

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday 12th July, 1995

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

## PRAYERS

## ORAL ANSWERS TO QUESTIONS

*Question No.509*

### TEACHER FOR RELIGIOUS EDUCATION

**Prof. Mzee** asked the Minister for Education:-

- (a) if he is aware that Mang'u High School has no Islamic Religious Education (IRE) teacher, inspite of the fact that there are more than 20 Muslim pupils in that school;
- (b) when an Islamic Religious Education (IRE) teacher will be posted; and
- (c) why Muslim pupils are forced to contribute towards the construction of a church at the school.

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

(a) The Teachers Service Commission (TSC) has not been requested by Mang'u High School for an IRE teacher. Normally, the TSC posts teachers to a school when a school has requested for the teacher within the CBE (Curriculum Based Establishment) of the school as officially approved by the Chief Inspector of Schools.

(b) An IRE teacher will be identified for posting to Mang'u High School when a request is received from the School.

(c) Mr. Speaker, Sir, the school's PTA, in conjunction with the school's Board of Governors (BOG) passed a resolution three years ago that all incoming Form I students pay Kshs2,000.00 to meet construction of school projects, not just the school church.

It is, therefore, not true to say that Muslim pupils are forced to contribute towards the school church as the contributions cover a wide spectrum of school projects, including a church.

**Prof. Mzee:** Mr. Speaker, Sir, I am really shocked by the answer given by the Assistant Minister at the moment. The Muslim community was taken by surprise when the 8-4-4 was introduced and religious teaching became compulsory in schools. As I stand here, Mr. Speaker, Sir, we have been frustrated all the way in getting teachers to teach IRE in both primary and secondary schools, even in areas like Mombasa where we have the highest concentration of Muslims. Mr. Speaker, Sir, we have only 152 Muslim teachers out of 91 primary schools. They are not even enough to be distributed two in a school.

Mr. Speaker, Sir, I still maintain that the Kshs2,000.00 which has been paid by Form I is for the construction of a church. Since our attempt to provide IRE teachers to help in teaching IRE in schools in Kenya has been frustrated by the Ministry of Education by refusing to register our schools both in Murang'a and Mombasa, will the Minister consider scrapping off teaching of religion or CRE in schools so that the teaching of religion becomes totally a private matter?

**Mr. Lengees:** Mr. Speaker, Sir, at the moment, it is not possible to do so.

**Mr. Farah:** Mr. Speaker, Sir, in view of the answer by the Assistant Minister and being fully aware that the Curriculum Based Establishment is to be met by the Ministry, and further aware that Mang'u High School is a national school that takes students from all over the country, including Muslims from areas of North-Eastern Province, Coast, Eastern Province, and further aware that the Government has failed to avail these teachers - in fact, none of the national schools has an IRE teacher - and consequently, Muslim students are either "forced" to take CRE or do IRE without a teacher, can the Assistant Minister - in view of all those facts and if he has any sense of shame in the system - now consider religious education as not an obligation or compulsory in schools?

**Mr. Lengees:** Mr. Speaker, Sir, we have no cases where students from Muslim communities are

"forced" to do CRE in any school.

**Mr. Farah:** On a point of order, Mr. Speaker, Sir. My own children are going to school here in Nairobi and there is no IRE teacher. So, they are "forced" to do CRE. The Assistant Minister cannot take liberty in misleading the House just in broad daylight! This is a "white lie"! I am sorry, Sir. **[Mr. Farah]** I withdraw that, but this is a "white misleading" answer!

**Mr. Lengees:** Mr. Speaker, Sir, if there is a case of that kind, then the Ministry will have to investigate the matter.

**Prof. Mzee:** Mr. Speaker, Sir, unless the Ministry's policy is to frustrate the Muslim community in this country, I cannot understand why Mang'u High School, with a large population of Muslim students, does not have a Muslim teacher to teach IRE? Why does the Ministry not post an IRE teacher there? Maybe it depends on the headmaster who might be against the Muslims!

**Mr. Lengees:** Mr. Speaker, Sir, as I said before, we have not yet posted an IRE teacher to Mang'u High School, but we will do so if the school makes a request to the Ministry.

**Mr. Speaker:** Next Question, Mr. Mwangi Gichuki.

*Question No.510*

WATER SHORTAGE IN NDARAGWA SCHOOL

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

- (a) if he is aware that there is a serious water shortage in Ndaragwa Secondary School; and
- (b) what steps the Ministry is taking to alleviate this problem.

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

- (a) I am aware that there is a serious water shortage in Ndaragwa Secondary School.
- (b) Mr. Speaker, Sir, as much as my Ministry will do everything in its power to assist the school, the water problem in any school is the responsibility of the local DDC of which all hon. Members of this House are ex-officio members. I trust that hon. Mwangi Gichuki will liaise with other leaders in the district, particularly the DC, DEO, District Water Engineer, the Chairman of the Board of Governors and the PTA to facilitate a lasting solution to the problem.

**Mr. Gichuki:** Mr. Speaker, Sir, the school in question is one of the oldest schools in the constituency. It has been transformed into a girls' school. The girls depend on water from a dam which is about four kilometres away, so that the distance they walk to get water affects their studies. There is a nearby borehole which used to be used by the owner of a farm where it is located. However, the borehole requires rehabilitation. In view of the reply by the Assistant Minister, can the Ministry undertake to grant half of the costs so that I personally organise the parents/teachers association (PTA) members so that we are able to provide the other half of the costs, since now we have the cost-sharing policy?

**Mr. Lengees:** Mr. Speaker, Sir, my Ministry has no budgetary provision for that. But in March, 1995 the district development committee (DDC) requested the District Water Engineer to assess the situation and give a report on how much repair of the borehole would cost. However, up to now, the Water Engineer has not given that report to the DDC. I will request the hon. Member to get in touch with the Water Engineer so that the report can get to the DDC quickly; the DDC might know where funds will come from.

**Mr. Nthenge:** Mr. Speaker, Sir, will the Assistant Minister, in the meantime, supply water tanks so that when it rains enough water for the girls to drink, if not for anything else, is collected?

**Mr. Lengees:** Mr. Speaker, Sir, that is a wonderful question but the Ministry of Education will not be able to do that. Perhaps, the PTA and the board of governors members can possibly raise some money for that; I will be among those who can raise this money.

**Mr. Kairo:** Mr. Speaker, Sir, several Ministers have been referring hon. Members to the local DDCs. The Assistant Minister has just admitted that they have no budgetary provision for the DDCs. So, from which source will the DDC fund projects like this one?

**Mr. Lengees:** Mr. Speaker, Sir, the District Water Engineer might have some funds for repair of boreholes and may be do clearance of some local dams. So, that was the reason why the Water Engineer was asked to assess the cost of repairs to the borehole. So, may be the DDC can fund the repair of the borehole.

**Mr. Gichuki:** Mr. Speaker, Sir, I am trying to impress on the Assistant Minister that this is a girls' school and that the girls walk about four kilometres to fetch water from a very filthy dam. Could he be humane enough as to take up hon. Nthenge's proposal, and provide some water tanks, or a tank for that matter, so as to save these girls from travelling this long distance which is affecting their studies? In the meantime, we will try to organise for the rehabilitation of the borehole. Could he be serious and promise something?

**Mr. Lengees:** Mr. Speaker, Sir, it is a good question but the Ministry of Education has no provision for such an activity.

*Question No.511*

WATER FOR URBAN COUNCIL

**Mr. Obwocha**, on behalf of **Mr. Obure**, asked the Minister for Local Government:-

[**Mr. Obure**]

- (a) whether he is aware that Ogembo Urban Council does not have water; and
- (b) what action he is taking to replace the water pump that was stolen.

**The Assistant Minister for Local Government (Mr. Walji):** Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that Ogembo Urban Council does not have water since 9.1.95 because the water pump was stolen. The suspects were arrested on 10.1.95 and the matter is in court.

(b) Anyhow, the council is looking for ways of raising approximately Kshs400,000.00 for a new pump. The council, in conjunction with the Ministry concerned with water development, are further working out a solution to the water problems in the area.

**Mr. Obwocha:** Mr. Speaker, Sir, now that the Assistant Minister has admitted that this pump was stolen from Ogembo Urban Council in January, 1995 you can see the hardship the people have undergone for seven months. He has said that the matter is in court. Can he give the court file number of this case, if, indeed, the case is in court?

**Mr. Walji:** Mr. Speaker, Sir, this is the only information given to me; I do not have any case file number. But, if the hon. Member thinks what I have given is not the right answer, I would bring him more information later. However, I agree with him that for the last seven months the urban council has not had water. I would suggest that the council chairman and councillors should not even have been getting their allowances - that should have been used to first buy another pump.

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, the pump has been stolen and the Assistant Minister suggests that he is going to buy another one. Now, what guarantee does he give this House that the new pump will not be stolen again?

**Mr. Walji:** Mr. Speaker, Sir, that is an odd question. I think the hon. Member for the area should give a guarantee here that his constituents will see to it that the pump will not be stolen. How can I give a guarantee that the pump will not be stolen?

**Mr. Obwocha:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister not misleading the House by saying that the hon. Member for the area should give a guarantee that his people will not steal the pump? Is he saying the person who stole the pump is from Bomachoge?

**Mr. Speaker:** Mr. Obwocha, that is not his problem; it is hon. Lwali-Oyondi who is asking for guarantee from the Assistant Minister!

**Mr. Obwocha:** Mr. Speaker, Sir, we are asking whether the Ministry can build a small enclosure around the pump, or provide a watchman to keep vigil over it?

**Mr. Walji:** Yes, Mr. Speaker, Sir, I will give a guarantee that if a new pump is installed there will be a watchman to keep watch over it, if the watchman himself will not steal it.

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, is the Minister aware that this problem is chronic throughout the country? The water engine at Oyugis does not function because the people charged with the responsibility of managing it are stealing the diesel. Even if he hires a watchman for this pump, the watchman might just as well steal the pump. What lasting solution will the Ministry institute to ensure that this kind of thing does not happen? Why does he not use electricity, for example, so that he does not have to go buy diesel or water pumps that get stolen? And how many people has he prosecuted as a result of theft of pumps and other equipment?

**Mr. Walji:** Mr. Speaker, Sir, Ogembo Urban Council is a small place and the only way of supplying water to it is by use of a water pump. I am sure that once another water pump is installed the local people will co-operate with the council to ensure that the water pump will never be stolen again.

**Mr. Speaker:** Next Question, Mr. Sankori!

*Question No.425*

PASSENGER TRAIN SERVICES

**Mr. Ndilinge**, on behalf of **Mr. Sankori**, asked the Minister for Transport and Communications if he could consider having the passenger train to and from Mombasa stop at Athi-River Railway Station as there are many workers in Athi-River who need its service.

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

The passenger service at Athi-River Railway Station was withdrawn following a previous market survey which revealed that the station was handling very few passengers. However, due to the public outcry which followed, the service was re-introduced with effect from 15th November, 1994.

**Mr. Ndilinge**: Mr. Speaker, Sir, while appreciating the good answer given by the Assistant Minister, could he agree with me that his officers are not obedient to his directive because he is talking about November, 1994, whereas the service resumed just the other week?

**Mr. Ahmed**: Mr. Speaker, Sir, I am not aware that my officers are not obedient to my directives. As far as my office is concerned, this service was re-introduced on 15th November.

**Col. Kiluta**: Mr. Speaker, Sir, while we agree that railway services are an essential part of this community, can the Assistant Minister look into ways of improving these services? I had the occasion of travelling by train about three months ago and I noticed that most trains are either overloaded or dirty. In fact, they are in a terrible condition. Can the Assistant Minister look into ways and means of improving the services and the conditions in the trains?

**Mr. Ahmed**: Mr. Speaker, Sir, that is a good proposal and I agree to look into it.

**Mr. Speaker**: Next Question, Mr. Ndicho!

*Question No.182*

ABOLITION OF HOTEL TAXES

**Mr. Speaker**: Mr. Ndicho is not here yet? Next Question, Mr. Ojode!

*Question No.491*

PAYMENT TO CONTRACTORS

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

(a) if he is aware that Messrs Okeno and Sons Building Contractors of P.O. Box 1307, Kisumu, who was subcontracted by a Chinese firm, Messrs China Complete Plant, for the construction of Bondo Teachers Training College, which was completed in December, 1991, has not been paid a total of Kshs1,071,541.00;

(b) if he is further aware that the same contractor was sub-contracted by another Chinese company, Messrs Sietco, for the construction of Kisegi Health Centre which was completed in November, 1991 and has not been paid the sum of Kshs3,675,850; and,

(c) if the answers to "a" and "b" above are in the affirmative, whether the Minister could consider paying the contractor the outstanding amount with accrued interest, in order to enable him pay the sub-contractors.

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

The Government awarded the contract for---

**Mr. Ojode**: On a point of order, Mr. Speaker, Sir. It is not that I hate the Assistant Minister, but I would like to register my protest and I am not going to accept this kind of answer from him. I am sorry, but I would like to withdraw my Question.

**Mr. Speaker**: Order! Order, Mr. Ojode! I do not even know what the answer is. Once you have asked your question, it ceases to be your property. It becomes the property of this House and, the House is entitled to hear from the Assistant Minister and judge whether or not they accept the answer. Proceed!

**The Assistant Minister for Public Works and Housing** (Mr. Mwamzandi): Mr. Speaker, Sir. It is funny that before I even reply, the hon. Member says that he does not agree with the answer.

**Mr. Speaker**: Can you proceed? I have already ruled on that.

**The Assistant Minister for Public Works and Housing** (Mr. Mwamzandi): Mr. Speaker, Sir, the answer is as follows.

(a) The Government awarded the contract for the construction of Bondo Teachers Training College to M/S China National Complete Export Corporation in 1988. The project was completed on 15th August, 1993. Apparently, the contractor sub-contracted the works to M/S Okeno and Sons as a domestic sub-contractor without involving the Government. It is understood that there is a dispute between the two contractors but the Government is not a party to the dispute or the arrangement. In view of the private sub-contract arrangement, the resultant payments were between the parties concerned without Government participation. It is not possible for the Ministry to know whether the sub-contractor is owed any money.

(b) The Government awarded the contract for the construction of Kisegi Health Centre together with other health facilities to M/S Sietco and--

**Dr. Otieno-Kopiyo:** On a point of order, Mr. Speaker, Sir. When we come to the House to ask Questions on behalf of people whom we represent, we presume that the Government is in charge of everybody, including those who have disputes where they are not involved. Is the Assistant Minister in order to tell us that it is not the Government's duty when the Government governs?

**Mr. Speaker:** Order! I expect hon. Members to be a little more serious than that on their points of order. That is not a valid point of order. You know as well as I do that if you wronged the hon. Member next to you, it is not up to the Government to take redress unless it is criminal. If you contract a debt, that is your own business. That is not a valid point of order. Can the Assistant Minister answer the Question?

**The Assistant Minister for Public Works and Housing** (Mr. Mwamzandi): Mr. Speaker, Sir, the answer to part (b) The Government awarded the contract for the construction of Kisegi Health Centre together with other health facilities to M/S Sietco and the works started on 14th December, 1987, with an initial completion date of 17th October, 1988, but the project was completed on 29th November, 1991. I became aware that the contractor had sub-contracted the works to M/S Okeno and Sons in April, 1991, when the sub-contractor complained in writing to the contractor and copied the letter to the Ministry. When I intervened by addressing a letter to M/S Sietco urging them to resolve the matter, they replied that they had overpaid the sub-contractor by Kshs1.9 million. Since the Government was not a party to the sub-contract arrangement, I could not pursue the matter further because, in the sub-contract agreement the resolution of disputes was through arbitration.

(c) M/S China Complete Plant will be paid any outstanding amounts by the client Ministry according to contract agreement. In regard to M/S Sietco, the final account has been prepared, agreed upon and forwarded to the project funding agency for settlement. The sub-contractor, M/S Okeno and Sons, should sort out the matters with the contractors within the terms of their domestic sub-contracts.

**Mr. Ojode:** Mr. Speaker, Sir, in view of the answer given by the Assistant Minister, I still stand by what I said. I would wish to withdraw my Question because I have all the documents here which were signed and given to his Ministry. This is a letter written by Mr. Z.M. Bukania, the Acting Chief Architect by then, and the Assistant Minister says that he does not know anything about that contract. His answer lacks seriousness and I, therefore, wish to withdraw my Question.

**Mr. Speaker:** Mr. Ojode, it is too late for you to withdraw your Question.

**Mr. Oburu:** Mr. Speaker, Sir, in view of the fact that the contractor for this project was a foreigner and that these foreigners come here and they are protected by their own governments, can the Assistant Minister tell us what protection they offer the local businessmen who join these foreigners against being swindled? When the foreigners run away with their money, they are left helpless because these people are not residents of Kenya and, therefore, even if you sue them, there is nothing which you can hold against them except your Government. Your Government is the only security which you have and we would like the Assistant Minister to tell us exactly what protection they have because this is not the only sub-contract arrangement between a local contractor and a foreign company.

**Mr. Mwamzandi:** Mr. Speaker, Sir, if there is any dispute between the contractor and the sub-contractor, the matter should be referred to a court of law which can sort it out.

**Mr. Kaptan:** Mr. Speaker, Sir, since the Government contracted this work to a foreign company, I am wondering whether the Government has paid all the money to this contractor and if not, how much money is still outstanding to be paid to these foreign contractors?

**Mr. Mwamzandi:** Mr. Speaker, Sir, there were two projects, one was for the Ministry of Education while the other one was for the Ministry of Health. My Ministry was just concerned in advising on the standards of design, construction of Government buildings and providing clients with materials estimates and costs.

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

**Mr. Speaker:** Order! Order! Mr. Ojode you are on record as having said that you had no further interest on this Question. Will you keep cool?

*(Laughter)*

**Mr. Mwamzandi:** Mr. Speaker, Sir, also my Ministry was concerned with providing client Ministries with estimates of costs of buildings and contractual work, preparing designs for projects by using either its own resources or those of consultants who it would appoint as and when necessary.

**Mr. Kapten:** On a point of order, Mr. Speaker, Sir. The Assistant Minister is going to a long story while all I wanted to know is: How much money, if any, is still outstanding to be paid to the contractors? That is my question. Can he answer it?

**Mr. Mwamzandi:** Mr. Speaker, Sir, it is only the client Ministries which can tell the outstanding debts if any, but not my Ministry.

**Mr. Speaker:** Very well. Next Question, Mr. Ruhiu!

*Question No.466*

**Mr. Ruhiu** asked the Attorney-General if a political party can change its title or name without being de-registered.

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

**Mr. Murungi:** On a point of order, Mr. Speaker, Sir. Is the Attorney-General in order to mislead this House that a society can be de-registered when Section 20 of the Society's Act and Section 42 clearly states that the only punishment a society can get, if it changes its name without the approval of the Registrar of Societies, is that it would be guilty of an offence and that the punishment of the offence is a fine for KShs.5,000? There is no provision for de-registration for change of name?

**Mr. Wako:** Mr. Speaker, Sir, I think that my learned friend has misconstrued the Question. I agree with him. You can change the name of the party without being de-registered and that is why I said yes. So, I agree with him. I think he misconstrued the Question.

**Mr. Ruhiu:** Mr. Speaker, Sir, the Attorney-General has given a correct answer.

**An hon. Member:** Yes, he has.

**Mr. Ruhiu:** But what I want to find out or to ask from the Attorney-General is this: We have some parties here which do not conform with current, social and political development in this country and one of them is KANU.

*(Applause and Laughter)*

Mr. Speaker, Sir, Kenya is a multi-racial society. May I have the---

**Mr. Speaker:** Order! Order! Are you asking a question or you want to give a speech?

**Mr. Ruhiu:** Mr. Speaker, Sir, that was a preamble to my question.

**Mr. Speaker:** Order, there are no preambles any more. Questions straight.

**Mr. Ruhiu:** Mr. Speaker, Sir, my question is: KANU---

**The Minister for Labour and Manpower Development** (Mr. Masinde): Point of order, Mr. Speaker, Sir. The hon. Member is insinuating that KANU is one of them because of the word "African" which means being racial. It appears that the hon. Member---

**Mr. Ruhiu:** I did not say that.

**Mr. Speaker:** Order! Order! Mr. Ruhiu you must be patient. Once an hon. Member is on a point of order, you should not interrupt him. That is the rule. You have got to get glued to the seat until he finishes.

**The Minister for Labour and Manpower Development** (Mr. Masinde): Mr. Speaker, Sir, all I wanted to say is: KANU is a legitimate party and the question of its---

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

**The Minister for Labour and Manpower Development** (Mr. Masinde): Now, Mr. Speaker, Sir, I am coming to it. Is it in order for the hon. Member to say what he said when he knows that KANU is actually a multi-racial party? Anybody living in Africa is an African.

**Hon. Members:** Ah! Ah!

**Mr. Speaker:** Order! Order! I have no doubt that each one of the various hon. Members here belongs to their own political parties as to their merit, I do not think that we should get out of the question and become irrelevant. The question is: "Can a political party change its title or name without being de-registered?" Now, any question that is irrelevant to that Question will be held by me inadmissible. So, it has to be relevant to change of name or title. That is all.

**Mr. Achieng'-Oneko:** Mr. Speaker, Sir, the question that has arisen here has been answered by the Attorney-General. It has never happened in this House for another hon. Minister to stand up to explain the meaning of KANU. It is also out of order.

*(Laughter)*

**Mr. Speaker:** Order! Order! You are also out of order, Mr. Achieng' Oneko!

*(Applause and Laughter)*

**Dr. Kituyi:** Mr. Speaker, Sir, arising from the Attorney-General's reply, could he assure the House that he will undertake to advise such parties as may have names that are inconsistent with multi-racialism to change without the consequence of being de-registered?

**Mr. Wako:** Mr. Speaker, Sir, I think I have answered the question in the affirmative. If there is any complaints about any party and its name *etcetera*, you can come to my office and we can look into it, but I do not think that it arises directly out of the Question that was asked.

**Mr. Rubiu:** Mr. Speaker, Sir, I want to ask the Attorney-General a direct question. Will the Attorney-General, although the Deputy Leader of the Government Business anticipated my question, advise Kenya African National Union (KANU) to change that racial name, so that white communities and Asian communities and members of all racial communities can join it? At the moment, this has precipitated Dr. Leakey to form SAFINA because white communities have realised that this is a racial party!

*(Laughter)*

**Mr. Wako:** Mr. Speaker, Sir, the problem in this House and maybe outside also is that behind all these questions is the issue of the Bill which will soon be coming to this House for debate. Therefore, we cannot anticipate that question because, at the moment, even the application of SAFINA will be dealt with under the existing law, the Societies Act. Therefore, all this hullabaloo about a Bill aimed at some application is completely misplaced.

**Prof. Anyang'-Nyong'o:** Mr. Speaker, Sir, since the Attorney-General has told us what lies behind those questions, would it be in order for him to explain to us what is "in front" of the questions?

**Mr. Speaker:** Order! As I said earlier, all supplementary questions must be relevant to the Question at hand. Questions and answers must be relevant and since hon. Members are unable to stick to the rule of relevance in this Question, we should now move on to the next Question.

*Question No.108*

PROSECUTION OF PARASTATAL OFFICIALS

**Mr. Mwaura** asked the Attorney-General:-

- (a) how many senior governmental and parastatal officers have been prosecuted in the last two years (1993 and 1994) due to their involvement in corruption and financial mismanagement of public funds; and
- (b) how many cases of this nature were detected in the said period and what action was taken.

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

- (a) Forty-five senior officers employed in Government and parastatal organizations were charged in 1993 and 1994 with corruption or misappropriation of public funds.
- (b) Forty-five cases were detected during the period in question. One case has been successfully prosecuted and the person concerned sentenced to two years imprisonment. Two cases were withdrawn under Section 87(A) of the Criminal Procedure Code. Forty-two cases are at various stages of being

heard by the courts.

**Mr. Mwaaura:** To some extent, Mr. Speaker, Sir, I am happy about the facts the Attorney-General has given to this House. From what we know, some senior officers have been involved in corruption. Could the Attorney-General tell this House, out of this number, how many of them are heads of departments or Permanent Secretaries? Does this number also include the cases of those involved in the Goldenberg scandal?

**Mr. Wako:** Mr. Speaker, Sir, it does include those charged with the Goldenberg scandal. The list I have here is quite long; it has names of quite a number of Under Secretaries, former District Commissioners, senior labour inspectors, collectors of customs and excise, drugs inspectors, district co-operative officers, accountants in various Ministries, City Council officers, Central Bank of Kenya officials, officials from Kenya Reinsurance, Kenya National Library Services and---

**Mr. Obwocha:** On a point of order, Mr. Speaker, Sir. Could the Chair request the hon. Attorney-General to Table the list so that we can get a chance to peruse it?

**Mr. Speaker:** It is up to him to Table the list.

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

**Mr. Wamae:** Mr. Speaker, Sir, could the Attorney-General tell us the reason why only 45 people have been prosecuted when we know that very many people have been mentioned in both PIC and PAC reports? Are those the only cases they have been able to prosecute in the last two years?

**Mr. Wako:** Mr. Speaker, Sir, we are talking about the period 1993 and 1994. If I were to go backwards, the cases would be even more than 45. The fact of the matter is that reports of the PIC and PAC are taken very seriously by my office and in every instance where the PIC and PAC have said the Attorney-General should investigate, you can rest assured that I have directed the Commissioner of Police to investigate. There have been some problems because sometimes the cases being investigated are too old; the officers have left the Ministries and corporations while some are dead. There is also the question of poor record keeping and sometimes it is not possible to get evidence that can lead to a prosecution in court.

**Mr. Speaker:** Mr. Ndicho's Question for the second time.

#### *Question No.182*

#### ABOLITION OF HOTEL TAXES

**Mr. Speaker:** Mr. Ndicho still not here? The Question is dropped.

*(Question dropped)*

### QUESTIONS BY PRIVATE NOTICE

#### ARREST OF KWANZA RESIDENTS

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

(a) Why did the Government recently arrest the following people from Bungoma and Trans-Nzoia districts; Senior Chief Jonathan Barasa, Councillor Joseph Kunikina, Councillor Geoffrey Wekalao, Messrs Luka Wafula Luucho, Brammwel Marati, George Wakokha, Josphat Pepela, Joseph Pepela, Vincent Wanyonyi, Francis Namayengo, Ainea Kuuyu, Joseph Manyasi, James Wangalwa, Peter Wekalao, Imanywe, Joab Wanyonyi Murefu, Bakari Mohamed, Paul Wanjala and others?

(b) Why has the Government refused the family members and lawyers to see these people?

(c) What law is the Government using to keep these people in remand/or cells?

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

Apart from Brammwel Marati, Vincent Wanyonyi, Bakari Mohamed and Paul Wanjala who are known to the police, the rest were arrested in connection with FEM/FERA activities. The Government did not stop family members and lawyers from seeing the suspects. So far, only three of the suspects who have been charged with



murder are still in custody pursuant to Section 203 of the Penal Code and Section 123 of the Criminal Procedure Code.

**Mr. Kapten:** Mr. Speaker, Sir, I am aware that these people were arrested more than one and a half months ago and they have been kept in police custody ever since. It appears that detention without trial has been re-introduced in this country. Why were these people kept for one and half months in custody without being taken to a court of law or without being released?

**Mr. Awori:** Mr. Speaker, Sir, these people had been arrested on very serious charges and it took time to investigate and as soon as it was found that only three had a case to answer the rest were released and four of them were bound over to keep the peace.

**Mr. Wamae:** On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Assistant Minister to refuse to answer the question he was asked? Under what law did he keep these people in police cells for more than 48 hours?

**Mr. Awori:** Mr. Speaker, Sir, I did answer by saying that they had been arrested on a very serious charge.

**Dr. Kituyi:** Mr. Speaker, Sir, ex-Senior Chief Jonathan Barasa is an 85-year old man. This man was arrested at 5.30 p.m. in his homestead; driven to Bungoma Police Station; driven to Nzoia Sugar Factory Police Station blindfolded and then driven for seven hours on that untarmacked road to Naivasha Maximum Security Prison. He was kept in solitary confinement throughout the one week he was in police custody. He was never at any one time asked if he was a member of FERA or FEM. All the time he was being asked how many times Dr. Kituyi and Hon. Munyasia had been training guerrillas on his land. If the Government is trying to pin the crime of training guerrillas on either hon. Munyasia or myself, why do they not arrest and try my person or the hon. Munyasia instead of humiliating a very respected senior citizen from Bungoma?

**Mr. Awori:** Mr. Speaker, Sir, if the Government had wanted to charge hon. Munyasia and hon. Dr. Kituyi, it would have done so. Several days earlier a member of the security forces at Sirisia Police Station had been murdered and that was a serious matter.

**Mr. Speaker:** Order, Mr. Awori. Let us hear from Mr. Wamalwa.

**Mr. Wamalwa:** Mr. Speaker, Sir, arising from what the Assistant Minister has just said that if the Government had wanted to charge the hon. Members they would have done so, the Government is also on record as having accused me and several other hon. Members of the Opposition here of being involved in FERA and yet no formal charges were brought forward and we were not arrested. Am I wrong to assume that the Government arrested all these people for suspicion only and found the suspicion the same way they have been levelling accusation against me and the others and no arrest has been made?

**Mr. Awori:** Mr. Speaker, Sir, suspicion is enough to make the Government arrest people. So far as the hon. Wamalwa and the rest of the Opposition Members from Bungoma District are concerned, nobody accused them of anything. Had they been accused, they would have been taken to the court of law. But they were not taken to the court of law.

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

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

**Mr. Speaker:** Overruled! continue, Mr. Murungi.

**Mr. Murungi:** Mr. Speaker, Sir, Section 74 of the Constitution is quite clear that:-  
"No Kenyan may be subjected to torture, cruel, inhuman or degrading treatment".

There is no exception whatsoever to that Constitutional right. In 1986/87, many Kenyans were tortured and killed on suspicion of belonging to an organisation called *Mwakenya*. Can the Assistant Minister confirm to this House that the persons who have been arrested will not be subjected to the same treatment and if they are being subjected the Government is going to stop torturing them on vicititious allegations that they endanger the State Security because there is no exception whatsoever even for suspects to be tortured?

**Mr. Awori:** Mr. Speaker, Sir, I do accept that the Government should not torture any suspects and those are mere allegations by the hon. Member.

*(Several Members stood on points of order)*

**Mr. Speaker:** Next Question! Mr. Aluoch Polo!

**Mr. Polo:** Mr. Speaker, Sir, I have not got a written answer to this Question. However, having said that, I would like to ask the Minister for Agriculture, Livestock Development and Marketing the following Question by Private Notice:-

(a) Is the Minister aware that livestock traders in Migori District are being refused cattle movement permits unless they can prove that they will ferry their cattle on lorries?

(b) Is he further aware that some senior civil servants in the area are involved in cattle trade in partnership with traders from other provinces?

(c) Will the Minister stop this malpractice and issue the cattle traders with annual movement permits?

**The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi):** Mr. Speaker, Sir, I beg to reply:-

(a) I am aware that livestock movement on hooves has been one of the major factors responsible for the spread of livestock diseases from one area to another. Quite often resulting in disease outbreaks. This mode of livestock movement is not allowed in the event of disease threat in a district or in the surrounding districts. Because of disease situation, for example, Foot-and-Mouth disease in the districts neighbouring Migori, it has been found necessary to allow cattle movement within and out of the district by motor vehicles only. It is a normal precaution to ensure that the diseases are not spread through livestock movement. This is lawful according to the provision of Animal Disease Act Cap.364 of the Laws of Kenya.

(b) I am not aware. However, if further information is available or specific cases cited, the matter can be investigated.

(c) The procedure being followed in issuing livestock movement permits is in accordance with Animal Disease Act and hence not a malpractice as envisaged by the hon. Questioner. The movement permits are issued on demand and are normally valid for a maximum period of 14 days, depending on the distance to be covered, mode of transport and the prevailing disease situation factors---

**Mr. Speaker:** Too long! Dr. Misoi, your answer is too long!

**The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi):** To finish, Mr. Speaker, Sir--

**Hon. Members:** Summarise the answer!

**Mr. Speaker:** You better do! Order! Proceed and ignore them!

**The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi):** Mr. Speaker, Sir, it would be a malpractice to issue cattle traders with movement permits for more than one year.

**Mr. Polo:** Mr. Speaker, Sir, the Assistant Minister is hiding under the Animal Diseases Act in controlling the cattle movement. It is a well-known fact in the district that his own District Livestock Officer is a cattle trader, even the District Commissioner is also a cattle trader. These are the people who are sitting on *wananchi*; they do not want them to trade in cattle and they monopolise this business for their own gain. Can he confirm or deny?

**Dr. Misoi:** Mr. Speaker, Sir, I am not aware of that. If that practice, as alleged by the hon. Member, is taking place, then it is malpractice and it should be stopped forthwith.

**Mr. Ogur:** Mr. Speaker, Sir, the Assistant Minister is saying that vehicles should carry the cattle but it is true that in my Constituency through Apong'elo to Opapo there is no road. So, there is no way lorries can carry the cattle. The cattle are ferried on foot in the bush to reach a big man's lorry waiting on the tarmac road between Tanzania border and Migori Town. If you investigate, you will find that what I am saying is true and I have whispered it to hon. Farah about it. Hon. Farah, is it true?

*(Laughter)*

Mr. Speaker, Sir, there is no Foot-and-Mouth disease in my Constituency. The cattle from Tanzania border into Nyatike are waited for by people with guns. Can the guns stop the spread of Foot and Mouth disease? They cannot!

*(Laughter)*

Mr. Assistant Minister, are you going to stop these two big people who are stopping our people from trading in livestock only to confine it to themselves? Are you going to stop them?

**Mr. Farah:** On a point of order, Mr. Speaker, Sir. I do not understand why hon. Ogur has to say that 'he talked to hon. Farah?' Other than for the fact that the District Commissioner is my cousin and if he means

my cousin is doing the cattle trade with people from my Province which I know it is not true; can he now substantiate that because there is nobody from my family who is doing that business with my cousin who is there as the District Commissioner?

**Mr. Speaker:** I thought he had "whispered" to you because you are a Ford (K) Member?

*(Laughter)*

**Mr. Farah:** Mr. Speaker, Sir, it is because the District Commissioner is my cousin and I know---

**Mr. Speaker:** Is that the reason why you whispered to hon. Farah, Mr. Ogur?

**Mr. Ogur:** Because we are from the same Party.

*(Laughter)*

**Mr. Speaker:** Order Mr. Ogur! Did you whisper to him because the District Commissioner is his cousin?

**Mr. Ogur:** Mr. Speaker Sir, I whispered to him so that he can assist me because I am suspicious.

**Mr. Farah:** Mr. Speaker, Sir, with all due respect, I have talked to my cousin and it is not true. What is being said is misleading. We have also got a similar restriction in the North Eastern Province.

**Mr. Speaker:** Order! On a more serious note, if the hon. Member, Mr. Ochola Ogur, said he whispered to the hon. Farah Maalim because of an alleged graft by a civil servant whom the hon. Member alleges is a relative, I do not think that is an honourable thing to say about an hon. Member. I think hon. Members must keep that out. Hon. Ogur, can you withdraw that "whisper" bit.

**Mr. Ogur:** I withdraw the whisper.

**Mr. Speaker:** Very well!

*(Laughter)*

**Dr. Misoi:** Mr. Speaker, Sir, whatever the situation is about whispering, the law is applicable to all persons who deal with cattle business and they have to comply with it. That is the assurance I can give to the House and the hon. Member of Parliament.

**Prof. Mzee:** Mr. Speaker, Sir, Migori District has a good control over all communicable diseases that affect cattle. They have done away with Foot-and-Mouth disease and Rinderpest. It is a very clean area. You know even communication is very reliable. In the past, it was necessary to get movement permits and vaccination but since Migori is a very very clean District, I concur with the Questioner that the farmers should be issued with annual permits so that the animals can move freely by hoof. Since Migori is a clean District as far as communicable diseases are concerned, and since this is the cheapest way of movement since the road infrastructure in that area almost does not exist, would the Assistant Minister consider allowing these animals to move freely on hoof?

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

**Mr. Ogur:** You are protecting your cousin!

**Mr. Farah:** I am not protecting anybody. Mr. Speaker, Sir, my point of order---

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

**Mr. Speaker:** Order! Order, hon. Farah! I have said this several times. Once an hon. Member rises on a point of order and he has taken the Floor on a point of order, no other hon. Member shall interrupt and hon. Ogur, if you attempt to do that, you will be guilty of gross misconduct. Proceed, hon. Farah.

**Mr. Farah:** My point of order is that, the hon. Prof. Mzee is a renown veterinary professor and the Veterinary Act states that any area that has got a proximity to a boarder where animals can be moved on foot does go under those restrictions, including our own region. So, it would be improper for hon. Prof. Mzee to mislead us on this fact when he knows what the Act states.

**Mr. Speaker:** Order! Time is up! Let us move on to the next Order.

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

**Mr. Speaker:** Order! Order now! Would you like to respond to that point by Prof. Mzee, hon. Misoi?

**Dr. Misoi:** Mr. Speaker, Sir, it is unfortunate that a hon. Member who is a professional in that field can mislead the House. The law has got basic reasons why a movement permit has to be given for movement of cattle and it is valid for 14 days. It cannot be given to last one year. He knows very well about that.

**Mr. Speaker:** Let us move on to the next Order.

**BILL**

*Second Reading*

THE FINANCE BILL

*(The Assistant Minister for Finance  
(Mr. Koech) on 6.7.95)*

*(Resumption of Debate interrupted on 11.7.95)*

**Mr. Speaker:** I think the hon. Obwocha was on the Floor yesterday. Proceed.

**Mr. Obwocha:** Mr. Speaker, Sir, I would be very brief since other hon. Members would like to contribute to this Bill. I was saying that there is a letter that farmers from Eldoret had written to this House complaining about various taxation measures that affect farmers in this country. Instead of going through it point by point, I will now have the liberty, as directed by the Speaker yesterday, to Table it.

*(Mr. Obwocha laid the letter on the Table)*

Mr. Speaker, Sir, I would also like to request the Minister for Finance to consider the issue on page 206 of the Finance Bill. It is an issue on exemption of duty to cars that are being bought by Judges and Permanent Secretaries. I would like him to tell us what his position is in so far as a case where somebody has been involved in an accident is concerned. Would he be eligible to have an exemption for a second car? We would like the Minister for Finance to tell us more on this issue.

Now, I would like to talk on the issue of various goods that have been covered under this Act. One of them is about building materials. On the Second Schedule, the Bill talks about the electronic goods used for fittings. On Page 491, he talks about tanks and nails that are used for building at a tariff of 40 per cent. On page 367 of the Bill, he talks of a tariff of 15 per cent on blocks, sheets, tyres and so on. On page 363, he talks about wood at a tariff of 15 per cent. Now, the question I want to raise is this: These new districts that are being created at random, where is the Government going to get money to develop them? At the moment, now, we have 58 districts up from 42 districts.

**An hon. Member:** Through Harambee!

**Mr. Obwocha:** First of all, the rigging of 1997 general elections has already started. This has been done through creating new districts and in other words, trying to influence the creation of new constituencies. An old man, hon. Taita-Toweette is looking at me as if I am saying a new thing. These districts are being created. People are behaving as if there is an eminent general elections which is coming and yet we were elected to serve for a period of five years. We have only been here for two years and seven months, if they do not know. This is going to be a burden to the people of this country and, for sure, anyone who is going to rule this country later is going to have a lot of problems in managing 58 districts. Of course, I know that there are many more districts coming up. Maybe tomorrow you will hear of Ogembo District in Kisii.

I would like to take this opportunity to congratulate the Governor of the Central Bank for being very candid recently on the management of affairs in the banking industry. There has been a lot of blame laid on people from one community, may be the Kalenjins, but I think this particular Governor has proved some of these people wrong. If the Governor is serious on what he said in the press, we would like him to put that into effect because we know that when he came into office there are certain issues that have taken place in that Bank which are yet to be revealed to the members of the public. Very soon, I am sure, the Public Investments and Public Accounts Committees will come out with these issues.

I would also like to request that fairness is accorded to the farmers of this country. The way the Agricultural Finance Corporation (AFC) is being run is not one of the best. Having a look at the latest Reports from the AFC, they have failed to collect from farmers loans amounting to Kshs. 1.5 billion. If they are unable to collect this kind of money, where are other farmers going to get the money used in producing cereals in this country? It is very sad because from these Reports the Corporation has even been unable to pay redeemable loans of almost Kshs1.95 billion. These losses have been incurred by some of the officials of this Corporation. The Managing Director has borrowed money from this Corporation, put up huge buildings and we do not know when

that money will be refunded to this Corporation. There is also the issue of this dead organization called KNTC. KNTC in their Report for the year ended 30th June 1993, have a clause where the Corporation has not complied with procurement procedures. These procedures have caused the organization, and the people of this country, the following: Payroll computerisation Kshs475,000, that was acquired without following the right procurement procedures; fertilizers Ksh.7 million, Ammonia Sulphate and fixed assets Kshs725 million, importation of fertilizers Kshs122,920,510 bringing a total---

**Mr. Speaker:** Order!, Mr. Obwocha, what report are you referring to?

**Mr. Obwocha:** Mr. Speaker, Sir, this is a Report of Kenya National Trading Corporation, for the year ended 30th June, 1993.

**Mr. Speaker:** Is that the one that is supposed to now go to the Public Investment Committee?

**Mr. Obwocha:** Mr. Speaker, Sir, maybe you should guide me because I do not know. This is the Report and I was quoting one of the---

**Mr. Speaker:** Indeed, it is going to be discussed by the PIC in our usual break. You should, therefore, not anticipate debate on PIC deliberations.

**Mr. Obwocha:** Mr. Speaker, Sir, thank you very much for your guidance. Let me not anticipate debate but they have stolen this money to the tune of Kshs131 million from the Kenyans---

**Mr. Speaker:** Order! Order, by the way, "stealing" is an unparliamentary word and in any case, you do not have the legal competence to judge any Kenyan to have stolen or not stolen. That is the province of the court. I order you to withdraw.

**Mr. Obwocha:** Mr. Speaker, Sir, thank you, I accordingly withdraw that remark.

**Mr. Speaker:** Very well, proceed!

**Mr. Obwocha:** Mr. Speaker, Sir, to finish up my contribution, I would like to request that taxation measures that have been brought before this House should be for the good of this country. All of us here want to see a good country but this country cannot be a good one if we, ourselves cannot make it a good country. The reforms we are asking, the Constitutional review are for the good of this country and for the future of this country.

**Mr. Speaker:** What section of the Bill is that?

**Mr. Obwocha:** Mr. Speaker, Sir, that section talks about the whole spectrum of the taxation measures into account.

**Mr. Speaker:** Order! Order, now. That one, I will not accept. I think hon. Members must be guided from now on. You had a chance during the Budget Speech to generally talk on the principles of [Mr. Speaker] taxation and policy. This whole booklet is inviting the hon. Members not to question the policy but matters of fact, whether duty X or duty Y should in future remain the way it is, or should be amended downwards not upwards. That is what a Financial Bill is supposed to be. So, I urge hon. Members not to use the Finance Bill as a vehicle for policy statements. We have already gone out of that on the Financial Statement. We are now on the mechanism of taxation. So, can we now get the spanners to do the mechanics of taxation?

**Mr. Obwocha:** Mr. Speaker, Sir, thank you. Lastly, the Minister for Finance should clarify why in the Fifth Schedule has listed the cereals, that is wheat, maize and so on to be zero-rated as far as their tax of values is concerned, while in the Fourth Schedule he has indicated certain taxable limits. We would like the Minister for Finance to clarify that issue too. With those remarks Mr. Speaker, Sir, I beg to support.

**Mr. Boy:** Bw. Spika, ahsante sana kwa kunipatia nafasi hii ili nami niungane na Waheshimiwa Wabunge wachache juu ya baadhi ya Mswada huu muhimu wa namna ya Makadirio ya ushuru. Mwanzo, kabla sijasema chochote, ushuru huu utatekelezwa kupitia kwa Kenya Revenue Authority ambapo kuna Commissioner of Customs, Commissioner of Income Tax and Commissioner of VAT.

Bw. Spika, ukweli wa mambo ni lazima usemwe. Tukitaka Mswada huu utekelezwe sawa sawa, lazima wafanyakazi wa Kenya Revenue Authority walipwe sawa sawa kwanza. Kama mishahara yao itakuwa midogo, wizi utakuwako mwaka nenda mwaka rudi. Mwaka ujao kutakuja Mswada mwingine kama huu. Ikiwa twataka huu Miswada tunaoupitisha leo ambao tumezungumzia kwa undani utekelezwe, mambo fulani lazima yafanywe. Kama mishahara ya wafanyakazi wa Kenya Revenue Authority itakuwa ni hivi ilivyo, huu Mswada tunaoupitisha hapa, utakuja mwaka ujao na tutapata hakuna kilichofanyika.

Bw. Spika, huu ni Mswada ambao nia yake nikukusanya mapato ya Serikali, pesa. Tatizo laja kwamba ushuru huu ukishapita lazima utekelezwe lakini ikiwa mamilioni ya pesa yanapitia mikononi ya mfanyakazi ambaye mshahara wake ni Kshs2,500 kwa mwezi---

**Mr. Speaker:** Order! order, I think we passed the Kenya Revenue Authority Bill a few weeks ago and hon. Members were able to articulate on that. You are out of order to revisit that issue. Can you now talk on the Bill? Every other hon. Member, I am sorry, has got to talk on the Bill. If you have nothing to say to the Bill, you

will not talk.

**Mr. Kiliku:** On a point of order, Mr. Speaker, Sir. I agree with you but when we are debating about the Finance Bill, you cannot talk about Finance Bill without touching on so many things.

**Mr. Speaker:** Order! Order, Mr. Kiliku. This will force hon. Members to know what is in the Bill. You had the opportunity to talk on general policy issue in the Financial Statement, but now it is the time to go to the nitty gritty of the Finance Bill. That is whether or not the levies being charged on the Kenyan public ought to be what they are or they should not be what they are. Hon. Members, you have no choice but to talk to the Bill. Lakini nani atakayeitekeleza Kenya Revenue Authority Bill? Haitatekelezwa na malaika, itatekelezwa na mwanadamu!

**Mr. Speaker:** Ingawa sikifahamu Kiswahili sana, Bw. Juma Boy, lakini nimekuarifu ya kwamba ulikuwa na nafasi ya kutoa maoni yako kuhusu Kenya Revenue Authority Bill hivi majuzi. Na hiyo nilipitisha tayari. Hatuwezi kujadili yale mambo ambayo tumekwishapitisha sasa tujadili ushuru.

**Mr. Boy:** Bw. Spika hayo ni mawazo yako ya busara ya kiutu uzima. Lakini hapo ninapokuona sawa isionenakane---

**Mr. Speaker:** Order! I have already overruled that!

**Mr. Ruhii:** Jambo la nidhamu, Bw. Spika. Umeamua, lakini Mhe. Mbunge anarudia...

**Mr. Speaker:** Order! Order! I have already ruled on that, and if you get out of my ruling, you will be rendered irrelevant!

**Mr. Boy:** Bw. Spika, nakushukuru kwa uamuzi wako wa busara.

Nikiendelea naja katika ukurasa 203 wa Mswada huu ambao ni muhimu. Hapa tunazungumzia Clause 37. Under this sub-section, we are deleting certain things and in their place we are inserting a paragraph. Nazungumzia juu sehemu hii. Yenyewe ni kwamba haya ni baadhi ya misaada ambayo inatolewa na mashirika. Kwa mfano, shule. Ikiwa katika misaada kwa shuleni mmendoa office stationery', fanicha, textile, footwear.' Hapa ni lazima Waziri afikirie msimamo wake maanake kuna wengine wanaotaka kusaidia shule ambazo hazijiwezi. Kuna faida gani kuleta Mswada wa kuondoa haya yote kuhusu misaada?

Katika sehemu nyingine, kama kule Pwani ambapo kuna watalii ambao wamekuja na wameiona shule na wanataka kusaidia shule hii. Leo hii umeshatoa swala la fanicha, nguo ambazo kule ulaya hupatikana kwa bei rahisi. Sasa mnataka kuzitupilia mbali. Hili si jambo la busara!

*[Mr. Speaker left the Chair]*

*[The temporary Deputy Speaker  
(Mr. Wetangula) took the Chair]*

Bw. Naibu Spika wa Muda, nikitoka hapo hapo katika Mswada unasema "Such goods include motor vehicles." Katika Hotuba yake Waziri wa Fedha, ameeleza mambo kadha kuhusu goods on transit. Ningependa kumwambia Waziri alioko hapa kwa niaba ya Waziri kutekeleza jambo hilo hakuwezekani. Hivi sasa kuna msongamano wa bidhaa katika bandari kwa sababu ya hii "bank bond." Leo hii nikisema hii bank bond iondolewe ibakie ile insurance bond, kwa sababu wakati huu tunapozungumza kuna msongamano katika bandari. Hii ni kwa sababu ushuru huu hauwezi kutekelezwa kwa bidhaa zote ambazo ziko katika usafiri. Ni lazima tuseme ukweli. Bandari yetu inajuhusisha sana na Uganda na Rwanda. Na hivi sasa bandari yetu imesongamana kwa sababu ya ushuru huu mpya ambao unatekelezwa.

Ningemwomba Waziri wa Fedha kwanza, aone kwamba ushuru kama wa 'motor vehicles, vifaa, fanicha na bidhaa nyinginezo umeondolewa. Swala la bank bond does not arise, kwa sababu mali ni ya milioni 40 ambayo inatoka Kenya na kuenda Uganda. Hapo benki inasema ni lazima kutoa kiwango kama cha milioni 40 ndio utoe bond. Jambo hili haliwezekani. Hivi sasa mali imejaa tele ndani ya bandari kwa sababu haziwezi kuachiliwa. Kwa hivyo, ushuru huu tuonaopisha hivi sasa. Ukitaka utekelezwe vizuri tubakie pale pale na insurance bond. Lakini bank bond tangu Bajeti isomwe hapo imeleta kutoelewana kila mahali.

Hii bank bond inawaondoa wafanyabiashara ambao ni Wafrika wadogo wadogo kutoka biashara ya Clearing and Forwarding. Hivi sasa atakayeweza kulipa hii bank bond ni wale matajiri wakubwa Wahindi. Lakini Wafrika wa kawaida ambao wana clearing and forwarding companies wamekwishaondolewa kwa sababu hawawezi kupata bank bonds.

Kwa hivyo ningependa kumweleza Waziri kwamba ni karibu na muhali kutekeleza sehemu hiyo. Ningeomba turejeele katika sehemu ile ya awali "insurance bond on goods on transit."

Kuna jambo ambalo limenishangaza sana; swala la ushuru juu ya *mitumba*, ambao ushuru wake umetekelezwa. Ukweli wa mambo ni kwamba ninaipinga sehemu hii ya kutia ushuru kwa *mitumba*. Hii ni kwa

sababu hii ni biashara ya mwananchi wa kawaida na Bw. Shah na Bw. Patel wameona hatari ya mwananchi kufanya biashara. Wanasema, "If you want money for Harambee, you must ban *mitumba*." Sasa ushuru umewekwa kwa *mitumba* na unajua wazi kuwa biashara ya mitumba hufanywa na Kamau, Juma, Njoroge, Wafula na Wetangula.

**The Temporary Deputy Speaker** (Mr. Wetangula): You shall not invoke my name in vain!

**Mr. Boy:** Bw. Naibu Spika wa Muda, sikusema wewe, ni mfano tu. Nisamehe!

Nikiendelea, nitasema hivi: Ili mtu akubaliwe kufanya biashara ya kuuza *mitumba* ni lazima apate kibali kutoka kwa Waziri Wa Bishara. Sasa ni lazima kutolewa ushuru. Hawa wananchi wanaopiga kura ndio biashara wanayoifanya, wataka wafanye nini? Hapo ni sehemu ya kutoza ushuru katika *mitumba*.

Nikitoka hapo nitakwenda ukurasa 206. Katika ukurasa huu, kuna mambo kuhusu makatibu wa kudumu.

Bw. Naibu Spika wa Muda, nitaendelea katika ukurasa wa 207 subsection (2) ambapo inasema:-

"One motor vehicle which the commissioner is satisfied is imported as a replacement for a motor vehicle originally imported under paragraph (1) which has been written off due to accident, fire or theft, subject to the Minister's written approval of such importation."

Section hii inawapatia nguvu wale ambao wameleta magari bila kodi ama ushuru na gari hilo likaibiwa ama likawa written off wana ruhusa ya kuleta gari lingine kutoka ng'ambo. Lakini sisi Wabunge hatuna section hii na magari yetu mengi yanaibiwa na mengine ni mabovu katika magari. Tuna section ambayo inasema "once per term". Sasa ningependa Waziri wa Fedha aongeze katika lile sahihisho lake hapa ili section hii ihudumie Wabunge pia. Lakini inaonekana kwamba Waziri wa Fedha ana imani kubwa sana na wafanyakazi wa Serikali na wafanyakazi wengine kutoka nje. Lakini hana imani na Wabunge wenzake pengine kwa sababu hawapati maajali, magari yao hayaibiwi na kadhalika. Kwa hivyo, ningependa Waziri aiongeze section hii ili itumike kwa Wabunge pia.

Bw. Naibu Spika wa Muda, section nyingine ambayo nataka kuzungumzia ni ile inayohusu passengers' baggage ambayo iko katika ukurasa wa 207 (c) ambapo inasema wazi ama vizuri kwamba mtu yeyote ambaye---

### QUORUM

**Mr. Ruhii:** On a point of order, Mr. Temporary Deputy Speaker, Sir. We are "debating illegally" since there is no quorum in the House!

**The Temporary Deputy Speaker** (Mr. Wetangula): Yes, there is no quorum. Ring the Division Bell.

*(The Division Bell was rung)*

**The Temporary Deputy Speaker** (Mr. Wetangula): Order! We now have a quorum. You cannot cross the Floor like that, hon. Obwocha! Proceed, hon. Boy.

**Mr. Boy:** Ahsante sana, Bw. Naibu Spika wa Muda. Nilikuwa katika section 8(c) katika ukurasa wa 207 kuhusu ushuru. Inasemekana and I quote:-

"Goods imported by passengers arriving from places outside Kenya subject to the limitations and conditions specified in the following paragraphs."

Halafu ukitoka hapo unakuja katika sehemu ya (c) ambayo inasema:-

"of such kinds and in such quantities as the proper officer may allow".

Hapo ndipo mahali nataka kuzungumzia. Hizi ni namna ama aina ya vitu unapotoka safari, ng'ambo, ambapo wengi wetu wa Kenya hupata nafasi ya kuenda. Huu ni uwongo na kuhimiza magendo. Utaambiwa uje na lita moja ya mafuta ya manukato ama pakiti moja ya sigara na hali wewe uko na ukoo mzima wa *Hekaya za Abunuwasi* katika nyumbani kwako? Hii haiwezekani; ni uwongo! Yafaa section hii ibadilishwe. Ni afadhali kupitishwe jambo ambalo ni practical bila kutafuta magendo kwa watu fulani. Kenya hii wengi wa mababa hapa wana mabibi wengi, watatu, wanne, watano na kadhalika, halafu unaambiwa ulete lita moja ya mafuta ya manukato. What does it mean? This means that we are going to encourage magendo. Mtu yeyote akipatikana na mafuta lita tatu, basi ataambiwa alipe ushuru. Kwa hivyo, ni lazima sehemu hii irekebishwe. Ni lazima mtu aruhusiwe kuingia na vitu vyake kama "accompanied luggage" bila ya sababu hizo kwa sababu hapa tutaleta maneno yaliyoko na yasiyokuwako. Watu watanyanyaswa katika uwanja wa ndege na magendo yatazidi. Kwa hivyo, ni lazima Section hii iondolewe kabisa.

Bw. Naibu Spika wa Muda, nataka sasa kuzungumzia kurasa za 426 hadi 460 katika Mswada huu. Kurasa hizi zinazungumzia ushuru wa nguo mpya. Kinachonistaajabisha ni kwamba ushuru unaonyesha hapa

si wa juu sana lakini bei ya nguo madukani ni ghali mno. Unaonyesha wazi kwamba "men's or boy's swim wear or other textile material knitted, each shall be taxed at Kshs60.00 or 40 per cent". Lakini ukienda katika duka la Bw. Shah utaona vile Mwafrika anavyobomolewa. Mhindi atakwambia kodi juu ya nguo hizi ni Kshs1,500 na hali hapa kodi inaonyesha kuwa Kshs60. Yeye atajipatia faida mara 300 akiutumia Mswada huu. Bw. Shah hataki wananchi wauze nguo za *mitumba*. Ingawa yeye hapigi kura anajulikana sana kwa kutoa pesa za Harambee kwa viongozi.

Pia Mswada huu unasema "stockings, socks and other textile materials knitted, each will be taxed at Kshs40 or 40 per cent". Basi nenda katika Mtaa wa Bishara na utamwona Bw. Shah akiziua soksi hizi kwa Kshs500. Sasa sisi tunaidhinisha kodi hapa ya kutumiwa na Bw. Shah "kumnyonga" Mkenya. Ushuru huu unatumiwa kuipinga biashara ya nguo za *mitumba*. Ikiwa tunamzuia Mwafrika huku na kule atafaidikaje? Hii ndio sababu wizi wa kutumia silaha umezidi. Nyinyi mtaibiwa hata suruali za ndani kwa sababu mmewafungia wananchi kila njia ya kujitafutia riziki zake.

Gharama ya mwavuli pamoja na kodi yake haizidi Kshs50 lakini ukienda katika Mtaa wa Bishara utaona bei yake ni kama Kshs400, na mwananchi wa kawaida ndiye anayelengwa na gharama hizi zote. Tunataka kodi itozwe kwa njia itakayomwezesha kila Mkenya kujimudu. Tunaweza kuidhinisha kila kitu hapa lakini ifikapo mwaka 1997 mtajua kilichomtoa Kanga meno kwa sababu mtazitaka kura za wananchi. Wakati huu sisi ni wakubwa ambao wamekunywa supu na sasa tunaongea tu, lakini "matajiri" wetu bado wanatungoza huko nymbani katika mwaka wa 1997. Mwaka huo utapokaribia, utaona vitumbo vya wengine vimepotea katika siku mbili. Sisi tunamnyanyasa mwananchi wa kawaida ambaye anatumia kura.

Sasa nitaongea kuhusu vifaa vya uzalishaji. Hivi viko katika ukurasa wa 213 wa Mswada huu. Hapa tunaambiwa kodi ni juu ya "goods and plant machinery, excluding motor vehicles, office furniture, typewriters, photocopying equipment, stationery and kitchen cutlery". Kitu kinachowaumiza wananchi ni gharama ya magari na hakuna kitu Waziri alichompunguzia mwananchi. Ikiwa Waziri anataka kuwasaidia watu ili waanzishe viwanda katika sehemu za mashambani inafaa ajitokeze vizuri na si kutoka shingo upande. Waswahili husema "Ukiyavulia maji nguo ni lazima uyaoge". Huku kwa Waziri ni kama kuyavulia maji nguo nusu nusu. Kwa sababu ni lazima viwanda vingine vitiwe motisha ili vistawi.

Nikimalizia, nitasema kwamba pesa za kodi ambazo tutaidhinisha hapa haifai zivujwe. Tunataka kazi kodi hii itakayofanya ionekane. Hatutaki kuiwaidhinisha kodi watu wengine wakuze matumbo yao na huku wengine wanaendelea kukonda.

Kwa hayo mengi, naunga mkono.

**Mr. Kiliku:** Ahsante sana, Bw. Naibu Spika wa Muda, kwa kunipa nafasi hii kwa sababu mimi nilitoka kwa wananchi hivi karibuni na kwa hivyo nilisikia wanachosema kuhusu kunyanyaswa kwao na Serikali hii ya KANU baada yao kulipa kodi.

**The Temporary Deputy Speaker (Mr. Wetangula):** Mr. Kiliku, which part of the Bill is that?

**Mr. Kiliku:** Ukiangalia kifungu cha nne ambacho kinazungumza juu ya mambo ya forodha, vitu vinaletwa katika bandari ya Mombasa na baadaye inasemekana kwamba havina mwenyewe. Ni lazima ifahamike ya kwamba kuna watu huleta magari na vitu vingine, na wanakosa kwenda kuvichukuwa ili vikishawekwa sahihi na idara ya forodha, wanaenda kuchukuwa vitu vile vile kwa bei rahisi. Hivi majuzi, kulikuwako na magari mengi na yakachukuliwa usiku yote. Kesho yake, watu wa idara ya forodha walipoenda kuangalia yale magari ambayo yalikuwa yamenaswa nao, walipata yamechukuliwa usiku. Waziri asijifanye hajui hiyo. Kama vitu viko katika bandari, ni lazima idara ya forodha ipate ripoti iitwayo Clean Report of Findings (CFS) kutoka kwa kampuni ya SGS, siku saba kabla ya meli kuingia katika bandari ya Mombasa. Hii huwezesha idara ya forodha kupata nafasi ya kujua ni vitu gani ili hati za hii mizigo zifanyiwe kazi na meli ikiingia, watu wawe tayari. Itakuwaje, meli imekuja na imejaa magari. Sisi hatutengenezi magari. Tunajua magari yanatengenezwa wapi. Meli inakuja katika bandari ya Mombasa, magari yanakaa huko kwa zaidi ya siku 48, na hakuna hati za kutambulisha mwenye hayo magari. Inasemekana mwenyewe hayuko. Magari haya yanawekwa katika bohari la Kilindini, kisha wakati wa kuyauza ukifika, yanauzwa na yanakwisha siku hiyo hiyo, na wenyewe walikuwa wanasema hawayataki. Ni lazima ifahamike ya kwamba kuna watu fulani wanaoleta vitu katika bandari ya Mombasa wakijua kwamba wakikosa kuvichukuwa, watavipata vitu hivyo kwa njia rahisi bila kulipa kodi. Sasa, ni lazima mtu awe akiulizwa. Wale watu ambao hununua hivyo vitu kila siku ni Wahindi. Ni lazima pawe na sheria. Ikiwa umeleta vitu, ni lazima "public tender" ifanywe. Wale watu wasipewe kwanza. Wengine sasa wapewe. Vitu hivi vikipewa watu wengine, hawatakuwa wakifanya hivyo tena.

Hata Waziri alipokuwa akiwasilisha Mswada huu, angesema kwa nini yale magari ambayo hayakuwa na wenyewe yalichukuliwa usiku wala sio mchana, bila hata Serikali kujua. Juzi tu, maziwa yalikuwa Mombasa, yakaingia katika bandari, yakachukuliwa na kupelekwa depoti ya Miritini. Baadaye ikasemekana maziwa haya yalikuwa "unfit for human consumption". Karibu tumalizike sote Mombasa. Kama si Naibu wa Waziri Dk.



Misoi, tungekuwa tumekwisha. Niliambiwa yale maziwa yalikuwa na lead oxide, sijui nini---. Mimi nikaenda pale. Nilipoenda kufanya uchunguzi, niliambiwa, ni kweli maziwa yalikuja na yakawa ni mbaya. Haikuwa na CRF, na meli iliingia, ikiwa inajulikana itakuja lini. Maziwa yakaja, baadaye, wakati ilipokuwa inarudishwa katika bandari, tani mbili za hayo maziwa zilipotea. Nilipoenda kuuliza, nikaambiwa yalikuwa yamechukuliwa ili kufanyiwa uchunguzi. Haya maziwa yalipofika katika bandari, yalipotea. Hatujui kama yalifika kule yalipokuwa yakirudishwa. Wakati wote, mtu akiwa analeta mizigo, ni lazima awe na CRF, na kama ile meli imeingia katika bandari, kwanza iangaliwe imebeba nini ndiyo watu walipe kodi. Lakini ikitolewa, eti CRF iende ikafanyiwe hapa, ndiyo vitu vinapotea. Ni lazima hii CRF itolewe na bandari ambako meli hutoka, ndiyo sasa, mtu aonyeshe hiyo kabla ya kuruhusiwa kuchukuwa mizigo yake. Ikifanyiwa hapa, inakuwa na ufisadi mwingi.

Bw. Naibu Spika wa Muda, nikiendelea na Mswada huu, hapa ninaona tunawapa majaji ruhusa ya kuagiza magari bila kulipa kodi baada ya kila miaka minne. Mimi ninaunga mkono jambo hilo. Lakini majaji hawa ni lazima wajue kwamba hii kodi inalipwa na watu wa Changamwe na sehemu zingine. Wakati wanapofanya kazi yao, wasahau kuna chama kinaitwa KANU. Wasahau kwamba kuna vyama vya kisiasa na wafanye kazi yao sawa sawa. Wajue sisi ndiyo tumepitisha hii sheria na tumechaguliwa na watu wote. Wafanye kazi wakijua wanafanya kazi ya taifa, si kazi ya chama fulani, au ya watu fulani wa chama.

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, Mr. Kiliku! There are no party judges in this country.

**Mr. Kiliku:** Ahsante sana, Bw. Naibu Spika wa Muda. Nilikuwa ninawakumbusha. Hapa, nimeona kodi inatolewa na kila mtu. Ni vizuri wawe wakifahamishwa hii ni kodi ya wananchi.

Nimeona Mswada huu unazungumzia kuhusu kodi ya viwanda vidogo. Ninakubali hapo kwa sababu ninaona hapa bei imepunguka kidogo, lakini sijui vile hawa walio katika Serikali walivyo. Sessional Paper No.1 of 1986 ambayo iliandikwa na hayati Dk. Ouko ilifaulu sana. Ilizungumza mambo ya Jua Kali katika nchi hii. Sasa hivi, tunapozugumza, kuna watu wengi hawajapata kazi na hawana matumaini ya kupata kazi. Hasa ikiwa Serikali ni hii, matumaini ya kupata kazi hakuna. Wanaenda kwa Jua Kali. Sasa, kwa nini hawa watu wasiruhusiwe kuagiza yale mashine ndogo ndogo kuliko kupewa vikwazo eti ni lazima walete mashine hii au ile? Ni lazima wapewe nafasi ya kuleta ile mashine wao wanataka, na wasitozwe kodi yoyote kwa sababu, kwa kufanya hivyo, tutakuwa tunaunga mkono jitihada za vijana za kupata kazi kwa wingi kupitia Jua Kali. Utakuta ile mashine kubwa kama ile ya kutengeneza lami, kwa sababu ni ya Wahindi, kodi yake imepunguzwa hadi asili mia sita. Bei ya kuweka lami kwa barabara ni ile ile, hata hawapunguzi. Tena, kabla sijaendelea, ikiwa Serikali imepunguza ushuru, ni kwa nini Serikali hiyo haiwezi kuendelea kuangalia kama bei za bidhaa zimepunguzwa kwa sababu ushuru umepunguzwa? Bei inakuwa ni hiyo hiyo tu, hata hakuna faida kwa mwananchi wa kawaida. Faida ni kwa yule mtu mwenye kuagiza hizi bidhaa kutoka nje, lakini wale wanunuzi hawapati faida kwa sababu Serikali haina mbinu za kuchunguza hizi bei. Sasa wananchi wanafaidika kwa njia gani? Kweli mmepunguza ushuru na bei imepunguka pia, lakini mwananchi wa kawaida hafaidiki. Ukienda kununua mashine zinazotumika kwa Jua Kali, Muhindi bado anaziua kwa ile bei ya juzi, au hata ameongeza. Kwa nini mpango hauwezi kufanywa kwa hawa vijana ambao hawana kazi? Hivi sasa, hawa vijana wameanza kuwa wengi kuliko hata wale walio na kazi. Siku ile watakasirika na wanajua kwamba hakuna kitu wanapoteza kwa sababu kula hawali, mshahara hawana, hata kuoa au kuolewa ni shida--- Siku ile wataamka wajue hakuna kitu watapoteza, basi, siku hiyo ndiyo mwisho wako kuwa na bendera.

Tumeona nchi nyingi ambazo zimekuwa zikiambiwa lakini hazisikii. Kushika watu for inciting si sawa. If somebody has nothing to lose, he can do anything. Na hayo ni wale watu. Basi, vitambulisho na hata kazi tumewanyima. Ikiwa wale watu watakaa namna hiyo na ni wengi zaidi, nina hakika wewe una mmoja nyumbani na mimi pia ninaye. Ndugu zangu ni vizuri sasa ikiwa Serikali inataka to keep people busy, ni vizuri vitu vya *Jua Kali* vyote viwe tax free ili Wahindi wasiendeleo kutunyayasa. Wametunyayasa siku nyingi na hatuna haya.

Hata bilioni za pesa wamechukua; Over Kshs.18 billion wamechukua. Mwingine naye akiiba kuku moja anafungwa miaka saba na yule wa kuiba Kshs.18 billioni anabembelezwa tu. Karibu nikatae ile Ripoti ya Kamati ya Public Accounts Committee. Wale waliopitisha Kamlesh Pattni alipwe KShs.2.5 billioni ndio wamechaguliwa tena leo.

**An hon. Member:** Waondelewe!

**Mr. Kiliku:** Bw. Naibu Spika wa Muda, watu wanalipa kodi ili waendeshe Serikali yao vizuri na mtu kama Somaia akiitwa na PAC, hata hawezi kuja. He is above the law. Katika Changamwe watu hulipa kodi sana, lakini mahospitali huko, hasa Coast General Hospital, wewe mwenyewe hutaamini kile utajionea. Kwanza, ukifika pale utaona kwamba mortuary yenyewe imejaa watu, hakuna X-Ray. Ukitaka upigwe X-Ray, unaambiwa mpaka uende Ambalal House ambayo ni private. Ukiangalia mishara utaona kwamba kodi kama Income Tax, Service Charge, VAT, NSSF, NHIF na kadhalika zimekatwa, na mishahara yote imekwisha. Sasa yakienda hospitali halafu unaambiwa madawa hakuna. Ninamshukuru mhe. Juma Boy kwa sababu ameonyesha

ishara ya kuonyesha kwamba watu wengi katika KANU wameanza kugundua kwamba zile ahadi walikuwa wamepewa watu 1992 hazifanyi kazi. Na hivi karibuni, tunaelekea wakati ambao mtaulizwa na wananchi mmefanya nini? Ndungu zangu wananchi ni watu ambao ni lazima waangaliwe.

**Bw. Naibu Spika wa Muda, ukiangalia Page 253 Tarrif No. 0208.20.00** katika huu Mswada utaona kwamba Serikali hii ambayo tunaambiwa ni tukufu kama wengine wamesema imekubali kwamba kupunguza bei ya kuleta miguu ya vyura. Je, kina nani katika Kenya wanakula vyura jamani? Ikiwa kuna watu wanakula vyura si Wafrika; ni wale wenye pesa. Ni kwa nini wapewe duty of 15 per cent ikiwa ni lazima wale vyura? Ikiwa sisi hatuhusiki, wale watu wanakula vyura nafikiri ni special people ambao wamekuja hapa kama investors na labda ni wale wana pesa nyingi na wanaweza kulipa ushuru katika nchi hii. Kwa nini wapewe 15 per cent duty kuleta vyura? Tuna vyura ngapi hapa katika Kenya?

**An hon. Member:** Nyingi!

**Mr. Kiliku:** Bw. Naibu Spika wa Muda, kwa nini waruhusiwe kuleta vyura na hali vyura tunao wengi. What kind of economy is this?

**The Assistant Minister for Finance (Mr. Keah):** Jambo la nidhamu, Bw. Naibu Spika wa Muda. Ningetaka kumfahamisha mhe. Kiliku kwamba ni lazima tufanye kila mbinu kuweza kusaidia hawa ambao wanakuja kufanya investment hapa na wale vyura wa Kenya hawajapata soko mpaka wakati huu sasa. Kwa hivyo, mhe. Mbunge ana nafasi ya kufanya biashara mpya ya kukusanya vyura wa Kenya ili aweze kuwauza kwenye mahoteli kwa wale wanaokuja.

**Mr. Kiliku:** Bw. Naibu Spika wa Muda, mimi nakubaliana na mhe. Keah lakini ikiwa bei ya vyura imekuwa iko, maana hatukujua, ni kwa nini hatuwezi kutia moyo watu wetu wakaanza kukusanya vyura na kuuza hapa badala ya kukubali ziletwe? Maana yake vyura ni vyura! Hasa kule Mombasa na bahari kuna vyura wengi wale special tena wale wakubwa. Tunaweza kupata biashara kubwa kuwauzia wale rafiki wa Bw. Keah ambao lazima wale vyura.

*(Laughter)*

Bw. Naibu Spika wa Muda, tunaangalia vile vitu Serikali inakubali kuleta maana yake vingi tunaweza kupata hapa. Kwa mfano, hapa nimeona ati Serikali imekubali tuletewe cabbages. Yaani kuna watu hawawezi kula cabbage na vitunguu ya hapa Kenya na ni lazima waletete kutoka nje? Hapa Kenya tuna watu special hawawezi kula vitunguu na cabbages ya hapa, mpaka waletete vitunguu na cabbage kutoma nchi za nje tena wapate exemption ya 15 per cent. Haya mambo mengine lazima tukubaliane juu yake kwamba uchumi wetu hauwezi kuendelea kwa njia hii. Jana, Waziri Makau alisema kwamba uchumi umeendelea sana; ati uchumi unakua kwa 3.4 per cent. Hawajui nchi yoyote ambayo inaitwa katika Paris Club huwa katika economic "ICU", yaani nchi hii yetu isiposaidiwa na kupewa extended facilities and Special Drawing Rights at Paris Club, hawajui hii nchi itaanguka ndiyo wamebabaishwa na Dr. Leakey kwa sababu wanaona kama ataenda kuzuia hizo pesa. Uchumi wetu unaweza kukua namna gani ikiwa tutaleta vyura, vitunguu na cabbages? Hata hapa, ukiangalia utaona kwamba tunaleta nyama za farasi, butter and yet KCC supplies butter. KCC iko na surplus butter, as I am talking now, haiwezi kupata soko. Sasa wanatafuta soko la butter. Kwa nini tuletete hivi vitu vyote ambavyo---

**An hon. Member:** Hata nyama ya mbwa!

**Mr. Kiliku:** Bw. Naibu Spika wa Muda, ilisemekana kwamba mhe Mbunge wa Kangundo alipeana nyama ya mbwa; lakini sijui. Lakini Wakamba hawali mbwa; mimi ni Mkamba na sijakula mbwa---

**The Temporary Deputy Speaker (Mr. Wetangula):** Hon. Kiliku, you are discussing that matter and yet it is in court!

**Mr. Kiliku:** Bw. Naibu Spika wa Muda, wengi hulalamika kuhusu bandari ya Mombasa vile inavyofanya kazi kuhusu vile unavyokusanywa ushuru. Lakini siyo Kenya Ports Authority ambayo inachukua ushuru. Ukusanyi wa ushuru ni mamlaka ya Customs and Excise Department; lakini si responsibility ya Kenya Ports Authority. Hiyo ni kazi ya Customs and Excise Department.

Bw. Naibu Spika wa Muda, ushuru unakusanywa na watu wa Customs na wala si watu wa Kenya Ports Authority. Watu wakubwa hawalipi kodi. Hapa katika Mswada huu, ukurasa wa 203, Waziri ameonyesha viwango vya ushuru vitakavyolipwa na wale watakoagiza bidhaa kama vile sukari, mahindi, maziwa, ngano na nguo kukuu. Hapa kuna njama ya kuleta sukari kutoka nje halafu kufunga viwanda vya sukari hapa nchini mara moja halafu utasikia kwamba kuna upungufu wa sukari. Bei ya sukari ikienda juu sukari itaanza kupatikana. Wakubwa wamezoea kuleta sukari na kuiweka kwenye mabohari pale Mombasa. Baadaye wakiona kwamba viwanda vya sukari vimefungwa wao huanza kuiwa hiyo sukari yao ili wapate faida na ingefaa Waziri anayehusika alichunguze jambo hili. Kama bidhaa zinaletwa hapa nchini hakuna haja kuziweka ndani ya bonded warehouses. Wengine huleta bidhaa na kuzificha huku watu wakihangaika. Baadaye wakijua kwamba bei

imepanda wao huziachilia bidhaa hizo katika masoko. Si vizuri kuweka sukari katika maeneo yanayosimamiwa na Idara ya Forodha. Bidhaa kama mbolea na sukari zinahitaji kusafirishwa mara moja kwa sababu watu huwa wanazingojea. Si lazima bidhaa zote ziwekwe katika bonded warehouses. Kama kila kitu kiko tayari ni kwa nini kiwango cha ushuru kitacholipwa hakiwezi kukadiriwa siku saba kabla ya meli kuwasili bandarini? Ni kwa nini wale wanaohusika wanangojea mpaka meli iwasil halafu bidhaa ziwekwe katika mabohari? Wanaofanya hivyo hufanya hivyo walingojea bei ipande ndipo wazitoe hizo bidhaa.

Bandari ya Mombasa iko katika sehemu yangu na ninayafahamu yote yanayofanyika pale. Wakubwa ndio wanaoiibia nchi hii kwa kukwepa kulipa kodi. Utaona kwamba mtu aliyeajiriwa hulipa kodi ya kama Kshs2,500.00 ambapo anapata mshahara wa chini ya Kshs1,000.00 kila mwezi. Wakubwa wanaagiza bidhaa zenye thamani ya mamilioni ya pesa lakini hawalipi ushuru wa forodhani. Haya ni makosa makubwa. Kuna magari mengi aliyotumika ambayo yameletwa hapa nchini kutoka ng'ambo; yamejaa kila mahali. Watu wengine wanakwenda pale Bandarini na kuchukua magari ambayo yanasemekana eti hayana wenyewe. Je, kuna gari ambalo linaweza kupakiwa katika meli kule ng'ambo bila kujulikana ni la nani? Hapo kuna jambo ambalo limefichika. Ikiwa nchi hii itaanguka kiuchumi itakuwa imeangukwa na watu wakubwa.

**An hon. Member:** Ministers and Assistant Ministers!

**The Minister for Transport and Communications** (Mr. Otieno): On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform the hon. Member for Chagamwe that we have increased the penalty for shippers and aircraft owners who bring in goods and then, after the goods have landed here, they tell us that they do not know to whom the goods belong. The penalties are enhanced in the Bill. So, we are agreeing with the hon. Member already.

**Mr. Kiliku:** Namshukuru Waziri. Ni kweli kwamba adhabu kwa mwenye meli ye yote imeongezwa; ikiwa ataleta bidhaa hapa bila kujua ni za nani. Lakini mwenye meli si mwenye kuagiza bidhaa kutoka ng'ambo.

Hata hivyo, ni lazima mwenye meli ajue bidhaa anazobeba ni za nani. Kampuni kama Kenya National Shipping Line haina meli. They operate on what they call "buying of slots on board." Ninakubaliana na maoni ya Waziri kwa sababu kuna watu ambao wameibia nchi hii mali nyingi.

Kuhusu Value Added Tax, ningependa kusema hapa kwamba mpaka sasa Serikali haijabuni utaratibu mzuri wa kukusanya kodi ya VAT. Wanajigamba kwamba wanajua lakini wameibiwa sana na Wahindi. Ukienda dukani kwa Mhindi kununua kitu utakuta kwamba kuna bei mara mbili; bei pamoja na VAT na bei bila VAT. Lakini ukiangalia ile stakabadhi ambayo umepewa utaona kwamba haionyeshi kwamba umelipa VAT. How is the shopkeeper going to account for that VAT? Wewe unaambiwa "Bei ni Kshs500.00 lakini utalipa Kshs550.00 pamoja na VAT." Lakini ukiangalia ile risiti utakuta kwamba haionyeshi VAT. Je, yule mtu analipa VAT kwa njia gani? Maofisa wa kile kikosi cha kupambana na ufisadi wamekuwa wafisadi; ukiajiri wengine, wao pia wanakuwa wafisadi!

**The Assistant Minister for Finance** (Mr. Keah): On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform the hon. Member that we amended the VAT Act so that whether a trader indicates that there is VAT or not, he is deemed to have charged VAT, and he is required by law at present to pay the VAT to the Commissioner of VAT; whether or not he notes on the receipt that he has charged VAT or not, he is bound by the law to have charged VAT. So, on the issue of collection and on the issue of the management of the revenue collected, that loophole has been sealed. However, if the man intends to cheat, the only way he can do so is to use other devices other than the receipt. So, that aspect has been taken care of.

**Mr. Kiliku:** Bw. Naibu Spika wa Muda, Waziri Msaidizi amejaribu kueleza lakini sidhani kuna chochote ambacho ameeleza. Ameongea juu ya sheria ambayo iko kwenye vitabu lakini mimi naongea juu ya ununuzi wa bidhaa madukani.

**The Temporary Deputy Speaker** (Mr. Wetangula): Order! You do not accept information and then you turn round and start disputing it!

**Mr. Kiliku:** Nilidhani kwamba mhe. Keah atanipatia habari za maana. Hawa watu wenye maduka hakuna VAT ambayo wanalipa. Utakuta kwamba mfanyabiashara ana vitabu viwili; kimoja kinaonyesha kwamba hajauza bidhaa nyingi. Wewe unakubali bila kujua kwamba mtu huyo ameua bidhaa za kiwanda kizima. Wahindi wengine wambao wanafanya biashara katika nchi si waaminifu kwa Serikali hii; wao kazi yao ni kutafuta pesa. Kama wangukuwa waaminifu tungekuwa tumekusanya ushuru mwingi sana kutoka kwao. Kama wangukuwa waaminifu, hivi viwanda ambavyo tunavyo, tungekuwa na pesa nyingi ikiwa viwanda vinalipa kodi.

Bw. Naibu wa Spika wa Muda, wanafanywa namna hivyo kwa sababu ya watu wetu kula rushwa kwa jina la Harambee. Kufanya Harambee ni vizuri lakini hizi Harambee zimeharibu yule msimamo wa watu vizuri. Waziri hawezi kutumia uwaziri wake vizuri kwa sababu ya Harambee. Hata unaweza kuuliza inakuwaje mtu anatoa kila mwezi, kila wiki shilingi 100,000, 200,000, 50,000? Anatoa hizo pesa wapi? Hii ni kusema ya

kwamba watu tulionao wanaosimamia Serikali, wao wamejifanya ni matajiri wanakwenda kulipwa na Wahindi. Ni lazima tuzungumzie hapa kuwe na ukweli katika kukusanya hizo kodi. Wakati mwingine tunachukuwa wakati wetu bure. Hiyo ni shida kubwa.

**Prof. Mzee:** Jambo la fahamisho, Bw. Naibu wa spika wa Muda. Nilikuwa nataka kumujulisha Mhe. Kiliku ya kuwa hata kama kuna mipango namna gani wafanyabiashara wataka kupata faida kubwa sana. Wanunuwaji wataka kupunguza gharama zao. Wasimamizi wa VAT ni watu ambao hujuligana ni wa kula rushwa. Kwa hivyo, hata sijui hii VAT katika nchi yetu ni akili ya nani maanake ni wizi kutoka mwanzo mpaka mwiso. Na hakuna yeyote katika Serikali hii, au Waziri, anayeweza kutuhakikishia sisi ya kuwa ati loopholes zote zimefungwa. Wizi wa VAT utaendelea; kila mtu anajitetea upanda wake na hakuna atakayetoa pesa katika shimo la Serikali ambalo halina mwisho. Hilo ndilo fahamisho langu kwa Mhe. Kiliku.

*(Applause)*

**Mr. Kiliku:** Nakubaliana na ndugu yangu Prof. Mzee maanake mpaka sasa hakuna watu wameshikwa kwa kutolipa VAT. Na Waziri, kama anajua atueleze, walishikwa lini, wamepelekwa korti gani. Hakuna korti wamepelekwa kwa sababu yale wanaoweza kuangalia pia wanakula rushwa.

Bw. Naibu Spika wa Muda, kwa sababu tunalipa VAT, hakuna haja ya kuendelea na kulipa service charge. Vile tunalipa service charge, hasa watu wa mijini, tunaona hakuna kazi inafanya. Hii ni kwa sababu vile nazungumza ile service charge inalipwa kule watu watengeneze mji uwe mzuri, public toilets zote za Mombasa zimeuzwa, road reserves na public utilities zote zimeuzwa. Hii kodi tunachukua hivi leo twende tujenge 'public utilities', shule, lakini tutajenga wapi? Wamechukua zote? Uwaja wa michezo wa Changamwe umekwenda.

**The Assistant Minister for Finance (Mr. Keah):** On a point of order, The hon. Member is entitled to his own opinion, but I am disturbed as to what part of the Bill he is referring to, if he could elaborate please? What page?

**Mr. Kiliku:** Bw. Naibu wa Spika wa Muda, ushuru huu tunatoza, ili wale watu wanaolipa ushuru, maanake lazima tuwazungumie hapa, wale watu wanaolipa ushuru wanaambiwa wanalipa ushuru ili wapate public institutions kama shule, vyoo vya wananchi, lakini it is very sad because---

**Prof. Mzee:** On a point of information, Mr. Temporary Deputy Speaker, Sir.

**Mr. Temporary Mr. Temporary Deputy Speaker (Mr. Wetangula):** Order! Order, Prof. Mzee! Hon. Kiliku, you are getting extremely irrelevant and I warn you that if you persist, I will take action. Prof. Mzee, you are out of order, You cannot give information of what is already irrelevant. Carry on Mr. Kiliku.

**Mr. Kiliku:** Ahsante sana Bw. Naibu Spika wa Muda.

**Prof. Mzee:** Bw. Naibu Spika wa Muda, nilisimama kwa jambo la nidhamu ili unipatie nafasi niseme---

**Mr. Temporary Deputy Speaker (Mr. Wetangula):** Order, Prof. Mzee! You are getting grossly disorderly.

**Mr. Kiliku:** Bw. Naibu wa Spika wa Muda, mimi nakubaliana na wewe, lakini huu ni mtindo mpya wa wakati huu wa multiparty. Hata wakati tulikuwa chama kimoja kulikuwako katika Bunge hili mazungumzo juu ya Finance Bill. Hii ni kwa sababu wale watu wanaolipa kodi lazima wajue hiyo kodi itafanya kazi namna gani. Ilikuwa ni lazima tuzungumzie mambo ya kodi. Tunakubali watu watozwe kodi lakini watalipa namna gani?

**Mr. Temporary Deputy Speaker (Mr. Wetangula):** Order, Mr. Kiliku! I have ruled you out of order and irrelevant and, if you persist, you know the consequences.

**Mr. Kiliku:** Ahsante sana, Bw. Naibu Spika wa Muda. Sasa hapa katika ukurasa wa 203. Clause 36, inazungumzia mambo ya Cumstoms and Excise Act is amended, na inasema:-

"The Minister may, by order in the Gazette, amend the First, Fourth or Fifth Schedule, by increasing or decreasing any of the rates of import duty, export duty or excise duty by an amount not exceeding 30 per cent of the rate set out therein:"

Bw. Naibu Spika wa Muda, mimi, na hasa kwa wakati huu wa vyama vingi, si vizuri kumpa Waziri wa chama kimoja tu kwa sababu kilishinda uchaguzi na uwezo wa kuongoza nchi hii wakitumia Gazeti Maalum la kila Ijumaa. Sisi tunapitisha mambo hapa lakini Mawaziri, kama mambo yalivyo hapa, inampa Waziri nguvu na anaweza kufanya chochote. Mtapitisha; hampitishi, lakini Waziri anaweza kuongeza na kupunguza. Jambo hilo ndilo linafanya Mawaziri wawe wakula rushwa. Maanake, makampuni yale makubwa, multinationals, yakitaka kuongeza ushuru, wakitaka kupunguziwa ushuru, wanakwenda kumuona Waziri, hasa Kampuni ya Nguvu za umeme. Wanaenda wanaona Waziri anakubaliana na wao kisha Waziri yule anatumia sheria anaongeza au anapunguza. Ni kwa nini kodi katika Bunge hili tumpe Waziri wa chama kimoja uwezo huu wote kwa sababu ati

inasemekana walishinda?

**An hon. Member:** Waliiba kura!

**Mr. Kiliku:** Inasemekana ati walishinda. Mambo ya kodi yaachiwe Bunge hili; Waziri awe hana uwezo mpaka apitie katika hili Bunge. Kama kuna jambo lolote Waziri anataka, alete kwa Bunge ili tuangalie kama ni kweli ama si kweli. Lakini si kumpa Waziri

uwezo wa kufanya kila kitu. Inakuwa Bunge sasa halina maana tena. Hakuna haja ya kuwa hapa. Ikiwa Waziri atakuwa na nguvu zote, na ni Waziri kutoka kwa chama kimoja, kuna maana gani ya kuwa katika Bunge?

**The Assistant Minister for Finance (Mr. Keah):** On a point of order, Mr. Temporary Deputy Speaker Sir. Is the hon. Kiliku in order to keep on saying that a law passed by this House is a law only of one party and not a law that is the property of the entire Republic of Kenya? Is he in order to mislead this House, and the nation, by continuously harping on that particular point? He is grossly misleading this House; he is grossly misleading the nation on that particular view that he has and I would ask him to desist from that view.

**Mr. Kiliku:** Bw. Naibu Spika wa Muda, Waziri Msaidizi huyu hutaka kusikizwa sana lakini siku zake za uwaziri zimehesabiwa. Nilikuwa namwombea sana ateuliwe kuwa Waziri wa Fedha, lakini miaka hii yote bado hajakuwa. Ni Waziri Msaidizi! Hii ni kwa sababu ya tabia kama hizi.

**The Assistant Minister for Finance (Mr. Keah):** On a point of order, Mr. Temporary Deputy Speaker, Sir. Are you satisfied that the hon. Member is not imputing improper motives against the Assistant Minister? I put it to you, Mr. Temporary Deputy Speaker, Sir, that the hon. Kiliku---

**The Temporary Deputy Speaker (Mr. Wetangula):** Order, hon. Keah! You cannot put to the Speaker.

**The Assistant Minister for Finance (Mr. Keah):** I beg your pardon, Mr. Temporary Deputy Speaker.

My point of order is that the hon. Kiliku is, in fact, imputing improper motives on the hon. Mathias Keah.

**The Temporary Deputy Speaker (Mr. Wetangula):** Mr. Kiliku, you have no business saying hon. Keah's days as an Assistant Minister are numbered. That is imputing improper motive and it is not your business. Can you withdraw that remark?

**Mr. Kiliku:** Bw. Naibu Spika wa Muda, wacha aone kwamba nilikuwa ninamtakia kheri.

**The Temporary Deputy Speaker (Mr. Wetangula):** Can you withdraw that remark?

**Mr. Kiliku:** Bw. Naibu Spika wa Muda, ninayaondoa hayo matamshi lakini siku za kila mtu hapa zimehesabiwa; Si za mhe. Keah peke yake. Maanake mwaka wa 1997 hauko mbali. Hata pia siku za Serikali hii zimehesabiwa. Ninayaondoa hayo matamshi. Walijaribu lakini watakiona na fimbo ni hiyo hiyo; wembe ni ule ule!

Ningekubali, nikimalizia, ili niwape nafasi watu wengine ili wazungumze kwamba haitakuwa vizuri kumpa Commissioner wa Customs uwezo wa kufuta masharti yoyote ambayo yamewekwa.

**The Temporary Deputy Speaker (Mr. Wetangula):** Which page is that?

**Mr. Kiliku:** This is found on page 210 part 5 of the Bill. Mambo tumepitisha hapa lakini tunampa Kamishna uwezo wa kufuta masharti yote yale. Kwa nini tumpe huu uwezo wote? Sasa ndiyo ninasema kwamba hakuna haja yetu kuwa hapa. Itakuwaje katika Bunge hili tunapitisha mambo yote halafu tunampa uwezo wa kufuta masharti ambayo tumepitisha katika Bunge hili? Si hivyo ni kama kusema hata tukipitisha masharti hapa Kamishna atafanya kazi vile atakavyo? Ni kama tu Mkuu wa Wilaya anavyofanya kazi. Unaweza kuchukua kibali kutoka kwake ukaone watu ambao wamekuchagua na yeye hakuchaguliwa na mtu na hana kibali chochote. Ikiwa Katiba ya nchi hii haijabadilishwa Bunge hili halitakuwa na maana. Mpaka Katiba ibadilishwe ndipo tutaweza kuongoza nchi hii vizuri. Sisi tuko hapa lakini hatuwezi kufanya chochote kwa sababu Kamishna ameteuliwa kutoka kwa afisi ya chama kinachotawala. Bw. Naibu Spika wa Muda, si huyo mtu atafanya kazi vile aliyemteua atakvyotaka? Atafanya kazi kwa mujibu wa aliyemchagua. Akimwambia, "nipitishie mzigo" atafanya hivyo. "Mpitishie fulani mzigo", atafanya hivyo. Katibu wa Kudumu akitaka kupitishiwe mzigo, basi atampitishia. Hiyo ni lazima watu wa nchi hii wafahamu kwamba bila ya Katiba ya nchi hii kubadilishwa, Bunge hili litakuwa halina kazi yoyote linafanya; halina nguvu na halina maana.

**The Temporary Deputy Speaker (Mr. Wetangula):** Hon. Kiliku, what we are emphasising has absolutely nothing to do with the Clause you referred to.

**Mr. Kiliku:** Ninaongea kuhusu ukurusa unaosema:-

"The Commissioner may waive the 90 days conditions referred to in Paragraph 4 in respect of any period not exceeding 360 days"

Hiyo ni nini?

**The Temporary Deputy Speaker (Mr. Wetangula):** You are talking of waiving duty which is not envisaged in this Clause. That is what I am telling you. The Commissioner has no authority to waive duty. So you

are irrelevant.

**Mr. Kiliku:** Ahsante sana, Bw. Naibu Spika wa Muda. Ni lazima mwaka ujao ikiwa huu Mswaada utaletwa tena lazima Kamati ya Bunge hili ikae chini na kujadili. Tumeambiwa kwamba Katiba inaweza kubadilishwa na Bunge tu kwa sababu ni supreme. Ikija mambo ya chakula na kodi Bunge hili si supreme. Ikiwa mambo ya Katiba basi inakuwa supreme. Maanake watu wengine hawatakiwi wazungumze kule nje. Hakuna haja ya Bunge hili kumpa mtu mmoja uwezo wa kufanya kazi ambayo ingefanywa na Bunge hili. Si vizuri kwa Waziri kupewa uwezo peke yake na vile vile si vizuri kwa Kamishna kupewa uwezo peke yake. Ni lazima kuwe na kamati ambazo zitahusika na hili jambo la kufuta masharti. Kwa njia hii ukweli utapatikana. Maanake yule Kamishna akitishwa tu kwamba aliandikwa kazi na hiyo kalamu iliyomwaandika inaweza kumfuta kazi, basi atafanya vile hawa watu wanataka. Tunazungumzia jambo hili kwa nia ya kuendelea. Siku moja niliulizwa na tajiri mmoja ni kwa nini tunashutumu Serikali? Nikasema, tunataka kuwe na ukweli. Maanake kukiwa na utulivu walio matajiri watakula utajiri wao vizuri lakini kukiharibika kwa sababu ya watu kukasirika wale matajiri watapata shida.

Sitaki kuchukua wakati mwingi maanake nimezungumza ya kutosha. Ninaomba ile kamati ambayo inahusika na fedha iangalie vitu hivi ambavyo vimeandikwa katika Mswaada hapa na pale kufikia mwaka ujao, vile vitu vinavyotengenezwa katika nchi hii, zisitolewe nje. Hakuna haja ya kuruhusu watu kuleta vitu kama hivyo hapa nchini. Hili ndilo jambo ambalo linaharibu uchumi wetu. Ukiangalia, utaona kwamba ni karibu kila kitu kinaletwa kutoka nje na wakulima wetu wanateseka. Lakini tunapata kwamba kama mtu akitaka kuleta mahindi, maziwa, mafuta na vitu vingine, analeta. Hata nguo mpya zinaletwa. Utapata kwamba Mhindi ana kiwanda na badala ya kutengeza nguo hapa nchini, analeta nguo kutoka nje na kuweka katika kiwanda hiki na kusema kwamba zimetengenezwa hapa. Lazima kuwe na uchunguzi. Maanake viwanda vingi viko katika Mawakilisho yangu. Wengine wanasema kwamba wako katika Export Processing Zones (EPZ) lakini kama vile huyu Waziri rafiki yangu amesema, sijui kama zinaleta faida. Watu wengine wanatengeneza vitu na kuviuza hapa na hawalipi kodi. Sheria inasema kwamba ni lazima upeleke nje asilimia 50 ya vile vitu ulivyotengeneza nje na lazima ulipe kodi. Kule Kaloleni, Waziri Msaidizi wa Fedha anawafukuza watu wanaohusika na Export Processing Zone. Hiyo ni kweli.

**The Minister for Environment and Natural Resources (Mr. Sambu):** Jambo la nidhamu, Bw. Naibu Spika wa Muda. Jambo ambalo mhe. Kiliku ametaja ni muhimu sana. Ikiwa ana habari ya wale wanaotengeneza mali kwa Export Processing Zone lakini wanauza hapa ndani ni heri atoe habari ili watu kama hawa wachukuliwe hatua. Lazima athibitisha jambo hili kwa sababu hili ni jambo muhimu.

**The Temporary Deputy Speaker (Mr. Wetangula):** Mr. Kiliku, you asked for it. You are presumed to take responsibility of your words.

**Mr. Kiliku:** Bw. Naibu Spika wa Muda, nimesema kwamba mtu akiwa na Export Processing Zone anatakiwa na sheria apeleke asilimia 50 nje na ile ingine ambayo inawekwa hapa ailipie. Je wanalipa kulingana na sheria? Hili ndilo swali nilikuwa ninamuuliza Waziri ili akija hapa atueleze.

**The Minister for Environment and Natural Resources (Mr. Sambu):** Jambo la nidhamu, Bw. Naibu Spika wa Muda. Mhe. Mbunge alisema kwamba kuna kampuni ambazo ziko chini ya Export Processing Zone, ambazo zinatengeneza mali na kuiuza hapa badala ya kuipeleka nje na kutolipa kodi. Tunataka athibitisha ni akina nani hawa.

**The Temporary Deputy Speaker (Mr. Wetangula):** Bw. Kiliku, mimi pia nilisikia hivyo. Basi thibitisha kwamba kuna manufacturers katika EPZ walaghai wanaotengeneza mali ya kupeleka nje ya Kenya lakini wanaizungusha na kuiuza Kenya bila kulipa kodi. Mimi pia nilisikia hivyo na Waziri amekuuliza uthibitisha.

**Mr. Kiliku:** Bw. Naibu Spika wa Muda, nilikwenda kwa Bachi Investment Company inayotengeneza nguo wakaniambia kwamba nguo zote wanapeleka Seattle. Hii iko karibu Canada katika Pacific Ocean huko United States of America. I went to Seattle in 1987. Seattle ni mbali sana. Sasa nikaanza kuwauliza wanaendelea namna gani maanake wao wanaajiri watu kwa kibarua. Tena, wanawaajiri wasichana peke yao. Nikawauliza ni kwa nini hawaajiri wavulana wafanye kazi pamoja na hawa wasichana.

Sasa wananiambia, waache tu waendele. Kumbe wao wanachukua wasichana kwa sababu unajua kina mama hawalalamiki sana kama wanaume. Wao wanaambiwa eti ni kibarua tu. Ukienda kesho, wakati mwingine unaambiwa hakuna kazi. Sasa ile Bachi Investment Company iko katikati ya industrial area, Changamwe. Sehemu hii sasa iko katika Export Processing Zone (EPZ).

Sasa kulingana na uchunguzi wangu, Bw. Naibu Spika wa Muda, niliona kwamba zile wanapeleka nje ni kidogo sana; nyingine zote wanauza hapa nchini. Hii ni kuhusu Bachi Investment Company katika Miritini, Changamwe.

Kwa hayo machache, Bw. Naibu Spika wa Muda, naunga mkono.

**The Member for Gatanga (Mr. Mburu Wanyoike):** Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me this opportunity to comment on the Finance Bill of 1995.

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, hon. Kiliku! We are hearing a "Maiden Speech" in silence!

**The Member for Gatanga** (Mr. Wanyoike): The first comment, Sir, is about the Preamble to the Bill: "An Act of Parliament to amend the law relating to various taxes and duties and for matters incidental thereto".

Mr. Temporary Deputy Speaker, Sir, may I suggest that, in future and because I have also seen in other Bills that the objectives of a particular Bill are given very adequately, but this one has sort of paraphrased the other sections which should have read "to raise tax revenue for financing Government expenditure in the alleviation of poverty". These taxes are collected for the welfare of taxpayers as a whole. This is done throughout the whole Republic. That is my request for the future. You cannot speak on a legislation without speaking on the objectives of the money collected or revenue collected through this Bill. I am saying this because of the ruling given earlier on by the Speaker, that you cannot speak on other policy matters which I had a lot to talk about.

Mr. Temporary Deputy Speaker, Sir, on this particular Bill, may I refer you to the section just referred to by the previous speaker. This is Section 36(1) and quote:-

"The Minister may, by order in the Gazette, amend the First, Fourth or Fifth Schedule by increasing or decreasing any of the rates of import duty, export duty or excise duty by an amount not exceeding 30 per cent of the rate set out therein".

I think, Sir, this is a very dangerous legislation. We are delegating Parliamentary powers to the Minister for Finance to legislate on tax measures which, to me, could be very devastating. May I also refer you to the previous hue and cry from everybody in the Republic about "mini budgets". Every time somebody raises the question of "mini budgets", the Government replies that there are no mini budgets. This piece of legislation is a "recipe for mini budgets". I think it will be chaotic. Therefore, I would urge the Minister to remove that particular Section because this House meets fairly frequently. I do not see any "earthly reason" why the Minister cannot bring an amendment to that particular Schedule he is talking about and this House should be able - I am sure within a day or two - to do the necessary amendment.

The other point I also want to refer to in the Bill, Mr. Temporary Deputy Speaker, Sir, is on page 205 Section 51. At the bottom of the page, and quote:-

"Household and personal effects of any kind imported by entitled personnel or their dependants, including one motor vehicle imported for or purchased by them prior to clearance through Customs within 90 days of their first arrival in Kenya, or such longer period, not exceeding 360 days from the date of his arrival".

Now, Sir, I think whoever drafted this Bill is living somewhere in "Utopia". This Section will affect a majority of our workers in our overseas diplomatic missions, those working in the international organisations, the several thousands of Kenya students overseas returning home - could be numbering about 10,000 or 15,000 students - if we allow this Section to go on, it means that anybody in that category who has purchased any of these items mentioned here, for a period beyond 360 days, be it a vehicle or suit or whatever, he is not allowed to bring it into Kenya. In other words, the inference here is that you have to pay tax. To me, this is ridiculous! I do not know whether that is Parliamentary language. This Section should be removed. I think one should be free to bring in all his household or whatever he has bought beyond the period of 360 days.

I may have no quarrel with a period of three months, but here again, I think, on some items like, if I had bought a shirt a month before I came to Kenya, and then I am told I have to pay duty on it, I think, that is also rather unfair. So, I propose to the Minister that this period of 360 days should be removed because it will create a lot of inconveniences to those people who are coming back into Kenya.

Now, Sir, once again referring to the Bill, I would like to touch on Income Tax, which is on page 239, Section 89.

"The Third Schedule to the Income Tax is amended as follows:-

(a) in Head A (Resident Personal Reliefs) by deleting items 1 and 2

**[The Member for Gatanga** (Mr. Wanyoike)]

and inserting the following new items -

### *1. Family Relief*

The amount of family relief shall be Kshs6,552.00

Mr. Temporary Deputy Speaker, Sir, secondly, the amount of single relief shall be Kshs4,368/-. That is an increase of 20 per cent from the previous figure and I have no quarrel with it. But over the page I find this:

"The rate of deduction in respect of agricultural produce under subsection (1) of section 17(a)

shall be 2 per cent of the gross amounts of payment or the gross value of exports". This is the famous Presumptive Income Tax, which is not expressed properly as such. This tax will be imposed under section 90 of the Bill. On the 10th Schedule, you have a list of agricultural produce and its authorised agents. This Schedule details everybody who is going to be affected by the 2 per cent of Presumptive Tax. Examples are maize, wheat, barley, rice, sugar, pyrethrum, tobacco, tea, coffee, cashew nuts, pigs, cotton and hides and skins. This list covers virtually all parts of the country, from the Coast to Nyanza and North Eastern, where they have hides and skins. My particular comment is on the effect this Bill will have on the low to income agricultural small-scale farmers.

If I may refer back to page 42 of the Minister's Budget Speech, the Minister said, "Effective from January, 1994 Presumptive Income Tax on agricultural produce ceased to be collected. From January, 1994 onwards, farmers have become liable to submit income returns like any other business. It had become clear, both to the tax administrators and the tax payers, that the old Presumptive Tax had attractive features in relieving administrative burden from incorporated farmers. What was unattractive about the Presumptive Income Tax was the tax rate which, particularly in the years of depressed prices, was too high for the lower income farmers. To recapture the benefits of the Presumptive Income Tax, I am proposing to reintroduce it but at a lower rate of 2 per cent".

Now, my point is that here you have two sets of Kenyans; low-income wage earners who under the same Act are getting family relief of Kshs6,522 and single relief of Kshs4,368, but the low-income farmers - and there are millions of low-income farmers who are enumerated in the Schedule - are taxed! Is this fair? Is the Minister fair in collecting tax from one set of Kenyans while giving relief to the other set? Being a coffee and tea small-scale farmer, my experience is that there are very few farmers in the rural areas who get more than Kshs6,522/- from their cashewnuts, coffee or tea. In fact, when many of them go to collect their pay outs they end up in debts. They find that they owe the co-operative societies money perpetually.

I know hon. Sambu is looking at me because he was once the District Co-operative Officer for Murang'a and so he understands what I am talking about. So, if I describe this tax as being obnoxious, discriminatory and punitive, I am sure the Minister for Finance will take the point---

**Dr. Otieno-Kopiyo:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, hon. Dr. Otieno-Kopiyo! The hon. Member on the Floor is making his maiden speech! The rules are that you do not interrupt him unless a matter is really pertinent. I do not see anything so pertinent as for you to interrupt him!

**Dr. Otieno-Kopiyo:** Mr. Temporary Deputy Speaker, Sir, is the word "obnoxious" parliamentary? That is all that I wanted to ask. Please, guide me.

**The Temporary Deputy Speaker** (Mr. Wetangula): Mr. Wanyoike, much as you are making a maiden speech, you are not allowed to go over the boundaries of parliamentary language. The word "obnoxious" is strictly unparliamentary. I order you to withdraw it and carry on.

**The Member for Gatanga** (Mr. Wanyoike): Mr. Temporary Deputy Speaker, Sir, I withdraw the word "obnoxious".

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

**The Temporary Deputy Speaker** (Mr. Wetangula): Mr. Wanyoike, do you want any information?

**The Member for Gatanga** (Mr. Wanyoike): Yes, Sir.

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, I would like to inform hon. Wanyoike that he is, perhaps, confusing two taxes. Personal Relief relates to earned income while the Presumptive Tax is on business income, to which relief does not apply!

**The Temporary Deputy Speaker** (Mr. Wetangula): Is that not common sense, Mr. Assistant Minister?

**The Member for Gatanga** (Mr. Wanyoike): Mr. Temporary Deputy Speaker, Sir, I am referring to the Income Tax and these two taxes are under the same section. So, if it is a question of business---

**The Temporary Deputy Speaker** (Mr. Wetangula): The information he has purported to give you, to me, is common sense. You do not need it. Carry on.

**The Member for Gatanga** (Mr. Wanyoike): My final comment on this tax is that, I think it will not be fair to the millions and millions of smallscale farmers whose only source of income is their produce. To me, an income from salary or farm produce is the same. It is the same Kenya money from the same Central Bank. One goes into the pocket of the farmer, the other goes into the pocket of the worker. I do not see how the Minister can distinguish between the two once the money is in the pocket because they are all incomes.



The other point I would like to make is that, according to this Bill, the farmer is taxed on gross income. He is not even allowed to deduct his costs. According to the statement by the Minister, which I have referred to, this has been done for the convenience of the Minister because he says it is attractive to collect money. For instance, if you look at the tea industry, the money paid to the smallscale tea farmers by KTDA in a year is about K£4 billion. Two per cent of that will be about K£4 million. So, for the convenience of the Minister, that is easy and this is the reason why he is specifically imposing this tax on the farmer. I would request that he uses the same mechanism that he used in January 1994 and announce the abolition of the same tax. In fact, last year, the House was promised by the Minister for Agriculture, Livestock Development and Marketing that the tax would be abolished, and indeed, it was abolished. I do not see how the Minister for Finance can inconvenience the many millions of small-scale farmers by introducing this tax. I do not have the proper adjective today; may be I will get it tomorrow. However, I would like to request the Minister to abolish the tax because it is punitive.

The other point I want to make is that the money collected from this tax is enormous. We are being asked to legislate today, for this particular year, to collect, through the various tax measures proposed by the Bill, a total of K£6,831,452,589. This is what we are asked to pass here today. If you look at the previous years, in round figures, according to the 1994/95 estimates of revenue, we collected K£6.3 billion. In 1993/94, we collected K£4.9 billion. If you add up these amounts for those three years, including the current financial year, it comes to about K£18 billion. This is money which has already been collected and will be collected from the taxpayers in Kenya. This is where the difficulty lies for me because I am not supposed to raise any point as to how this money is spent. I do not think the intention of the Bill is to speak only on how this money is collected without speaking on how it is spent. But, in future, it should be.

One particular point I would like to make is that, in my Gatanga Constituency, we have been contributing towards this tax revenue in a big measure. This is a highly productive agricultural area. We have a lot of tea. The two tea factories in the area, that is Ngere and Njuno, currently produce about 30 million kilograms. We also produce about 10 million kilograms of coffee. So, in supporting these measures, we want to get something in return. On top of this taxation, the Government, together with the City Council, have drawn all the water from the rivers in my area, that is Ndakaini dam. They have drawn all the water from Thika river, Kimakia river, Kiama river,---

**The Temporary Deputy Speaker** (Mr. Wetangula): Where is that in the Bill, Mr. Mburu?

**The Member for Gatanga** (Mr. Wanyoike): Well, Mr. Temporary Deputy Speaker, Sir, there is about 400 million cubic meters of water per day coming to Nairobi.

**The Temporary Deputy Speaker** (Mr. Wetangula): Where is that in this Bill? You will have the opportunity to talk about Gatanga when we debate the expenditures of every Ministry.

**The Member for Gatanga** (Mr. Wanyoike): Mr. Temporary Deputy Speaker, Sir, the point I was making is that out of this K£8 billion we are passing today, if I could get K£20 million, you will be able to compensate me for the water which is being drawn from there. This way, you will be giving us something in return; *Gucokia guoko* - that means that you return something in kind because of this---

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, Mr. Wanyoike! There are only two languages to be used as the medium of communication in this Chamber: English or Swahili.

**The Member for Gatanga** (Mr. Wanyoike): I am sorry, Mr. Temporary Deputy Speaker, Sir. I was carried away. I meant "to return the hand"; that is the literal meaning. I am simply saying that you should thank the Gatanga people for being the guardian of your water to the city, that enormous quantity of water coming here. I am not complaining. I know a rehabilitation study has been done for the Gatanga Water Project and some K£300,000 has been provided. All that I wish the Minister for Finance to do is to provide an extra K£20 million, and I support him in this respect. In all the negotiations that he will undertake with the World Bank, I will be there hand-in-hand or, possibly, in front of him to make sure that this water project is ---

**The Temporary Deputy Speaker** (Mr. Wetangula): Mr. Wanyoike, I am at a loss as to the relevance of what you are saying.

**The Member for Gatanga** (Mr. Wanyoike): Mr. Temporary Deputy Speaker, Sir, before I sit down, the only thing that I would like to say is that this enormous amount of money collected is going to the Treasury. Somebody said that there is a hole in the Treasury where this money will go. A black hole; not the black hole of Calcutta. May be a black hole in astronomy where there are some political gravitations pulling the money into that bottomless hole. I have never seen any of this money collected before in Gatanga. I am sorry I do not have the time to enumerate. However, I think the Minister has to seal that bottomless hole. Mr. Minister, you must seal that hole---

**The Temporary Deputy Speaker** (Mr. Wetangula): Order! Mr. Wanyoike, address the Chair!

**The Member for Gatanga** (Mr. Wanyoike): Mr. Temporary Deputy Speaker, Sir, the Minister must seal that hole or else, the voters will seal the hole in 1996 or 1997.

Thank you.

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, I thank you very much for giving me this opportunity, but because of the size of this Bill, I am bound to come to speak on this Table so that I can place the Bill on the Table.

**The Temporary Deputy Speaker** (Mr. Wetangula): That is your rightful place to speak from. You have no apologies to offer about that.

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): Thank you, Mr. Temporary Deputy Speaker, Sir. My first appeal on this Bill is going to you in the Chair, and through you to the Clerk to the National Assembly.

This is the only Bill that violates Standing Order No. 96 which reads:

"Where a Bill seeks to amend any provision of an existing Act, the text of the relevant part of such provision shall either be printed or else copied and supplied with every copy of the Bill which is dispatched to hon. Members, unless in the opinion of Mr. Speaker, the amendment is formal, minor or self-explanatory."

We know why it violates that Standing Order. The reason is that the book would be very big or doubled.

So, my appeal to the Speaker and through him to the Clerk of the National Assembly, is that at the beginning of every Parliament, the following Chapters of our laws should be printed and be given together with the Standing Orders which are always given to the new hon. Members of Parliament at the beginning of every Parliament:

Cap. 472 which deals with Customs and Excise.

Cap. 476 which deals with VAT; and,

Cap 470 which deals with Income Tax.

I am saying this because hon. Members who have spoken before have had difficulties, not only them, but even we old Members here, in knowing what is being amended in every Financial Bill. However, if the Acts which I have given here are printed and given together at the beginning of every Parliament, every hon. Member of Parliament would be able to know what is being amended in every Financial Year for the five years that they are in Parliament here.

For example, let us go to page 202 Clause 30 which says:

"Section 94 of the Customs and Excise Act is amended in subsection (2) by deleting the word "one" and inserting "five".

Hon. Members will know what that "one" is; is it one cow or that "one" what is to be replaced with "five" what? As it is now, no hon. Member knows what is being amended and if one looks at the Finance Bill of last year, that Section is not there because this is a completely different amendment. I am pleading for that because when this Parliament is dissolved in 1997, you will find that the coming Parliament will be supplied with HANSARD copies of this Parliament. Since we came in, two-and-a half-years ago, we have not seen the printed HANSARD yet, but when we go from this House as, indeed, the Sixth Parliament went, our Pigeon holes have been filled with HANSARD copies of that Parliament. We were not interested in reading that. So that money should be spared and used in printing these Chapters that I am talking about to be supplied to the new Parliament.

Of course, the production of HANSARD is necessary for records, but a few copies can be printed for the library, but not to be supplied to new hon. Members, who are not interested in them. Infact, nobody was reading anything that was said in the Sixth Parliament, which was toothless, as far as we know.

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, this plea is very sincere and I do hope that the Clerk to the National Assembly, together with the Minister for Finance, can do this to help the incoming or new hon. Members of Parliament to enable them to adhere to this. Sections 30, 31, 32, 33, 34 and 35 all talk about such amendments.

Turning to Clause 36 on page 203 which says:

"Section 119 of the Customs and Excise Act is amended by deleting subsection (1) and inserting the following new subsection:"

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

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

My plight is that, that Section which is being deleted is not provided for as it is required by Standing Order No. 96. So, I do not know what is being deleted, but I can see what is being replaced.

It says as follows:-

"(1) The Minister may, by order in the Gazette, amend the First, Fourth or Fifth Schedule by increasing or decreasing any of the rates of import duty or excise duty by an amount not exceeding thirty per centum of the rate set out therein:

Then there is a proviso:-

Provided that-

"(i) in the case of maize, wheat, sugar, milk, rice or used clothing, the rates of duty may be increased by an amount not exceeding seventy-five per centum of the prescribed rates".

There has been hue and cry in this country in connection with that Clause of this Bill. What that Clause says is that the Minister will increase duty on maize, wheat, sugar, milk, rice and used clothing so as to protect the produce by the farmers in this country. I strongly differ with that as it will not help. Mr. Temporary Deputy Speaker, Sir, we know very well that countries like America protect their farmers, and, indeed if farmers produce more than the Americans can feed on, the Government would pay for the extra and destroy it. That produce that is being destroyed would be sold very cheaply to Kenya hungry businessmen at \$3 per bag! If a bag of maize costs \$3 overseas and is brought to Kenya and taxed at the rate of 75 per cent, it will not get to the price of maize here. It will still be much cheaper than the KShs.900 given to the Kenyan farmer for his bag of maize. So, manufacturers and millers would still buy that maize and leave the maize produced by the Kenyan farmers. I do not accept that this is going to help farmers at all in this country. We are only helping farmers in those countries who are forcing us to accept Structural Adjustment Programmes and they do that for a purpose. The purpose of them forcing on us Structural Adjustment Programmes is just to do that. The crops that are overproduced in those countries must be landed in this country at cheaper prices so that they paralyse our farmers so that they cannot produce more. This is a very dangerous trend and if my colleagues on this side of the House could listen, they would do what other countries have done.

Mr. Temporary Deputy Speaker, Sir, yesterday over the BBC bulletin the President of a certain African country was explaining why he refused the World Bank's recommendation of taxing goods in his country. He gave his reasons very explicitly. He said that he was not going to accept to liberalise the cashewnuts industry in his country. That was the President of Mozambique. He said that he must protect the farmers who are growing the cashewnuts. If a President of a country can say that, why can we not say the same to the World Bank? He was responding to demands from the World Bank and I am sure that the World Bank is going to listen to him. He said that if he liberalised the cashewnut industry in his country, cashewnuts from India are going to flood his market and that will destroy his farmers.

On page 252, the Bill talks of "other edible offal of swine, frozen." This is going to be taxed at 15 per cent. What I am saying is that if anybody feeds on swine offals he is allowed to bring the offals frozen at 15 per cent duty. But we slaughter a lot of swines in Kenya. Why can that person not buy the swine offals here in Kenya, freeze them and eat them? I think duty on imported swine offals should have been 100 per cent. Also if anybody wants to import poultry not cut, *kuku mzima*, fresh or chilled, he is going to pay 15 per cent duty. You may find that the price of a chicken overseas is probably \$1 which is equivalent to Kshs53.00. Here the price of a chicken ranges between Kshs100.00 and Kshs200.00. If you charge duty on that imported chicken at 15 per cent it will still be much cheaper than the chicken produced by our farmers here. Are we really protecting anybody? This is a serious matter. A duty rate of 100 per cent should be imposed on that imported chicken. What will prevent me, if I have a hotel here, from importing chicken from overseas and refuse to buy chicken from Ukambani which are very expensive? We are not protecting our farmers.

Mr. Temporary Deputy Speaker, Sir, hon. Kiliku touched on the issue of imported frog legs. The reason why frogs are included, although they are not eaten here, is that this is a requirement of World Trade Organization. The requirement of WTO is that every country will provide tariffs for every produce in the country. That is all right. We adhere to WTO regulations and requirements because Kenya is a member of WTO. But WTO does not tell us what rate of duty we should impose on imported items. The WTO regulations do not specify the duty to be paid on imported chicken; they do not say it should be 15 per cent. The WTO allows us freedom to impose any rate of duty on such items including the frog legs. I wish that Members on this side of the House could emphasise these points I am raising when they attend Cabinet meetings so that the next Budget can contain provisions that can save our farmers.

Mr. Temporary Deputy Speaker, Sir, I suspect that a big hotel like the Safari Park Hotel might not be buying chicken locally. I seem to be afraid of that; they might be importing chicken at this cheap rate to feed our

people and tourists and here we are thinking that they are helping us when in fact they are not helping us.

Mr. Temporary Deputy Speaker, Sir, when I look at page 213 of the Bill I seem to agree with the hon. Member for Butere when he says that the Commissioner of VAT should force a taxpayer who shall try to evade paying tax. Sub-clause 19(1) says:-

"Where any sum by way of taxes due and payable by a taxable person, the Commissioner may, by notice in writing, require that person to pay it."

I think here we should use the word "shall." This is because we are creating a loophole to be used by the Commissioner where he will have the freedom to choose who pays and who is exempted from paying tax. I think there should be an obligation on the Commissioner of VAT to force such a person to pay that tax.

Mr. Temporary Deputy Speaker, Sir, in Clause 56, on page 216 of the Bill, there is a proviso there regarding the importation of items like furniture, equipment, stationery and so on, for the benefit of refugees, religious organizations and Government-approved projects. This Clause says:-

"Where maize, wheat, sugar, milk, rice, textiles, new and used clothing and footwear are imported during a period of civil strife, national calamity or disaster, declared under any law for the time being in force or where they are intended for use in officially recognized refugee camps in Kenya, tax in respect thereof may be remitted under this section."

Mr. Temporary Deputy Speaker, Sir, Kenya is regarded as a very good country because of the peace that we have. Quite a number of refugees have come here to seek refuge but they have exploited our hospitality. Such items were imported for use by refugees in gazetted refugee camps in Kenya but when one went to Eastleigh one found these goods being sold in shops. There were some Somali refugees who were owning shops selling these items that were allowed to come in duty-free. These items were imported duty-free because they were destined for the refugee camps. These shops were doing booming business. This Clause does allow that kind of thing to happen but yet our officers, tax collectors, they were hated by the Jews and the Bible says so, that all tax collectors were very much hated. They were not able to chase these refugees who are doing booming business in Eastleigh selling items that had been imported to help them but selling them now to Kenyans at very lucrative prices.

Mr. Temporary Deputy Speaker, Sir, I will now go to Clause 90 page 240. Again we are left in a dilemma because what is being deleted by that Clause is not reproduced so we do not know what we have removed but we only know what is being replaced but it says:-

"The Income Tax Act is amended by deleting the 10th Schedule and inserting the following new Schedule"

What I am concerned with is on page 242 of that Schedule. It deals with people who sell raw cotton. I have looked at the ginneries and institutions named under the raw cotton, and I am not satisfied that, that is all that is in Kenya which is allowed to sell raw cotton. I am not satisfied that it is. Neither am I satisfied that under hides and skins, that the people mentioned there are the only people who deal and process hides and skins. I say so because in the Constituency of hon. Awori, there is a man called Ojaso Okuoma who buys a lot of hides and skins from the neighbouring countries and then processes them, but then his name does not appear on the Schedule. So, he must be doing this work illegally. So, I think that the tax collectors of the Minister for Finance have only told him of this important man and big tanneries but not the small ones. There are even Jua Kali people who should be included here, not for the sake of taxes but because they will be processing hides and skins legally, if they are included under that Clause. So, those ones who will be out, and they are quite a number, will then be operating illegally.

Now, Mr. temporary Deputy Speaker, Sir, I did not mention when I started that Cap 491 should also be printed. I did not request the Speaker that Cap 491 should be reproduced because that hardly comes in every Finance Bill. The Acts I mentioned are amended every year in the Finance Bill, but Cap 491 rarely comes for amendment in the Financial Bill. It has come this year. So, what I was thinking is that it should be the exemption in this Bill that what it is deleting - and it is only two pages of it - or what it is proposing to amend should have been reproduced in the next page before we begin with the First Schedule. They should have reproduced what is being deleted because he says that the Central Bank of Kenya Acts amended by repealing Section 34 and inserting the following new Section. That Section 34 should have been reproduced because it is only one Section of an Act so that hon. Members would be advantaged to have a look at what is being amended and what is not.

Mr. Temporary Deputy Speaker, Sir, restrictions we have been having on this Bill are many because it is an important Bill which legalises the Financial Statement by the Minister for Finance. The Finance Bill is now making legal all the taxation measures. The taxes that the Minister pronounced on page 27 of his Financial Statement are now being legalised and we are passing it but and I think that when we pass a Bill with a view to collecting taxes, we should be able to know what the taxpayers are expected to do. This Bill also enables us, as a Government, to levy the taxes in order to raise revenue for development and for running our

Government. It is, therefore, important for us to know who are involved. The people who are involved are the taxpayers, and these are the voters of those hon. Members who are in this House. This includes those who earn salaries or wages, those who earn their income from trade, farms and those who do not earn any income like the unemployed ones because they are also taxed by Value Added Tax. So, whoever buys a piece of soap, a shirt, a belt or a pair of socks or whatever, he pays tax even if he is unemployed. So, he is taxed. When he is taxed like that, it is his right to know how his tax is going to be used, and I think I would rather we insist that the Financial Statement which is only debated for 10 minutes by an hon. Member should come later so that the Finance Bill is debated at full length by as many hon. Members as possible. Not that the hon. Members should take two days like the hon. Member for Butere took in debating a Bill. Of course when we close the debate on this Bill, very few hon. Members will have spoken because quite a few took a long time in debating the Bill. Reasonably long time should be given for hon. Members to debate the legal institutions which deals with the taxes that the taxpayers are being asked to pay.

*(The Temporary Deputy Speaker  
(Mr. Kariuki) left the Chair)*

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

Mr. Temporary Deputy Speaker, Sir, after taxes have been collected, of course the taxpayer is going to expect a lot of things: 1. He is going to expect transparency from the people who are going to control the taxes he has paid and the people who are controlling the taxes he has paid are hon. Members of Parliament who are on KANU side, assisted by hon. Members of Parliament who are on the Opposite side. A taxpayer expects that anybody who is going to be paid from his tax as a salary is going to behave. Here I would like hon. Members on the Front Bench behind me now to, at least, listen to what I am saying, particularly the Minister of State.

**Mr. Temporary Deputy Speaker** (Mr. Wetangula): Order, hon. Munyi and your colleagues.

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): I would like the Minister of State, Office of the President, who is in charge of civil servants, hon. Kalweo, to listen to what I am going to say.

Mr. Temporary Deputy Speaker, Sir, taxpayers do expect that their money pays people who serve them and serve them well. I have in mind people like the District Officer in Othaya, who stopped a Member of Parliament of that Constituency from moving around his Constituency without permission. A District Officer insists that a Member of Parliament, and in this case the Member of Othaya, should seek a permit from the DO whose name I do not remember, so, I was asking the Minister to tell the civil servants that taxpayers expect their money to be paying people who are trained and who are going to be civil and who are going to behave properly. A DO has no right, at any time, to tell a Member of Parliament that he cannot move in his own Constituency without permission of that DO.

Mr. Temporary Deputy Speaker, Sir, we feel very, very embarrassed when we read such a thing like for example, a DO ordering a Member of Parliament to get permission from him to move in his own constituency. In my own constituency, I will not accept it. That kind of DO will be beaten up.

**The Temporary Deputy Speaker** (Mr. Wetangula): Order! Order, hon. Osogo! Whatever you are saying maybe politically correct, but it has nothing to do with this Bill.

**Mr. P.N. Ndwiga:** ---- (inaudible)

**Mr. Temporary Deputy Speaker** (Mr. Wetangula): Order, hon. Ndwiga! The Chair does not need assistance from you. I am talking to Mr. Ndwiga in particular.

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, I said before I resumed my seat that this Bill is giving legal status to the speech made by the Minister for Finance in this House. All he said about the taxes he proposed is being sealed here. I am saying that money which has been sealed in this Bill goes to pay salaries of the civil servants of our Government and I am in that Government. I get ashamed when I see---

**An hon. Member:** You are not in the Government!

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): Somebody tells me that I am not in the Government. Mr. Temporary Deputy Speaker, Sir, I am---

**Mr. Shikuku:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear what I heard?

**The Temporary Deputy Speaker** (Mr. Wetangula): From who?

**Mr. Shikuku:** From hon. Osogo when he said that somebody said that he is not in the Government.

According to the Standing Order No.2---

**The Temporary Deputy Speaker** (Mr. Wetangula): I know what you want to say. A Minister means and includes an Assistant Minister.

**Mr. Shikuku:** Yes, can you educate him on that?

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, hon. Shikuku!

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, what I am saying is that the taxes that we are passing in this Finance Bill should be able to pay people and pay people who serve the Government and the people of this country.

The same applies to civil servants who go on supporting the Opposition by being partisan in the politics of the Opposition. In my own Constituency, chiefs who were appointed and support the Opposition say that the uniform they wear is the only thing they have that belongs to the Government. Their blood and bones are in the Opposition.

**An hon. Member:** Correct! Halleluya!

*(Applause)*

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): Those type of fellows cannot be allowed and that is why I asked the Minister of State, Office of the President, to be very vigilant on this. The Government cannot have people who are serving it and who declare that it is only the uniforms that they are wearing which belong to it but the whole of them is in the Opposition. They have no right to say so.

**An hon. Member:** They are not politicians!

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): They are earning a salary from the taxpayers and the taxpayers are both from the Opposition and the Government.

**Mr. Moiben:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to say that there are some civil servants who are wholly in the Opposition? Can he substantiate that by giving us their names?

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, hon. Moiben! It is very obvious that hon. Moiben you are not listening to what hon. Osogo was saying.

**An hon. Member:** Throw him out!

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): Thank you, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, hon. Osogo! There is nothing to substantiate, you had made your point very clear.

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): Thank you, Mr. Temporary Deputy Speaker, Sir, for helping me.

**Mr. P.N. Ndwiga:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. contributor, hon. Osogo, suggesting by any chance, that a chief who is wearing a Government suit should be KANU "inside" Is he suggesting that by any chance?

**The Temporary Deputy Speaker** (Mr. Wetangula): Order! That is not a point of order and he never said that either.

**Mr. P.N. Ndwiga:** No!

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, hon. P.N. Ndwiga!

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): It is the behaviour of these Government servants that I am talking about and Mr. Temporary Deputy Speaker, Sir, you will remember that hon. P.N. Ndwiga applauded---

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, hon. Osogo! He is totally out of order; do not bother about him. Carry on.

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, they applauded when I said that a DO should not refuse a Member of Parliament to go round his constituency since he is an employee of this Government and neither should we allow a chief to be partisan, if he is serving the Government. So, when he is openly partisan, then he should be punished. That is what I am telling the Minister of State, Office of the President.

Now that we are sealing the taxes, I do hope that the Ministry of Agriculture, Livestock Development and Marketing and the Ministry of Land Reclamation, Regional and Water Development can put emphasize on irrigation. I have said that time and again that taxes collected by our people should go a long way in making

Kenya self-sufficient in food production to prevent, for example, the lifting of ban on maize importation. When we are self-sufficient there will be no need of importing maize or even being forced by the World Bank to liberalize the importation of maize.

Irrigation is an important element in our country. We have got plenty of water. In fact, it is Kenya that has got more water than any other country that is surrounding us. There are many rivers that flow through it emptying their water into the Indian Ocean and Lake Victoria and yet we are not utilizing this water. I do beg that in the next Development Estimates they include something about irrigation. This Development Estimates does not have anything about irrigation. I have read through it. I have been very keen on this because I said this last year. We should emphasize on irrigation. I still insist on what one old hon. Member who was in *Legico* called Howard Williams used to emphasise. He used to say that with the taxes that are paid, water should be pumped from Lake Victoria to Aberdares and be let to flow into the drier parts of Kenya so that Kenya can produce enough foodstuffs. I have gone to North Eastern Province and I could not believe my eyes when I saw water melons grown in those areas under irrigation by a certain Catholic Brother. I could not believe my eyes that they could grow better water melons than what I can grow on the Lake shore. So if water could be provided in those areas, Kenya would produce horticultural produce suitable for exportation into foreign countries and earn Kenya good foreign exchange. I am praying seriously that the Minister for Agriculture, Livestock Development and Marketing and the Ministry of Land Reclamation, Regional and Water Development will emphasise on irrigation as the only solution to save Kenya since we have not had or discovered oil.

Today, I was told that we have oil. When I went to a certain hospital this morning I met an old man there who asked me, "Do you know that we have discovered oil?", I said I did not know. He said, "We have discovered oil but people who want to drill it have given a condition that they will get 80 per cent of the income from the oil and we only remain with 20 per cent but Kenya has refused this deal". I do hope that what that old man told me this morning is true because we will be the happiest people but still irrigation will be needed.

With these remarks, I beg to support this Bill.

**Prof. Anyang'-Nyong'o:** Thank you, Mr. Temporary Deputy Speaker, Sir. Before I go into details on the Finance Bill, I just want to predicate my comments by making a few comments on the hon. James Osogo's final contribution to his Speech in Parliament today. That is the essence of taxation.

This Bill gives the Government the legal authority to raise revenue in order to spend it and to spend it in the interest of Kenyans by developing this economy. If you draw too much from people in terms of taxes and then those same people see you misusing it, you "kill the golden goose which lays the golden egg".

Mr. Temporary Deputy Speaker, Sir, in the past, I have made this humble comment that when we are talking about taxation, we should talk about both formal taxation and informal taxation, and as a Government, make up our minds which we want to contribute substantially to the raising of revenues in our nation.

Mr. Temporary Deputy Speaker, Sir, at the moment, the people in the rural areas who do not pay income tax, the majority of them are heavily taxed in terms of informal taxation. But because it is informal, it is also grossly misused. I am talking about these local Harambee thing which has gone haywire. I will give an example. A few months ago in one of my locations, the chief and his cahoots decided to organize a Harambee to buy textbooks for the school in my location. They did not even consult me whether it was a good idea. I went there and they had pronounced it *excathedra* and they were going on. In the end, they collected from every school, Ksh.1,000 to organize the Harambee. That is a preamble to the thing. Then they decided that from every family, the man was to give Ksh.100 and the woman was to give in Ksh.50. Then they came up with a campaign gimmick, that the hon. Joseph Kamotho, the Minister for Education, was going to be the Guest of Honour. Of course, Hon. Kamotho was never informed because I called the DO several times to find out whether the hon. Kamotho was coming and the DO did not know. In the end, the Harambee happened and a paltry money was raised, but I knew from my calculation that a lot of money had been collected, taxing the people without rendering the services which had been promised.

Mr. Temporary Deputy Speaker, Sir, the Government should take this thing seriously because, really, if you are going to tax people, let them know how they are to be taxed in a Bill like this one.

**Mr. Temporary Deputy Speaker** (Mr. Wetangula): Order! Order, Professor! As an hon. Member of this House, you have a duty to report such a fraud to the police. It is not a matter of this Bill.

**Prof. Anyang'-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, I am glad you say that I have a duty to report to the police, but I can tell you another story of my having spent three hours in the police station in Kisumu trying to tell them to do their duty and they did not do it, yet this was security issue. So, we have lots and lots of stories to tell of a Government which has completely given up its responsibilities and for which we are paying taxes. We are not just saying these things for the sake of saying them; we are saying them because we want corrective measures to be taken so that the people of Kenya can live in a Republic they are proud of.

Mr. Temporary Deputy Speaker, Sir, when it comes to the issue that hon. James Osogo mentioned, which I think is very important, that Bills and Laws and Acts of Parliament are implemented by the people who are called "civil servants". The word "civil" should be understood in its correct English meaning. I would say that the hon. James Osogo is a "Civil Servant", because he knows what to do when and how to relate to you under certain circumstances, and to exercise his responsibility according to Law.

Mr. Temporary Deputy Speaker, Sir, a chief that says that only the uniform is important and the "inside" is not important is not being civil. I do not care for who he is doing that. If he is doing it for KANU, it is wrong; if he is doing it for DP, it is wrong. He has to be civil, he has to implement law and order impartially. All we are discussing here will not be meaningful to this Republic if law and order is not being implemented impartially because the impartial implementation of law and order is what makes an investor have confidence in our Government, our economy and hence know that when a Bill is passed which says you pay 25 per cent tax for whatever, it will be 25 per cent.

Mr. Temporary Deputy Speaker, Sir, let me come to the specific page 221 regarding the Eighth Schedule on the Value Added Tax and so on. There is reference which I would like to speak on. The Valued Added Tax is amended in part (a) and in item (iv) by deleting paragraph "what-not"; we do not have those paragraphs and we do not know them. When we come to page (5) Aid agencies, they talk of household personal effects of any kind including one motor vehicle imported or purchased by entitled personnel or their dependants within 90 days or so on.

My comment is on the concept entitled "personnel". This affects not Aid Agencies, but diplomatic circles which are referred to in another Schedule of Cap.476. There are many Kenyans who work with Aid agencies, international organisations, Embassies and so on and who quite often get into problems that they do not enjoy the same tax relief or duty free facilities as their colleagues. I would have wanted in this Bill, that the entitled personnel referred to in various sections or sub-sections of Clause 72 to include Kenyans working in these agencies and international organisations and

Embassies and so on, because in many cases Kenyans are penalised.

Now, international relations sometime say that when you are working in your country you should not enjoy the same benefits as those who are not working in those countries. When you put together the double Kenyans working in these agencies, they are not that many and they would ruin this economy if they enjoy the same facilities. I know that when Kenyans do not enjoy these facilities that brings very poor working relations in the organisation because the foreigners begin looking upon the Kenyans as a little bit non-international personnel.

I would like to appeal to the Government to look at this thing, and where there are these disparities, Kenyans should also be included among the entitled personnel enjoying this tax relief and duty-free facilities.

Now, let me go to page 223. Page 223 refers to passenger's baggage and subsequently what one is entitled to when one has landed in Kenya in terms of zero weight lift of duty. It is my humble opinion that a Kenyan travelling to New York or Paris and coming back with two bags, cannot carry goods which can ruin this economy, if they are not taxed. I think it is a whole lot of non-sensical bureaucracy in the airport, whereby you see the green line and a red line. Under civilized conditions...

**Mr. Temporary Deputy Speaker** (Mr. Wetangula): Professor, the word "non-sensical" is unparliamentary!

**Prof. Anyang'-Nyong'o**: I withdraw the word, Mr. Temporary Deputy Speaker, Sir, because it is unparliamentary. It is rather the abuse of common sense that when people arrive at the airport, there are the green light and red light. The red one means you have something to declare and the green one means you have nothing to declare. At Jomo Kenyatta International Airport, the green one has thoroughly been ignored. If you go there, you are still stopped to declare something. I think it is unnecessary bureaucracy, people should be trusted because I know that the Government has the capacity to detect...

#### ADJOURNMENT

**Mr. Temporary Deputy Speaker** (Mr. Wetangula): Hon. Members, it is now time to interrupt the Business and the House is, therefore, adjourned until tomorrow, Thursday, 13th July, 1995, at 2.30 p.m.

The House rose at 6.30 p.m.