

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 13th July, 1995

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

## PRAYERS

## PAPERS LAID

The following Papers were laid on the Table of the House:-

Annual Report and Accounts of the Kenya Bureau of Standards for the year ended 30th June, 1990 and the Certificate thereon by the Auditor-General(Corporations).

Annual Report and Accounts of the Kenya Bureau of Standards for the year ended 30th June, 1991 and the Certificate thereon by the Auditor-General(Corporations).

Annual Report and Accounts of the Kenya Bureau of Standards for the year ended 30th June, 1992 and the Certificate thereon by the Auditor-General (Corporations).

*[By the Assistant Minister for Commerce and Industry (Mr. Barmasai) on behalf of the Minister for Commerce and Industry]*

Annual Report and Accounts of the Kenya Film Corporation for the year ended 30th June, 1990 and the Certificate thereon by the Auditor-General(Corporations).

Annual Report and Accounts of the Kenya Film Corporation for the year ended 30th June, 1992 and the Certificate thereon by the Auditor-General(Corporations).

*[By the Assistant Minister for Commerce and Industry (Mr. Barmasai) on behalf of the Minister for Information and Broadcasting]*

Annual Report and Accounts of Golf Hotel Limited for the year ended 30th June, 1992 and the Certificate thereon by the Auditor-General(Corporations).

Annual Report and Accounts of Golf Hotel Limited for the year ended 30th June, 1993 and the Certificate thereon by the Auditor-General(Corporations).

*(By the Assistant Minister for Commerce and*

*Industry (Mr. Barmasai) on behalf of the Minister for Tourism and Wildlife)*

Annual Report and Accounts of Kenya Reinsurance Corporation for the year ended 30th June, 1992 and the Certificate thereon by the Auditor-General (Corporations).

*[By the Assistant Minister for Commerce and Industry(Mr. Barmasai) on behalf of the Minister for Finance]*

Annual Report and Accounts of the Tea Research Foundation of Kenya for the year ended 30th June, 1994 and the Certificate thereon by the Auditor-General (Corporations).

*[By the Assistant Minister for Commerce and Industry (Mr. Barmasai) on behalf of the Minister for Research, Technical Training and Technology]*

Annual Report and Accounts of the Kenya Sugar Authority for the year ended 30th June, 1991 and the Certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of the Sugar Development Fund (Kenya Sugar Authority) for the year ended 30th June, 1992 and the Certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of the Kenya Sugar Authority for the year ended 30th June, 1993 and the Certificate thereon by the Auditor-General (Corporations).

*[By the Assistant Minister for Commerce and Industry (Mr. Barmasai) on behalf of the Minister for Agriculture, Livestock Development and Marketing]*

### ORAL ANSWERS TO QUESTIONS

**Mr. Deputy Speaker:** Mr. Kapten's Question.  
*Question No. 325*

#### NUMBER OF ARMED HOME GUARDS

**Mr. Deputy Speaker:** Mr. Kapten is not here? We will pass over his Question for the moment. Mr. Mutahi's Question?

**Mr. Mutahi** asked the Minister for Finance why the monthly pension for Mr. Johnson K. Kahuthu, APN No. PC/6762/32, has not been increased as per the Pensions (Amendment) Act No. 13 of 1986; and when it will be effected and the resultant arrears paid.

**The Minister for Finance** (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I beg to reply.

The monthly pension for Mr. Johnson K. Kahuthu was not increased as per the Pensions (Amendment) Act No. 13 of 1986 because the provisions of the Act were repealed and replaced by the Pensions (Increase)(Amendment) Act No. 3 of 1990 under which Mr. Kahuthu's pension was increased on 1.7.86 and 1.7.87 from Kshs100.00 per month to Kshs126.55 per month and arrears of Kshs1,119.70 were paid to him on 21.6.95. The arrears were paid through the Office of the District Officer, Mukurweini, vide Cheque No. 007057.

**Mr. Mutahi:** Mr. Deputy Speaker, Sir, can the Minister tell the House why payment of these arrears was delayed from 1986 and 1987 to 21.6.95, just after I had put this Question? What caused the delay since 1986?

**Mr. Mudavadi:** Mr. Deputy Speaker, Sir, I think there may have been problems in the processing of the pension claims. But it is gratifying to note that the arrears have since been settled.

**Mr. Mutahi:** Mr. Deputy Speaker, Sir, the Minister is talking about having paid arrears of about Kshs1,000.00 but do these arrears cover the whole period from 1986 to date or are they for one year?

**Mr. Mudavadi:** Mr. Deputy Speaker, Sir, I do not have the composition or details with me now but I can undertake to provide the composition of the same.

**Mr. Wamae:** Mr. Deputy Speaker, Sir, realising that a lot of pensioners are old people, some of whom are sick, and are not able to come to Nairobi to demand their pensions, would the hon. Minister assure this House that he will instruct his officers to ensure that all those who should be paid arrears have been paid and that the cheques due to them are always sent to their home areas rather than wait for a Question to be asked in this House?

**Mr. Mudavadi:** Mr. Deputy Speaker, Sir, I think the views expressed by the Members are very valid because there are numerous complaints that have arisen, time and again, that the Pensions Department has not been particularly efficient in ensuring that the pensioners get their dues at their respective nearest pay points. So, I take the recommendation very seriously that the Pensions Department needs to be strengthened and streamlined so that the arrears can be paid out in the field. I will take some action to ensure that the position is improved.

**Mr. Nyagah:** While appreciating what the Minister for Finance has said, the pensioners are known as "senior citizens" of this country and they have a lot of problems. For instance, in places like Embu, which I am familiar with, when it comes to the collection of their pensions, payment is delayed and they have to keep on going to the collection centres on many occasions in an attempt to collect the money. Usually, this money is never available and they may get it towards the end of the month. Would the Ministry ensure that the pensioners are paid on time so that they do not have to keep on moving from their homes to the centres where they collect their

money from?

**Mr. Mudavadi:** Thank you, Mr. Deputy Speaker, Sir. I do agree, and this is strengthening the point that the Pensions Department needs to be worked on in order to improve the position.

**Mr. Deputy Speaker:** Next Question, Dr. Kituyi!

*Question No.235*

PROTECTION OF FARMERS

**Dr. Kituyi** asked the Minister for Agriculture, Livestock Development and Marketing, what action the Ministry is taking to protect local farmers in light of the failure of the anti-dumping measures so far adopted by the Government to stabilize the agricultural market and reduce the threat posed by imports to domestic produce.

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

After the liberalization of the agriculture sector, the Government adopted a combination of variable and anti-dumping duty measures to protect the local farmers. The enforcement of these measures was abused by unscrupulous businessmen, some of whom imported grain and other products under the guise of famine relief while others imported, purporting that the goods were intended for transit purposes. However, during this financial year, 1995/96 Budget presentation, the Minister for Finance announced measures which, when enacted, will help seal these loopholes. The following strategies have been laid out:-

(i) All imported maize, wheat, sugar, rice and milk, either brought under food programme aid, famine relief or commercial purposes, would be subject to the redefined duties of specific and *ad valorem* rates as contained in the 1995/96 Finance Bill.

(ii) All transit goods will be subject to both pre-shipment inspection and deposit of a Bank Performance Bond.

(iii) To protect the cotton farmers, the *mitumbas* or secondhand clothes will now attract duty as opposed to the past when they came in duty free.

(iv) Strict quality controls will ensure that substandard goods do not enter the market.

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, arising from the Assistant Minister's reply, notwithstanding the false allegation that until this year, *mitumbas* were supposed to enter this country duty free, we have said here many times, that this Government has no obligation to over-liberalize sectors when it is not capable of enforcing anti-dumping measures. Considering that the very week after the Budget Speech and after the Legal Notice No.216 which lifted the ban on the importation of cereals, it was reported and it has been verified, that a lot of grain has been brought into this country. Can this Assistant Minister now say how he happens to be satisfied with the measures that have been announced when, already, they have been proven wanting?

**Dr. Misoi:** Mr. Deputy Speaker, Sir, I have assured this House and the nation that the measures which have been put in place will control the incoming commodities which are likely to adversely affect the marketing of local produce. The Government will take very stringent measures against any importer who might bring in goods through panya routes or under dubious arrangements. To fight anti-social vices requires concerted efforts not only from the Government, but also from all those who are charged with this responsibility. The same also applies to Kenyans who should portray a more patriotic attitude rather than promoting their own private interests.

**Dr. Otieno-Kopiyo:** Mr. Deputy Speaker, Sir, with all the duties that are specified in the Finance Bill, and given the fact that Kenya produces a substantial portion of wheat, maize, sugar and rice, if you add on all those duties specified, the cost of bringing in this grain is still much cheaper than the local ruling market price for maize. In fact, it is still lower than the production cost for the Kenyan farmer, given that Eastern Uganda which produces a lot of maize does not need fertiliser to produce the maize, and fertiliser forms about 40 to 50 per cent of the production cost of maize. Would the Assistant Minister consider instituting a quota system so as to ensure that where there is enough supply of the local produce of maize, wheat or sugar, cheaper produce does not come in to undermine the marketability of the Kenyan produce?

**Dr. Misoi:** Mr. Deputy Speaker, Sir, at the moment, it is not feasible to consider instituting quota measures against importation. We believe that if these stringent requirements are complied with, the situation will be controlled.

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, arising from the second reply by the hon. Assistant Minister calling upon Kenyans to be committed in the fight against corruption and resisting forces that are destroying the agricultural sector, last week, I did present a case before this august Assembly where a company called Jusan

Enterprises Limited imported 50,000 metric tons of cereals and 50,000 tons of sugar after the Financial Secretary, in a letter dated 24th, November, 1994, to the Commissioner of Customs, had asked that this consignment be allowed in duty free in anticipation of a publication in the Kenya Gazette by the Minister for Finance that duty was going to be waived on this consignment. I also presented evidence that this consignment was sold and not used as famine relief. What specific measures is the Assistant Minister undertaking to prove that he is committed to the claim that they are fighting corruption? I also showed him that Jusan Enterprises Limited belongs to hon. Sajaad and Mr. Bawazir.

**Dr. Misoi:** Mr. Deputy Speaker, Sir, the fight against corruption, as I said, requires concerted efforts not only from the ruling party, but also from the Opposition parties. Secondly, I have stated here measures which will be instituted with effect from the time the Budget Speech was presented.

**Mr. Deputy Speaker:** Next Question, Rev. Ommani!

*Question No. 263*

PROVISION OF PUBLIC TOILETS

**Rev. Ommani** asked the Minister for Local Government:

(a) if he is aware that the Kakamega Municipal Market and bus park do not have public toilets; and

(b) what steps he is taking to provide these facilities and services.

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

(a) There are two public toilets at the municipal market suitably placed to serve both the market and the bus park. One of the toilets which was constructed as a result of increased traffic was opened in September, 1993. Both toilets are functional.

**Rev. Ommani:** Mr. Deputy Speaker, Sir, arising from the answer given by the Assistant Minister, is he aware that the doors of the two toilets that he has mentioned are closed by barbed wires and nobody enters into both toilets? I was there last weekend to check on the situation and I saw the barbed wires.

**Mr. Walji:** Mr. Deputy Speaker, Sir, I am not aware that the doors to the toilets have been closed with barbed wires. Maybe, somebody has grabbed those toilets.

**Mr. Shikuku:** On a point of order, Mr. Deputy Speaker, Sir. Arising from that absurd reply from the Assistant Minister, is he aware that Kakamega District as a whole, is one of the most densely populated areas, and in this market that we are talking about, there are normally not less than 20,000 to 30,000 people and yet they cannot even accede to the toilets there? Apart from that, these toilets are very filthy. I hope that he is not going to ask the hon. Member for the area to organise Harambee as he did in the case of Nakuru town. Is he aware of that? If he is not aware, can he not listen to us, who are the spokesmen of those people who cannot come here and talk for themselves?

**Mr. Walji:** Yes, Mr. Deputy Speaker, Sir. I will definitely listen to hon. Shikuku and Rev. Ommani and I will look into this matter. If it is true that the doors to these toilets have been closed with barbed wires, I will make sure that they are opened to the public before the end of this month.

**Mr. Magwaga:** Mr. Deputy Speaker, Sir, what the Assistant Minister is telling the House is not true. The market is enclosed with barbed wire and those two toilets are within the market grounds, but the bus park has no toilet. Can he tell this House when any toilets will be built on the bus park grounds?

**Mr. Walji:** Mr. Deputy Speaker, Sir, these toilets were built to serve both the market as well as the bus park. I will make sure that these toilets are facilitated to be used by people from the bus park.

*Question No. 477*

PHONES FOR MITUBIRI RESIDENTS

**Mr. R. Mungai** asked the Minister for Transport and Communications when the residents of Mitubiri Location in Thika District will be provided with reliable telephone services.

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

Mitubiri location in Thika District will be provided with reliable telephone services when the proposed 70 lines Magneto Exchange will be installed in the area. This is, however, subject to availability of a plot to put up a

building for the exchange. Meanwhile, Kenya Posts and Telecommunications Corporation is in the process of automizing Gaichanjiru which currently serves Mitubiri with three multi-party lines.

**Mr. R. Mungai:** Mr. Deputy Speaker, Sir, arising from that very casual reply, which is not well researched, can the Assistant Minister tell this House when this proposed 70 lines exchange is planned to be operational? Can he give us the month and the year? I am sure the planning division of his Ministry knows the year and the month when the operation will commence.

The people of Mitubiri have been without telephone facilities for the last five or six years. Last year when I asked a similar Question, I was told that the automation of the Gaichanjiru Exchange, which serves Mitubiri was in the process of being automatised. Today, a year later, this situation has not changed. Can the Assistant Minister be serious and tell us when this automation of the Gaichanjiru will be operational so that the people of Mitubiri can have their service?

As for the plot which the Assistant Minister says is the crucial factor, I am prepared to offer my own plot for the Exchange since I live in that area. So, let us have some facts about when this Exchange can be operational.

**Mr. Morogo:** Mr. Deputy Speaker, Sir, first, I am grateful to the hon. Member for offering a plot for the Exchange. With a plot available, I can assure the hon. Member and the House that the exchange will be installed within this Financial Year 1995/96.

Mr. Deputy Speaker, Sir, I would like also to ask hon. Mungai not to blame my Ministry when he himself knows that we have problems with his constituents who steal the telephone lines to sell. Can he kindly assist us so that this service can be readily available to the people of that area once it is operational?

**Mr. Ndicho:** On a point of order, Mr. Deputy Speaker, Sir. You have heard the Assistant Minister say that the problem in this area is vandalism. In view of that, can he consider installing the underground cables if he is offered a plot by hon. R. Mungai? That menace of vandalising telephone wires is not only in Mitubiri, it is also in Juja, Githunguri and most rural areas. It is a matter of policy.

Mr. Speaker, sir, can the Assistant Minister consider changing the overhead wires to underground cables to avoid this vandalism or give us a satellite?

**Mr. Morogo:** Mr. Deputy Speaker, Sir, when this Exchange is installed, we shall look for an alternative to the overhead wires.

**Mr. R. Mungai:** Mr. Deputy Speaker, Sir, on a point of order the hon. Assistant Minister did not answer the second part of my question as to when the automation of the Gaichanjiru Exchange will take place as a temporary measure while awaiting the 70 lines Magneto Exchange.

**Mr. Deputy Speaker:** First, the question is not part of the main Question.

**Mr. R. Mungai:** Mr. Deputy Speaker, Sir, the automation of the Gaichanjiru Exchange---

**Mr. Deputy Speaker:** Is it from the main Question? Was it a Supplementary Question.

**Mr. R. Mungai:** Yes, Mr. Deputy Speaker, Sir, it was a supplementary question.

**Mr. Morogo:** Mr. Deputy Speaker, Sir, I said that this will be done during this current Financial Year 1995/96.

#### *Question No. 268*

#### PRIORITIES FOR WATER PROJECT

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

(a) why the priorities of Kilimanjaro Water Project for Makueni and Machakos districts have changed to the extent that many places in the two districts are still experiencing serious shortage of water; and,

(b) why this water project is not serving Mutituni Market and Kenya Orchards Factory at Mua Hills in Machakos.

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

(a) The priorities of Kilimanjaro Water Supply Project for the two areas in question were to provide water to Machakos and Athi River Towns in Machakos District and Kiboko, Emali, Salama and Kiima Kiu in Makueni District. These priorities have not been changed. The towns are getting their allocated share of the water from the project. However, I wish to state that even with the added supply from the pipeline, the water demanded for all the areas covered by the design is still higher than the supply.

(b) The water project is not serving Mutituni Market and Kenya Orchards Factory because it is connected to the old Machakos Town distribution system which is not linked to the two areas. However, the hon. Member is aware that the National Water Conservation and Pipeline Corporation is laying an eight-kilometre pipeline at a cost of Kshs4 million to service the market and the factory.

**Mr. Nthenge:** Mr. Deputy Speaker, Sir, is it not true that there is sabotage of the Presidential directive that Machakos and Makueni towns which are the respective headquarters of the two districts should be provided with water? The President directed that the two towns and their environs should be connected to the Kilimanjaro Water Project. That did not happen. This water is being diverted to other places where it should not be taken to unless there is extra supply. That is sabotage.

**Mr. Mokku:** Mr. Deputy Speaker, Sir, first of all, I am not aware of the alleged sabotage the hon. Member is talking about. This project is still in progress and there are already that have already been supplied with water. The Ministry is looking for more donors to assist so that the two district can be supplied with adequate water.

**Mr. Nthenge:** On a point of order, Mr. Deputy Speaker, Sir, is the hon. Assistant Minister in order to evade my supplementary question? The Head of State directed that Machakos and Makueni towns should be supplied with water from Mt. Kilimanjaro. The Makueni District Commissioner does not have water in his house. Why was the President's order sabotaged?

**Mr. Mokku:** Mr. Deputy Speaker, Sir, I am not aware of the alleged sabotage.

**Mr. Muite:** Mr. Deputy Speaker, Sir, is the Assistant Minister aware that the reason why there is not enough water to serve these areas in Ukambani is because the water has been diverted to a private grower of rose flowers down along Mombasa Road who has constructed huge tanks? Instead of this water going to serve the people of Ukambani, it is going towards the growing of rose flowers by a private individual.

**Mr. Mokku:** Mr. Deputy Speaker, Sir, I am not aware of that.

**Mr. Nthenge:** Mr. Deputy Speaker, Sir, now that the Assistant Minister is aware, what action is he going to take to make sure that the two towns, Machakos and Makueni and their environs, get water first as ordered by the Head of State?

**Mr. Mokku:** Mr. Deputy Speaker, Sir, it is the intention of the Ministry to supply water to all the district headquarters in the country.

*Question No.447*

DEVELOPMENT OF POTATO VARIETY

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

(a) whether he is aware that the potato variety popularly known as the Meru potato (genetic

**[Mr. Mwiraria]**

name Kerr's Pink) is highly susceptible to blight;

(b) whether he is further aware that there is no seed programme for this variety in the country at the moment; and,

(c) what action the Ministry is taking to develop a variety resistant to blight, and to start a seed propagating programme in Meru in the immediate future.

**The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that the Meru potato variety is susceptible to late blight.

(b) My Ministry has, therefore, developed a comprehensive seed breeding programme for this particular potato variety. That programme is being conducted at the National Potato Centre at Tigoni and its bus-centre at Marimba in Meru.

(c) Research is in progress to develop a variety that is resistant to late blight. Currently, field tests are being conducted on materials resistant to late blight and which are also highyielding. We are doing this work in collaboration with the Ministry of Agriculture, Livestock Development and Marketing. We are also engaged in the rehabilitation of the Marimba Potato Research Sub-Centre in Meru which will be completed next year. Once that is done one seed propagation programmes will be increased.

**Mr. Ndicho:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has said that the breeding of this variety of potato is being done at the National Potato Centre at Tigoni. He has misled the House because that land has already been sub-divided into plots now and the Member for Limuru has already raised a

Question on that issue. Unless the Assistant Minister knows that the area has been grabbed and sub-divided into plots, there is no other breeding area for this variety of potato.

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, the hon. Member may be speaking of another plot apart from the one I am talking about. What I am confirming to the House is that at the National Potato Research Centre at Tigoni and its Sub-centre at Marimba in Meru, work is going on to develop a variety of the Meru potato that will be resistant to late blight.

**Mr. Mwiraria:** Mr. Deputy Speaker, Sir, it is really sad to hear an Assistant Minister assert that they have developed a comprehensive seed breeding programme for the Meru potato, and particularly to mention the National Potato Centre at Tigoni, when we know that what hon. Ndicho has said is true; it is common knowledge that the land was taken and given to the Headmistress of Alliance Girls High School and a former Commander of the Kenya Airforce. So, there is not enough land to rotate the seeds and really very little is going on there. Could the Assistant Minister tell me how many bags of seed potato, of this variety, have been produced from either of these two research stations during the last one year?

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, the issue the hon. Member has raised is very, very important in the sense that, if that land has been taken away by anybody, the hon. Member should furnish us with the relevant facts so that we can follow up the matter with the Minister for Lands and Settlement. If there is any evidence that the land has been taken away, I will raise the issue with the Ministry of Lands and Settlement.

Secondly, we are rehabilitating the two research centres so that we can carry out a comprehensive programme that has been developed on paper, to ensure that production of seed potato is carried out. This Financial Year, we are going to spend at least Kshs200,000 at Marimba Sub-centre alone to ensure that all the facilities that are required for the production of seed potato are rehabilitated for continued production. However, I am aware that in 1993/94 Financial Year, the Agricultural Development Corporation, the official multiplier of seed, did not show interest in producing that variety of seed potato and external funding was also not forthcoming.

Therefore, during that particular financial year, there was no adequate production but from last year we started producing seed potato. The amount may not be impressive to the Members but we produced a certain amount of seed potato; of the Meru potato variety. This financial year we will produce some more.

*Question No. 377*

MEDIA COVERAGE FOR OPPOSITION

**Mr. Kamuyu** asked the Minister for Information and Broadcasting when he will instruct the Kenya Broadcasting Corporation(KBC) officials to start covering important occasions by Opposition Members of Parliament.

**The Minister for Information and Broadcasting (Mr. Makau):** Mr. Deputy Speaker, Sir, I beg to reply:-

There is no need for the Minister to instruct Kenya Broadcasting Corporation officials to start covering important occasions by Opposition Members of Parliament because this has been going on since the country entered the multi-partysim era.

**Mr. Kamuyu:** Mr. Deputy Speaker, Sir, I would hate to use the word "lie" but I will substitute that with misrepresentation of facts about what the Minister has said. Can he confirm or deny that his Ministry has influenced issuance of fresh licences for television and broadcasting so that his Ministry can continue marshalling Opposition so that they are not heard even though they pay 70 per cent of taxes as a way of making sure that KANU becomes the only party aired on KBC? Say the truth!

**Mr. Makau:** Mr. Deputy Speaker, Sir, I do not want to comment on licensing because that is *sub judice* but I would like to say that we have covered all leaders in this country regardless of their political affiliation and I have evidence to prove that in this House.

**Mr. Achieng-Oneko:** Mr. Deputy Speaker Sir, can the Minister tell this House the laid down policy for frustrating the Opposition and refusing to cover their rallies meetings and activities in the country and avoid accusing the officials of KBC?

**Mr. Makau:** Mr. Deputy Speaker, Sir, I am surprised because I have here a list of important occasions that they have referred to. In the list that I have here, up to last night, Mr. Achieng-Oneko was covered on television and radio. So, I do not see what you are inquiring about.

*(Several Members Stood on points of order)*

**Mr. Deputy Speaker:** Are you sure you have got a valid point of order? I have given the Floor to hon. Farah. It is fair that hon. Farah asks the question.

**Mr. Achieng-Oneko:** On a point of order, Mr. Deputy Speaker Sir. Yesterday's reference to hon. Achieng-Oneko's statement is different from the ordinary or day to day coverage of the Opposition by the KBC.

*(Applause from the Opposition)*

Is the Minister in order to mislead this House?

**Mr. Makau:** Mr. Deputy Speaker, Sir, let me give an example of important occasions that had been covered. Yesterday hon. Achieng-Oneko had a statement that was aired by KBC radio and telecast by KBC television and in fact it was the second item!

**Mr. Farah:** Mr. Deputy Speaker, Sir, in view of the answer given by the Minister on this, I am fully aware that the only time, Opposition Members are covered is when there is a fight between two Opposition Members.

*(Applause from the Opposition)*

When His Excellency the President was on a tour of our Province, I attended that meeting in Garissa and every Elected Member of Parliament did talk at that baraza and was covered but I was the only one who was not covered by the KBC.

*(Applause from the Opposition)*

**Mr. Makau:** Mr. Deputy Speaker, Sir, the tour that we covered, hon. Farah Maalim was shown in all occasions.

*(Several Members stood on points of order)*

I have not finished! Every rally which he attended, he was shown.

*(Several Members remained standing)*

I have not finished! Let me finish his question, Mr. Deputy Speaker, Sir. You cannot have a point of order---

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

**Mr. Deputy Speaker:** Order! Order! Mr. Farah what is the burning issue?

**Mr. Farah:** Mr. Deputy Speaker, Sir, my point of order was very clear and very explicit. I said during the baraza in Garissa, every hon. Elected Member of Parliament from Garissa District did address it, including me, but everybody was covered, except me, in that address. My picture was not shown!

**Mr. Makau:** What I have actually said is that hon. Farah was covered by being shown that he attended those meetings. He was fully covered and in any case--

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

**Mr. Deputy Speaker:** I will give the very last one to Mr. Shikuku.

**Mr. Shikuku:** Mr. Deputy Speaker, Sir, I was standing. Are you asking me to ask a supplementary question or to raise a point of order?

**Mr. Deputy Speaker:** What was your point of order?

**Mr. Shikuku:** Mr. Deputy Speaker, Sir, is it in order for the hon. Minister to refuse to reply to genuine questions as covered under Standing Order No. 88(2) where he is telling this House untruth? The hon. Farah, we all saw it on the television, was there but when he was speaking he was not covered. All the other Members of Parliament were covered when speaking. Why was hon. Farah not covered when he was speaking? Or am I to believe that when the Minister does not want to tell us the truth, that he is the disciple of Satan?

*(Laughter)*



**Mr. Makau:** Mr. Deputy Speaker, Sir, I do not care about the remark that hon. Shikuku has made because we know that he made those kind of remarks so many times that they have lost their meaning. If Mr. Farah Maalim made a statement and that statement was not newsworthy, it could not have been covered on the television.

**Mr. Deputy Speaker:** Question No.325 by hon. Kapten.

**Mr. Otieno-Kopiyo:** Mr. Deputy Speaker Sir, first of all, I apologise to the House for coming late to ask this Question on behalf of hon. George Kapten.

*Question No. 325*

NUMBER OF ARMED HOME GUARDS

**Mr. Otieno-Kopiyo,** on behalf of **Mr. Kapten,** asked the Minister of State, Office of the President:-

(a) how many homeguards in Kwanza Constituency have been given guns since 1st January, 1992; and

(b) what tribal distribution of people given such weapons is.

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

(a) The number of guns issued to homeguards in Kwanza Constituency since January, 1992, to date cannot be disclosed for security reasons.

(b) The Government does not give guns to homeguards on tribal basis.

**Dr. Otieno-Kopiyo:** Mr. Deputy Speaker, Sir, in view of the fact that guns given by the Government to selected tribes in various parts of the country are the cause of insecurity all over, particularly in the Rift Valley Province, and in view of the fact that the Assistant Minister is not disclosing this number because of insecurity not security reasons, could he tell us why only selected Kalenjin tribesmen are supplied with guns in Kwanza and West Pokot to terrorise people in Elgeyo/Marakwet district? You know this situation has gone on for so long. Could he tell us why only Kalenjins are supplied with guns?

**Hon. Members:** Shame! Shame!

**Mr. Awori:** Mr. Deputy Speaker, Sir, the hon. Member should be ashamed of such a question. I refuse to answer such a question.

**Dr. Otieno-Kopiyo:** Mr. Deputy Speaker, Sir, first of all, the Assistant Minister should be ashamed that Kenyans are dying while his Ministry is watching cross-legged and cross-armed. I am not the one supposed to be ashamed because I am not the one supplying guns to Kalenjin tribesmen to kill other people.

**Mr. Awori:** Mr. Deputy Speaker, Sir, Kenya has just got Kenyans.

**The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi):** On a point of Order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Dr. Kopiyo to impute improper motives on the Kalenjin community?

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, it is precisely because I agree with the Assistant Minister in the Office of the President that guns should never be given on tribal basis that I am prepared to Table before this House the lists of all those people who got guns and they are all from one tribe.

**Mr. Awori:** Mr. Deputy Speaker, Sir, this is a free country and this august House is free. I cannot stop hon. Wamalwa from Tabling any list including an imaginary list.

**Dr. Kituyi:** On a point of order, Mr. Deputy Speaker, Sir. I have accompanied hon. George Kapten to bury the victims of unjustifiable violence meted against the members of certain ethnic communities in Kwanza Constituency in the recent past and one of the most conspicuous things you see is that only homesteads of a certain ethnic community can keep cattle in Kwanza Constituency. This is because they have guns to protect their animals and if any other ethnic community brings cows, they are taken away that very night. Now, assuming that this Assistant Minister for once means that this Government is committed to the interests and security of all Kenyans, can he give an undertaking that state security apparatus in Trans-Nzoia is going to be structured in such a way that the sense of security goes beyond tribal considerations?

**Mr. Awori:** Mr. Deputy Speaker, Sir, since the Government takes care of all communities, I fail to understand why I should give an undertaking of a situation that exists.

**Mr. Deputy Speaker:** We will now move to Questions by Private Notice.

**QUESTIONS BY PRIVATE NOTICE**

DEPARTURE OF FOREIGN NATIONALS

**Mr. Gitonga:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Tourism and Wildlife the following Question by Private Notice.

(a) Is the Minister aware that tourist investments in Malindi Town have been adversely affected by the massive departure of Italians, Germans and other nationals who support tourism industry in Malindi?

(b) If the answer to "a" is in the affirmative, what does the Minister intend to do to restore confidence and avert total collapse of the tourism industry in this region?

**The Assistant Minister for Tourism and Industry** (Mr. Sing'aru): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that the tourist investments in Malindi Town have been crippled as a result of massive departure of Italians, Germans and other nationals who support tourism industry in Malindi.

(b) In this regard, this question does not, therefore, arise.

**Mr. Gitonga:** Mr. Deputy Speaker, Sir, first, I would like to sympathise with the Assistant Minister because he has been given the responsibility of replying to this Question while the hon. Katana Ngala is seated right there.

Mr. Deputy Speaker, Sir, I have very high esteem of the Minister because I have always considered him a very serious Minister but I am surprised that the Ministry of Tourism and Wildlife is even not aware of what is happening at the doorstep of the hon. Minister's home. Is the Assistant Minister not even aware that this is already public knowledge? This information was a front page story in one of the local dailies. It did state that, tourism has been affected by cancellation of tourists hotel bookings at Malindi and has fallen to below 40 per cent. Would the Assistant Minister give us the information with regard to this cancellation? Why were these hotel bookings cancelled?

**An hon. Member:** He is not aware.

**Mr. Sing'aru:** Mr. Deputy Speaker, Sir, there have been a number of inquiries in Malindi tourism office by foreign investors regarding investment opportunities in Malindi. Every year, the months of April, May, June and July form the low season for tourism establishment in Malindi and hotel occupancy is normally below 50 per cent.

**Dr. Kituyi:** On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Assistant Minister in order to plough through a written reply which has nothing to do with the question asked by the hon. Member? Just because he had it on paper, he is reading it when it is totally irrelevant to the supplementary question.

**Mr. Sing'aru:** Mr. Deputy Speaker, Sir, that is a relevant question.

**Mr. P.N. Ndwiga:** Mr. Deputy Speaker, Sir, is the hon. Assistant Minister who is also my friend aware that cancellation of bookings in Malindi in the last three months has caused the closure of 12 hotels? This is because of careless utterance by the KANU leadership which is affecting the name of this country overseas. Is he aware of that?

**Mr. Sing'aru:** Mr. Deputy Speaker, Sir, the cancellation does not arise.

During the low season all the hotels in Malindi are closed down temporarily. Therefore, cancellation of the bookings does not arise.

**Mr. Icharia:** Mr. Deputy Speaker, Sir, can the Assistant Minister confirm or deny the fact that due to the accusations levelled against the Italian community in Malindi that they were going to overturn this Government, all those investors who came to invest in Malindi left, and, that Malindi is a ghost town now? Can the Assistant Minister confirm or deny that?

**Hon. Members:** Deny!

**Mr. Sing'aru:** That is not true.

#### AFFORDABLE TREATMENT FOR KENYANS

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

(a) Is the Minister aware that many Kenyans are dying from heart and kidney diseases because they cannot afford plane tickets and expensive heart and kidney operations abroad?

(b) What urgent steps is the Government taking to ensure that Kenyans get affordable and reliable heart and kidney operations in Kenya?

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

(a) It is true that Kenyans are dying of heart and kidney diseases like they are dying of other diseases. This is whether or not they can afford plane tickets for expensive heart and kidney operations abroad.

(b) Heart operations are in progress at the Kenyatta National Hospital since resumption in November, 1994. The number of patients operated on so far is 13. This may be a small number compared to the patients in need. However, efforts are being made to train more surgeons, cardiologists and other staff to enable us increase the number of patients operated on. This is in reference to heart operations.

The capability for kidney operations exists. The main constraint is availability of donors for kidneys as patients' relatives have been reluctant to come forward. This is the main reason for patients seeking kidney operations elsewhere where donors or cadaver organs may be available. Efforts to overcome this constraint are being made by educating patients' relatives and friends as to the safety of donating a kidney and the ability to live normally with one kidney.

Mr. Deputy Speaker, Sir, the programme has benefitted eight patients since 1993. Some of the patients operated on abroad are followed up in this country post-operatively.

**Mr. Murungi:** Mr. Deputy Speaker, Sir, when the late President Kenyatta suffered a heart condition in 1977, "Sir" Charles Njonjo who was a Minister, brought a top heart surgeon from South Africa, Professor Bernard to have a look at the late President Kenyatta. Subsequently, we set up at Kenyatta Hospital a Heart Unit and Kidney Unit. It is a shame that every time a Kenyan gets a heart or kidney problem, we have to organize Harambees to take them for treatment abroad.

You remember just last month we sent hon. Njenga Mungai abroad for kidney treatment. Why was he not treated at Kenyatta Hospital? My question is: Since the Assistant Minister concedes that the facilities at Kenyatta Hospital are totally inadequate, can the Ministry vote enough funds to beef up the Heart Unit and the Kidney Unit at Kenyatta Hospital so that we do not hold Harambees in this country to take our sick people abroad?

**Mr. Criticos:** Mr. Deputy Speaker, Sir, I sympathize with the hon. Member because its absolutely correct what he is saying. However, according to what this written reply states the kidney transplant problem is the donors, starting from the kidney size, and our Legislature which does not allow patients, like in other foreign countries, to collect organs from deceased persons. There is no programme and there is no legislature to this effect yet. Concerning the Heart Unit, we do have top cardiologists in this country who operate in Kenyatta Hospital and one of them is Dr. Gikonyo. The problem is that people do not come forward to be operated on because they do not trust our cardiologists.

**Prof. Anyang-Nyong'o:** Mr. Deputy Speaker, Sir, apart from the fact that Kenya has lost very top brain surgeons and heart surgeons due to poor conditions of work that the Government gives our high professionals especially, is the Assistant Minister aware that heart and kidney banks do exist, and that if there is a legal provision stopping our Government from establishing heart and kidney provisions, the Government could have altered those laws because they are definitely against the human interests of our country? If he is aware that is the case, what steps has the Government so far taken to ensure that such banks exist in our Republic so that when somebody needs a heart and kidney transplant, we do not need to chase a living human being for those organs?

**Mr. Criticos:** Mr. Deputy Speaker, Sir, the problem in the idea of transplant is that there is a lot of superstitions. However, my Ministry will look into the matter and liaise with the Attorney General's Office to see if a Bill can be introduced to that effect.

**Mr. Mak'Onyango:** Mr. Deputy Speaker, Sir, the Assistant Minister has deliberately avoided answering part (b) of the question. Could he tell this House, what it costs a patient in this country to undergo a heart transplant and whether he is satisfied that the majority of Kenyans can afford that?

**Mr. Criticos:** Mr. Deputy Speaker, Sir, I did not understand the question. Could the hon. Member repeat it, please.

**Mr. Mak'Onyango:** Mr. Deputy Speaker, Sir, I am saying that the Assistant Minister has deliberately avoided part (b) of this Question which urges the Government to make the costs of heart transplants affordable. Can the Assistant Minister tell this House what it costs a Kenyan to undergo a heart transplant in the Nairobi Hospital, and is he satisfied that that is within the reach of the majority of Kenyans?

**Mr. Criticos:** Mr. Speaker, Sir, heart transplants or heart surgery are very costly, not because of the operations, but because of the drugs which are used after the operation. What can be done is that the price of the drugs can be reduced, which at the moment has been reduced to the minimum as far as the Ministry is concerned because of our liberalization policy on drugs.

**Mr. Deputy Speaker:** Next Order.

## BILLS

### *Second Reading*

## THE FINANCE BILL

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

*(Resumption of Debate interrupted on 12.7.95)*

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

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, when the House rose yesterday, I was making contribution to the Finance Bill and I would like to recapitulate a few points that I made for the sake of reminding those of us who were not here. First, I think it is important to note that like the hon. James Osogo said yesterday, this Bill gives the Government a legal basis for raising revenue through taxation, particularly duties and so on. They should also realize that there are other informal methods of tax collection which are very heavy on the ordinary Kenyan citizen. While we appreciate the fact that the Government is going to raise substantial sums of funds from duties as stipulated in this Finance Bill, we should also realize that it is the same Kenyans paying VAT, Customs Duty and so on, especially in the rural areas who are also burdened by another form of taxation called "Harambee". I was making a point yesterday and I have made it before, that this informal taxation, which is extremely heavy on rural dwellers, should be brought to some kind of order. I gave an example where in my Constituency, the local administration recently imposed on the people a Harambee collection system to buy books for secondary schools. Apart from the fact that a lot of that money, because of the informal way in which it was collected, never reached the objective for which it was being collected. I do feel that our citizens cannot afford sequent informal taxation which is not planned for. Mr. Deputy Speaker, Sir, the second thing I was raising regarded page 221, on the Eighth Schedule to the VAT as amended related to Entitled Personnel in International and Aid Agencies entitled certain tax exemptions and duty free facilities. And quite often, the phrase "entitled personnel" does not cover Kenyans. This leads to a form of discrimination in tax exemption and duty free facilities in international organizations which is not fair to Kenyans. I do believe that the number of Kenyans working for these international organizations and aid agencies are not that phenomenon, that were they to enjoy the same privileges as their colleagues from other countries, the Government would lose substantial revenue. So, I was proposing that the Minister for Finance should consider almost in every case, that the phrase "entitled personnel" should include Kenyans working for these international organisations, Embassies and Aid Agencies.

The second point I was talking about yesterday before the House rose; referred to page 223, that section (vi) with regard to passengers' baggage and zero-relating for duty purposes. When we arrive at Jomo Kenyatta International Airport, there are signs showing green and red sections. The green exits means that you have nothing to declare and you can go free, whereas the red side means that, you have something to declare and you have to be charged something. In my experience, green and red sections at our airports mean nothing. Whenever you enter, whether you follow green or red, the Customs officials do not seem to have trust in the passengers. I do feel that this is unnecessary bureaucracy, that when we say there is green light and red light let it mean green and red, and passengers should not be bothered with opening their luggage looking at little things that they are carrying in their suit cases.

But much more important, anybody travelling abroad as a Kenyan and coming back with one or two suit cases, cannot be carrying a hell of a lot. It may be a transistor radio, video and so on. And if they are let to bring these things into the country without being bothered at the airport, I think it will be much more efficient rather than spending money employing personnel at the airport, so many of them checking whether you are coming with a pair of glasses or some rubber sandals or a radio and so on. This is highly unnecessary. We should do all what civilised countries do, put red and green and let people come in. After all, we have the ability to detect whether somebody is coming in with drugs and so on. I do believe that our law enforcement agencies have equipment at the airport which make it possible for these things to be detected when they are still coming in as baggage. So, I am proposing that this particular amendment to regulations should take into account the cutting down of costs to the Government in terms of cutting down on bureaucracy.

Now, on page 227, here we are amending paragraphs one and two of the previous Act. This relates to goods which are being zero-rated when they are imported by a Kenyan coming back from abroad. Really, it seems to me as if there is a particular concern to exempt electric equipments of whatever nature from being zero-rated. And yet I think these electric equipments; computers---

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, I do believe that in this list on page 227, one of the things that should be excused are computers. Unless and until we have a local computer assembling plant in our country. My strongest recommendation to the Government is that, anybody who wants to acquire a computer anywhere, when he brings it in just as an item, it should be zero-rated because, I think the age of computer is a very important age, and our Government should make it possible for as many Kenyans as possible to have access to computer knowledge and computer literacy. So, I would not put computers in the same category as refrigerators, gramophone records and so on. I think a computer is an extremely important scientific equipment in this age that Kenyans who go abroad should be allowed to bring them in, so that they add to the stock of those we have locally, knowing that they are extremely few regarding our needs.

On page 232, this regards taxation levied on rents. This particular section talks of the fair market rental value, with regard to rents that people pay. The fair market rental value is an extremely vague concept. One of the biggest problem in our Republic, I think is that because of the free-market situation, rents in urban centres like in Nairobi, as far as I am concerned, have become too high. But they are high for one particular reason, that the mortgage rates that people pay and interest rates that are related to these mortgages are too high. They discourage investment in real estate market by medium and low income people. And they limit real estate ownership to a few extremely rich people who have monopolised the real estate market and more or less dictates the prices people pay for housing and hence what is passed down to the consumer as rents. So, in as much as in this particular Bill it is proposed that people will get rebates when they are paying rents to a landlord and that will be based on fair market rental value, I would like to submit to the Government that that fair market rental value will never be arrived at until the question of interest rates paid for mortgages is tackled. Those rates should come down to manageable proportions. Anybody buying a house in Nairobi knows that when you pay, let's say, half a million shillings in 1997, and you keep on servicing your mortgage, you keep on paying the same amount, and sometimes it increases for seven years, and at the end of seven years, you look at your account and you will find that the mortgage has come down by about Shs.20,000. When you calculate, you will find that you have paid the original capital. This is exploitation of the highest order, and we are living in a house of "eat man society" which I think we should stop. So, I would appeal to the Government that the whole idea of mortgage rates, rental market and the real estate market, should be visited so that whatever we are trying to put here in terms of revenue collected from taxes and duties on travel based on rental becomes meaningful to the consumer.

Mr. Temporary Deputy Speaker, Sir, let me go to page 234, Section 78, which deals with imposition of advanced tax on public service vehicles (PSV). Now, when I read that advance tax, it comes to something like KSh.1,000 a year, or whichever is higher. It says and quote:-

"Notwithstanding any other provision of this Act, a tax to be known as advanced tax shall be payable commencing on 1st January, 1996, in respect of every public service vehicle at the rate specified in the Third Schedule". On page 240, Section 89, they now tell you the rates.

"The rate of deduction for advanced tax under Section 12A shall be for vans --KSh.1,000 per year or whichever is higher. For saloons, KSh.1,000 per year or whichever is higher".

Well, in effect, they will pay KSh.1,000, but "whichever is higher" is subject to corruption. This is where laws create "room for greasing palms". "Whichever is higher" is a terribly vague provision.

Mr. Temporary Deputy Speaker, Sir, we have already realised that one of the ways by which the Police Force survive is to collect what they call "user taxes" on the roads. PSV come, they are not roadworthy, they do not have so many things, and the policeman extends his hand and he is given KSh.50 as a matter of routine. If you come with your car and it is roadworthy, so there is nothing they can get from you, then they say, "Well, how do you think we exist, if you continue driving a roadworthy PSV vehicle?" This matter is related to how the Police Force has been treated in this country. If you pay your policemen such little money in terms of salaries and two or three families live in one bed-roomed shack, obviously, the policeman is going to go on the road and find ways and means by which he can subsidise his income so that he can also live a decent life.

So, I would suggest that if we are going to get taxation from PSV vehicles, let it be a reasonable tax, and let us not leave too much room for corrupt practices. Let us also realise that these people pay KSh.1,000 a year, but what they pay in terms of what I call "user taxes" - when they are on the road to policemen - can be much higher than that KSh.1,000. It could even amount to, say, KSh.12,000 a year and so on. In which case then the Government is losing revenue precisely because the Government, one, the Government does not pay the Police Force well; and, two, PSV vehicles do not care about the taxation because it is so little anyway compared to what they will get away with. So, "whichever is higher" is not going to leave the Government to collect much revenue

from PSV vehicles.

Mr. Temporary Deputy Speaker, Sir, let me go to page 239, paragraph 89, dealing with the Third Schedule to the Income Tax Act as now amended. It deals with family and single relief. If you read it, you will find that the amount of the family relief shall be KSh.6,532 and the amount of single relief is KSh.4,368. The difference between the family and single relief is only about KSh.2,000.00. I do think this is any meaningful relief at all. In this day and age, if you compare it with what family and single relief was in 1987 to what it is proposed to be here, I think it has gone up rather too "minimally". The difference between the family and single relief is "too small" to justify those figures. For example, an average Kenyan family in the urban areas will be a man, his wife, and most likely four children. Those are six people and there is only one bread-winner supporting a family of six. However, single relief is quite clear. You are just one person! So, single relief is easier to calculate. But I do think that the difference between family and single relief as worked out in this particular amendment, is that one is "too little" and the figures are "too low" compared to what they were about seven or eight years ago. So, I believe that given inflation and so on, this figure should be re-visited and made much more substantial and also attractive to the taxpayer.

On page 240, paragraph 90, it says and quote:-

"The Income Tax is amended by deleting the Tenth Schedule and inserting the following new Schedule:-"

I would like the Minister for Finance to listen to this very carefully. I have looked at Cap.470, Tenth Schedule, and I have also looked at what is put here as an amendment. There is absolutely no difference between what is being amended and what has been amended. Now, I was interested in seeing what the replacements were precisely because of the privatisation exercise we are going through. I was thinking that this list would be different reflecting some of those companies that have been privatised and so on, or added to. But I looked at item by item and the Tenth Schedule is really not different from what it is now put here as an amended Tenth Schedule. So, I would like the experts in the Ministry to tell us what they mean by:-

"The Income Tax Act is amended by deleting the Tenth Schedule and inserting the following new Schedule; when the Schedule is not new."

Now, unless he wanted to make this book as big as it was last year, I was defeated to see where the amendment was.

Mr. Temporary Deputy Speaker, Sir, let me go to page 244, paragraph 94, regarding the Insurance Act which has now been amended. It talks about the tax premiums. Now, one of the things that I remember when we passed the Insurance Bill during the last Session was that this tax is paid for by the insurance companies. But I do happen to know that insurance companies passed this tax to the consumers. Insurance brokerage firms have objected to this practice. If indeed, the insurance companies are going to pay a tax premium, let the Government ensure that it is the insurance companies paying that tax. In calculating what an individual or a company ought to pay in terms of insurance that should not put a mark-up to what an individual pays because they are paying this tax premium. I think this is double taxation which Kenyans are extremely tired of.

Mr. Temporary Deputy Speaker, Sir, the rest of Section 95 to the end deals with licences, which is a major area from which the Government raises revenue. In a country like ours, the Government raises revenue to provide the society with administration, security, physical infrastructure like roads, railways, postal services and social infrastructure like schools, hospitals and so on. In an economy like ours the citizens expect the Government to use the revenue so raised to ensure that the services it provides are provided effectively. When these services are not provided effectively people will definitely jump into the arena of politics to remind the Government that it should do its job effectively.

Kenyans have been blamed that they spend too much time on politics and not on the so-called development activities. But the world over, when a government is not doing the job for which it collects revenue properly for, those who pay taxes will definitely participate even more actively in politics to ensure that their taxes are used properly. For example, hon. Raila Odinga is an engineer and he could be involved in production, building and plant engineering but when he sees that the Government is not functioning properly, he has to spend his time in politics. The hon. Orengo is a professional lawyer and he could be looking after the interests of wananchi, but when he sees that people's taxes are not used then he jumps into the arena of politics. I would be teaching at the university instead of being here. In any society, people will be drawn from all professions and will spend more time in interest groups, Parliament and so on when a Government is not doing its job properly and then the Government complains that there are too many people in politics who are making noise. The secret to having less politics in any society is good governance and proper use of revenue on those things for which it is. This is what democracy is all about. Once the Government uses revenue accountably on the services for which people pay that revenue, you will find that there will be a good division of labour and also checks and balances in society. But, as taxpayers, we feel that our taxes are not used properly. I know that the other side of the House is

very sensitive when we say this. But, quite honestly, as a taxpayer, I feel cheated out of my taxes when the Chief Executive of this country spends more time being President of KANU and using Government facilities to advance the interests of one party on the taxpayer's money. I would feel much more comfortable if he used those taxes to exercise his responsibility as the Chief Executive of the whole nation and not as a campaigner for one party. That is what will make some of us spend more time paying attention to the Chief Executive and urging that he does his job for which taxes are paid and not to mischannel those taxes to the interests of one party, a minority party at that, in our nation.

The cost of financing a non-democratic government is much higher than the cost of financing a democratic form of government. If we had a democratic form of Government, the tendency would be that from year to year, the Value Added Tax (VAT) would come down from 16 per cent gradually towards 8 per cent. This is because the Government needs less revenue to pay people who tap our telephones, follow us around and harass us when we meet a few natives in the rural areas. Those people have to be paid from our taxes and that tax, has to be raised in form of duty or VAT. I will give you an example. The other day I was calling my house in Kisumu from somebody's office and then all of a sudden some voices broke in and started asking "From which number is he calling?." I then heard them actually recite the number from which I was calling.

**The Temporary Deputy Speaker** (Mr. Wetangula): Prof. Anyang-Nyong'o---

**Prof. Anyang-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, I know that you are very sensitive about the truth, but the point is---

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, Prof.

Anyang-Nyong'o! That is not correct and you have to withdraw it!

**Prof. Anyang-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, you are very sensitive to the truth. So, I will withdraw the other word and replace it with a new one.

**The Temporary Deputy Speaker** (Mr. Wetangula): Prof. Anyang-Nyong'o, you are grossly out of order!

**Prof. Anyang-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, I give my sincere a thousand apologies.

Now, really when the Government has to spend a lot of taxpayers' money on informers and so on, obviously, that is a misuse of the taxpayers money. If the Government could concentrate on building a democratic system, these informers and people who tap telephones would be unnecessary and Kenyans would pay less tax. You have to realise that this kind of employment is very unproductive. A policeman is productive because he maintains law and order; a district officer is productive if he ensures that Harambees are held; but a guy sitting in a post office and listening to what Anyang-Nyong'o is saying to his daughter, is obviously a very unproductive officer of a non-democratic system of Government. I think that before we go to Paris this time, we should recommend seriously that we will take good governance much more seriously and that, we will ensure that all the efforts we have been making to have constitutional reforms so that we reduce the burden of governance to the taxpayer, is actually done. This is my prayer and appeal for the next Budget. It should reflect the cost of maintaining a democratic government and not the cost of maintaining a non-democratic and repressive Government.

One or two points, before I sit down, which are unrelated to this. When we pass this Bill, it will become a Finance Act. We will then go to the next stage of vote by vote for each Ministry - I will wait to talk about that when the stage comes. But I would like to caution the Government that, here we have provisions on how the Central Bank Kenya--- Indeed, Section 96 of this Bill is intended to amend certain provisions of the Central Bank of Kenya Act, which gives the Central Bank of Kenya certain powers to regulate financial institutions, set them up and get revenue from them. It also gives the Central Bank of Kenya power to decide how money is created, used and withdrawn from circulation. But when the Government, all of a sudden says that it is going to spend Kshs25 billion to produce identity cards and then it proceeds to pay Kshs12 billion to a French company called Ms Thomsons to make those cards and then proceeds to say that each Kenyan citizen will have to pay Kshs2,000 for a single identity card and yet we know that on the average anywhere in the world it should cost at the maximum Kshs200, surely, from Kshs200 to Kshs2,000 is a very inflationary price. This kind of expenditure will send the Central Bank of Kenya into the doldrums because I do not know how the money is going to be raised, given the global amounts that we can raise, either in terms of duties and so on.

**The Minister for Finance** (Mr. Mudavadi): On a point of order, Mr. Temporary Deputy Speaker, Sir. I just want to correct the impression made here because, the information that was reported in one of the dailies was very misleading. I do know that the Ministry responsible for issuance of Identity Cards will be making a correction because the figures and projections presented in the daily were not correct. So, I would like to appeal to my honourable friend that, he should not dwell on that particular aspect because, clearly, there is no way the

Government is going to ask a Kenyan to pay Kshs2,000 for an Identity Card.

**Prof. Anyang'-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, I am very grateful for that assurance because I, myself, was going to be very reluctant to part with Kshs2,000 for an Identity Card. I was going to insist that I carry my old one until I am disenfranchised as a Kenyan. I am extremely grateful for the straightforwardness of the Minister for Finance.

**The Temporary Deputy Speaker (Mr. Wetangula):** So far, so good, Prof. Anyang' Nyong'o, but it is all irrelevant to this Bill.

**Prof. Anyang'-Nyong'o:** No, it is very relevant.

**The Temporary Deputy Speaker (Mr. Wetangula):** It is irrelevant; that is a ruling.

**Prof. Anyang'-Nyong'o:** I am sorry, Mr. Temporary Deputy Speaker, Sir, but I have made my point. Finally, let me turn to what is very relevant to the Bill. This is my very final point. Although I had skipped it earlier, I will just make it very fast so that other speakers can come and make their contribution.

On page 218, Clause 70 talks about amendment of the Sixth Schedule to Cap 476. It states:

The Sixth Schedule to the Value Added Tax is amended:

(a) by deleting paragraph one and inserting the following new paragraph.

1. Subject to paragraphs (2) and (3), any person who---

(a) in the course of his business has manufactured and supplied, or expects to manufacture and supply taxable goods, or has supplied or expects to supply taxable services, or both, the value of which exceeds in any of the following periods values shown for that period:

Twelve months - Kshs2 million

Nine months - Kshs1.6 million

Six months - Kshs1.2 million

Three months - Kshs700,000; or

(b) is about to commence manufacturing taxable goods or supplying taxable services which in the opinion of the Commissioner will exceed any of the values prescribed in paragraph (a) for the relevant period.

Mr. Temporary Deputy Speaker, Sir, I have no quarrel with the figures specified. The fear I have is that, what is really here is pre-emptive taxation; that if you are just about to commence manufacturing taxable goods, and then the Commissioner has an opinion ahead of time regarding those values and then he goes forth to impose the taxation, I do not know, but I have a feeling that this kind of provision can easily scare away an investor, especially in our own economy where there is very little availability of venture capital. Somebody might want to invest all his pension funds in a venture and the last thing he wants to be frightened by is how much tax he is going to pay. I would rather that the Government gives more leeway to individual ventures, particularly, where there is no venture capital by not, ahead of time, scaring away a potential investor with potential taxation. I may have misread this particular Clause, but I would be grateful if, in his reply to our contribution, the Minister for Finance could make that item clearer to us. However, I do feel that it may easily lead to cheating afore-thought by a potential investor so that he is taxed less or, which is perhaps more frightening, the withdrawal of an individual who had some savings he wanted to turn into capital, but the provisions of the tax laws scares him away from turning that savings into capital.

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

**Dr. Lwali-Oyondi:** Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to comment a little bit on this Finance Bill. First, I will go straightaway to the Bill, particularly, on the first page, page 197. I think the Minister is here and he will have to make me a little bit wiser. When he says: "This Bill may be cited as the Finance Bill, 1995 and shall come into operation, or be deemed to have come into operation as follows; Sections 2 and 4, on the 13th October, 1978"; I am just puzzled by this back-dating. The year 1978 is a long time ago, I was a young man by then. I do not look very young right now. I am sure the Minister for Finance was even younger. Section 49 is deemed to have come into operation on 18th June, 1982. That is very many years ago. We are being asked to sanction things that might have happened during those days when some of the hon. Members here, were still at school and others were just toddlers and they are now in Parliament. I wonder how we can sanction things retrospectively. Sections 37(c) and 51(a) are deemed to have come into operation on 5th June, 1992, when we were just trying to fight for the second liberation. Sections 79 and 85 are deemed to have come into operation on 1st January, 1995. That is tolerable now. At least, the Minister will have to explain to us, why we are passing this Bill and backdating some sections. We suspect that he, probably, might be covering up some misdeeds that may have been done during that time.

QUORUM



**Mr. Nyagah:** On a point of order, Mr. Temporary Deputy Speaker, Sir. As much as we would like to listen to the hon. Member of Parliament, we would like to have more Members on the KANU side. Are we not contravening Standing Order No.24?

**The Temporary Deputy Speaker** (Mr. Wetangula): A quorum is not formed by a party; it is formed by the Members of this House!

**Mr. Nyagah:** But they are not there.

**The Temporary Deputy Speaker** (Mr. Wetangula): Ring the Division Bell!

*(The Division Bell was rung)*

**The Temporary Deputy Speaker** (Mr. Wetangula): We have a quorum now. You may proceed, Dr. Lwali-Oyondi.

**Dr. Lwali-Oyondi:** Thank you, Mr. Temporary Deputy Speaker, Sir. I apologise to the hon. Members who have been here as it appears most hon. Members are not serious about this Bill which is about to pass. I think they have no *locus standi* to criticise anybody or a civil servant for not being in the office when they themselves cannot attend sittings here in the House. I would like to inform hon. Obwocha the proper pronunciation of the latin word "*locus standi*".

**Mr. Obwocha:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member for Nakuru Town in order to address me instead of addressing the Chair?

**The Temporary Deputy Speaker** (Mr. Wetangula): Order! In what manner did he address you?

**Mr. Obwocha:** Mr. Temporary Deputy Speaker, Sir, I am sure you heard him say that hon. Obwocha has said *locus standi*, which indeed, I said but he is saying "*locus standing!*" What English is this?

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Wetangula): You are both wrong. To begin with, that is not English.

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Speaker, Sir, he is accusing me for what I did not say. I said that it is a latin word pronounced *locus standi*. It is read like we read Kiswahili, but English has polluted it and they say *locus standi*, which is wrong.

**The Temporary Deputy Speaker** (Mr. Wetangula): Dr. Lwali-Oyondi, what has *locus standi* to do with this Bill?

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Speaker, Sir, I was referring to it.

**Mr. Shikuku:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Would I be in order to draw your attention to the fact that I studied Latin, the correct pronunciation of the word is "*locus standi*". That is the correct pronunciation

**Dr. Lwali-Oyondi:** Thank you very much, hon. Member for Butere for bailing me out.

Mr. Temporary Deputy Speaker, Sir, we have no business telling the civil servants not to leave their coats on the chairs and go away when we, in this House, can get out when only recently we had our salaries and allowances raised---

**The Temporary Deputy Speaker** (Mr. Wetangula): Dr. Lwali-Oyondi, now that we have a quorum, just go to the Bill. You know how despicable it is not to have a quorum. You do not need to labour it.

**Dr. Lwali-Oyondi:** Yes, I know, Mr. Temporary Deputy Speaker, Sir. I just wanted to stress that we are earning fat salaries for nothing.

By the time lack of quorum was announced, I was talking passing about a Bill in retrospect and I am sure that the Minister concerned will explain to us what all that means.

I would like to thank him too, for lowering the taxes on the duty on raw materials like lead, zinc and raw hides from 15 to 10 per cent. I hope that other items like batteries and torch cells, which use quite a bit of lead and zinc will also go down. I hope that raw hides to be imported will lower prices of shoes.

Mr. Temporary Deputy Speaker, Sir, one thing that I am afraid of is that in the importation of raw hides, we might end up importing diseases as well from the neighbouring countries. I do not know what the Ministry of Agriculture, Livestock Development and Marketing, will do, since organisation of preventing animal diseases has collapsed. I am sure raw hides will come from countries like Sudan, Uganda, Ethiopia and Somalia thereby bringing diseases like Foot and Mouth disease, rinderpest, lump skin disease and other diseases. Therefore, I do not know what sort of precautions the Minister concerned will take before allowing the hides into

the country. We would probably have to process them half way in order to get rid of these possible diseases that might devastate our livestock. On page 356 of the Bill, the Minister has shown the rates of duty to be charged on raw skins. The duty on goat skins is 5 per cent. I do not understand why duty on goat skins should be 5 per cent while duty on sheep skins is 15 per cent. Duty on cow hides is also 15 per cent. I hope the Minister will explain this discrepancy.

Having said that, I would like to go back to the---

### QUORUM

**Mr. Nyanja:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Much as I would like to listen to my colleague on the Floor, I would like to invoke the provisions of Standing Order No.24 because---

**The Temporary Deputy Speaker** (Mr. Wetangula): Why don't you not just say there is no quorum?

**Mr. Nyanja:** There is no quorum in the House, Mr. Temporary Deputy Speaker, Sir. Hon. Boy Juma Boy has failed to whip KANU!

**An Hon. Member:** You are disturbing us!

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

*(The Division Bell was rung)*

**The Temporary Deputy Speaker** (Mr. Wetangula): Order! We have a quorum now. You may proceed, Dr. Lwali-Oyondi.

**Dr. Lwali-Oyondi:** Thank you very much, Mr. Temporary Deputy Speaker, Sir.

The reduction of duty on bicycles is welcome. Duty on bicycles has been reduced from 30 per cent to 15 per cent. However, I would like the Minister to reduce it even to 10 per cent because most of our people cannot afford *matatu* fares. We should encourage the use of bicycles in this country. People in towns could use bicycles but we have no town planning. All road reserves have been grabbed by various dignitaries and their friends. There is no way we can construct dual-carriageways in the City. Lang'ata Road here in Nairobi which has heavy traffic has got only a single lane. Many people who live in Lang'ata area are forced to wake up very early in the morning in order to get to town. Also going back home in the evening is a big problem to them. Where would a cyclist pass through on a road like that one? What space would a cyclist use on Jogoo Road? When I was young, I used to see a lot of bicycles on Jogoo Road, but today it is very dangerous to ride a bicycle on Jogoo Road. The same applies to towns like Nakuru and Eldoret. It is high time we constructed special roads for cyclists. This is because our roads are getting congested. Thousands of reconditioned cars are being imported into this country every month. We need roads on which these cars will be driven. We have to carry out proper town planning so that we have space for cyclists, pedestrians and dual-carriageways for motor cars.

Mr. Temporary Deputy Speaker, Sir, while on this point, I would also like to point out that traffic police officers and the Government in general should insist that cyclists have side mirrors which will enable them to see backwards as they cycle. It is impossible to drive without the rear mirror which enables one to see the traffic behind; so that you know when to turn and when not to turn. So, cyclists should have those side mirrors and reflectors. They should have enough reflectors so that they are not killed at night. There is a time you just see a cyclist there and he has no reflectors at all. There should be prescription whereby, there are big enough reflectors so that in the evening particularly, these cyclists could be seen.

Mr. Temporary Deputy Speaker, Sir, we need also to tell the cyclists that at night they ought to have light. These were the rules in town long time ago. We had branded them as colonial rules and in the event it has resulted in us losing a lot of our people. In fact, it was a cyclist who caused the death of Prof. Were a few days ago. The *matatu* which was carrying him rammed into that cyclist and lost control, thereby resulting into a very sudden death of a reknown professor.

Mr. Temporary Deputy Speaker, Sir, we should also aim at giving at least, fundamentally traffic rules to cyclists, because most of these cyclists have got a problem in---

**The Temporary Deputy Speaker** (Mr. Wetangula): Dr. Lwali-Oyondi, what are you talking about?

**Dr. Lwali-Oyondi:** I am talking about bicycles because the duty has been reduced. The Minister has said that there is a reduction in the tariffs on the charges from 30 per cent to 15 per cent in order to increase the usage of bicycles. When you use bicycles without what I have been enumerating you are likely to get into problems. The problem is that most hon. Members do not listen then they begin wondering at things which are obvious. We talk here not only of going through the Bill mechanically but also looking for ways and means by which we can protect our people from dying on the roads.

Mr. Temporary Deputy Speaker, Sir, I wish also to draw your attention to page 342 in which there is a

reduction in the profine chloride (PVC) which of course will enable us, I hope, to get cheaper PVC pipes. While speaking on that, those are polyster, polymas and plastic materials that are used in making things like plastic syringes. I wonder why we should reduce duty on PVC to about 15 per cent while the syringes which are used for life saving are still being charged 15 per cent.

Mr. Temporary Deputy Speaker, Sir, if we open page 381, we have disposable syringes there, just at the bottom. Disposable syringes are being charged by the Minister at 15 per cent. This is very serious, because today we have AIDS. The rule is that we are supposed to use one syringe and one needle per person and then throw it into the dustbin because trying to sterilise these simple syringes result into incompetency, whereby you draw the drugs and when you try to inject it into a person, it comes out without going into the body of that particular person or animal. Therefore, they are supposed to be used and disposed off in order to prevent infection or carrying infection like AIDS from one person to another.

In view of that, there will be massive usage of syringes and since we lost our JK Industries which used to produce local syringes, in most cases, they are going to be imported and they should be made as cheap as possible.

That is why I am asking the Minister, if possible, and as quickly as he can, to reduce this duty. This is because it involves our people and our people are nowadays being asked to go and buy a syringe before they are treated. We are asking the Minister to drop that 15 per cent and let it be zero-rated. As there is nothing we can do with a syringe other than treating either a human being or an animal, this duty should be reduced or zero-rated. You cannot buy a syringe to do any other thing.

Mr. Temporary Deputy Speaker Sir, I would also like to turn to page 455, at the bottom of the second line, we see the duty on sacks is 40 per cent. That is good enough but it should have been even higher because we lost a very good industry in Thika which, of course, is now operating under capacity, if at all, because of importation of jute sacks from India. These jute sacks were imported by very important people in this country and dumped into the Kenya Grain Growers Co-operative Union (KGGCU) stores so that it forced the industry to sack over half of its employees.

Mr. Temporary Deputy Speaker, Sir, I congratulate the Minister for making it 40 per cent. He should even have raised it to 50 per cent so that we begin using our own material here. We have even the Banita Sisal Estates who are beginning to make sacks made out of sisal and this could be made fine enough so that our people use them, and hopefully, the farmers will get them at a lower price. Today, a good sack costs something like KShs.100. This is quite a considerable expenditure on the part of the farmer who is already suffering from the effects of importation by the very people who should have been protecting him.

Mr. Temporary Deputy Speaker, Sir, the problem we have in Kenya is that we have watchmen. Those whom we have charged with duty of looking after our interests and instead, they are the ones who do the actual looting and stealing from us and letting us be in very miserable conditions. It reminds me of a headmaster, who was told by parents not to be too strict with the girls, to let them go out on Saturdays to buy things. The headmaster argued that the girls would have a problem and what happened in the end was that, the headmaster himself was going out on Saturday getting hold of a few girls and disappearing with them in the lodgings. A few of them got pregnant and they accused the headmaster of having done it; nobody else. The same applies to our Government. They say there is liberalization, fine, and then the very Ministers go ahead and import goods. They are making the girls pregnant and complaining that it is the public who have done so. Nobody in Kenya has the money.

**An hon. Member:** How are the girls impregnated?

**Dr. Lwali-Oyondi:** You cannot understand this unless you go to school.

**The Temporary Deputy Speaker** (Mr. Wetangula): Ignore them and carry on.

**Dr. Lwali-Oyondi:** Yes, Mr. Temporary Deputy Speaker, I will continue.

Mr. Temporary Deputy Speaker, Sir, I will continue with what I was saying. The very Ministers who are supposed to be protecting us from any form of evil, are the very ones who bring in goods at very low prices and they talk of there being liberalization. You can compare this act with that of that headmaster who impregnates school girls and calls that liberalization.

I wish to go ahead. Now we come to the section of the Bill that deals with marine equipment. The Minister has zero-rated the marine equipment like, for example, light houses, buoys and equipment to guide vessels. I have not seen among these items a life jacket. There are many deaths occurring in Lakes Victoria, Naivasha and sometimes in the Indian Ocean. I do a bit of motor boating - this is my hobby - and I know that it is dangerous to go in the high seas without a life jacket. I hope the Minister will give zero-rating for life jackets so that fishermen in Lakes Victoria, Turkana and Baringo, which is full of crocodiles, and many other lakes can have life jackets so that whenever there is an accident, the victims can easily be saved. If there were enough life jackets and buoys on the ferry disaster that occurred sometime ago, probably we might have saved many lives. I hope that we have learnt from that disaster.

Mr. Temporary Deputy Speaker, Sir, I wish also to comment on the duty on importation of maize. There

is a provision for the Minister to adjust the duty on importation of maize the way he likes up to about 75 per cent. The Minister has not told us whether the same Minister can lower this duty. Since he has been given authority to adjust it, then we assume he can lower it. We have seen a shady deal involving the importation of maize. When a certain Minister wants to import maize for his own milling plant, he lifts the ban on maize importation. After he has imported enough maize, he then imposes a ban. Then after the stock he imported is over, he then again lifts that ban. This has been a play and I think it is high time that those who have interest in a given industry are not given a portfolio in the Ministry that administers that industry. This is because it is not possible for somebody to administer it when you are a manufacturer of the products that go hand-in-hand with that industry. For example, if you are a manufacturer of maize flour and then you are given the portfolio that is concerned with the adjustment of duties on that particular item, you are likely to take advantage and favour yourself. This is exactly what the Minister for Agriculture, Livestock Development and Marketing has been doing to be exact. This is the sort of thing that we should discourage. If you have an interest in a given industry, you should have moral duty not to deal with the particular item because everybody loves oneself and he is likely to favour himself.

I wish to go very quickly to Clause 29 of the Bill, which is dealing with perfumery. On this Clause, I only wish to comment on the perfumes extremely necessary because nobody would die without them. Perfumes are not very necessary for life and I think that we should try to put a higher duty on them. The duty put on them is 15 per cent. We should raise that duty to something like 40 per cent.

**An hon. Member:** Ahaa!

**Dr. Lwali-Oyondi:** We do not need them. I do not use any and wananchi are so hungry out there that they do not use any perfume. Even soap is expensive for them to buy.

**An hon. Member:** Why should they be expensive?

**Dr. Lwali-Oyondi:** This is because they are a luxury.

While on that, I wish to talk about the toilet paper presently being sold in Kenya. Some of the toilet papers are being coloured by very cheap material which very many people are reacting to. Some ladies and men have been reacting to the colouring material. When you dip that toilet paper in the toilet you will see that the water becomes coloured. Whatever the substance that is used for colouring it, many people are getting allergic to it and they end up scratching themselves. Many people have even consulted me about what they thought was---

**The Minister for Information and Broadcasting** (Mr. Makau):--- (inaudible)

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Speaker, Sir, save me from the heckling from the Minister for Information and Broadcasting. He is broadcasting a lot of ---

**The Assistant Minister for Tourism and Wildlife** (Mr. Kisiero): Mr. Deputy Speaker, Sir, now that we have covered this Bill for quite a number of days and seeing that the Opposition side might be quite satisfied by it because they have all disappeared, would I be in order to propose that the Mover be now called upon to reply?

**The Temporary Deputy Speaker** (Wetangula): Yes, I will put the Question.

*(Question, that the Mover be now called upon to reply, put and agreed to)*

**The Minister for Finance** (Mr. Mudavadi): Thank you, Mr. Temporary Deputy Speaker, Sir.

From the outset, I would like to thank the hon. Members for having made their contributions to the Finance Bill and have been able to express their views on several of the clauses and amendments being proposed to the various Acts, namely, Customs, VAT and so on. At the same time, they have also brought in suggestions that will go a long way in enhancing the overall revenue collection and also more efficient utilisation of the resources.

Mr. Temporary Deputy Speaker, Sir, since we shall be coming to the Committee Stage, I am sure there will be a number of points that have been taken into account, and when we are at the Committee Stage, we shall be perhaps proposing certain adjustments in the light of the opinions that have been expressed in this august House.

However, I think I should just clarify some points which have been raised. First, it is the provision which would require or allow the Minister for Finance to adjust duties either by 30 per cent, and in the case of certain agricultural commodities and perhaps textiles, up to 75 per cent of whatever is the gazetted duty level.

There has been some misinterpretation here on how we determine the level of duty. The level of duty is based on the world prices, world commodity prices. For instance, if it is maize, one would be looking at the *Reuters* and various markets that deal with maize, wheat and so on. Then on that basis, set the duty. So, it will not be set at, say, US\$3 to a ton as intimated by some hon. Members. So, if one was to follow the duty levels that we have set for the grain sector, he would find that they are very high. Indeed, they should provide adequate protection to our farmers. For instance, we either set it at 15 per cent or half 15 per cent plus an *ad valorem* rate which would be specific. Now, this combined, would then make it very difficult for somebody to import some of

these items at that very low level. For instance, if you were to import maize today, the duty is about KSh.4,000.00 per ton. Therefore, if I was to have to adjust it by 75 per cent upwards, then I would adjust it from KSh.4,000.00 per ton. Therefore, that would become reasonable protection for the maize farmer, wheat farmer and so on. So, I think, it is important to highlight that this provision needs to be seen in relation to what is the bench mark that we have set as the duty level for this commodity.

Equally, Sir, I think, it is also important for me to stress that the provision to adjust duties without having to resort to Parliament is not a new one. Indeed, it has existed in the laws and prior to the amendments we are proposing, the Minister for Finance could adjust duties across the board up to the tune of 25 per cent upwards without having to resort to Parliamentary approval. Now, the issue here is that sometimes, maybe, the pressure is coming when Parliament is in recess and it is such that some action needs to be taken by the Government. So, this provision is a necessary management tool to enable the Government to intervene at certain intervals depending on the circumstances that are prevailing at the time. Equally, Sir, it is also important to highlight that I have denied myself the power to lower duty without having to resort to Parliamentary sanction. This is important because the provision is that nobody will gain anything if the duties are being lowered. If there was going to be manipulation, it would be if the duties were going to be adjusted downwards. So, the law is making it very clear that the Minister can adjust those duties upwards, but when it comes to adjusting them downwards, he has to come back to Parliament.

Now, this is an important provision which would then eliminate some of the concerns that have been expressed by hon. Members of this House, that perhaps this was a loophole for manipulating of duties for personal gains or individual self interests that would arise. So, I think it is important that I should correct that particular impression.

The other thing, Mr. Temporary Deputy Speaker, Sir, is that in this Bill we are also proposing amendments which have, in fact, made it more difficult for duty exemptions to be granted to certain commodities. In the past, it was clear that one would say that this is an NGO and, therefore, simply allow some duty exemptions to be granted. It has been difficult for the Government to be able to police all those NGOs. Some of them might say they are going to undertake some activities, say, in Vihiga, Muhuru Bay, Mandera and so on. But at the end of the day, it becomes very difficult to police those activities. So, the law should be amended to ensure that those loopholes which allowed those NGOs to exploit our situation and also hinder our local industries and farmers are closed and sealed so that it becomes more difficult for those avenues to be utilised. That is a very important provision which has been put into the regulations today.

The other area, Mr. Temporary Deputy Speaker, Sir, that I also think needs emphasising is the area that relates to aspects like the transit goods and the introduction of the bank bonds in order to ensure that there is compliance. At this stage, one would ask whether it is true that transit goods were being filtered into our local markets. Yes, it is true. When we introduced, for instance, the preshipment inspection, this provides for better Customs valuation and, in fact, the smugglers who used to provide lower values simply switched to transit goods frauds. They would get papers/documentations to show that goods are going to, say, Uganda, Rwanda, Somalia and so on, and then disappear somewhere in-between. Surely, it would be very ridiculous to continue having two or three police cars following some trailers every other day that is taking goods from Mombasa to the border on the other extreme. So, we have to find a way of ensuring that there can be compliance of the laws of this country without having to use all the Police Forces who should be assisting us in arresting other criminals in other areas as opposed to following trailers all over the place. Now, the bank bonds have indeed generated some debate and, to some extent, valid in some regards where some of the people who have been doing the clearing and forwarding and handling transit goods are saying that they cannot raise the bank bonds. I want to make it very clear that in the Bill, and also in my Speech, I made it clear that the bank bond provision would be imposed at the discretion of the Commissioner of Customs, but more so, very rigorously when dealing with very high risk items. Here you are dealing with textiles, electronic goods, shoes and so on. These are the ones that find their way easily into the local markets. Nobody has had problems with capital equipment goods which are going to, say, Uganda or Rwanda. Those ones do not filter into our markets. For instance, bulldozers or tractors that are going to do some work in those countries. Those are not smuggled into the country. Also some of the raw materials that are used by those countries to manufacture various products have not been a major source of problem. But some of the finished products - examples of which I have just highlighted - are the ones that have been causing a lot of problems here. It is in this area that we are saying that we want to ensure that we can have those fellows actually risking. We know that there are several insurance companies who would simply be in business not because they are insuring, but because they are getting money by just stamping "transit bonds". And there is no way they are at risk.

Mr. Temporary Deputy Speaker, Sir, the amount involved is very little, but we are now saying that, if you import *mitumba* clothes or electronics into Kenya, for heavens sake, just pay the correct duty. But if they are for another destination and yet you want to off load here, we want to ensure that we get compliance from the clearing

and forwarding company, the financiers of the would-be-importer and the Customs people. It, therefore, follows that if you have been doing *bona fide* business, you should not have any cause to worry. Indeed, those companies that have been doing *bona fide* business are not really worried about this question of the bank bonds.

But those who have been at the forefront of transit smuggling are the ones who are raising hue and cry to try and get this Parliament and the Government to completely abandon this provision. But now I am saying that we need the support of the House. It is not necessarily perfect. Perhaps, the ultimate solution will be to have some of those countries collecting their goods at the port. But this is a process that needs to be worked out very carefully before we can implement it. But for the time being, we want to see that the Customs people work very closely to ensure that we will not even hurt our neighbours who might be feeling that, perhaps, this is meant to stifle some of their legitimate business. That is not the case. We are going to be very careful in ensuring that the discretion of the Commissioner of Customs and Excise is exercised for the benefit of this country.

Another thing that I may just highlight is the number of very specific issues raised by some hon. Members. An example is the issue of the frogs' legs. I have to point out that the Tariff Schedule presented is not irrelevant. We have over 5,000 listed items which come under Customs Tariffs. A country that is within the world trade order has to make provisions for this. Today, nobody may be interested in frogs legs in this country but tomorrow, perhaps, there will be one. So, the law must provide for this. It does not mean that we should not legislate because we are not faced with a particular issue. We must try and be forward-looking in our Customs coding so that at one time, as the economy, interests and demand change, then we will have catered for some of these programmes in advance.

Equally, I wish to also stress that over the years, the Government has been rationalising the Tariff bands. They were very many but now we have come down to about six and we hope to be able to reduce them even further. The process of rationalising these tariffs is quite an exercise for the Customs and Excise Department. I say this because as the officials continue to rationalise them, they will find that certain local industries have been affected because a duty item has been lowered, while another local industry may find that its duty has been hiked. The categorisation of these tariffs is a very complex exercise. It is, therefore, necessary that we always continue to receive representation from various sectors of industry. They may point out that, maybe, an adjustment in a certain tariff is not correct and it requires some re-adjustment. For example, with regard to the syringes that Dr. Lwali-Oyondi was talking about, or even the goat and sheep skins, maybe the duty was lowered on goats', skins because it is not used locally for a lot of items while, in the case of sheep skin, that is wool, we have quite a substantial amount of it being generated locally. So, you find that protection level for sheep skins will be higher than protection for goat skin. In the case of syringes, you will find that J.K. Industries was not the only company that was producing syringes; other companies today produce them and it is, therefore, important that, as local manufacturers, they are given some level of protection. Though we have importers of syringes, we have to encourage local producers to produce syringes locally and without difficulties.

Mr. Temporary Deputy Speaker, Sir, the other thing that one would highlight may relate to the rationale in terms of Income Tax and family and single reliefs. There were even questions on whether single mothers should not benefit from family relief provisions in the same way that men do. These are critical things and I can assure the House that they are aspects that we are debating internally to try and see how we can go about it. But we have to accept that there is a limit as to how much revenue we can forego every year. One would like to do a lot of things in any one financial year, but the problem is that, if you do them all at a go, there could be a major problem in terms of revenue collection. However, as we improve in revenue collection and spread our taxation wings across the board, I am sure we shall be able to continue lowering some of these taxes and therefore minimising taxation pressure on the people that some hon. Members have complained about.

Equally, it is important for hon. Members to note that we have lowered duty rate on VAT but, at the same time, we have tried to spread the extent of its coverage. We do hope that when September comes, people who will then be falling into the VAT duty bracket will register with the Commissioner of VAT without any hesitation and without being forced to do so. We would like them to comply so that the Commissioner of VAT does not have to send out his officers to go and pressurise them. We have also made some adjustments on the thresholds, because we realise that it is quite difficult for several businesses to achieve a turnover of Kshs2 million. So, we adjusted those thresholds to ensure that the person who falls under the VAT bracket for goods and services combined is somebody who really has a turnover of about Kshs2 million on an annual basis. Assuming that people will not play around with their accounting records, the small businessman should not be subjected to some of these adjustments which the law is making.

I would like to point out something about how we are trying to bring passenger service vehicles into the tax net. I think it is important to stress that this has been a very elusive area over the years.

One goal that we have managed to achieve is to bring in the PIN aspect. This PIN aspect has started bringing in a number of these vehicles. However, we also still realise that there are some crafty gentlemen and, perhaps, even ladies who own *matatus* or even mini-buses and have been constantly avoiding the payment of

Income Tax. We all know that, today, anybody running a *matatu* in Nairobi goes home with a take-away package of something close to Kshs20,000 in any one day. Now, that [**The Minister for Finance**] fellow is somebody who is earning much more than those of us who are in this House, yet they have been very cunning in avoiding taxes. What we are trying to do is to introduce some minimum level of taxation which will then be off-set by the final returns that they do make on their Income Tax. So, it should not be seen as something that the Government is doing without taking into account the final Income Tax bills. This is important because it might be misinterpreted, especially, by the public service vehicles and we do hope that it shall not be taken as a measure to simply hike the fares of the people who use these vehicles.

Mr. Temporary Deputy Speaker, Sir, I would also like to point out that in this Finance Bill, we have made provision for doubling of penalties where they are due. We have also made provision to now make the Commissioner of VAT, for instance, have the equivalent authority like the Commissioner of Customs when he is dealing with re-possessed goods or goods that have been forfeited. The law was silent on this before and it was creating a problem because the Commissioner would not know how to handle some of the goods that may have been forfeited for lack of payment of VAT. There are also some general remarks that have been made regarding the question of the Minister of Finance usurping powers of Parliament, and so forth. I would like to state that this, indeed, is not the case at all. At any one time, we know that it would be very dangerous if the Ministry of Finance did not follow the laws that are laid down by Parliament because it can create a lot of problems. So, I would like to assure the House that under no circumstances is the Ministry of Finance intending to take away powers that belong to this House.

There is also the question of some of the exemptions that will be provided in law to the Permanent Secretaries and the Judges. There are also questions of how these cars will be replaced in the event that there is an accident and there is a write-off, or what would be done suppose the vehicle was stolen. For the moment, the Ministry of Finance has been cautious in trying to introduce such a provision in the Act because it could also become a serious avenue for fraudulent activity. At this stage, we would not want to make those kind of adjustments. Nevertheless, I would like to assure this House that the points made have been taken and at the Committee stage, we shall definitely be proposing certain amendments to take into account the views that have been expressed.

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

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a Committee of the Whole House tomorrow)*

**The Temporary Deputy Speaker** (Mr. Wetangula): Next Order!

*Second Reading*

THE ARBITRATION BILL

*(The Attorney-General on 5.7.95)*

*(Resumption of Debate interrupted on 5.7.95)*

**The Temporary Deputy Speaker** (Mr. Wetangula): Mr. Shikuku, you were on the Floor.

**Mr. Shikuku:** Ahsante sana, Bw. Naibu Spika wa Muda. Nilikuwa nimeanza kwa Kiswahili, kwa hivyo, kufwatana na sheria za Bunge, nitaendelea vile vile.

Tulikuwa tunazugumza juu ya Mswada wa "Arbitration". Nilikuwa nimeanza kwa kusema kwamba huu Mswada wenyewe ni mzuri lakini sisi ambao ni Wabunge ambao tulichaguliwa kuja katika Bunge hili kutazama Mswada kama hii --- Mswada huu ni mzuri lakini hautamfaa mtu wa kawaida. Kwa nini? "Arbitration" ni masikilizano baina ya watu wawili au vikundi viwili. Lakini masikilizano yatatokea wapi ikiwa wengine sasa wameshachukuwa uwongo wakauona ndiyo ukweli na ukweli umeshageuzwa kuwa uwongo? Mapatano yatapatikana namna gani? Mwingine anaamini katika ufisadi, mwingine haamini ufisadi, mpatatana namna gani? Kwa mfano, wewe na mimi na wale Waafrika wote waliohapa, awe Mkalenjini, Mkamba, Mluhya, Mjaluo au wa kabila lolote, tulikuwa na wazee. Mzee mmoja akikaa, halafu asema, kwa mfano; "nitampa mhe. Lotodo ng'ombe", na wewe uko, hata na mhe. Mudavadi na wengine, akisema mbele ya hawa wazee wengine, hiyo inatosha. Kwa mfano, mimi nikisema nitampa mhe. Lotodo ng'ombe mbele ya mashahidi, hakuna haja ya kuandikishana. Nimeshasema, wazee wengine wamesikia, ng'ombe itakwenda. Hata nikirudi nyumbani halafu

bibi yangu aseme; "hapana, huwezi kumpeleka huyu ng'ombe", mimi nimeshasema mbele ya wazee wengi nitampa mzee Lotodo ng'ombe, na huyo ng'ombe atakwenda. Bibi akitaka kwenda kwao na aende! Because this is my word; my honour!

Lakini siku hizi, hatuna hiyo. Watu wameshakuwa wakora, hasa kwa kesi za shamba huko nyumbani. Ikiwa wewe unapakana na mimi, na unabadilisha mpaka wa shamba, kuna wazee wa zamani ambao watasema; "hapana! Mpaka ulikuwa hapa kwa huu mti au kwa hilo jilwe". Bila kumpa kitu chochote, yeye atasema ukweli vile ulivyo. Lakini wazee wa siku hizi ni wakora. Nikiwazunguka, wako tayari kusema; "hapana, huu mpaka haukuwa hapo, Bw. Wetangula alikuwa akifika hapa", na wanajua huo si ukweli. Hii ni shauri ya kitu kidogo. Wakipewa kitu kidogo, wako tayari kusema uongo na wanajua ni uongo wanaosema. Je, hii "Arbitration Act" itatekelezwe na wakora kama hawa? Ninajua mashamba ya watu wadogo yamechukuliwa na wakubwa huko kwetu. Mtu mdogo ambaye hana chochote anapoteza shamba lake kwa sababu hakuweza kuwapa wengine "chai" ili waseme ukweli. Arbitration kati ya mimi maskini na tajiri utatokea wapi? Hivi ninavyozungumza, wakuu wa tarafa (DO) wana kazi nyingi sana. DO pia huzungukwa, wakamkatia mtu shamba ambalo silo lake. We are dealing with a rotten society. Hawataki ukweli. They are allergic to truth. Hata hapa katika Bunge hili, taabu iliyoko ni kwamba mhe. Mbunge anaulizwa swali na yeye anasoma jibu la uongo. Hata akiambiwa ni uongo, hakubali, bado anapambabana na Wabunge wenzake hapa. Juji mhe. Michuki, Mbuga wa Kangema, alisimama akasema kwamba kama ni mhe. Mwamzandi ndiye anajibu swali lake, analiondoa hilo swali. Sasa tumefikia kiwango hicho katika Bunge hili. Je, na kule nje yatakuwa aje? Mhe. Michuki alijuwa kwamba Bw. Mwamzandi akifungua mdomo wake hakuna ukweli utakaotoka kwake, kwa hivyo akaamua kuliondoa swali lake asipate uwongo wake.

**The Temporary Deputy Speaker (Mr. Wetangula):** It was not that it was not possible to do that.

**Mr. Shikuku:** Bw. Naibu Spika wa Muda, ingawa aliambiwa hivyo, lakini kama angekuwa na uwezo, hangaliondoa. Alijua hatapata ukweli wowote. Leo mhe. Walji alinifurahisha kwa jibu lake kuhusu vyoo katika soko la Kakamega. Mbeleni alisema ni nzuri lakini tulipomuliza maswali akasema kwamba ataenda kuvikagua na vitatengenezwa kabla mwisho wa mwezi huu. Huo ndio ukweli. Tuko hapa washemiwa Wabunge Angatia, Magwaga, Rev. Ommani pamoja na mimi, sote tunajua kwamba watu wa Kakamega wanashida juu ya vyoo, lakini mhe. Walji anasoma tu majibu aliyopewa na wafanyakazi wa Serikali kutuambiwa kwamba vyo ni sawa na hali anajua si sawa. Tukiwa nayo culture ya kutopenda ukweli, Arbitration Act itafanya kazi gani? Itafanya kazi kwa njia moja kwa wale watu wa makampuni ambao wao huandikishana barua. Lakini kule kwetu barua---

**The Temporary Deputy Speaker (Mr. Wetangula):** In fact, those are the only target groups in this Bill.

**Mr. Shikuku:** Bw. Naibu Spika wa Muda, ndiyo nakubali, lakini itatubidi nje na hapa nchini tuwe na arbitration. Hata katika Katiba ya Ford(A) Section 20 tuna arbitration chini ya Societies Act. Jambo ambalo nataka kueleza kinaganaga ni kwamba, mpaka wakati ule tutakubaliana, na dini itusaidie tuwe na morals, tuwe na utu na tuwe na ukweli, huu Mswada hauwezi kufanya kazi. Morals hatuna na aibu hatuna. Mhe. Mbunge anasimama mchana mbele ya TV na kusema uongo ya watu wote, hata watoto wanamsikia na kumtazama. Hii ni hatari kwa sababu mhe. Mbunge ni mtu anaheshimiwa na akisema jambo ni lazima liwe la kweli. Lakini sasa, uheshimiwa wetu ni mgumu.

Kwa mfano, juji tulikuwa tukifanya uchaguzi kwa njia ya mlolongo. Unaona mlolongo wa mtu mmoja unakwenda, unapinduka na unakuwa kama "u" ya watu elfu mbili, na mwingine yake imefika pale, na ikaishia hapa ya watu mia mbili. Baadaye wanasema kwamba aliyeshinda ni yule wa watu mia mbili! Hii yote ilikuwa inafanyika katika primary school grounds na watoto pia wanaangalia kwa mbali na wanaona kwamba ule mstari mfupi zaidi ndio umeshinda. What were you teaching your children? Tulikuwa tunawafundisha watoto kitu gani ikiwa uongo na maouvu tena saa sita mchana! Uchaguzi wa KANU hufanywa saa sita watu wote wakiona na jua likiwaka.

**The Assistant Minister for Land Reclamation, Regional and Water Development (Mr. Ligale):** Na mama wazee wawe wanajua.

**Mr. Shikuku:** Bw. Naibu Spika wa Muda, hapo ndipo tulitoka kwa reli. Kenya ni nchi ambayo haina watu walio na ukweli. Morals are completely gone.

**The Assistant Minister for Land Reclamation, Regional and Water Development (Mr. Ligale):** Hata upande huo wa Upanzani pia.

**Mr. Shikuku:** Bw. Naibu Spika wa Muda, hata upande huu wetu kuna wengine hawataki ukweli. Nasema Wakenya hawataki ukweli. Mtu ambaye anasema ukweli, hatakiwi. Hata dini pia imeingia kwa huu uongo, hawataki ukweli. Askofu akipatikana usiku in dubious circumstances, bado anataka awe Askofu. Saa ngapi sasa?

*(Laughter)*

**An hon. Member:** Aliacha suti!



**Mr. Shikuku:** Tena kwa ofisi ya Ford(A). Suti ilibaki huko ofisini, na hali bado anataka kuwa Askofu. No morals. Tunashukuru Mwenyekiti kwa kufunga hiyo ofisi. Ni nani atatusaidia? Ikiwa Askofu, aua padre hawawezi kufuata ukweli, na ikiwa mwanasiasa ndiye mwongo kabisa? Naye mhe. Mbunge anapigwa picha kwa TV akisema uongo. Basi, nchii hii imepotea. Tunahitaji kurudi na kufikiria tena. Hizi sheria tunatengeneza zitategemea utu wetu. Sheria zinaweza kuwa nzuri, lakini watu wenyewe kama hawana utu na hawana ubinadamu, hata tukitunga sheria tamu namna gani, ni bure. Ni kama kupanguza chumvi ya taa vizuri iwe safi, na tuweke mafuta na tuwashe na tuweke mbele ya kipofu, haina maana kwa sababu kipofu hataona! Ndiyo Waswahili wakase "kumwashia kipofu taa ni kuharibu mafuta". Nchi yetu hii hata tukiwashia hawa jamaa taa ni kuharibu mafuta kwa sababu wameshatoka kwenye line.

Bw. Naibu Spika wa Muda, katika ukarasa wa 177 (4) inasema ifuatavyo:

"4. (4) The reference in a contract to a document containing an arbitration clause shall constitute an arbitration agreement if the contract is in writing and the reference is such as to make that arbitration clause part of the contract."

Hii ni nzuri, lakini nilivyosema, itakuwa katika makampuni kwa sababu mambo yao huenda kwa maandishi. Lakini kule kwetu nyumbani, hata hivi ninavyozungumza na wewe, tuna taabu. Huko Butere na Mumias tuna sugar factory nzuri.

Bw. Naibu Spika wa Muda, tungependa wananchi wapate faida kutokana na kilimo cha miwa. Kuna watu wanaokodi mashamba kutoka kwa wananchi ili wapande miwa. Mtu wa Butere akipata Kshs5,000 anaona ni pesa nyingi. Lakini mwananchi kama huyo hana habari kwamba mtu huyo ana njama mbaya. Mtu huyo atavuna na kuza miwa msimu mmoja au miwili na mwisho hujua na kumwambia yule mwananchi mwenye kukodisha shamba "Chukua hizi Kshs20,000 na uniongezee muda wa kukuza miwa." Baadaye mtu huyo hutoa rushwa na kupatiwa hati ya kulimiliki shamba la huyo mwananchi maskini! Hatimaye, mwenye shamba hufukuzwa. Hii ni ajabu! Hayo huwa mapatano ya mdomo tu bila maandishi yoyote. Mwenye shamba hushtukia kumuona yule mtu akilizungusha ua lile shamba na akimuuliza "Unafanya nini?" Yeye hujibu "Hili shamba ni langu kwa sababu niko na hati ya kulimiliki." Mambo kama haya yanafanyika. Huyu mwananchi ni maskini na hawezi kupeleka kesi yake kwa Mkuu wa Sheria. Mkuu wa Sheria hayuko tayari kuwasaidia watu kama hawa. Mtu maskini analipoteza shamba lake.

Bw. Naibu Spika wa Muda, hivi karibuni wakinunua kiwanda cha sukari cha Mumias. Lakini kwa vile utaona kwamba wale watu ambao wamekodi mashamba kutoka kwa wakulima wanataka kununua hisa katika Mumias Sugar Company na mwananchi mwenye kulikodisha shamba lake hatapata cho chote. Lakini sisi tumeamka. Mimi nitafanya kila kitu kuwasaidia hawa watu maskini. Yule mtu ambaye amekodi shamba la mtu huko Butere yafaa alirudishe shamba hilo mara moja; akitaka kununua hisa katika Mumias Sugar Company akitumia maagano baina yake na yule mkulima, yafaa aanze kutembea juu angani. Akitembea hapa chini hatafika kwenye shamba hilo! Si haki kuwanyang'anya mashamba watu wadogo. Wengine wao hawajui kusoma wala kuandika. Hata huku Bungoma kuna hii taabu. Je, kutakuwa na arbitration ya aina gani kati ya mtu anayejua kusoma na kuandika na yule asiyejua kusoma wala kuandika? Sisi kama Wabunge ni lazima tuwatete watu waliotuchagua. Ajabu ni kwamba ujue kusoma au usijue kusoma, kura yako ni moja. Hata kama una shahada nane kutoka katika chuo kikuu, kura yako ni moja tu. Wasiojua kusoma na kuandika ni wengi kutushinda sisi tuliosoma. Hatuwezi kukubali wale wasiojua kusoma na kuandika wanyanyaswe na wenye elimu. Hatuwezi kukubali watu wetu wafanywe maskini mpaka Bwana Yesu arudi. Bwana Yesu atarudi kama ilivyoandikwa katika Biblia lakini wakati huu hatafika hapa chini. Baragumu italia Yesu akiwa amekalia mawingu. Hii ni sababu alipokuwa hapa duniani mlimkamata na mkamchinja.

**The Temporary Deputy Speaker** (Mr. Wetangula): Order! Mr. Shikuku, that is neither Biblical nor factual!

**Mr. Shikuku:** Biblia inasema kwamba tarumpeta italia lakini Bwana Yesu atakuwa amekalia mawingu. Mimi sikuiandika Biblia. Bwana Yesu alihangaika na kufa lakini wanadamu hawakubadilika.

**The Temporary Deputy Speaker** (Mr. Wetangula): Mr. Shikuku beware of the sensitivities of the Muslims as well.

**Mr. Shikuku:** Bw. Naibu Spika wa Muda, hata Waislamu wanayajua haya mambo. Mtume S.A.W. alikuwa nabii wa Mungu. Yeye hakutaka maovu. He was allergic to evil. Alichukizwa na vitu haramu na dhuluma.

**An Hon. Member:** Amina, Amina!

**Mr. Shikuku:** Bw. Naibu Spika wa Muda, wakati Mkuu wa Sheria alipokuwa akiupendekeza Mswada huu aliongea vizuri sana; hata akatufahamisha kwamba tukiendelea vyema katika mambo haya, huenda makao makuu ya shirika la Arbitration la ulimwengu mzima yakawa hapa Nairobi. Je, utaleta makao makuu ya shirika kama hilo kwenye taifa ambalo halipendi ukweli?

**An Hon. Member:** Je, neno "allergic" lina maana gani?

**Mr. Shikuku:** Bw. Naibu Spika wa Muda, kuna watu wengine ambao hujikuna kila wanapokula mayai.

Mtu kama huyo akila mayai anaweza kujikuna kila sehemu ya mwili wake hata kama mkwe wake ameketi karibu na yeye! Kwa hivyo, taifa hili la Kenya lina allergy. Taifa hili halipendezwi na ukweli. Serikali yetu haipendi kusikia ukweli. Je, tutajikuna hadi lini? This nation cannot host the headquarters of an international arbitration organization that is based on morality and truth. Tukiwaambia "Haki na Ukweli" hawataki. "Haki na Ukweli" ndio motto wa FORD(A). Nafikiri tukilibadili Bunge hili tutakuwa tunalibadili taifa hili. Ingefaa sisi sote hapa, KANU na Upinzani, tupende ukweli. Inajulikana wazi kwamba mshahara wa kila Mbunge hapa ni Kshs10,000. Lakini utaona kwamba kuna wengine wanaotoa Kshs50,000, Kshs60,000.00, Kshs70,000, Kshs150,000.00 au zaidi, katika Harambee. Je, unazifanyaje Kshs10,000 ziongezeke au "kuzaana" hivyo?

**An Hon. Member:** Huo ni wizi!

**Mr. Shikuku:** Makao makuu ya shirika hilo yakiletwa hapa Nairobi mtakuwa mmetuletea taabu ya kujikuna. Hii ni kwa sababu hatuna ukweli.

Bw. Naibu Spika wa Muda, hata watu wa makanisa wanasema eti kwamba mtu yule anayechanga pesa nyingi kwenye Harambee ndiye mzuri sana. Hawaulizi hizi pesa huwa zimetoka wapi na hali mishahara yetu inajulikana.

**An Hon. Member:** Hizo ni za Kishetani!

**Mr. Shikuku:** Tutakuja kupata kwamba hata watu wa dini wanapokea pesa kutoka kwa wauaji. Hata ukiliiba jumba hili na uliuze na kesho uende kutoa pesa hizo katika Harambee watakupigia makofi ya kilo; hawatakuuliza umezipata wapi pesa hizo.

Hivi karibu tutapata ugonjwa hatari kushinda ule wa *Ebola*. Hii ni kwa sababu hata watu wa dini sasa hawatafuti ukweli!

**An Hon. Member:** Hata Mungu hayasikii maombi yao!

**Mr. Shikuku:** Hawautafuti ukweli kamwe. Ukishatoa mchango wako katika Harambee, basi wewe ni mtu mzuri; hata kama umeua mtu kupata hizo pesa.

**An Hon. Member:** Wanatuomba!

**Mr. Shikuku:** Maombi hayo hayafiki popote. Ujenzi wa majengo ya makanisa unagharamiwa na pesa zilizotokana na ufisadi!

**The Temporary Deputy Speaker (Mr. Wetangula):** Bw. Shikuku, ina maana gani kuwakashfu watu wa dini ambao hawawezi kuja hapa kujitetea?

**Mr. Shikuku:** Mimi siwakashifu hata kidogo. Mimi mwenyewe ni mtu wa dini. Mimi ni mkatoliki! Hata hivyo, ni lazima ukweli usemwe. Asimamaye katika ukweli huwa amesimama pamoja na Bwana na hatatishika. Aliyesimama katika ukweli amesimama na Mungu ana aliyesimama na Mungu humwezi. Hii ni kwa sababu Mungu ni kweli na kweli ni Mungu. Hayo ni maandiko matakatifu ambayo hayakuandikwa na mhe. Shikuku.

Bw. Naibu Spika wa Muda, watu watu wa dini wajitokeze waseme rushwa katika Kenya hii ni haramu. Wapinge kutokuwa na haki nami niko tayari kufa nikipinga. Na nimeendelea kupinga tangu 1963 napambana na ufisadi na sasa bado unazidi kuendelea na dini imeingia ndani pia kwa mambo ya Harambee! Harambee! na pesa za wizi.

*(Laughter)*

**The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi):**

On a point of order Mr. Temporary Deputy Speaker Sir. Huyu Mhe. Shikuku anaweza kuthibitisha ya kwamba pesa za Harambee ambazo zinaenda kanisani ni za haramu? Anawesa kuthibitisha hapa katika Bunge hili?

**Mr. Shikuku:** Bw. Naibu Spika wa Muda, naweza kuthibitisha kwa sababu ukisoma (Public Accounts Committee Report) utaona pesa ngapi zimekwenda, na hizi pesa zote hupelekwa hata kanisani!

**The Temporary Deputy Speaker (Mr. Wetangula):** Order, Shikuku! Nidhamu yake ni kwamba umedai pesa zinatolewa kwa Harambee kwa makanisa ni za haramu na anataka uthibitishaye hayo.

**Mr. Shikuku:** Naweza kuthibitisha, Bw. Naibu spika wa Muda.

**The Temporary Deputy Speaker (Mr. Wetangula):** Public Accounts Committee haiko kwa hayo.

**Mr. Shikuku:** Public Accounts Committee iko repoti, na isitoshe; wacha nimpeleke kwa ile ya jana nilithibitisha hapa. Nilisema kwamba Bw. Kanyingi na Mhindi anaitwa Dawada N.K. na mwingine Dawada K. N. na Bibi Kanyingi wamechukuwa katika zile ploti nne shilingi milioni 86. Wewe Bw. Naibu Spika wa Muda hujamuona Bw. Kanyingi amebeba pesa zikienda kanisani? Wewe hujamuona akienda kwa shule? Unataka nithibitishaye nini!

**An hon. Member:** Wacha athibitishaye yeye mwenyewe!

**The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi):** On a point of order Mr. Temporary Deputy Speaker Sir. Mhe. Shikuku hajathibitisha ya kwamba pesa hizo zote ambazo zinaenda kwa Harambee ni za haramu. Hata zile za maploti kama hayo walipata maploti kwa haki na hiyo

pesa siyo ya haramu.

**Mr. Shikuku:** Bw. Naibu Spika wa Muda, hilo si jambo la nidhamu. Angojee wakati wake atetee. Na ndicho hicho kitu nasema hatuna 'morals', hatutaki ukweli; tuko 'allergic' na mmoja ndiye huyo!

*(Laughter)*

Ameshaanza kujikuna, anajikuna, anajikuna, kuna nini!

**An hon. Member:** Amekula hizo pesa! Ndiyo sababu huyo anajikuna!

**Mr. Shikuku:** Haya!

**The Assistant Minister for Agriculture, Livestock Development and Marketing** (Dr. Misoi): Bw. Naibu Spika wa Muda, mimi sijajikuna? Mimi si 'allergic' kwa ukweli? Ili tu si haki na halali Mhe. Shikuku aeneze maneno ambayo si ya kweli mbali ni ya kupotosha.

**Mr. Shikuku:** Bw. Naibu Spika wa Muda, nataka kumkumbusha Mhe. Mbunge kuwa dhambi zote kwa Mungu ni mbaya lakini mbaya zaidi nikutoa ushahidi usiyo wa kweli kwa jirani yako. Nimenukuu Repoti, na jana ilikuwa hapa kwa Meza na nikanukulu ukurasa wa Public Investments Committee. Asume pale aone plot 209/.. yote iko pale na siyo mimi nimeandika. 'I am not a Member of the Public Investments Committee and I am not Kanyingi'. Na mara ngapi ameona akienda kanisani kutoa na hizi pesa Auditor-General (Corporations) anasema hazikuwa za halali. Mimi si kusema. Na unaona anatetewa hapa na hata yeye alisema juzi kwa gazeti juu ya ile habari ya Butere Self-Help Development Fund ilifanya nini? 'Butere Self-Help Development Fund', Shikuku hakujukuwa hata ndururu.

Marehemu ole Tipis alikubali baadaye kwamba machifu ndio waliokula pesa hizo na watalipa. Nilimwambia asishindane na ukweli. Sasa yeye yuko mahali pengine lakini mimi bado niko hapa.

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Wetangula): Order Shikuku! Mr. Shikuku, you should not create a false impression that the late hon. ole Tipis died because he argued with you?

**Mr. Shikuku:** No! No! Bw. Naibu Spika wa Muda. Nilimwambia na imenukuliwa. Yeye aliniambia, 'you go to Butere and kick your last kick', nikamwambia mimi sitakufa niko kwa ukweli. Sasa na aliyekufa ni mimi au yeye?

Na pia anasema Bw. Shikuku anasema yeye ni maskini. Sijawahi kusema mimi ni maskini! Nazungumzia maskini, mimi si maskini! Kwa sababu hauwezi kuingia katika Bunge, uwe na motokaa na uitwe maskini! Nawazungumzia wao, maskini, siyo mimi maskini. Yesu alikufa kwa dhambi na yeye hakuwa na dhambi. Huyu Mhe. Misoi hajaacha dhambi hizo, na sasa Mungu amechoka, ameleta *Ukimwi* na *Ebola* sasa mtakiona cha mtema kuni!

**The Assistant Minister for Agriculture, Livestock Development and Marketing** (Dr. Misoi): Jambo la nidhamu, Naibu wa Spika wa Muda, ningomba ulinde haki zangu kwa sababu huyu Mhe. Shikuku alipopambana na yule aliyekufa, sasa anaanza kugombana na mimi. Wapi haki yangu?

**Mr. Shikuku:** Bw. Naibu wa Spika wa Muda, mimi sina haja na Mhe. Misoi aende akafe; sijagombana naye, lakini akipinga ukweli, ataona. Yesu Kristo alikufa tuache dhambi lakini hatujabadilisha tabia zetu. Tungali tunaendelea kutenda dhambi na sasa Yesu Kristo hayuko tayari kufa. Sasa ametumia *Ukimwi* na *Ebola*. Hatakuja tena.

**Mr. Temporary Deputy Speaker** (Mr. Wetangula): Mr. Shikuku, what does AIDS and Ebola got to do with the Arbitration Bill?

**Mr. Shikuku:** Bw. Naibu wa Spika wa Muda, hilo lilikuwa 'by the way' kwa sababu wanasema habari ya 'immorality'. Mswada huu hauwezi kufaulu bila 'morals'. Yesu ameleta adhabu ya UKIMWI kwa kutoacha dhambi. Naikumbukwe, katika Biblia watu walipokataa kusikia na wakaanza kuabudu vitu vingine Mungu alifungua ardhi na wale Wayahudi wakaanguka ndani na wakafunikwa na waliobaki wakaendelea safari ya nchi ya Canaan na hilo linaweza kufanyika tena. Mungu hawezi kupendezwa na dhambi zetu.

Katika ukurasa 179, Clause No. 12, na sitaki kuitaja yote juu ya "appointment of Arbitrator". Inasema:- "No person shall be precluded by reason of that person's nationality from acting as an arbitrator, unless otherwise agreed by the parties".

Bw. Naibu Spika wa Muda, kitu tunaona hapa ni kwamba mtu anaweza kuita 'arbitrator' wa ukoo wake au wa kabila lake, lakini hautakiwi kukataa hiyo. Lakini kuna jambo moja na Mtukufu Rais amelisema kidogo hapa. Pengine wanasiasa wa sasa hawajafahamu tumetoka wapi, kwa nini tuko Uhuru, kwa nini watu wengine walikufa kwa shauri ya Uhuru. Ndiyo sababu unaona Mtukufu Rais saa zingine anakuwa mkali anasema 'colonialist' na nini anakumbuka yaliompata siku zile kabla ya Uhuru. Kwa hivyo hawa wengine waliokuja juzi hawawezi kumfahamu anafanya nini. Lakini nafikiri wakati umefika watoto wa shule wafundishwe siasa za

Kenya tumetoka wapi, kwa nini tunaendelea vile. Typical example is South Africa. Nakumbuka wakati nilikuwa 'Member of the Executive Committee of the Commonwealth', tulipokuwa tukizungumza habari ya South Africa tuliwauliza Wazungu: "Nyinyi ndio wenye demokrasia lakini mnakubali kwamba walio wengi watawale, bona kule South Africa hamwulizi wale wachache wanatawajaje Wafrika walio wengi?"

Kila siku walikuwa wakitujibu kwa kusema, "Hayo maneno is a question of keep and Kill". Ikifika huko, hao watawala hawasemi mambo ya demokrasia, lakini Mungu hali ugali, Uhuru umepatikana Afrika Kusini. Yafaa watu wetu na wanasiasa wakumbushwe kwamba hakuna dunia utakayokwenda upate mtu ambaye si mwenyeji au yule ambaye amepatiwa tu uwenyeji akipata haki kama yule mzalendo citizen wa nchi hiyo. Hapa Kenya kila mtu anaweza kusema vile anavyopenda, hata wengine ambao walipata citizenship kwa application wanataka kutawala Kenya hii. No way!

**An hon. Member:** Waambie!

**Mr. Shikuku:** Hata ukikaa Uingereza miaka 200, hauwezi kuwa Prime Minister. Never! [Mr. Shikuku]

What do you think Kenya is? Free land, nobody's land! Sisi tumepata Uhuru wetu sio kwa mchezo. Wajue we have the original people of this land. Hatuwakatazi kuketi hapa, lakini kushika usukani wa utawala wasishike.

**Mr. Achola:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Shikuku not out of order by suggesting that we should violate what the Constitution says by suggesting that people who are citizens of this country might not be allowed to ascend to any level of political leadership in this country?

**The Temporary Deputy Speaker (Mr. Wetangula):** Order, Acholla! First, that is---

**An hon. Member:** That is an argument.

**Mr. Achola:** That is not an argument but a question.

**The Temporary Deputy Speaker (Mr. Wetangula):** Order! First, that is not a point of order. Second, Shikuku was giving his opinion. Third, he has not violated any section of the Constitution and indeed, you have not said which section he has violated.

**Mr. Shikuku:** Bw. Naibu Spika wa Muda, huyu mhe. kijana alikuja juzi. Hajui tumetoka wapi na tuliona nini. Kwa mfano, hajui kwamba katika Kenya kulikuwa na vyoo vitano. Kulikuwa na choo cha Mzungu, cha Mhindi, cha Mwaarabu, cha Msomali na cha Mwafrika. Kama ungepatikana kwa choo cha Mzungu, ungeenda jela. We have gone through thick and thin na Mungu amekubali wengine wetu waishi katika Bunge hili ili tuwaeleze wengine jinsi mambo yalivyokuwa. Sisi hatuna ubaguzi na kweli tulipopata Uhuru, tulisema tutamkaribisha yeyote katika nchi, lakini hatukusema kwamba tutakaribisha yeyote ambaye amekuwa akitunyanyasa ili atutawale. Hatukusema hivyo. Hata saa hii ninasema tuko huru, lakini ni nani anashikilia usukani wa biashara katika nchi hii?

**Mr. Achola:** Ni Wakenya!

**Mr. Shikuku:** Bw. Naibu Spika wa Muda, ninajua kwamba watu wa huyu rafiki yangu wakisikia haya anayoyasema, kwamba ni Wakenya wameshikilia biashara katika nchi hii na watu wanajua kwamba ni Wahindi, hataliona Bunge hili tena.

*(Laughter)*

Kisumu imekuwa Bombay. Sisi ambao tulipigania Uhuru, hatukupigania ili Kisumu ibaki Bombay. Ukifikiria hayo mambo ya zamani, unasikia roho yako inaungua. Ukikumbuka yale yote uliyoyaona roho yako inapiga kwa kasi. Watoto wetu wafundishwe ili wajue tumetoka wapi. Hatutaki kubagua yeyote lakini ikifika wakati wa utawala na biashara, wageni wataingia lakini wasije wakajaribu kuchukua uongozi.

Saa zingine ukifikiria haya mambo unasikia joto sana katika mwili wako. Tunataka mapenzi kwa watu wote. Sisemi kwamba mtu apigwe eti kwa sababu yeye si mweusi. Hii tunasema kwa sababu tunajua tulipigania nini na watoto wetu wasije wakapumbazwa wakafikiria mambo mengine. Hata sasa utapata watu wengine wanataka kujihusisha na siasa za Kenya kwa sababu tumekuwa waombaji. Sasa wao wanafikiria kwamba wanaweza kutuambia la kufanya. Some nationalists like ourselves cannot take it. Kuna dhambi zimetendwa katika nchi zao kama za kuua watu wengi na hatujawahi kuongea. Wengine wetu wameuzwa kama watumwa na hatutaki kuongea juu ya mambo kama hayo. Mambo kama hayo yanaweza kumfanya mtu akawa na siasa kali sana. Tuaache hayo na tujue tunatawala. Tujue kwamba tunatawala kihaki. Ubovu wa Serikali hii ni kwamba haina haki. Kama Serikali hii ingekuwa na haki tungeona mambo yakienda vizuri. Tuko tayari kusaidia lakini hakuna haki. Ukisema kwamba jambo fulani linafanyike, Waziri anakanusha.

Sasa nitasoma ukurasa 179 wa Mswaada huu.

"The parties are free to agree on a procedure of appointing the arbitrator or arbitrators and failing such an agreement-

(a) in an arbitration with three arbitrators, each party shall appoint one arbitrator and the two arbitrators so appointed shall appoint the third arbitrator."

Kama vile nimesema, walio katika kampuni wanalielewa jambo hili. Huko nyumbani hiyo local arbitration inaleta shida; shida kwamba yule mtu mdogo ambaye amenyang'anywa shamba lake na kadhalika hataelewa. Sheria inasema vizuri, lakini yule mtu ambaye yuko huko mashambani hana hiyo habari. Kule chifu ndiye mfalme. Kule sub-chief akipita watu wanatetemeka. Wamefinya watu mpaka hawa watu hawana uhuru. Ukitaka kujua watu wamefinya nitawapa mfano. Siku moja nilikuwa ninajadili mahari ya binti ya ndugu yangu. Mimi ndiye nilikuwa ninasimamia jambo hili kwa vile huyo alikuwa binti wa ndugu yangu mkubwa. Sasa wale watu waliokuwa wakitaka kumwona binti yangu walikuja nami nikaleta jamii ya Oyondi ili tuongee, lakini nilipoangalia niliona mtu mmoja ameketi pale. Nikauliza, "Huyu mtu alikuja na hawa wageni?", Wageni wakasema hawakuja pamoja. Nikauliza familia ya Oyondi, "Na huyu ni nani?", *Wilikuru? Omulerile ni wina?* Nani amemuleta? Nikaambiwa kwamba huyu ni mwakilishi wa sub-chief. Unaona vile watu wananyanyaswa? Alikuwa mwakilishi wa sub-chief ambaye si wa ukoo wetu. Eti alikuwa amekuja kusikia tunajadili ng'ombe, mbuzi, kondoo na shilingi ngapi ili ampelekee sub-chief ripoti. Unaona vile watu wamefinya? Hata kuketi ili kujadili mahari ya binti yako lazima sub-chief ajue! Unajua kitu nilichofanya? Nilishikwa na hasira nikasema kwa sauti kubwa, "Kama hauondoki mbali nitakuuwa" Ndiyo akaondoka. Sasa ikiwa Mbunge akiwa anajadili mahari ya binti yake mtu kama huyu anakuja kusikiza, na je mtu wa kawaida? Watu wa kawaida wanafinya. Chifu yuko huko, DO amekalia na kadhalika!

**The Temporary Deputy Speaker** (Mr. Wetangula): Mr. Shikuku, by threatening to kill, you are not setting up a good example!

**Mr. Shikuku:** Bw. Naibu Spika wa Muda, hiyo ni ile hasira niliyokuwa nayo, na kweli ningefanya mambo. Yeye alikuwa katika uwanja wangu. There is a limit to everything! We are in Luhya land. Kwa hivyo, haya maneno ya arbitration is well written, but without co-operation with the people, close administration, how will he be able to get justice? Ni nani atafanya arbitration? Ikiwa hata Mbunge anaambiwa na DO asitembee katika sehemu yake bila ruhusa, what about the common man? We need change!

Hii ni Serikali ya siasa na siyo ya wafanyakazi wa Serikali, yaani civil servants! Civil servants have become too powerful! If that is the case, ni lazima tubadilishe siasa. Ikiwa tunataka wafanyakazi wa Serikali watawale, basi sisi turudi nyumbani. But we cannot have Elected Members being bullied by civil servants! PCs, DOs and chiefs have become too powerful! Hata wanalinda mali zao wakitumia APs na pia wanaua watu. Si juzi tu walipiga mtu risasi na amekufa? Hiyo ni mali ya Chelang'a ambayo analindwa na askari wangu kwa kodi ambayo ninatoa. Sasa tumepitisha Mswada wa Fedha (Finance Bill) na pesa hizo zinakwenda kulinda mali ya Chelang'a, and the fellow is paid by the Government! Watu kama Chelang'a ni vijana na kuna siku ambayo watajibu. Oh, yes! They will never get away with it!

Bw. Naibu Spika wa Muda, that freedom is not there. So, that arbitration can never be there! Hata tukisema habari ya maendeleo (development), but development cannot be there when people are oppressed! Maendeleo hayawezi kupatikana ikiwa mtu hana uhuru. Ikiwa mtu amekanyagwa, he cannot develop. Kama anazuiwa kuyazungumza maneno yake, basi hawezi kufanya maendeleo. Hii ndiyo sababu tulimwondoa Mzungu ambaye alikuwa ametukalia ili tupate maendeleo. Lakini hii Serikali yetu sasa inatukalia hata zaidi na tena permanently! Mzungu alikwenda lakini Mwafrika haendi. Lakini tutamwondoa six feet below! Oh, yes! Mhindi anaweza kutoka saa yote; hata kesho anaweza kuenda. Lakini taabu yetu ni nyinyi hapa. Huko Kisumu, --- ndiyo sababu unasikia revolutions hutokea. Watu wakishachoka kabisa, wanaenda kwa revolutions. Revolutions haziji hivi tu. Watu wanavumilia, wanafinya, lakini kuna siku ambayo wataamka na kusema "no further". Hatuombi hiyo siku ije hapa kwetu. Hii ndiyo sababu tunasema haya maneno wazi hapa Bungeni ingawa tubadilishe mwenendo. We still have time!

Let us give our people freedom. Let us give hon. Members freedom ili waweze kutembea katika sehemu zao wakizungumza na watu wao bila kusukumwa na polisi, APs, DOs, chifu na kadhalika. Lakini tukizidi kuvunika, hatuwezi kuvumilia. Karibuni tunaenda likizo. Lakini tunaenda huko kufanya nini ikiwa hatukubaliwi kufanya mikutano? Unajua Wabaluha ni watu wa matata sana. Wao hawasemi "*mlembe*" kwa mdomo tu bila kusalimiana kwa mkono. Mara moja chifu anafika "Hii mkutano ni ya nini hapa bila leseni?" Leseni itolewe kwa salamu pia? This is both suppression and oppression! Hatuwezi kupata maendeleo ikiwa kuna suppression na oppression. Wabaluha ni lazima wasalimiane kwa mkono na ---

**The Assistant Minister for Agriculture, Livestock Development and Marketing** (Dr. Misoi): Jambo la nidhamu, Bw. Naibu Spika wa Muda. Mhe. Mbunge ametumia neno ambalo hatufahamu maaana yake; Amesema "*mlembe*" na hatujui maana yake. Anaweza kutueleza?

**Mr. Shikuku:** Bw. Naibu Spika wa Muda, maana ya "*mlembe*" ni "peace", "greetings". You bring your right hand and not left hand! Sasa chifu mdogo hataki hayo na hatuwezi kuonana na watu wetu kwa sababu tumeziwa. Hatuwezi kufanya mikutano. Mkutano wangu wa mwisho ulikuwa 1993 huko Kakamega. Kwangu Butere bado sijakubaliwa kufanya mkutano mpaka leo. Hakuna arbitration; haya ni maneno ambayo tunasema hapa tu. Arbitration haitapatikana. Katika sehemu ya (b) wanasema:-  
"In arbitration with one arbitrator, the parties shall agree on the person to be appointed" ikiwa

mnapatana.

Ile "principle of morals" ama ufisadi; ikiwa huyo ni mfiisadi na mtu mwingine si mfiisadi, kukubaliana kupata mtu wa kuwa arbitrator between the two, in practical terms, ni ngumu sana.

Bw. Naibu Spika wa Muda, tulifikiria uhuru ukija Mwafrica atapumua, atatembea na atasaidiwa apate vitu vyake. Lakini sio hivyo, la! Sisi ambao tungali hai, tutazidi kuikumbusha Serikali hii tukufu kwamba hatuna uhuru.

Sehemu ya 3(a) inasema:-

"If, in case of three arbitrators and partly fail to appoint the arbitrator within 30 days of receipt of a request to do so from other parties, or if the two arbitrators fail to agree on the third arbitrator within 30 days of the appointment or, (b) in case of arbitrator, the parties fail to agree on the arbitrator, ---".

Sasa haya maneno yote ---

**The Temporary Deputy Speaker** (Mr. Wetangula): Mr. Shikuku, what you have read has no meaning; read on, continue.

**Mr. Shikuku:** Halafu inaendelea:-

"the appointment shall be made upon application of party by the High Court".

Hapo ndipo maneno yako. Sasa yule mtu mdogo hana pesa za kuenda High Court. We are talking of theories! Watu wengine hawana hata KSh.10.00. Sijui kupeleka mambo High Court ni shilingi ngapi? I am ready to be given information.

**The Attorney-General** (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, since I did not want to interrupt the hon. Member because I will have an opportunity to reply to the remarks he has made. But most of the remarks he has made relate to the land cases and they are not at all relevant to the Bill before the House.

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, Mr. Shikuku! Under what Standing Order are you demanding that the Attorney-General should give you information? It is under the "Standing Order of Co-operation". Si mnasema tushirikiane na Serikali, sasa tutaanza namna gani? Hii "arbitration" kidogo hapa. Bw. Naibu Spika wa Muda, yeye anajua na anajidai hajui na hatajibu. Ukweli ni kwamba mwananchi wa kawaida hawezi kupata ile ada ya kutoa katika Mahakama Kuu, isipokuwa Bw. Shikuku na Mkuu wa Sheria. Bw. Shikuku anajiweza kifedha lakini mwananchi wa kawaida ambaye hana hata Ksh.50 hawezi. Haki yake ataipataaje hali ada ya Mahakama Kuu ni ya juu sana? Tena kuna pesa ya kulipa wakili. Sisi tunatengeneza sheria ambazo hazina uhusiano wowote na ukweli uliopo katika Kenya hii. Ati tunasema, "aye! aye", tunafanyia nani?

Bw. Naibu Spika wa Muda, hata Mswada hawasomi. Mimi nafanya kazi niliyotumwa niifanye hapa ya kurekebisha hiyo Miswada. Ni wajibu wa Mkuu wa Sheria na Serikali yetu tukufu, takatifu, kuyaangalia na kurekebisha mambo hayo kwa sababu ni Mkuu wa Sheria tu hapa ambaye hawakilishi sehemu yoyote, lakini hawa Mawaziri wote hapa wanawakilisha watu kama mimi. Mkuu wa Sheria amehakikishiwa cheo chake hapa, tukianguka au tukipita uchaguzi, yeye yuko hapa. Hana shida yeye, hata unamwona vila ameketi sasa hivi, shwari kabisa.

*(Laughter)*

**The Attorney-General** (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I agree that I am sitting very comfortably, just the same way hon. Shikuku is sitting now, very comfortably.

**Mr. Shikuku:** Bw. Naibu Spika wa Muda, Mkuu wa Sheria anafikiri yeye sio Mkenya, yeye hawezi akaguzwa na mtu. Mimi baada ya miaka mitano ninarudi kwetu, hali yeye ana usalama. Kwa hivyo, sisi Wabunge tuwe watu wa kuangalia Miswada. Miswada hii ni mizuri, lakini kwa wale watu tunaowakilisha ambao hawajiwezi kifedha, ambaye hawezi hata kusomesha mtoto wake ---

**The Mr. Temporary Deputy Speaker** (Mr. Wetangula): Mr. Shikuku, there is a presumption of competence on every Member of Parliament.

**Mr. Shikuku:** Bw. Naibu Spika wa Muda, ninachojua ni kwamba baada ya miaka 43 katika siasa, hakuna mbunge hapa anayewakilisha watu na hasa wale wa mashambani, ambao wanajiweza. Ni nani anayeweza kunipinga kwa hayo? Miongoni mwa wale Wabunge wa mashambani, kama kuna mmoja anayewakilisha watu wanaojiweza kifedha, asimame! Hata hapa Kamkunji, wengine wanaishi kwa nyumba za makaratasi, na pia Mathare na Kibera ambapo watu hubebwa kwa kitanda kuletwa kwa barabara ili wapelekwe hospitali kwani hakuna barabara ya kuwezesha magari kupitia. Je, hawa watu wanaweza kutoa kodi ya Mahakama Kuu? Kibera hakuna choo wala barabara ya kuingia mle ndani, na Mkuu wa Sheria hupita kando lakini hajaingia kule ndani. Hawa watu wa Kibera hawana choo wala nini. Ni Mbunge gani anayeweza kusimama hapa aseme yeye anawakilisha watu ambao wanajiweza kifedha? Hakuna!

Clause 4, inasema hivi: "Where under the procedure agreed upon by the parties...", Kabla sijamaliza,

unaona hapa wameweka hizi siku 30. Kuna jambo kubwa ambalo linaniudhi sana; kesi inaweza kukaa miaka 60 kabla ya kusikizwa. Wakili anajihusisha na kesi hii, anajihusisha na nyingine. Wakija kortini, Jaji akimuuliza kesi itasikizwa lini? Yeye hujibu, "Mhe. Hakimu, mimi nina kesi nyingine tarehe hiyo!"

**The Temporary Deputy Speaker** (Mr. Wetangula): Jaji, anajulikana kama "Yes, Your Lordship".

**Mr. Shikuku:** "Your lordship, mimi nina kesi nyingine katika ile korti, na kesi nyingine katika korti fulani ". Halafu anamuuliza, "Ni tarehe gani ambayo utapatikana?" "Tufanye Machi mwaka ujao". Ajabu ni kwamba, jaji anakubali tarehe hiyo na kesi inahairishwa hadi Machi mwaka huo. Mnaenda nyumbani, arbitration haijafanywa kwa sababu kuna nini na nini. Huyu mshtakiwa anarudishwa jela na wakili anakwenda kwa bibi yake. Siku hizi tuna hakimu wanawake, akiwa mwanamke anakwenda kwa bwana yake na yule mshtakiwa anakwenda seli. That is the justice we have in this country! Na huku seli kuna Ukimwi, Ebola na ugonjwa wa kuhara. That is the justice we have in this Republic!

Mimi nimekwishasema kwamba ni lazima kuwe na masaa 24 ya kusikiliza kesi. Kesi zifanywe usiku na mchana ili watu wapate haki! Ukisema hivyo ni kama kupigia mbuzi ngita kwa Serikali hii. Hata ucheze kamba gani, mbuzi hasikii, anakula nyasi tu. Ndiyo hii Serikali!

Tunaweza kucheka, pengine ni vile ninavyowasilisha pointi zangu, lakini mambo haya ni ya kweli. Ni kweli kwa sababu unaweza kufungwa na kesi yako ichukue miaka nenda miaka rudi. Nilileta swali katika Bunge hili kuhusu mtu alifungwa miaka 25 na kuchapwa viboko 20! Alimaliza miaka 15 ndipo rufani ikasikizwa na akaachiliwa na kwenda nyumbani. Fikiria miaka 20 na viboko 20, na baadaye unaachiliwa kwa sababu huna hatia. Haki iko wapi? Wewe ni huru baada ya miaka 20 katika jela! Wengine hawakusikia ninasema nini, kwa sababu hawajawahi kushikwa. Yafaa mtu kama Attorney-General na Mawaziri washikwe na wawekwe katika jela kwa wiki tatu, halafu kisha watoke. Wataamka! You cannot know justice until you test injustice. Na tuanze na Attorney-General, Chief Justice na magistrates, washikwe kwa muda wa miezi mitatu, wataamka!

**The Mr. Temporary Deputy Speaker** (Mr. Wetangula): Order! Mr. Shikuku, there is no provision in law for that; apart from being irrelevant, you are--

**Mr. Shikuku:** Bw. Naibu wa Spika wa Muda, pengine ni irrelavance, lakini ninachosema hapa ni haki. The delay in delivering justice is injustice. Those who delay haki ni wale watu ambao hawajawahi kujua yanayotendeka katika seli. Ni kama bibi yako kukwambia juu ya uchungu wa kuzaa. Utamweleza pole, lakini huwezi kumwelewa hadi siku ile utapata mimba. Ni shida kufahamu uchungu wa kuzaa hadi bibi atakapokuhadithia na wewe kazi yako niusema pole. Wewe kazi yako ni kusema pole, pole, mpaka siku ile utakapopata mimba!

**Mrs Ndetei:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Shikuku to give this example of undergoing labour pains when he knows there is no man who is going to go through that?

**Mr. Shikuku:** Bw. Naibu wa Spika wa Muda, lakini hatuwezi kufahamu kwa sababu hatuwezi kupata mimba! Wakati huu nikisema habari ya jela ni mimi, Mhe. Lotodo, Nthenge aliyekamatwa wiki mbili na Dr. Lwali-Oyondi aliyekaa huko ndani mwezi mmoja, hawa, wanaweza kufahamu. Siku moja hakimu mmoja alishikwa na kuletewa chakula, akasema, "What? This is not fit for human consumption." Aliambiwa, "Bw. Jaji, you are the one who recommended this food." Alikuwa amepelekwa Kamiti Maximum Prison. Pia, Marehemu Oloitiptip akauliza "kitanda kiko wapi?"

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Wetangula): Hon. Members, it is now time for the interruption of the business and the House stands adjourned until Tuesday, 18th July, 1995, at 2.30 p.m.

The House rose at 6.30 p.m.