kwa sababu anajua yuaenda kufa. Wanaogopa raia kama nyoka. Wanaogopa kwa sababu ya dhambi ambazo wamewatendea wananchi. Hata milango ya hapa imefungwa daima. Hawataki mtu aje na gari amrushie mhe. Mbela guruneti. Milango hiyo imefungwa daima.

Pia, nimekutana na wananchi ambao hawakubaliwi kuingia hapa kusikiliza maneno yanayosemwa hapa Bungeni. Imekuwa shida sana kupita mlango huo kuja hapa ndani. Imekuwa kama kwenda mbinguni. Utawaona watoto wa shule peke yake. Hata sasa, utaona upande wa Bw. Spika umeachwa tupu, na wananchi hawatakiwi. Wanawaogopa wananchi kama nyoka. Wengine wako na walinzi. Ikiwa mtu hajawahi kufanya maovu kwa wananchi, mbona anahitaji mlinzi? Mimi mhe. Shikuku nikitoka hapa, papapapapa, mimi naenda. Jaribu kunigusa uone utafanywa nini na raia. Sijaibia raia na sijawafanyia neno lolote bovu. Mimi naogopa nini? Walinzi hawa ni wa nini?

The Temporary Deputy Speaker (Mr. Ndotto): But they are entitled to protection!

Mr. Shikuku: Ndio. Mimi niko katika Bunge la taifa hili. R29 na mambo yanaofanyika hapa katika mlango---

An hon. Member: Hata kuna renovation lakini hakuna kitu kinafanywa!

Mr. Shikuku: Naambiwa na wenzangu hapa chini kwamba marekebisho hayafanywi. Pesa nyingi

zimetumiwa na hakuna lolote linafanywa. Ufisadi umeingia Bunge hili. Ufisadi uko hapa.

Nataka Msawaada ule utekelezwe. Zamani, kulikuwa na hata Standing Orders za Bunge hili ambazo ziliruhusu kamatu ya utekelezi, na siku moja nilichaguliwa kuwa mwenyekiti. Kamati hiyo ilivunjwa. Kwa nini? Hawataki mambo ambayo tunapitisha hapa katika Bunge hili yatekelezwe. Wanataka Bunge hili libaki kama chama cha mjadala; "a debating club". Lazima tuseme maneno yanayohusu nchi nzima, na pia tuingie hapa kwetu.

Wanasema mshahara wa wafanya kazi hapa na Wabunge ni mwingi sana. Lakini ukiangalia nchi kama Afrika Kusini, Zimbabwe na hata Uganda ambayo haiko juu kiuchumi, mshahara wao ni zaidi.

Wakati umefika sasa tuwe na tofauti. Hata kule Mbinguni---Hata wewe Bw. Naibu Spika wa Muda utaenda mbinguni, lakini naweza kukuapia mbele ya Mungu kwamba wewe hautakaa karibu na Peter au St. Paul. Utakuwa mbinguni mahali fulani, lakini siyo kule mbele. Hii ni kwa sababu kuna ukubwa kule. Kuna Mungu Baba, Mungu Mwana na Mungu Roho Mtakatifu. Huo ndiyo utaratibu. Halafu kuna akina Peter na Paul ambao wako huko. Wewe utaingia lakini utakuwa upande mwingine ukiimba haleluya. Usipoimba, wanakufukuza mbinguni.

Dr. Kituyi: On a point of information, Mr. Temporary Deputy Speaker, Sir. I wish to inform hon. Shikuku that, while he is talking about scandals at Parliament, that up to this moment, the Chief Accounting Officer of Parliament has not clarified to this House, why Ongata Limited, a company which has been involved in a questionable deal that is still before a Committee of this House, was awarded the tender to be involved in the renovation of Parliament.

He has also not clarified the number, in ranking, among the tenderers, this company was, and why it was given this contract, which is excessive by any rational calculation.

Mr. Shikuku: Bw. Naibu Spika wa Muda, unasikia maneno hayo? Ikiwa sisi wenyewe hatuwezi kuwa waadirifu tunataka wengine wawe waadirifu namna gani? Na "wale" na "wanyakue" na kadhalika lakini tunawaona.

Wakati mmoja kulikuwa na kesi ya Mbunge mmoja katika Bunge hili kule uwanja wa ndege wetu wa kimataifa. Kule mtu anahitajika kupitia mahali fulani lakini yeye alikuwa akipitia njia nyingine lakini hakujua ya kwamba wananchi walikuwa wakimuona. Alipofikishwa mahakamani wananchi walitoa ushahidi wa kweli ya kwamba yeye alikuwa akipitia njia tofauti na watu wengine. Hawakumwambia wakati huo kwa sababu alikuwa mkubwa sana na wangeputwa kazi. Wakati utafika ambapo ukweli utasemwa. Yesu anasema yote yanayosemwa mvunguni mwa kitanda yatasemwa juu ya paa. Lakini wakati huu yatasemewa juu ya Kenyatta International Conference Centre.

Ningependa Bunge hili liwe mfano mzuri na kila siku ninaota liwe hivyo. Juzi katika jirani la Tanzania, Waziri mmoja ilipodaiwa tu ya kwamba alihusika na ufisadi alijiuzulu. Hapa kuna Waziri amewahi kujiuzulu? Kujiuzulu kwao ni mwiko au ni kama mwanamume kupata mimba!

(Laughter)

Bw. Naibu Spika wa Muda, ni lazima Bunge hili liwe mfano mzuri katika nchi hii. Nilikuwa nikizungumza juu ya mishahara ya Wabunge hapa. Ni ajabu kuona mhe. Kibaki amekuwa hapa tangu 1963 na mshahara wake na mshahara wa mhe. Khaniri ni sawa. Hii si kwa sababu ninamwonea mhe. Khaniri, lakini alijiunga na Bunge hili juzi tu. Mhe. Khaniri anaweza kuwa mtoto wa mhe. Kibaki lakini wanapata mshahara sawa. Si haki hata kidogo! Ni lazima mhe. Khaniri ajue ya kwamba mhe. Shikuku au mhe. Kibaki anamshinda kwa miaka na pia hata kwa pesa. Hata tarishi anapoajiriwa katika Serikali hii yeye hapati mshahara sawa na yule tarishi aliyeajiriwa miaka mitatu iliyopita. Lakini hapa Bungeni, mhe. Khaniri, mhe. Kibaki na mhe. Shikuku wanapata mshahara sawa. Mishahara ya "wanasiasa wakongwe" ingepandishwa kidogo ili pawe na tofauti kati ya "wanasiasa wachanga na wakongwe."

(Applause)

ADJOURNMENT

Mr. Temporary Deputy Speaker (Mr. Ndotto): Order! Hon. Members, it is now time for the interruption of our business. The House is, therefore, adjourned until tomorrow, Wednesday 20th November, 1996, at 9.00 a.m.

The House rose at 6.30 p.m.