

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 19th October, 1995

The House met at 2.30 p.m.

[Mr. 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 Seed Company for the year ended 30th June, 1994 and the Certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of the Kenya Meat Commission for the year ended 30th June, 1988 and the Certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of the Kenya Meat Commission for the year ended 30th June, 1989 and the Certificate thereon by the Auditor-General (Corporations).

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

Annual Report and Accounts of Muhoroni Sugar Company for the year ended 30th June, 1989 and the Certificate thereon by the Auditor-General (Corporations)

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

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

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

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

Annual Report and Accounts of Mumias Sugar Company for the year ended 30th June, 1994 and the Certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of the Agricultural Finance Corporation for the year ended 30th June, 1994 and the Certificate thereon by the Auditor-General (Corporations).

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

*(By the Assistant Minister for Agriculture,
Livestock Development and Marketing
(Mr. Maundu) on behalf of the
Minister for Agriculture,
Livestock Development
and Marketing.)*

ORAL ANSWERS TO QUESTIONS

Question No.783

FUNDS FOR FERRY VICTIMS

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

(a) how much money has

been collected in aid of the Mtongwe Ferry victims since April, 1994; and

(b) when this money will be given to the families of the victims.

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

(a) A total of Kshs8,908,710.40 has been collected since April, 1994.

(b) The family members of the victims will be given the money once the necessary modalities, including compensation and court cases, are determined.

Mr. Mwavumo: Thank you, Mr. Speaker. What are these modalities? Why should the Minister wait for the court ruling? Why should you wait for the court and yet the money is ready? Why do you not give it out?

Mr. Manga: It is true, Mr. Speaker, but it is necessary to work out modalities like who are the people to be given the money to distribute and how big the families being given the money are. This is being done by the Provincial Administration. The other thing, I want to say is that the families have not been very quick in giving out the details of the people who are supposed to be compensated.

Mr. Mwaura: Mr. Speaker, it is disappointing that really, since 1994, money which was collected to help the victims of this tragedy has not yet been distributed. Now, can the Minister tell this House, first, if this money has been placed in a bank account and who are the signatories? Can the Minister also tell the House, since these people's next of kin are known, why has the money not been distributed?

Mr. Manga: Mr. Speaker, the answer to question No. 1, from the hon. Member, is that, the money was actually deposited in Trans-National Bank and has so far earned an interest of Kshs1,114,114.65 bringing the total of the cash collected now, to what I gave first. As I said before, on the second question, that, it has not also been very easy for these families to be properly assessed so as to determine who the people who deserve this compensation are. But, as soon as that one is done, it will definitely be disbursed.

Mr. Mwavumo: Mr. Speaker, Sir, this was a donation from the public and the money is ready, and these people have been suffering. Why can you not give out the money so that it can help the families? Why should it take so long?

Mr. Manga: Mr. Speaker, I want to repeat it again, that the process of determining who deserves the money is going on, and when it is complete, it will be done. Another thing, is that, the donations are still coming in and, therefore, we cannot close it and disburse the money.

Mr. Speaker: Next Question, Mr. Kamuiru Gitau.

Question No.680

TARMACKING OF MARKET ROADS

Mr. Speaker: Mr. Gitau is not here? Next Question, Mr. Ndzai.

Question No.697

PAYMENT OF MR. HARE'S DUES

Mr. Mumba, on behalf of **Mr. Ndzai,** asked the Minister for Home Affairs and National Heritage, what is delaying the payment of Kshs10,147.50 to Mr. Charles Hare (Artisan) as indicated in the District Probation Officer's letter dated 26th October, 1992, P.O. Box 142, Hola-Kibuyu Estate.

Mr. Speaker: Is there anybody here from the Ministry of Home Affairs and National Heritage? Next Question, Mr. Ndilinge.

Question No.777

EXPANSION OF MORTUARY

Mr. Speaker: Mr. Ndilinge is not here? Next Question, Mr. Mumba.

Question No.635

ELECTRIFICATION OF BAHARI

Mr. Mumba asked the Minister for Energy, which areas of Bahari Constituency in Kilifi have been programmed for rural electrification.

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

By the end of last year, Dzisoni Market, Dzisoni Divisional Headquarters, Bahari Girls' School, Sharani Mosque, and Mtwapa Settlement Scheme had been electrified. We have a programme for Roka Market in Bahari Constituency of Kilifi District for rural electrification at the cost of Kshs2,215,000 for the next phase of implementation.

Mr. Mumba: Mr. Speaker, I would like the Minister to confirm the truth of his answer, because I live in Mtwapa Settlement Scheme in Bahari, Kilifi, and there has been no electrification of that Settlement Scheme. Whatever electrification that has been done there has been done privately by individual farmers. Can the Minister tell this House the truth about electrification of Mtwapa Settlement Scheme?

Mr. Marita: Mr. Speaker, Sir, when I give a reply in this House, I just believe it is the truth. But, if my great hon. Member says that what I mentioned is not correct, I would also check and confirm to the hon Member, that, that scheme has not been electrified. So he will also give me the details of this Question so that I can also confirm whether the work is done or not done.

Mr. Shidiye: Mr Speaker, now that the Minister has told us that rural electrification has been done in Bahari Constituency, can he be specific and tell the House how much money he has spent on this programme, otherwise we will still be doubting him because, if he does not have the figures, it is not even a rural electrification programme, it is something else done privately?

Mr. Marita: Mr. Speaker, Sir, with regard to the areas which I mentioned, we have already spent Kshs2,850,000 and 59 consumers have benefited from that.

Mr. Mumba: Mr. Speaker, first, Dzisoni Market is the same place as Dzisoni or rather, there is nothing like Dzisoni Divisional Headquarters in Bahari. We have Dzisoni Market only, because the Divisional Headquarters of Bahari is in Kilifi Township. So, I would like the Minister to know that his answer is misleading. I would not say that he is telling "lies".

Mr. Speaker: Order! You have already said it; will you withdraw?

Mr. Mumba: Mr. Speaker, I withdraw. Let the Minister give us details of when Mtwapa Settlement Scheme was electrified and how much was spent and how many homes have been electrified?

Mr. Marita: Mr. Speaker Sir, the hon. Member has agreed that he has witnessed that the job has been done in one area. I have already mentioned the amount of money used to do electrification in the areas. I have told the hon. Member, with due respect, that I will check and if there is anything which has not been done then I can confirm I was given a wrong answer. The job was done towards the end of 1994.

Question No.775

ISSUANCE OF TITLE DEEDS

Mr. Mutani asked the Minister for Lands and Settlement when the residents of Gatua Land Unit in Mitheru Location of Muthambi Division will be issued with title deeds.

The Assistant Minister for Lands and Settlement (Mr. Kaino): Mr. Speaker, Sir, I beg to reply.

The residents of Gatua Adjudication Section in Mitheru Location, Muthambi Division will be issued with title deeds before the end of this financial year. The maps are being checked by the Director of Surveys and the unit will be registered as soon as the checking is completed and fair prints made.

Mr. Mutani: Thank you Mr. Speaker. Arising from this answer by the Assistant Minister, the land demarcation in Gatua Land Unit started way back in 1962 and it has now taken about 35 years. Last year I asked the same Question and the answer to it was that by January this year the residents will be given title deeds.

Mr. Speaker Sir, could the Assistant Minister tell this House the complication in that land unit which hinders the issuance of title deeds because in my constituency, there are some areas where adjudication started the other day and the residents have been issued with title deeds? Can he tell us why that is so?

Mr. Kaino: Mr. Speaker, Sir, as I said, the Member should rest assured that these titles will be given to these residents of Gatua before the end of this financial year. The delay was caused by some objections and the process has taken too long. The problem therefore does not lie with the Ministry but within the community because even one objection can delay registration. So, following the Member's question last year, we tried to convince the community to speed up the objections and now they have completed. The maps are now being checked and fair prints will be made and the people will be given their title deeds. So this one is not a bother because it has already been completed.

Mr. Maore: Mr. Speaker Sir, the issue of title deeds is quite a touching one in the whole country. Now, could the Assistant Minister undertake to reassure the House that the Ministry is being run professionally by professionals

and the title deeds are not following KANU rallies whereby politicians have usurped the issuance of title deeds at a certain pace as they want. Is the Assistant Minister going to reassure the House that he is going to undertake to issue title deeds as per the planning of his Ministry?

Mr. Kaino: Mr Speaker, I term this one as a mockery. He is not really asking the right question by saying it is "KANU areas." There is nothing like KANU areas or KANU zones, as such.

Mr Speaker, the professionals in the Ministry of Lands and Settlement, are very qualified. They are people who have undergone some training and they are very smart in their work. The only thing which the hon. Member could have asked is that the title-deeds are delayed, and that could have been the proper question he should have asked.

So, Mr Speaker, I would like to state that the Ministry is now coming up with a way of giving title-deeds, I think, to avoid the long procedure in which the title deeds were being issued long time ago. They used to carry out some investigations to establish the existing rights of ownership. There was hearing of determination of objections which affected the Gathua Land Unit residents. Finally, the demarcation and allocation of individual holding and preparation of adjudication register. But for now, the Ministry has come up with a new procedure. They are not going to follow the law under the Land Consolidation Act, but under the Land Adjudication Act, which is faster and easier to give the residents their title-deeds.

Dr. Otieno-Kopiyo: Given the Minister's answer, and given the fact that this new method is going to speed up the process of issuance of such title-deeds, could he, in the same breath, assure the House that title-deeds are not going to be issued to people who do not actually own those lands?

Mr. Kaino: Mr Speaker, Sir, it is correct. The people who are going to be given title-deeds are the rightful ownership of that particular land.

Question No. 730

MANAGEMENT OF MULIKA LODGE

Mr. Maore asked the Minister for Tourism and Wildlife:-

- (a) why the African Tours and Hotels Limited has not managed Mulika Lodge profitably; and
- (b) whether he could take urgent measures to overhaul the current management of the Lodge, pay wages and salaries for workers and rehabilitate the entire Meru National Park.

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

African Tours and Hotels Limited, who managed Meru Mulika Lodge since its inception in 1983 up to 1987, could not manage the Lodge profitably because of the following reasons.

That during the planning stage of the project, it was envisaged that certain essential infrastructural services would be put in place to support the Lodge which was a developmental pioneer project at the park. These were the construction of an all-weather road from Maua to Murela Gate at the Meru National Park. Provision of electrical power supply and adequate piped water. Todate, the Maua-Murela Gate-road is a great hindrance to travel while the running and maintenance costs of the generator and the water pumps contribute greatly to the losses incurred by the lodge.

The Meru Mulika Lodge, a limited liability company owned by KTDC (91.27%) and Meru County Council (8.27%) was constructed through short-term loans amounting to Kshs.6,803,783.00 obtained from Kenya Tourism Development Corporation which were expected to be repaid through the lodge operations as the lodge could not access long-term financing for lack of security since the land on which the lodge is constructed belongs to the Kenya Wildlife Services (KWS) and is leased to the lodge company.

An amount of Kshs.5,653,740.00 was converted into equity while Kshs.1,150,043.00 was converted into long-term commercial loans. Due to inability to repay the loan, the interest charges on the loan have adversely affected the profitability of the lodge company over the years. The loan balance stands at Kshs.5,628,127.00, as at 30th June, 1995, owing to interest accrual.

Owing to the infrastructural reasons referred to in paragraph (i), the lodge room occupancies average at a mere 20 per cent since its inception. This has a direct bearing on the loss making trend.

An hon. Member: Is that an answer, really?

The Assistant Minister for Tourism and Wildlife (Mr. Sing'aru): It is an answer, Mr. Speaker, Sir.

An hon. Member: Can you repeat it?

The Assistant Minister for Tourism and Wildlife (Mr. Sing'aru): Between 1993 and 1994, the lodge experienced two fire outbreaks. The first occurrence was on 12th September, 1993.

Dr. Otieno-Kopiyo: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: What is it, Dr. Otieno-Kopiyo?

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, which part of the answer is the Assistant Minister dealing with now? Can the Assistant Minister take urgent measures over all the current managers of the lodge?

Mr. Speaker: Order, Mr. Assistant Minister. What were you saying Dr. Otieno-Kopiyo?

Dr. Otieno-Kopiyo: I was asking the Assistant Minister to inform the House, which part of the question he is answering by reading this long statement?

Mr. Speaker: Where does this fire come from?

(Laughter)

The Assistant Minister for Tourism and Wildlife (Mr. Sing'aru): Part (a) Mr. Speaker, Sir.

Mr. Speaker: Very well. You have heard.

Mr. Sing'aru: Between 1993 and 1994, the lodge experienced two fire outbreaks. The first occurrence was on 12th September, 1993, when the staff and the drivers quarters were razed down, while the second outbreak occurred on 14th May, 1995 when the kitchen and the adjoining structures were razed down in a night inferno.

Mr. Maore: Mr. Speaker, Sir, I wish to thank the Assistant Minister for his comprehensive answer, but I wish to put it that issues of insecurity and infrastructure fall squarely on the Government. How can the Assistant Minister in this Government stand here and tell the House that they are about to close a national park, because the Government is not able to provide roads, power, water and security for the people who want to visit that area? Is that what Kenyans should hear?

Mr. Sing'aru: Mr. Speaker, Sir, I have said before, there are three things. The construction of the road from Maua to Mulera Gate, and the provision of electricity and adequate supply of clean water.

Mr. Wamae: Mr. Speaker, Sir, is the hon. Assistant Minister aware that Meru Mulika Lodge was a very popular lodge? It was part of the circuit to Mt. Kenya going to Samburu, and was very popular with tourists. In view of the fact that the lodge is owned by the Kenya Tourism Development Corporation, which is a Government corporation, why can the Ministry can advertise it for sale to private people who can develop it?

Mr. Sing'aru: Mr. Speaker, Sir, the Kenya Wildlife Service (KWS) which is the Landlord of this Meru Mulika Lodge is intending to sell it under the current privatisation process to any company which is interested.

Mr. Murungi: Thank you Mr. Speaker, Sir. I am aware that there is a group of people from Meru who have been organising themselves to purchase this lodge but they are being frustrated by another group of people who are secretly negotiating to buy the Meru Mulika Lodge at a throw-away price. Can the Assistant Minister assure this House that when the moment comes, when the Meru Mulika Lodge is to be sold, the tenders will be advertised publicly and that there will be no secret deals to mess up with the resources of this National Park?

Mr. Sing'aru: Mr. Speaker, Sir, I am not aware that there are some people who are interested in buying that Lodge secretly. What I know, when the time comes, the Lodge will be advertised and all interested parties can place them bids.

Mr. Maore: Mr. Speaker, Sir, the Assistant Minister, says that the Kenya Tourist Development Co-operation, has been managing and running the Meru Mulika Lodge. Since they are the largest share holders, that is 91 per cent, and the Investment Department of the Kenya Tourist Development Co-operation, has deliberately ran down the Lodge with a view to selling it at a throw-away price to the usual scavengers who always want to go and pick things at a throw-away price, can the Assistant Minister, assure the House that it will be publicly advertised and the highest bidder will win the day?

The Assistant Minister for Health (Mr. Mutiso): On a point of order Mr. Speaker, Sir.

Mr. Speaker: Yes, what is it?

The Assistant Minister for Health (Mr. Mutiso): Mr. Speaker, Sir, the hon. Member has used very unbecoming language. He is calling some people scavengers. Is he in order to use that word, and can he tell us who these scavengers are?

Mr. Speaker: Order! Order! I think you are right. I think Mr. Maore has a habit of using very uncivil language in the House. Will you desist? I am sure you can communicate using civil language. Proceed to answer!

Mr. Sing'aru: Mr. Speaker, Sir, as I have said, the Lodge will be sold to any interested party.

An hon. Member: How will it be sold?

Mr. Sing'aru: Mr. Speaker, Sir, it will be tendered and whoever is interest should apply.

Mr. Speaker: Very well! Next Question!

GAZETTEMMENT OF NATIONAL PARK

Mr. Gichuki asked the Minister for Tourism and Wildlife what plans the Ministry has to gazette Lake Ol'Bolossat as a national part/game reserve.

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

The Nyandarua District Development Committee recommended Gazettement of Lake Ol'Bolossat as a National park on 14th May, 1990. In this regard, therefore, I would like to confirm that my Ministry, in consultation with the Ministry of Lands and Settlement, is making the necessary arrangements for the Gazettement of the Lake as a National Park. This will be done when all the formalities are completed.

Mr. Gichuki: Mr. Speaker, Sir, Lake Ol'Bolossat is a very vital wetland for the area. It forms part of the source of Uaso Nyiro River which traverses North Eastern Province. The Lake is also the source of Thomsons Falls, which is a big tourist attraction in that part of the country. According to the answer from the Assistant Minister, they are making arrangements with the Ministry of Lands and Settlement, when the District Development Committee approved this was in 1990, which is about six years ago. Can the Assistant Minister, therefore, give a time-frame of when he is going to gazette this important Lake to us, so that we can preserve it for the sake of the residents?

Mr. Sing'aru: Mr. Speaker, Sir, my Ministry is waiting for confirmation from the Ministry of Lands and Settlement for the gazettement of this National Park.

Mr. Gichuki: Mr. Speaker, Sir, for the information of the hon. Assistant Minister, the Lake in question attracts about 100 different types of birds. The Lake almost dried up the other day because the land on the fringes of the lake has been allocated by the Ministry of Lands and Settlement. My request and question is: For the sake of the residents of the area and the water balance in the area so that it does not dry up, can the Assistant Minister facilitate and give us a time-frame to consult the Ministry of Lands and Settlement which is notorious for giving out lands near the fringes of the Lake? Can he give us a time-frame when he is going to gazette this important Lake to us? I am not asking for too much.

Mr. Sing'aru: Mr. Speaker, Sir, if it is only the Ministry of Tourism and Wildlife which is involved in this issue, alone, I can give the time-frame but this is being done in consultation with the Ministry of Lands and Settlement. Until they give us the result of the gazettement of this National Park, we cannot give you the answer.

Mr. Speaker: Mr. Anyona!

Question No. 450

IMPORTATION OF CONTAMINATED MILK

Mr. Anyona asked the Minister for Co-operative Development:-

- (a) what the Ministry's position is on the saga relating to the importation of contaminated milk from the Ukraine to Kenya; and
- (b) what has caused the apparent disagreements between the Government of Kenya and the Royal Dutch Embassy in Kenya on the validity or otherwise of the tests conducted by both countries to determine the fitness of the milk.

The Assistant Minister for Co-operative Development (Mr. Titi): Mr. Speaker, Sir, I beg to reply:-

(a) The position of the Ministry on the saga of the importation of contaminated milk from the Ukraine to Kenya is that, the 100 metric tonnes of milk was released at the Port of Mombasa on 25th August, 1994 and was returned to the exporting country because its contents did not comply with the Kenya Bureau of Standards specifications for whole/skimmed milk powder.

(b) The tests were conducted in accordance with each country's standards and the Kenya Government carried out its tests in conformity with Cap. 242, of the Public Health Act and also Cap. 243 which deals with radiation protection---

Mr. Anyona: On a point of order Mr. Speaker, Sir.

Mr. Speaker: Yes, Mr. Anyona.

Mr. Anyona: Mr. Speaker, Sir, I have a written reply here. What the Assistant Minister is reading is totally different.

Mr. Speaker: I cannot hear you, Mr. Anyona.

Mr. Anyona: Mr. Speaker, Sir, I have a written reply here and the second part of his answer is totally different from what I have here. So, I really do not know whether he is answering this Question or not.

The Assistant Minister for Co-operation (Mr. Titi): Mr. Speaker, Sir, I am coming to that. You are just interrupting me for nothing. You should not panic because, you will get the answer.

So, the tests were conducted in accordance with Cap. 242, which deals with Public Health Act and Chapter 243 which deals with radiation and protection and Chapter 254, which deals with food, drugs and chemicals.

Mr. Speaker, Sir, it is emphasised that the disagreement arising was not between the two Governments but between M/S Agro-Metal Development Limited who is the importer and the Kenya Co-operative Creameries, who had intended to purchase the milk.

Therefore, in our view, the milk saga which was between the importer and the exporter has not altered the excellent technical co-operation and cordial relationship between the Government of Kenya and the Royal Dutch Government.

Mr. Anyona: Mr. Speaker, Sir, it is very obvious that even this Assistant Minister does not know what he is talking about. If my memory serves me right, the only Public Ministerial Statements that were made on this subject were from the Ministry of Agriculture, Livestock Development and Marketing and the Ministry of Health. I cannot remember ever hearing a statement from the Ministry of Co-operative Development. Can the Assistant Minister, now give a chronological account of this saga from the beginning to the end and tell us who was responsible for certain actions or lack of actions?

Mr. Speaker: Mr. Anyona, how about if it takes three days? And you know I do not have the three days.

Mr. Anyona: Mr. Speaker, Sir, I am sure he is educated enough to know how to summarise.

Mr. Speaker: Well, can you do it within the time available?

Mr. Titi: Mr. Speaker, Sir, that is a very political question, which touches on the Ministry of Agriculture, Livestock Development and Marketing. I think he should direct that question to the relevant Ministry not to our Ministry. I will need three days or one week to prepare myself if I am going to give the nature of the event.

Mr. Nyagah: Mr. Speaker, Sir, the milk industry is being progressively run down. Payment has not been made to the dairy farmers for the last very many months because of this kind of importation. Can the Assistant Minister be bold enough to say the people who are behind the importation of this consignment into the country?

Mr. Titi: Mr. Speaker, Sir, that is a different question, but I had already mentioned that the people who imported this consignment are Agro Metro Development Ltd. and they were dealing with the Kenya Cooperative Creameries (KCC). Those are the parties which were involved.

Dr. Kituyi: Mr. Speaker, Sir, the Assistant Minister might remember well that at the time when this milk was imported into this country, there was a glut of domestic milk which caused a crisis because KCC could not honour its obligations to the farmers who had delivered that milk. It may be difficult for him to explain to us why they thought it necessary to allow this company to bring in other milk, but can he explain to the House, how seven tonnes disappeared from the consignment before it was repatriated?

Mr. Titi: Mr. Speaker, Sir, that is mere speculation and I do not agree with him that about seven tonnes disappeared. It is not true.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. This is a very serious matter from two view points: One, it is a matter of economic sabotage and secondly, it is a matter of injury to the health of our people. I am not satisfied with the manner in which this Assistant Minister is answering this Question.

Can he tell us what legal actions have been taken against those people behind this scandal? Can he tell us? And if not, when is he going to do something about it?

Mr. Titi: Mr. Speaker, Sir, for the Government to take a legal action, there should be a complainant. I do not know who is complaining. Are you complaining or the owners? We do not have a complainant these days.

(Laughter)

Mr. Speaker: Well, the last question, Prof. Ouma.

Prof. Ouma: Thank you, Mr. Speaker, Sir. This particular instance of the Ukraine milk and the Dutch milk does make one ask: Has that Ministry, or the Ministry of Agriculture, Livestock Development and Marketing or whoever is concerned in the Ministry, made sure that from here they have learnt a lesson and that as a matter of routine, such a thing will not be repeated again to the detriment of the health of this nation?

Mr. Titi: Thank you for that question. Everything has been liberalised and it is a question of conforming with the normal standards. That is good for the Government.

An hon. Member: What is good for the Government?

Mr. Titi: Mr. Speaker, Sir, the exporter is doing business.

Mr. Speaker: Well, for the second time! Mr. Gitau's Question.

Mr. Gitau: Mr. Speaker, Sir, may I first apologise for coming a bit late and I would like to ask my Question now.

Question No.680

TARMACKING OF MARKET ROADS

Mr. Gitau asked the Minister for Local Government:-

(a) what action the Ministry is taking to tarmac Gatundu, Kiganjo and Gatukuyu markets, including the perimeter roads; and,

(b) whether he can also consider the construction of public toilets in these three markets.

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

As at present, Gatundu, Kiganjo and Gatukuyu Markets including the perimeter road have not been included in any capital expenditure programme.

This has been brought about by the ailing financial resources of Kiambu County Council through the surrender of up-coming local authorities within the Kiambu County Council.

With the creation of Thika County Council, Kiambu County Council is in the process of handing over Gatundu and Juja Divisions to the new council. It is only after this that the new council will consider including the above markets in their capital projects programme.

Construction of public toilets in these markets had been included in the current Financial Budget of Kiambu County Council, but will have to be handed over to the new council for implementation as they are now under a new jurisdiction.

Mr. Gitau: Mr. Speaker, Sir, at the time of asking this Question, the markets mentioned were in Kiambu District, but the answer is misleading as this has nothing to do with surrender of land because tarmacking is tarmacking. The question of surrendering land to an up-coming council is misleading. The Assistant Minister does not know what he is talking about. Regarding the handing over of Kiambu---

Mr. Speaker: Order, Mr. Gitau! You are now making a statement.

Mr. Gitau: Mr. Speaker, Sir, I am coming to the question.

Mr. Speaker: Well. Order! You have to ask your questions directly.

Mr. Gitau: Mr. Speaker, Sir, my question is: Will the Assistant Minister tell us when these productive markets are going to be tarmacked because it does not matter whether they are in Kiambu or Thika district? They are under his Ministry and so he should actually know what is going on within his Ministry and tell us when the tarmacking will take place.

Mr. Walji: Mr. Speaker, Sir, I know exactly what I am saying when I talk here about my Ministry. The hon. Member must know that when a new County Council is created, there are divisions made within that Council and all the expenditure is divided between the new & old County Councils. The new County Council will spend the money in tarmacking roads and constructing markets but not the existing Kiambu County Council.

Prof. Ouma: Mr. Speaker, Sir, yesterday there was a question on toilets in Mombasa whereas two or three months ago, there were questions on toilets in Nairobi and today there is a question on toilets in Kiganjo.

As this is a question of environmental mismanagement and environmental health, I am asking the Assistant Minister to tell us: Is there a policy in the Ministry that wherever there is a market, there must be a toilet? What will they do to ensure that a toilet exists for use to ensure that there is no environmental hazard? Is there is a policy on toilets and what do you do to make sure the policy works?

Mr. Walji: Mr. Speaker, Sir, yes, there is always a policy that whenever there are markets built, they must have adjoined toilets with them.

An hon. Member: You are the Assistant Minister for "toilets".

Mr. Ndwiaga: On a point of order, Mr. Speaker, Sir. Is it in order for hon. Gitau to call the hon. Minister, the Minister for "toilets?"

Mr. Speaker: Order, Mr. Ndwiaga! I have told you several times that you are not here as a prefect! This is Parliament. Proceed, Mr. Walji.

Mr. Walji: Mr. Speaker, Sir, I would suggest to the hon. Member that he monitors his Constituency rather than this Parliament. Yes, we have a policy which ensures that when a market is built a toilet is also built for it to facilitate good health.

Prof. Ouma: On a point of order, Speaker, Sir. With a lot of respect, the Assistant Minister has tried to answer the first part of the Question, but not the second part, which is more important. What do they do to ensure that

the policy is implemented?

Mr. Walji: Mr. Speaker, Sir, most of the time we make sure that those toilets are in working condition. I am sure that hon. Members from the particular area can also try to help the Ministry by holding some Harambee and cleaning those toilets.

Mr. Gitau: On a point of order, Mr. Speaker, Sir. My Question asked for the construction of toilets, and I wonder whether it is in order for the Assistant Minister to talk about conducting Harambee and cleaning toilets which do not exist!

Mr. Walji: Mr. Speaker, Sir, it looks as if the hon. Member did not hear the question asked by hon. Ouma Muga. He has asked me very clearly how we go about making sure that existing toilets are in proper condition. So, I was replying to his question.

Mr. Speaker: Next Question.

(Hon. Nyanja walked to the Table holding his wallet in his hand)

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. Saina): On a point of order, Mr. Speaker, Sir. Hon. Nyanja is carrying a wallet in his hand. Does it contain a weapon or money?

(Mr. Nyanja remained standing)

Mr. Speaker: Order, Mr. Nyanja. What are you complaining about, Mr. Saina?

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. Saina): Mr. Speaker, Sir, I am complaining about what hon. Nyanja is carrying in his wallet inside the House!

Mr. Speaker: Mr. Nyanja, what is that you are carrying?

Mr. Nyanja: Mr. Speaker, Sir, I am carrying my wallet!

Mr. Speaker: Can you go and deposit it with the Serjeant-at-Arms?

Mr. Nyanja: Mr. Speaker, Sir, this is money and nothing else.

Mr. Speaker: Mr. Nyanja, just to ensure that it is nothing offensive in the form of a weapon, will you proceed to the Bar and ensure that the Serjeant-at-Arms is satisfied that you are not carrying anything offensive?

(Mr. Nyanja proceeded to the Bar and soon walked back into the House)

Mr. Kamuyu: On a point of order, Mr. Speaker, Sir. If an hon. Member has so much money that it cannot fit in his pockets and he wants to walk around with it how is he supposed to carry it?

Mr. Speaker: Order, Mr. Kamuyu! The only thing we are worried about is an offensive weapon. I do not understand money to be offensive!

Mr. Ndzai's Question.

Question No.697

PAYMENT OF MR. HARE'S DUES

Mr. Mumba, on behalf, of **Mr. Nzai**, asked the Minister for Home Affairs and National Heritage what is delaying payment of Kshs10,147.50 to Mr. Charles Hare (artisan) as indicated in the District Probation Officers Letter dated 26.10.92, P.O. Box 142, Hola-Kibuyu Estate.

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Speaker, Sir, I would like to apologise on behalf of my fellow Minister who is not here. But now I have a reply and I would like to reply to the Question on his behalf.

Mr. Speaker, Sir, I beg to reply.

The project at Hola stopped receiving funds in 1992 and as such there has been no money to pay Mr. Hare. However, as soon as money is available Mr. Hare will be duly paid.

Mr. Mumba: Mr. Speaker, Sir, this is a pending bill since 1992 and it is only for Kshs10,000/-. This is a

poor artisan who is barely making it in business. Why can the Ministry not treat this as a pending bill and pay the Kshs10,000/- immediately?

Mr. Masinde: Mr. Speaker, Sir, Mr. Hare was working on a special project where a certain amount of money had been allocated. Since 1992 this project has received no money at all. However, the Ministry has continued putting in a request for funds in every Budget. The Ministry has also put in a request for money in the current 1995/96 Budget. Should the Ministry get money Mr. Hare is sure to get his share first.

(Mr. Ndzai rose up to ask a question)

Mr. Speaker: Mr. Ndzai, where have you come from? Did you ask Mr. Mumba to ask your Question?

Mr. Ndzai: Mr. Speaker, Sir, I apologise for having come late, but I had told my hon. friend to ask the question on my behalf in case I am late.

Mr. Speaker: Proceed, then.

Mr. Ndzai: Mr. Speaker, Sir, the Ministry actually gave work to this person and he did it, but now he is at home waiting for only the Kshs10,000/-Can the Minister not do something so that this person is paid the Kshs10,000/-?

Mr. Masinde: Mr. Speaker, Sir, the Ministry has not denied the fact that Mr. Hare did a job for which he should be paid. But this House keeps on demanding that money should go where it belongs and be used to do the job it is allotted to do. I have said that since 1992 this project has had no money at all. As soon as we get money for it Mr. Hare will be paid.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, does the Minister not feel embarrassed for a very poor person like this one to have done some work and then he stands here and tells Kenyans that the Government cannot raise Kshs10,000/- to pay him? Can we not even raise the money in here on Harambee basis and give it to him, if the Ministry is so broke?

Mr. Masinde: Mr. Speaker, Sir, I have not said that the Government is unable to raise Kshs10,000/-; all that I have said is that there is no money for this particular project. But if the hon. Member is so sympathetic about the fellow who worked, why can he not pay him and probably submit his claim to the Government so that when we get money for this project we pay him?

Mr. Speaker: Mr. Ndilinge's Question for the second time

Mr. Ndilinge: Mr. Speaker, Sir, I want to first apologise to the House for being late.

Question No.774

EXPANSION OF MORTUARY

Mr. Ndilinge asked the Minister for Health:-

- (a) what plans the Ministry has to renovate Makueni District Hospital Mortuary and enlarge the mortuary at Makindu Sub-District Hospital; and
- (b) whether he can consider the construction of mortuaries at Nunguni, Sultan Hamud and Matiliku Health Centres in Makueni District.

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

(a) Makueni District Hospital has a 12-body mortuary while Makindu Sub-District Hospital has a holding room for four dead bodies. Currently, the Ministry does not have capital funds to renovate Makueni District Hospital mortuary or construct Makindu Sub-District Hospital mortuary. However, the Ministry will consider extending the capacity of Makueni District Hospital mortuary and constructing a mortuary for Makindu Sub-District Hospital as soon as funds are available.

(b) The Government policy is to provide mortuary facilities in referral hospitals and not in Primary Health Centres or dispensaries. Therefore, the Ministry has no plans to construct mortuaries at Nunguni, Sultan Hamud and Matiliku Health Centres in Makueni District. However, we would welcome ideas whereby people can put up these mortuaries in their private capacities to alleviate the problem.

Mr. Wamalwa: On a point of order, Mr. Speaker, Sir. Any answer given by a Minister in this House goes to form part of a record that will subsist for years and years and, therefore, it is bound to be correct in the sense of conveying the right meaning in whatever language it is given, whether it is in English or Swahili. The very first sentence of the Assistant Minister's answer says that the Makueni District Hospital has "a twelve body mortuary". Now, in the English language, that means that the mortuary has 12 bodies. What the Assistant Minister meant to say

was that the mortuary can hold 12 bodies. Would he be kind enough to just say so instead of conveying the wrong meaning?

(Laughter)

Mr. Mutiso: Mr. Speaker, Sir---

Mr. Speaker: Why do you not thank him?

Mr. Mutiso: Mr. Speaker, Sir, I do not agree with him. What I meant is that the mortuary has the capacity to hold 12 bodies, just as he is saying.

Mr. Ndilinge: Mr. Speaker, Sir, when we come to a Question concerning lives of people, it should be handled carefully because I think most of the Ministers are christians. Sometimes, I wonder ---

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to state here that this mortuary business concerns life? I thought it concerns death!

(Laughter)

Mr. Speaker: Well, Mr. Ndilinge, will you prove your point to hon. Dr. Lwali-Oyondi?

Mr. Ndilinge: Mr. Speaker, Sir, it concerns both life and death. I think most of the Ministers are christians and, I think time has come for them to seek permission from God, and tell him that; "God, I am going to answer this Question, but I will cheat".

Mr. Speaker: Order, Mr. Ndilinge! First of all, you must seek my permission to use that word. That permission is refused. Will you withdraw?

Mr. Ndilinge: I do withdraw, Mr. Speaker, Sir.

Mr. Speaker: Very well, proceed.

Mr. Ndilinge: Mr. Speaker, Sir, can the Assistant Minister tell the House whether he is replying according to what is written on the paper or from what he knows about what is happening down at the mortuary?

Mr. Mutiso: Mr. Speaker, Sir, I really do not know what is happening to my friend there. Is he complaining that my answer is different from what he has there? If I am given the facts as they are, why can he not agree with me?

Mr. Ndilinge: Thank you, Mr. Speaker, Sir. I really wonder. The hon. Assistant Minister is one of the Akamba Members of Parliament and he knows very well that all bodies from Makueni and Makindu are taken to Kathiani Hospital mortuary. Most of the Makueni people have been collecting rotten bodies from Makueni and Makindu mortuaries because there are no facilities there.

Please, Mr. Speaker, can the Assistant Minister tell the House whether the Ministry is going to do something because people are collecting rotten bodies from the mortuary?

Hon. Members: Defect! Defect!

Mr. Mutiso: Mr. Speaker, Sir, as I said, the holding capacity in those hospital mortuaries may not be enough to accommodate other people who may die along the road. However, as I said, the Ministry is willing to accept anybody who comes up with the idea of putting up a private mortuary in those areas and wherever the need may arise so as to alleviate the problem in those particular areas.

Mr. Kamuyu: Mr. Speaker, Sir, it is now common knowledge that there are a lot of deaths in Ukambani due to scarcity of food which is persistent until when the time for elections comes. Since there are more people dying than can be accommodated in that mortuary, would I be in order to, once again, call upon the Ministry to either organise a way through which these bodies can be disposed off naturally or train hyenas to eat them?

Mr. Mutiso: Mr. Speaker, Sir, I take strong objection to that abusive language that the hon. Member is using against the Akamba people. First of all, he said that there are a lot of dying people in that area because of maize or something to that effect. I did not hear his statement properly. I would like him to repeat it properly so that I can answer him properly.

Mr. Speaker: Order! Order! We will now go to Questions By Private Notice. Mr. Otieno Karan.

QUESTIONS BY PRIVATE NOTICE

DEATH OF MR. OBONYO

Mr. Karan: Mr. Speaker, Sir, I beg to ask the Minister of State, Office of the President the following

Question by Private Notice:-

(a) Is the Minister aware that Ahero Police, on their normal *chang'aa* patrol on Saturday, 30th September, 1995, went to the home of Mr. William Abuto Obonyo of Kakola Location in Nyando Constituency and shot him dead?

(b) Is he further aware that after the incident, the police shot three other persons at Ahero Market, a few minutes after they had shot Mr. Obonyo?

(c) If the answers to "a" and "b" above are in the affirmative, what action has been taken to ensure that the officers responsible are brought to book?

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

(a) Yes, I am aware of this sad incident. I am aware that on 30th September, 1995, police officers from Ahero Police Station were on their usual patrol duties and came across a home belonging to a Mr. William Abuto Obonyo where there were people drinking *chang'aa*. On seeing the police, these people started running away in different directions. However, Mr. William Abuto Obonyo went into his house, picked up a spear and charged at the policemen. The police shot in the air to scare him off, but Mr. Obonyo still charged towards them. The police, on realising that they were in danger, shot Mr. Obonyo.

(b) What I am aware of is that one man, namely, Thomas Ocharo Ngade was reported to have been hit on the elbow by a stray bullet.

(c) Ahero Inquest Case No.56/95 and 8/95 has been opened for investigations into the death of Mr. Obonyo and the shooting of Mr. Thomas Ngade.

Mr. Karan: Mr. Speaker, Sir, this is a very sad incident and I would only wish that the Minister could live and tell this House the truth. On 30th September, five armed police officers, were in their usual popular *chang'aa* raid. They arrested one person with a bottle of *chang'aa* and led him to Mr. Obonyo's home where they carried a search for *chang'aa*. After failing to get *chang'aa* in Mr. Obonyo's house, two police officers invited Mr. Obonyo for a discussion behind his house. This is where the disagreement arose when these police officers now wanted to plant a bottle of *chang'aa* on Mr. Obonyo. Mr. Obonyo was an old man of 70 years. One of the police officers walked to a certain distance and opened fire on Mr. Obonyo. Mr. Obonyo was shot in the back and so there was no way Mr. Obonyo could have been carrying a spear.

Mr. Speaker: You are now making a statement. Will you put those questions to him.

Mr. Karan: Can the Assistant Minister take this matter seriously and tell this House why the police officer who shot Mr. Obonyo in his residence has not been arrested?

Mr. Manga: Mr. Speaker, Sir, I have said before that this is a very serious matter and that the police has opened an inquest file No. 56/95 and 8/95 to investigate this and the truth will come out.

Mr. Orengo: Mr. Speaker, Sir, first of all there is no law in this land that allows the police to shoot to kill. Secondly, this gentleman who was 70 years old was shot in the back. I was able to go to the home of Mr. Obonyo shortly after the incident but what worries me is the manner in which the police is engaged in a cover-up. They already know the officer who shot Mr. Obonyo. Why is the police opening an inquest file when the cause of death is known, the police officer who shot him is known and it is also known in law that he used excessive force? He did not need to shoot Mr. Obonyo dead to effect his arrest.

Mr. Manga: Mr. Speaker, Sir, hon. Orengo is a very well known lawyer and he knows very well that getting the man who shot Mr. Obonyo alone is not enough but also to establish the circumstances under which he killed the person. So this is what is being investigated.

Mr. Ojode: Thank you, Mr. Speaker, Sir. This is a very common practice particularly in Opposition zones. In Ndhiwa, we have the same problem. Those who are being shot are those who cannot produce Kitu Kidogo (TKK); bribery. Could the Assistant Minister come up and charge the person who murdered Mr. Obonyo aged 70 years? The same thing is happening in Nyatike and Rongo where the hon. Assistant Minister comes from. It is high time the Assistant Minister made a statement on this unwanted shooting. Can you not arrest the assailant and take him to court?

Mr. Manga: Mr. Speaker, Sir, that is why the inquest file has been opened and if somebody is found to have shot this man without any reason, he will be charged. I can assure you of that.

Mr. Akumu: Mr. Speaker, Sir, is the Assistant Minister aware that there was a similar incident at Pap Onditi in Nyakach? I approached the Commissioner of Police and I was promised a quick look into the matter. It is now two months since then and the police officer is known and the incident was reported just as hon. Orengo has explained but so far no arrest has been made. Therefore, the Ministry is covering up these policemen who are shooting people.

Mr. Manga: Mr. Speaker, Sir, I am not aware that the police are covering up the incident.

Mr. Speaker: Next Question!

Mr. Karan: Mr. Speaker, please give me another chance to ask another supplementary question.

(Laughter)

Mr. Speaker: I have not yet but I will.

Mr. Karan: Thank you, Mr. Speaker, Sir.

Mr. Speaker, Sir, in the Assistant Minister's reply to part "b" of my Question, he said Mr. Ngade was sot by stray bullets. Mr. Ngade was at Ahero Trading Centre which is a distance from Mr. Obonyo's home. It is not only Mr. Ngade who was shot. Mr. Loice Otieno Awori who is a teacher at Nyagande Primary School was also shot. Mr. Polycap Odhiambo who is a teacher at Kosinda Primary School was also shot. How did these stray bullets come for Mr. Obonyo's home which is a distance and---

Mr. Mumba: On a point of order, Mr. Speaker, Sir. I am not sure whether he is in order to say "sot" when he means "shot"? Is it "sot" or "shot"?

Mr. Speaker: Well, I think at this stage we should not rise on those points of order. I ruled last time that we must accept the fact that we have a variation of pronunciation across the country including where you come from. Proceed!

Mr. Karan: Can the Assistant Minister tell this House why his police officers decided to open fire at Ahero Trading Centre which is quite a distance from Mr. Obonyo's home?

Mr. Manga: Mr. Speaker, Sir, I will explain. On the same day, when the police were transporting the dead body of Mr. Obonyo to Kisumu Mortuary, members of the public who were gathered at Ahero Market became rowdy and started pelting the police with stones and the police shot in the air to scare them off. In the process, a stray bullet hit this gentleman.

CANCELLATION OF FARMERS CONFERENCE

Mr. Murungi: Mr. Speaker, Sir, I beg to ask the Minister for Agriculture, Livestock Development and Marketing the following Question by Private Notice:-

(a) Why did the Managing Director of Kenya Tea Development Authority cancel this year's annual Tea Growers' Conference, which was to be held in Nairobi on 5th October, 1995?

(b) Is the Minister aware that the Tea Growers' Conference has been held annually for the last thirty (30) years shortly before the payment of the bonus?

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

There was no formal meeting that had been convened for Tea Growers on the 5th October, 1995. However, consequent to the amendment of the Legal Notice No. 20 of the KTDA Order 1964 that took effect in May, 1994, provision has now been made for various elected committees from the Buying Centres, Tea Base Committee, Zonal Tea Committees and KTDA National Board to hold regular scheduled meetings. It is expected that with the ongoing restructuring programme, the tea grower representatives will make use of these fora to deliberate on issues related to the small-scale industry.

(b) I am aware that the Tea Growers Conference has previously taken place before or after the disbursement of the second payment but as explained above, other fora have been afforded under the restructured system. However, a conference date will soon be announced once the necessary arrangements have been finalised.

Mr. Murungi: Mr. Speaker, Sir, we in COTEPA have repeatedly said that KTDA is broke and it is on the verge of collapse. This is the first time in the history of KTDA that KTDA has been unable to hold the Farmers Conference because of lack of funds. Can the Assistant Minister confirm or deny that the reason why the KTDA management does not want the farmers from all over the country to come together in an annual Growers Conference is because the tea bonus for this year is too low? In fact in Kisii it is said to be two shillings and in the East of Mt. Kenya, it is supposed to be between seven and eight shillings. Is it now true that the reason why this Conference has been postponed is because the KTDA management does not want farmers to come to ask them embarrassing questions as to why the tea bonus for this year is going to be too low?

Mr. Maundu: Mr. Speaker, Sir, there are two reasons. There has been an amendment that has created fora for tea farmers from all over the country, to meet and discuss tea matters within those particular fora. Secondly, KTDA is not broke. What is happening is that the international prices and marketing of tea have not been favourable and KDTA, in its endeavour to give incentives to the farmers, has decided to cut down expenses so that the calculation of the bonus that will be given to farmers will be very reasonable and a very important incentive.

Mr. Muite: Could the Assistant Minister perhaps, care to comment on how is it that now that hon. Nyachae is in charge of the Ministry of Agriculture, KTDA is on the verge of collapsing?

Mr. Maundu: Mr. Speaker, Sir, KTDA is not on the verge of collapse. KTDA is being restructured properly to cater for the needs of farmers countrywide.

Mr. Mwiraria: Mr. Speaker, Sir, since it has become customary for KTDA to release the second payments or what has come to be known as "Bonus" at the end of October and we know as of now that KTDA has not released the funds which would have been released for payment of bonus to the various factories, could the Assistant Minister who is denying that KTDA has financial problems, give us an explanation for this delay in releasing the funds for payment to farmers?

Mr. Maundu: Mr. Speaker, Sir, there are two reasons. Since we are in the process of restructuring, we have created fora for farmers countrywide to discuss matters in addition to their bonus. As for this one about the bonus to the farmers, an audit is being carried out intensively and we can promise farmers throughout the country that payments will be made before the end of November.

Mr. Obwocha: Mr. Speaker, Sir, assuming that what the Assistant Minister is saying is correct, how much money is KTDA going to save from the cancellation of this annual growers conference?

Mr. Maundu: Mr. Speaker, Sir, I cannot give the actual figure now but as you know, farmers coming from all over from the country is a big expense. If the Member is interested in that amount, I think I should be able to provide it to the House.

Mr. P.N. Ndwiga: Mr. Speaker, Sir, the Assistant Minister knows very well why the bonus for this year is that low. KTDA has gone ahead and bought Rahimtulla Trust Building at the cost of Kshs210 million without the authority of the farmers. That is one reason why KTDA did not hold the Annual General Meeting because they feared that farmers would ask embarrassing questions about misuse of their money by KTDA. We have asked the Minister and the Ministry to sack that Managing Director but that has not been done. Would the Assistant Minister now confirm that the reason why the bonus for this year is that low is because they have used farmers' money without authority to buy Rahimtulla Trust Building and used the balance to buy a house in Lavington for the Managing Director?

Mr. Maundu: Mr. Speaker, Sir, the bonus for this year, if it is going to be any different from previous years, is not because there has been a misuse of the KTDA's funds; it will be basically because of the adverse trading results which have been experienced within this year because of the prices prevailing within the world market.

Mr. Mak'Onyango: On a point of order, Mr. Speaker, Sir. The Assistant Minister has been asked a specific question, that the problem here is because this farmers organisation has spent the money to buy buildings without the farmers' authority. Could the Assistant Minister answer this particular question?

Mr. Maundu: Mr. Speaker, Sir, I think there is an assumption here which must be dispelled. The bonus for this year has not been declared and we cannot say for any reason that this bonus is low. If for any reason, and for speculative purposes, it is low, it is because the world market prices have been very unpredictable.

Mr. Murungi: Mr. Speaker, since it is quite clear that the problem in KTDA is the Managing Director; Mr. E G Karanja, can the Assistant Minister now promise this House that they are going to sack him so that KTDA survives?

Mr. Maundu: I think for the sake of clarity, the question here is basically about the bonus, but if, let me say this, if Mr. Karanja has committed any offence that is known to the law or which the Ministry considers that it infringes or puts KTDA in jeopardy, the Ministry will consider the matter. So far, nothing of that kind has happened.

Mr. Speaker: Next Order.

PERSONAL STATEMENT

NUMBER OF PEOPLE KILLED IN KIBERA

Mr. Raila: Mr. Speaker, Sir, yesterday I promised to bring a list of the seven people who were killed or who died in Kibera. Now the list is as follows:- 1. Jennifer Akinyi Oloo - gunshot 2. Michael Onyoro Muresi - gunshot 3. Francis Odhiambo Ougo - knifed 4. Juma Gor - knifed 5. Marshal Onyango, a University student - gunshot 6. Peter Omondi - gunshot

There is one Luyha lady whose name has been withheld awaiting to notify the next-of-kin.

I will lay this list on the Table which shows the mortuaries where the bodies are lying right now. I do not want to continue except to say that all Members of this House should abide by the Standing Orders. They should be respected. We should not carry out debate matters before this House, outside Parliament irrespective of your station as

a Member of this House.

Thank you.

(Mr. Raila laid the list on the Table)

Mr. Speaker: Next Order!

BILL

Second Reading

THE CHILDREN BILL

*(The Minister for Home Affairs and
National Heritage on 20.7.95)*

(Resumption of Debate interrupted on 12.10.95)

Mr. Speaker: Dr. Kituyi was on the Floor.

Dr. Kituyi: Thank you, Mr. Speaker, Sir.

At the rise of House last Thursday, I had just started making the premises for my contribution on this important Bill. I will just recap on that before I proceed. According to the summary of the memorandum of objects and reasons, this Bill sets out to do three things. First, is to protect the Kenyan child, the second is to domesticate the provisions of the conventions on the rights of the child adopted by the General Assembly of the UN and the third, is that this Bill sets out to strengthen regimes for guardianship and adoption of children in this country.

Mr. Speaker, Sir, we should be able to assess where this proposed piece of legislation---

(Loud Consultations)

Mr. Speaker, Sir, could you protect me from consultations--

Mr. Speaker: Order! Every hon. Member is entitled to be heard in this House. Those who wish to consult, do so in a manner that will not disrupt the proceedings of this House and always do so while you are seated. Proceed.

Dr. Kituyi: Thank you, Mr. Speaker, Sir.

As I said, I would try to do these three things; (i) I will attempt to explain what I consider to be the urgent need for protecting children in this country and then look at the contents of this Bill and see to what extent it is addressing those concerns (ii) In a few words I will give a summary of the Convention on the rights of the child adopted by the UN on 20th November, 1989, and relate that to the provisions given in this legislation which is supposed to be catering for it; and, (iii) I will attempt to now look at the specific provisions in the Bill and how they relate to the reality in this country.

Mr. Speaker, Sir, in the course of my contribution to another Motion yesterday, I did go into some substantial details about a matter that I consider to be important as the starting point in dealing with this Bill before the House. We should ask ourselves: Who are the problem children in Kenya today? Who are the priority children in this country that need attention through legislation, and what kind of legislation is necessary to deal with those identified problems for the children?

It is my contention that outside the problems of poverty and other social dislocations that give raise to children like street children and other especially disadvantaged children, one of the most serious problem that we have to deal with when we are conceiving of legislation today is the raising phenomenon of AIDS orphans. Suffice it to say, as I said yesterday, this is going to be the largest growing category of orphans or vulnerable children in this country. Any legislation that is supposed to deal with vulnerable children should be modelled in such way that it is going to address itself on how to deal with the growing phenomenon of AIDS orphans.

Mr. Speaker, Sir, I say this for three reasons; that if we acknowledge the reality that a substantial number of new entrants into the category of street children in this country are AIDS orphans and other destitutes, a method of addressing whatever problems associated with such orphans exclude exploring what the immediate family can do.

Mr. Speaker, Sir, before I go on to discuss the Bill, I want to state that there is something unique about AIDS orphans; this is the social stigma, in many cases when a man who has AIDS dies before his wife dies, in many areas in

rural Kenya the woman is ostracised as if she is the one who infected her husband. What it leads to is the removal of the woman with her children from the matrimonial home to her parental home, which has the effect that the children she is taking with her lose their inheritance rights; the property that is left behind by their father. Therefore, when the mother dies, the AIDS orphans are not deprived only of their parents, but they are also deprived of the residual inheritance rights that they would otherwise have enjoyed as normal orphans.

Mr. Speaker, Sir, I wish now to turn to another category of disadvantaged children that should be addressed in any comprehensive legislation to deal with rights of street children. It is a pity that hon. Members of Parliament in this country never or very rarely, if at all, have the privilege to know the reality of what goes on about street children in this country. Many of us might have seen them once in a while sniffing glue in the streets. Many of us may think of them as purse snatchers in the streets. However, the reality of those children's lives is much more complex than even seems to be comprehended by those who have drafted this Bill. I say that because we are dealing with the situation where we want a legislation that creates an enabling environment for these children to have a livelihood. However, we will be looking at a piece of legislation which describes how to contain children as a menace. This is a fundamental question that I am going to bring out. My final submission on this Bill is going to be that if you look at the premises of the need to protect the rights of the child or you look at the UN Convention on how to facilitate the self-realisation of the children and then you look at the children's Bill that has been brought before this House by the Attorney-General of Kenya, you will see a major difference, that while its intention is to facilitate realisation of the basic potential in the child, this legislation is on how to punish juvenile delinquency.

Mr. Speaker, Sir, I wish now to turn just in a brief way to the objectives of this Bill. This is the second objective which is written expressly under section 3 (b) The objective of this Act include (b) to implement the provisions of the UN Conventions on the rights of child, 1989.

What does the Convention say, Mr. Speaker, Sir? I just want to read three parts which I think bring out the main thing: (i) On page 3 of the UN Convention; the article says as follows:

States which are party to this Convention shall respect the responsibilities, rights and duties of parents or where applicable the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child.

Mr. Speaker, Sir, the next issue that I would like to mention is on page 6 of the Convention of the child at the bottom of article 21 - a summary of this section which is on the right hand side, reads as follows: The State is obliged to provide special protection for a child deprived of the family environment and to ensure that appropriate alternative family care or institution placement is available in such cases and efforts to meet these obligations shall pay due regard to the child's cultural background.

Mr. Speaker, Sir, I mentioned these pieces of legislation for two key reasons. The first one is that the interpretation of protection of the child should not be divorced from the social network in which the child grows. I am going to argue that one of the strange weakness of this Bill is that it is providing for certain forms of appointing guardians which is contradictory to any known African culture in this country.

Mr. Speaker, Sir, having said that, I now wish turn to the Bill and make a few remarks on specific parts of it and then tie up with my own views about what the main weaknesses of this Bill are. It is very good to start with the fact that for the first time there is an attempt to bring together the different pits of legislation on the child into a comprehensive Bill that is supposed to be guided by the spirit of what is good for the child in this country.

Already somethings are difficult because the political culture in Kenya is not conducive to the implementation of provisions in the UN's Convention on the rights of the child. For example, the Convention states that the child has the right to express his or her views, obtain information, make ideas or information known regardless of volunteers. We live in a country where an adult is not capable of doing this. The custodians of the interest of the child do not have the freedom to express opinions that they have. We live in a country where expressing thoughts verbally or in writing is criminalised because it is not popular with the powers that be.

If the leaders of the society are walking perpetually under curtailed liberties, how can they possibly facilitate that the children exercise the freedom of expression, of thought and of opinion? First, we must remove the log in our eye before we remove the speck in the eye of the child. If we want to create a society where children can mature intellectually with the freedom of expression and of holding views without hindrance, we must show that our society has a democratic space within which adults can exercise those rights before we start even thinking about how to facilitate those rights for our children.

Mr. Speaker Sir, now to the specifics. Under Section 7 of this Bill, there is a very positive thing. It has been very painful that many cases involving children have been held in open courts. And many times things that cause a stigma and a lot of pain and hurt to the children are brought out in open courts. One is thinking of cases of child sexual abuse or defilement which sometimes unfortunately and painfully are reported in the media which stigmatises children for the rest of their lives as if they have not been pained enough by being victims of such defilement and

abuse. So, I think, it is a very important step; the provision of part 7 prohibiting the publication of proceedings in a children's court regarding matters of children is one of the positive things that are contained in the Bill as presented. Secondly, Mr. Speaker Sir, under Section 8; there is this nice provision that when children are to be held in custody, they have to be separated from adults. This is one of the major weaknesses of the Bill as presented. There are very nice expressions of intent that are contained in the Bill without the provision of mechanisms that will ensure their implementation. Since in parts of this Bill there are various variations of under what ages things might be done, it is allowed that certain children can be held in custody, in remand homes for adults. Until and unless, there is a description that certain cells in those remand homes or prisons are going to be set aside for children, it is ridiculous for us to pass legislation which says children would not be held together with adults and then we also say that children can be held in custody in places which hold adults, and we have not created the mechanism for implementation of the first part. This is important partly because very many of us know the reality of how much juveniles held with radical prisoners, criminals have been sexually abused while they are in custody; either as remand prisoners or as convicts. Mr. Speaker, Sir, it will be important that in the rules and regulations before this Bill becomes an Act of Parliament, that Government moves to start a mechanism of separating whichever sections of custodial sentence or whichever institutions are going to hold both children and adult prisoners, particularly in remand prison to have a specific area where children are not going to be held together with adults.

Mr. Speaker Sir, similarly the ambiguity of provisions without details of how they are to be implemented can be found in Section 16 where it says:

"Proper provision should be made for the child's maintenance, education and training."

Mr. Speaker Sir, while one can understand that this can be done in probation schools, I do not know what measures the Government is putting in place to ensure that children who under the provisions of this Bill and who are held in ordinary remand homes and prisons will realise their right to education and training. We know that prisons in this country are not holiday centres. We know that there has not been any attempt to move into correcting that image. Until and unless, there is a clear description and definition of the area where children are held that facilities for their education and training are going to be put in place, this is an exercise in self delusion; that we are passing nice sounding words without the institutional machinery and express intention of making sure that they are implemented.

If I move on Mr. Speaker Sir, there is a tricky thing on this matter of fines to parents. Under Section 21, some of the crimes committed by children can lead to the punishment of their parents. Under the definition of this Bill, some of the crimes under which children can be brought to this children's court is to be found on the street of Nairobi begging. Some of the children are on the street begging because their parents cannot afford to feed them. Sometimes the parents themselves are beggars. If it is seen that it is a crime for a parent to have had a child on the street begging, and the punishment for the parent is a fine, or confinement, how do we expect that the beggar parent is going to raise a fine and promise that the child will not be a beggar again? I think, it is a major misunderstanding of the social dynamics that lead to the presence of beggars and street urchins, in our streets, in our towns, in our slums that lead us to into thinking that there is something residually criminal about parents which is making their children become beggars in the streets. Mr. Speaker, Sir, unless, we as a society are ready to address our own failures, principally the crimes of economic disparity; the continued praising of the god of liberalisation, without a realization that one of the main side effects and the consequence of liberalization is the creation of a large under-class without hope, without opportunity who are victims of the so called development. Unless, we are ready to confront that as a reality, Mr. Speaker, Sir, it is ridiculous for us to proceed and assume that through punitive measures we are going to be able to deal with the problem of street children and children beggars.

Mr. Speaker Sir, Section 23 of this Bill has a very interesting provision. It says this:-

"Without prejudice to the generality of sub-section one, the National Council of Children Services will determine priorities in the field of child welfare in relation to the socio-economic policies of the Government."

Mr. Speaker Sir, since when has a small set of persons representing top civil servants in the Government had the capacity to decide what are the welfare priorities of children? Mr. Speaker, Sir, we have a problem that the driving force of public policy in this country is not informed by the reality of the under-class; that a lot of the children who are victims of bad policies end up being the bad children on the streets. And yet we proceed from there to put a committee of top civil servants who by the conditions of their work do not relate to street children; you will have to appreciate that the Permanent Secretaries who drive air conditioned Mercedes Benz cars never have an opportunity to go down Mathare Valley or Korogocho; so they would not be able to see the living conditions of those children. And today, Mr. Speaker, Sir, they will sit together as a council and decide what are the welfare needs of these children.

Mr. Speaker, Sir, I think, this is touching on what I consider again, the principal weakness of this legislation. The problem of children in this country—

QUORUM

Mr. Moiben: On a point of order, Mr. Speaker Sir. There is no quorum.

Mr. Speaker: I am informed that it is true that we have no quorum. Ring the Bell.

(The Division Bell was rung)

Mr. Speaker: Order! order! now we have a quorum. Proceed Dr. Kituyi.

Dr. Kituyi: Thank you Mr. Speaker, Sir. I will try to be very brief to satisfy my hon. colleagues who are fond of voting rather than talking. I think it is very important that this country attempts to adopt the recommendations from the convention of the Rights of the Child. It is very important that we, as leaders of this country create an enabling legislative environment for the rights of the child to be effected. But such legislation cannot expressly start from the first page after definition; we are dealing with courts, probation and discipline. What this piece of legislation does is two critical things. It is to define that the problem of the child is the problem of criminality. It is to define that what we need to do for the children is to find out a fair way of punishing them; because the widest details in this Bill are the details on how children are to be brought to court, what kind of courts, who is the chairman of the children's courts, what are the conditions in terms of management of probation homes and what the duties of local authorities are on the punishing of children. Two of the three defined express reasons why the legislation was brought here was about normal children. It was about children as citizens who are supposed to grow into responsible adults. It was not legislation about how to punish errant children. Then the question emerges: If the principle was how to create and nurture an environment for the full self-realisation of the individuality of the child, where is the substance of such well expressed intentions in this Bill? This Bill is dealing with the third and supposedly the smallest part of the concerns expressed in the United Nations Convention on the Rights of the Child.

Granted that we should go ahead and pass major sections of this Bill, we should stop pretending that by passing this into law, we have dealt with the problems of the African child, the Kenyan child and that we have removed beggars and street children from the streets of Nairobi. The Most critical areas of intervention in the welfare of children are two-fold. One, is to understand and address the socio-economic conditions, the negative consequences of free marketeering which render the most vulnerable helpless and manufacture street children. Two, is to strengthen the social caution that has traditionally been absorbing and nurturing children. There are words in this Bill that have been drafted word by word from the Convention about protecting and helping the family and the extended family to carry out its duty. But this is in the preamble of intentions. If you go to the substantive legislation, there is nothing whatsoever in this Bill which shows that the drafters understand the challenges and the complexities of the family and that the Government is intending through this legislation to assist the family. On the contrary, we are creating problems that I am sure my colleague hon. Shikuku will find really outrageous. I will just give one example of that. Section 149 of the Bill says this:

"On the death of the father of the child, the mother, if surviving shall, subject to the provisions of this Act, be guardian of the child either alone or jointly with any guardian appointed by the father."

Part two says:

"On the death of the mother of a child the father if surviving shall, subject to the provisions of this act be guardian of the child either alone or jointly with any guardian appointed by the mother."

Let us look at that bit. Put yourself in a rural African setting. Imagine an African man called Sunkuli in a village, who lives peacefully with his wife and they have a child, but he has been having residual suspicion as to why this child looks like Masinde his neighbour. If when Mr. Sunkuli's wife is sick, she writes in her will that she wants Mr. Masinde to be a joint custodian of their child with her husband when she dies, then she dies, according to Section 149 (2) of this Bill, one Masinde will come to the home of one Sunkuli and say: "Both of us are custodians of this child because your wife wished that when she is dead, I am also a custodian".

The Assistant Minister, Office of the President (Mr. ole Sunkuli): On a point of order. Is the Hon. Member in order to mislead the House that, that is in fact, the contents of section 149, when section 149 says "on the death of the mother of a child---"

Mr. Speaker: Actually he is right, Mr. Sunkuli, do not belabour the point; he is right.

Dr. Kituyi: Mr. Speaker, I am flattered the Chair is "learned". I am not saying, this is the only contradiction in this Bill, but I am saying, yes, it is good that we have clear legislation to protect the child in the event of the death of one or both the parents. But, we have also to be sensitive to the objective realities of how this can be implemented, it can make sense in certain contexts, like urban setting, but in a context where there are such residual social claims on the child, like clan claims and extended family claims, this may be difficult to implement. The notion

of the dying parents, choosing a co-guardian who is then going to be recognized in law as guardian of the of the child, in conflict with the known cultural context of inheritance and responsibility in the family where the child lives, is not only going to be difficult to implement, but, it is directly contradictory to the spirit of the convention which talks about sensitivity to the cultural context in which this child is being adopted.

One of the brightest things about this piece of legislation is that, for the first time, Kenya is now attempting to have a clear and well-defined regime of regulations about adoption of children. For a long time, there has been a lot of contradictions. In fact, many persons who were interested in becoming even just guardians or adopting Kenyan children, have ended up in a mass of confusion because of the absence of a clear body of legislation on adoption. It is very good and indeed, it is, fairly close to international standards of what is done in other countries. But, I think it is important that we also mention here that, while it may have looked negative that this country did not have clear regimes of rules on adoption, it has also served us relatively well in many regards.

We have seen societies where the ease of adoption of children has been used as an excuse for international criminals to purchase children for the purposes of extracting and selling organs. It is very important that, as a society, we should also look at this as a reality, that, while we want to create an enabling environment for bona fide adopting parents to help secure the livelihood of children, we should not, in that method, create easy conditions under which the "mafia of biological organs" are going to exploit our children in the name of adoption. This is a major plight today in Brazil and other countries in Latin America, where organs are removed from children for selling in the lucrative Northern market under the disguise that, it is for adoption.

Like I said, I intended to make very modest remarks, but, I cannot tire to come back to my principal request that, this House discusses, and even adopts broadly major sections of this piece of legislation as satisfying broadly the third of the three objectives that were set out as justifying the Bill. Meaning that, we are having a clear regime of establishing a children's court, and we are defining the methods in which it is going to be run, although the institutional mechanism for the implementing part of it is not evolving sufficiently.

Secondly, that, we are now having clear rules to be followed in matters of guardianship and adoption. But, the two principal reasons, in fact, the two cardinal reasons why a Bill on children should have been brought to this House, which are mentioned in the preamble to the Bill have been totally left out. These are: The protection of the interests of the child and creation of an environment for the self realization of the child, and the domestication of the spirit and content of the United Nations Convention on the Rights of the child.

With those few remarks, I wish to support the Bill.

Mr. G.G. Kariuki: Mr. Speaker, first of all, I wish to thank you very much for giving me an opportunity to say a few words on this particular Bill, which I think is very, very important if we have to do our business in this House the way we are expected to, by the public. This Bill, is important as someone has just stated. Dr. Kituyi has for the first time talked constructively about a Bill of this nature. He was very constructive indeed, because, when he looked at this Bill, maybe it is the same as most of us have seen.

[Mr. Speaker left the Chair]

*[The Temporary Deputy Speaker
(Dr. Ombaka) took the Chair]*

But, this Bill is lacking in so many things, and I do not see the urgency of passing it the way it is. This is because, even if it is providing security for children in terms of law, it has not done anything about providing for children who are not able, or who are just living on the streets. What I think is more important here, is to ask ourselves what should come first. Is it to bring a legislation which is just going to manage people individually, but, not to manage their welfare in terms of income, or in terms of satisfying the needy children who are now roaming on the streets? My own view would have been that, we do need to follow what the UN have said. This is a problem which does not need the UN, it does not need any group of people to think about it. This Parliament can decide which direction to take in order to protect our children.

In this country, the way things are going, we are perpetuating or continuing to create two kinds of people. In this country, we have people who are extremely poor and live below the poverty line. This people are producing more kids than even the "haves". Now, I think our duty first, would have been, to find a way to help these children, maybe, through this council which is being proposed to be created. There should have been a committee of some kind to study the future of kids in this country and then to come up with proposals on how that situation would be managed in future. But, now, it seems to me, there was some rush in creating a council which should be dealing with this problem. The council will be composed of nine Permanent Secretaries and nine Non-Governmental people to be nominated by the Non-governmental organizations. Now it is going to be a

committee of about 18 people, some of them are very busy people, others may be, will be interested in doing this work.

I think what is important here, is not the Government to control this kind of a council. It should be controlled privately so that, it can also attract money from donors who now think that, only private organizations can do something to support the public. Now, Mr. Temporary Deputy Speaker, looking at this Bill, there is a lot which has been left out, considering that, about the majority of the population of this country and indeed in the whole of Africa is made up of people below 25 years of age. And these people consist about 85 per cent of the total population of the world, because 85 per cent are young people. Most children are produced in the developing countries, therefore, instead of us providing a situation for politicking, we should have been concerned very seriously with what we can do to save the situation. First, save the situation by giving the youth every kind of education, because there is no point of pretending that giving the youth sex education, is a crime. It is only old people who try to pretend that young people do not know what is happening. They are even more informed because of the modern technology. They are more informed than actually the parents and, therefore, they should be given an opportunity to practice openly and do this kind of study and get advice from the parents and from schools, for that matter.

Now, these children who are being born by the majority of poor Kenyans, are going to have a very serious impact in a few years to come because the economy cannot sustain the number of the children who are being born. The economy is chasing the population while it should have been the other way round. That is the biggest problem we have at present.

The greatest challenge, Mr. Temporary Deputy Speaker, which is ahead of us in dealing with this matter, first of all, is sexual health which has to be taught in schools and everywhere else. Family life education is a matter which needs to be taken seriously, and access to information and counselling is also another point that we need to consider very seriously. Gender inequality is a matter that needs to be addressed even among, the parking boys and the parking girls. Even in the streets, you find the girls being chased away with nobody to protect them, not even the police. How can we pretend that we are sitting here to talk about how to adopt a child, while the children are so many in the streets? If there is anyone who wants to adopt a child he does not need any law, we do not need a lawyer here. If you are serious, and you want to adopt a child, I think one should be free to adopt any child he wants to adopt, because they are far too many in the streets.

Now, Mr. Temporary Deputy Speaker, if we can start by trying to find out or have a resolution on how we are going to deal with the street children, then we will have a beginning. I do not know which people are in the drafting section of Attorney-General's Chambers, maybe a number of whites have come back. This Bill is totally foreign, and I think time has come when we need to have things the African way, I do not think there is anything about adopting a child in the African society.

Mr. Muite: On a point of information. Mr. Temporary Deputy Speaker, I would like to inform the hon. Member, when he describes this Bill as totally foreign, he is wrong. This Bill was preceded by a commission presided over by Kenyans, and many Kenyans presented their views, so there is nothing foreign about this Bill. This is home-grown, and fully Kenyan.

Mr. G.G. Kariuki: Mr. Temporary Deputy Speaker, I agree with what the hon. Member is saying. Maybe the drafting of it was not presided over by a white person, but there are people who are so black like the hon. Member, and yet they think like foreigners. And you do not have to be brown to think like foreigner. I agree with what the hon. Member is saying, but it does not mean that whatever is done by Kenyans is fully Kenyan. Even in our own legal and education systems, everything is set on foreign ideas and philosophy, and that is a fact, because even today, whom are we serving in our education system? We are serving the foreign ideas. Even in our political development, whom are we serving? Are we serving the ordinary person? When we want to get some support, how do we get it. We have got a habit of using Kenyans because we know their awareness is low, and we use them for our own political achievement. And that is how we were taught by foreigners who ruled this country for over 70 years.

So, Mr. Temporary Deputy Speaker, when I am saying that the Bill is totally foreign, it is short of many things, which ought to have been included. In fact, it is coming as a second thing, first of all, you should have something before you draft this Bill. What are we going to do with the street children and the children who are born out of wedlock? What are we going to do with the poor people who are responsible for producing these kids? These are the things that we need to ask ourselves. Why do we want just to join the club of UN, by pretending that we can afford to sustain or control our birth rates, just because we are members of the UN? I think time has come when we have to decide for ourselves what is good for us. We must cater for the needs of our population that is growing so fast, maybe in the next decade, the year two thousand and beyond. I do not think there will be any time that the population will have enough food anymore, unless this situation is addressed now. And that is what I am saying that there are many things which ought to have been said and done before we enact into this law.

The big question which remains to be answered, Mr. Temporary Deputy Speaker, is how can this nation tap the potential inherent in that useful population? This is what we need to be asking ourselves, but today, with the

AIDS problem and the lack of money which causes the economic problems, we are in for trouble. And that is why I insist that the National Council of Children Services will not really do anything very important. It has been put there for the happiness of the lawyers and judges who want to practice because when something comes in front of them, they have to have some safeguards. Here we are just looking for safeguards, to safeguard the lawyer, the judge, a person who is affected as a victim, when they come in front of a magistrate.

It means we are just creating jobs where they are not supposed to be created. For the lawyers particularly when they want to do something. Now looking at the Memorandum of Objects and Reasons, starting from clauses (22) to (26) which talk about the functions and composition of the said Council, I have already said that personally I believe a lot has been left out. This Council should be fully occupied or to be more or less a total Government body. To me it does not make a lot of sense. We should shift from this kind of tradition that when we want to form an organisation, we must make it a Government body, we must bring in all the Permanent Secretaries even those who are not required in terms of services. Here you need the Permanent Secretary in the Ministry of Home Affairs and in the Ministry of Finance and also the Permanent Secretary in the Ministry of Social Services and that is it. These three are enough we do not have to bring in all the nine Permanent Secretaries. I hope the Minister will look at it. Now we do not care about the numbers of people who should be in a place but we need people who can actually contribute and who have got something to offer but not to bring in a Permanent Secretary who is just politically appointed and not because of quality or ability.

Mr. Temporary Deputy Speaker, Sir, I have no quarrel with any particular Permanent Secretary but I think we have to be serious now and take our things seriously. We need to provide the youth with good education and training but the question is "Are we capable of doing that given the political environment that we are in?" This is so because today instead of this House addressing itself to the growing number of school leavers and unemployed youth, we are pre-occupied with what will happen in 1997. I think we are doing a disservice to this nation because this kind of debate is what we need to be having in this House; about what to do with the children who are loitering in the streets with no jobs or food. That is why they cannot escape from these AIDS problem because they have to get involved when they are looking for jobs and food. They do not have anything to offer except themselves and that is what is mainly attracting most tourists to this country. They want to come and mess up with African kids and this Bill does not address itself to these kind of problems. Let us decide that time has come when myself, the hon. Member for Kikuyu have to donate 50 per cent of our salaries for the good of the children of this nation. We should all try to do that instead of just talking.

Mr. Temporary Deputy Speaker, Sir, after passing this Bill, we will be saying in 1997 that "We have formed a National Council to deal with children and their problems", but have we formed a Council to give these children jobs?, Have we formed a Council to support these children medically? For what reason have we formed this very special Council? I think time has come when we should try to change our political concept and also change the political culture of this country by looking forward and realising that there will be Presidents years to come, Presidents will come and go, Members of Parliament will come and go but what will not go is what we have left behind if it is for the good of this nation. But we are overtaken by emotional desires that we have to become President, we have to win the next general election. After winning, then what?

Mr. Temporary Deputy Speaker, Sir, it is quite embarrassing when you look at the behaviour of Kenyan politicians. They are not addressing themselves to problems that are facing this nation. I agree with some one who said the Opposition is just like a squirrel and a farmer. It is a game of a squirrel and a farmer. Squirrels always go and uproot what the farmer has planted and that is the job of the opposition all over the world. There is no Government that has satisfied the opposition in the whole world. I do not know of any because these are two different views and therefore what we need to do from this side, is to accept that the Opposition will be here permanently.

Mr. Ruhii: Is the hon. Member in order to say that the opposition uproots what has been sowed? As far as I know, KANU has sowed nothing in this country other than corruption and we have not uprooted it.

Mr. Temporary Deputy Speaker: (Dr. Ombaka): That is not a point of order. That is a point of view you are stating and the hon. Member is perfectly right to state his opinion. You can contradict him when you have a chance.

Mr. G.G. Kariuki: Mr. Temporary Deputy Speaker, Sir, this is just the kind of example I have just been stating. He is a totally irrelevant person in terms of understanding. He does not understand anything because if we---

Mr. Temporary Deputy Speaker: I have overruled him out of order. Please proceed!

Mr. G.G. Kariuki: Okay. Thank you Mr. Temporary Deputy Speaker, Sir. I agree that what I want to say here, and it is important for those who want to listen to this, is that hon. Shikuku who is an acclaimed leader of the poor or the "president" of the poor and hon. Orengo, time has come when you and I and all of us should now sit down and forget who will be the President of FORD (K) next year and who is going to be the leader of this country after 1997. Let us ask ourselves "What are we going to sell in 1997 to the people? Are we going to sell just rhetoric or are we going to sell factual things that we have done?"

Mr. Temporary Deputy Speaker, Sir, When I was the Minister of State, I used to be the Minister. Not just by name. What I am trying to say, jokes aside---

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

Mr. Temporary Deputy Speaker (Dr. Ombaka): What is it, Mr. Gatabaki?

Mr. Gatabaki: Hon. G.G. Kariuki has been talking about trivialities knowing very well that he is not an elected Member of Parliament. He was defeated and he was nominated or recycled. Is it in order for him to disparage the Opposition which is the alternative Government of tomorrow?

Mr. Temporary Deputy Speaker (Dr. Ombaka): Hon. Gatabaki, you know as well as I do that, that is not a point of order. Please proceed.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, I will do a lot of work to teach this hon. Gentleman the life of the House.

The Temporary Deputy Speaker (Dr. Ombaka): I have ruled on that issue.

Mr. Kariuki: You have, Mr. Temporary Deputy Speaker, Sir, but that interjection is totally irrelevant, because I was nominated under Section 33 of the Constitution.

Mr. Orenge: Mr. Temporary Deputy Speaker, Sir, I find it rather difficult to listen to Mr. Kariuki, when he says that an hon. Member is totally irrelevant. This is not 1980 when if Mr. Kariuki said somebody was totally irrelevant, he would end up in detention. Those days are gone.

The Temporary Deputy Speaker (Dr. Ombaka): Mr. Orenge, you know as well as I do that, that is not a point of order. Please let Mr. Kariuki proceed without interruption.

Mr. Kariuki: I am grateful, Mr. Temporary Deputy Speaker, Sir, for your remarks, but hon. Orenge is aware that he had to sneak away before I caught up with him when I was a Minister of State. He is aware of who I was and there is no doubt about that.

An hon. Member: He is aware of who you were?

Mr. Kariuki: He is very much aware.

The Temporary Deputy Speaker (Dr. Ombaka): You should confine yourself to the debate on the Bill before the House. I am just warning hon. Members that the topic for discussion is on the Bill. I do not want hon. Members under the pretence of raising points of order to continue raising irrelevant arguments.

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

Mr. Temporary Deputy Speaker (Dr. Ombaka): What is it, Mr. Shikuku?

Mr. Shikuku: Just to add on to that, once you have ruled and the hon. Member continues doing what you have already ruled against, you should apply Standing Order No. 87.

The Temporary Deputy Speaker (Dr. Ombaka): I just want to warn the hon. Members that I am quite happy to apply all the powers under our Standing Orders. Hon. Kariuki, please proceed on the debate on the Bill.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, please do not apply these Standing Orders on me. Having said what I said on this Bill, I do not think I shall take more time of the House. I have already said what I wanted to say, and I think I would comfortably end there. I wish luck to those who are supporting this Bill.

With those few remarks, I wish to reserve my comments about it.

Mr. Shikuku: Ahsante sana Bw. Naibu Spika wa Muda.

Mswaada huu ungewasilishwa katika Bunge hili miaka 20 iliyopita. Lakini kwa sababu Serikali hii tukufu, ina kazi zingine kama vile dhuluma na nyinginezo, wamechelewa kuleta Mswaada huu mpaka leo. Hata hivyo, tumechelewa lakini, ni afadhali kuliko kukosa kuleta kabisa. Hii ni kwa sababu Mswaada huu ni wa watoto. Lakini nikiangalia Mswaada huu kwa makini, sioni sehemu ambayo inaongea juu ya watoto katika vimo vyao. Kwa mfano, wakati mtoto anapozaliwa, yeye kuitwa mtoto mchanga. Baadaye anakuwa mkubwa, kijana, mtu mzima, mzee na badaaye akafa. Mswaada huu, hauonyeshi hayo yote.

Ningependa kusema kwamba, ijapokuwa tumeambiwa na mhe. Muite kwamba walioutengeneza Mswaada huu walikuwa Waafrika, nakubaliana na yeye; bahati mbaya, hatujui ni watu gani. Lakini kwa vile mhe. Mbunge mwenzangu amesema hivyo, ukweli ni kwamba, sisi wengine tumeanza kushika mambo ya kiingereza na Kizungu, mpaka tumekuwa wazungu kushinda wazungu wenyewe. Na Wazungu hawa wakikalia miswaada kama hii, akili zao zinafikiria uzungu. Kwa mfano, ukiangalia kifungu cha 149, hawaendeshi Mswaada huu kufuatana na mila za Kiafrika. Unaponiona nikisimama hapa, mimi ni mtoto wa Oyondi na Lucia. Pia mimi ni mtoto wa ndugu Oyondi na baba ya Lucia, mamangu, na ni mtoto wa Mjomba wangu. Mimi ni mtoto wa hawa wote. Ukinifanya mabaya hapa, watu hawa wote watahusika. **Mr. Juma Boy:** Huo ni ukweli!

Mr. Shikuku: Namshukuru mhe. Juma Boy ambaye amesema ni kweli kwamba. Wote watahusika. Katika Mswaada huu, habari ya kusema ati baba akifa atawaachia mama, na mama pia akifa amwachie mtu mwingine, aandike wasia aseme ni mhe. Mbunge fulani atakuwa akiangalia mtoto huyu na bwanangu. Ni maneno ya mtu

aliyesoma sana. Haya ni maneno ya Wazungu. Ni Waafrika lakini wamesoma na sasa wamekuwa Wazungu. Tangu lini wewe ukaambiwa, kwa sababu mama amekufa na umebaki na mtoto, fulani ndiye ataangalia maslahi yenu? Haya yatawezekana katika Kenya hii kweli? Basi Mswada huu si Mswada wa Kiafrika, bali ni Mswada ambao umeandwa na watu waliosoma sana na wakawa wazungu. Kifungu cha 149 (2) kinaonyesha uzungu.

Kwa hivyo, kabla hatujaendelea, tunahitaji kujua tunazungumzia nini. Lazima tujue ikiwa mtunzi ni mjomba, shangazi au ni nani katika ukoo wote. Ukoo wote uwe unatunza watoto hawa. Huko kwetu ukiwa na bibi, huyo si bibi wako bali ni wa ukoo mzima. Lazima tuwe waaminifu tusije tukawa kama Wazungu. Bibi yangu, hata kama ni wangu, lakini ni bibi wa baba yangu, mama yangu na ukoo wangu, hivi kwamba, nikitaka kumfukuza, ama kumpa talaka, jamii itakataa, kwa sababu si bibi yangu bali ni wa ukoo wote. Ukitaka kuoa mwingine, utakubaliwa, lakini huyu atakaa. Haya ni mambo yanayotokea. Pia jamii ikimkataa huyo bibi wako, atakwenda. Huu ndiyo uafrika. Mila zetu ziko hivyo. Bibi ni mali ya jamii na ukipatikana unatembea naye, utapigwa hadi ufe. Unamalizwa kwa sababu ulikuwa unatembea na bibi ya jamii na itachukuliwa kuwa umedharau jamii nzima. Aidha, Bunge hili liwe la Waafrika au Wazungu, au watu wale ambao ni Waafrika-nusu, lakini wengine wetu Waafrika-nusu. Sisi ni Waafrika halisi.

Pia Bw. Naibu Spika wa Muda, mambo mengine ambayo mabibi walikuwa wakisema huko Uingereza na Beijing siyo ya Kiafrika. Lazima wajue tunatoka wapi. Tangu lini mwanamke akamwoa mwingine? Tunaambiwa kwamba wanawake walipanda ndege na wakaenda kusema haya maneno. Saa ngapi hii? Haiwezekani. Wataanza ikiwa sisi tumeenda wapi? Hawawezi kuoana!

Bw. Naibu Spika wa Muda, Mswada huu unahitaji uafrika uwekwe humo ndani. Kwa sababu ukileta maneno ya kigeni hayatafanya kazi katika sehemu za mashambani. Huko, kuna mfumo wa kijamii ambapo mimi nikifa, mtoto wangu ni mali ya ndugu yangu, mali ya *Khotsa*, mali ya *Senje*, mali ya *Mufiala*. Waheshimiwa Wabunge nikisema *Khotsa* ninamaanisha mjomba, lakini kwa Kiingereza hawana *Mufiala* na *Senje*. Kwa Kiswahili, kwanza kuna baba yako, na ndugu ya baba yako, ambaye unamwita baba, kuna dada ya baba na mtoto yako atamwita *Senje* ambaye ni shangazi. Kuna mambo mengi ambayo hayako hata katika Kiswahili na Kiingereza.

Mr. Shikuku: Kwa hivyo, jambo la kwanza, Bw. Naibu Spika wa Muda, Mswada huu uwe ni wa Kiafrika.

Pia, Bw. Naibu Spika wa Muda, kama tungeweza kuongojea miaka 32, hakuna hasara tuingojea miezi sita hata mwaka moja, tuweze kukaa chini, kwa uangalifu mkubwa. Mswada huu unahitaji kuandikwa vizuri na kamati itengezwe ya kuangalia maneno haya polepole kwa sababu ni jambo la muhimu sana. Jana, tulikuwa na Hoja hapa ya kutaka mayatima waangaliwe lakini kwa bahati mbaya, ulishindwa kwa kura 35 kwa 33. Kwa nini tunakosana kwa maneno ambayo yanatuhusu sisi sote? Inatubidi tuchukue muda na tutengeneze Mswada ambao utahusisha mambo yote. Tunaweza kuongojea na tufanye mambo haya yanalingana na mila zetu ili tuweze kuwasaidia watoto wetu.

Hata hivyo, Bw. Naibu Spika wa Muda, kuna mambo mengine ambayo ningependa kusema kabla sijamaliza mchango wangu kwa Mswada huu. Ninaunga mkono, lakini ninataka Mswada huu uangaliwe tena na hata ile Kamati yetu ya Wizara ama Kamati ya Bunge hili ya Idara ikae chini, iangalie tena Mswada huu ili tufanye marekebisho kule katika Kamati hiyo halafu tumpe Waziri ongeze na atoe mengine ambayo hayatufai katika Mswada huu kama ile ya kumwuliza mama amwombe bwana mwingine aangalie mtoto wako kabla hujakufa.

Bw. Naibu wa Spika wa Muda, Mswada huu haugusii jambo la mtoto mchanga, kwa mfano. Lakini lazima niwaambie kwa nini ninaupinga. Haujagusia neno la "*baby*" au mtoto mchanga, yupo hapo ni mtoto tu, *baby* hakuna.

Bw. Naibu Spika wa Muda, pia Mswada huu hausemi chochote kumhusu mama mjamzito. Isitoshe, mama huyu anapokwenda jela, anakwenda na mtoto mchanga ambaye bado ananyonya. Mimba pia hawasemi lakini mama huyu ambaye ananyonyesha anatakiwa amlee mtoto na akishakuwa mkubwa, akiwa miaka mitatu au miwili, anaweza kurudishwa huko jela. Lakini kwenda na mtoto jela na kunyonyesha hukohuko na hali ile yote ya jela ambayo sisi wengine tumewahi kuingia--- Wah. wabunge wengine hawajui maana ya jela, pengine hawajaona hata polisi seli. Ni kama kuwahadithia vile bibi anakuahadithia habari ya kuumwa sana wakati anapotaka kujifungua. Wewe mwanaume hata akikueleza katika lugha gani nzuri, unasema, *Oh! Yes! Oh! Yes! Sorry! Sorry!* Hutaweza kuwa na habari, wewe ni kusema pole tu maana hujui uchungu wake. Kwa hivyo, mimi nikizungumza habari ya jela kwa wengine ambao hawajaingia hata polisi seli, hawawezi kuelewa. Ni kama kumwambia mtu habari ya jandoni, yale uliona huko, hawezi kuelewa mpaka yeye apitie huko ndipo mtakaa katika hali moja. Ukisema anasikia mara moja lakini wengine kama ukisema hawajui. Kwa hivyo, swali hili la jela na mtoto mchanga, halijazingatiwa kwa makini. Utakuta mama ana mtoto mchanga anayenyonya, na madaktari wanasema maziwa ya mama ni bora kushinda ya lakitajeni, maziwa ya kila kitu. Huyu mama ananyonyesha mtoto na yeye pia anashikwa na kupelekwa jela na mtoto, mambo haya hawajayasema.

Bw. Naibu Spika wa Muda, utapata kwamba katika kijielezi cha mtoto, wanasema ni mtu, mtoto mdogo, msichana ama mvulana aliye kati ya mwaka 1 - 18. Ndiyo huyu mtoto, na pengine ukisoma katika Mswada huu, utapata tena wanasema miaka 16. Sasa ni lipi? Mtoto ni kutoka siku moja mpaka miaka 16 au miaka 18?

Utatanishi huu upo hapa katika Mswada huu.

Bw. Naibu Spika wa Muda, katika habari ya Umoja wa Mataifa nimesoma mahali wanasema kwamba Convention yake inasema kwamba "*The Rights of the Child and the African Charter of the Rights of the Child and Welfare of the Child.*" Jambo hili halikuzingatiwa katika Mswada huu. Ukisoma ile UN Charter ambayo inazungumza juu ya mtoto, naiunga mkono. Lakini mtoto katika mazingira yetu ya Kiafrika, hasa, hapa Kenya, haijachukuliwa. Kwa hivyo, Mswada huu unatakiwa kuangaliwa na kwa makini. Mswada wenyewe sio mbaya lakini kuna vitu tu haviko humu. Tunaweza kutumia Mswada huu kama mwongozo kujaza mambo yetu kufuatana na ukweli wake katika mazingira yetu ya Kiafrika.

Bw. Naibu Spika wa Muda, pia Mswada huu haujaangalia shida zinazowakumba watoto wa ghasia kama vile ghasia za kikabila. Mama anakimbia na kumwacha mtoto. Mtoto huyo aliyewachwa anapotea na hawezi kumpata baba yake, na baba hawezi kumpata bibi yake. Huku kuchanganyikiwa kwote, tumempa usalama gani mtoto huyu ambaye hana hatia anapokatikana katika ile hali ya vita vya kikabila?

Bw. Naibu Spika wa Muda, mahali pengine wanataja juu ya korti. Ukweli ni kwamba mtoto hatoki mbinguni. Mtoto anazaliwa na watu wawili, mume na mke. Ajabu ni kwamba hata hawa watoto ambao unawaona katika barabara wakiokota vitu, wana baba na mama. Ukitaka kujua kama baba yuko, hebu umwue, utaomwona baba atatokezea. Tulikuwa na mfano hapa wa yule kijana alyepigwa risasi na polisi, wengine waliona yeye ni chokora mapipa tu, lakini baba yake alitokezea na akasema huyu ni mtoto wangu! Kwa nini watoto wanarandaranda katika mitaa? Ni lazima Mswada huu uangalie chanzo chake. Tunazungumzia jinsi ya kukinga jambo hili lakini hatuangalii chanzo chake. Chanzo chake ni nini? Ni kwa sababu ya umaskini; umaskini unaletwa na nini? Kwa nini wako katika mitaa? Kila mtoto ana baba na mama na kwa nini wako huko? Ni kwa sababu ya mwenendo na siasa zetu ambazo zinahimiza wakubwa kunyakua hata choo. Rasimali ya taifa hili haijasambazwa kwa njia nzuri. Umaskini umezidi hata ingawa sisi sote tunatoa kodi. Kodi hiyo pia inaliwa na Serikali hii tukufu, halafu wanaakwambia tufanye Harambee.

Bw. Naibu Spika wa Muda, wale watoto wanapatikana kwa barabara kwa sababu wazazi wao hawawezi kuwaangalia. Tulijaribu, wakati moja, nakumbuka Mhe. huyu alikuwa hapa alipokuwa "backbencher" walileta Mswada hapa kusema kwamba mama akipata mimba na azae, lazima aseme ni nani alimpa hiyo mimba. Wanawake walikuwa wakisema kwamba unaweza kupata mtoto mmoja ana mababa watano. Wanasema huyo mtoto mmoja ni wa G.G. Kariuki, Shikuku, na Mhe. Wetangula, ili wapate affiliation payment. Tulikataa maneno hayo, kwa sababu akina mama wenyewe waliona kwamba hiyo ni biashara. Mtoto mmoja anakuwa na baba wanane, ili mama yake apate malipo ya affiliation. Huku, na kule na midomo inapakwa rangi, na tena anatembea ili apate mwingine. Hiyo ndiyo shida ya Mswada huo. Affiliation Bill ilitupwa nje na sisi tulipiga kura, tukaitupilia mbali kwa sababu ilikuwa ni biashara. Sasa lazima tuwaze na kusema kwamba wale wenye watoto hawawezi kuwalisha kwa sababu ya umaskini. Watu wakubwa wamenyakuwa kila kitu na hata mashamba ya watu wadogo. Lazima uwe wewe ndiyo peke yako. Hiyo siasa inataka ibadilishwe. Hata tukipitisha Miswada mizuri hapa na kuifanyia mabadiliko ili iwe mizuri hatutafaulu. Kama hatuangalii chanzo na sababu inayoleta hawa watoto kwa barabara, tunapoteza wakati. Siasa hii ya kusema eti ukiwa mkubwa unyakue, kila kitu, lazima ikomeshwe. Tunataka Serikali itumie vizuri kodi zetu ili tuweze kuwasaidia watoto kama hawa.

Bw. Naibu Spika wa Muda, siku hizi, hatuongei kuhusu milioni; tunaongea kuhusu bilioni, na bilioni hizi zote, KShs.14.7. Tukapata hizi hawa watoto wanaweza kuwa kwa barabara? The answer is no. Tukitumia hizi KShs.14.7 billioni, hawa watoto hawawezi kuwa kwa barabara. We can take care of them. Na pia zinaweza kutoa nafasi za kazi kwa wale ambao waliowazaa na hawezi kuwalinda wakawaachilia waende kwa barabara. Lakini hiyo yote hatutaki. Tunaangalia mambo mengine. Tunataka tusaidiwe. Pia serikali za nje zimekataa. Zinasema haziwezi kutoa msaada ambao utaenda kwa Serikali. Wamegundua kwamba wanatoa misaada lakini ikifika hapa inahamishwa hadi Paris, New York na London! Sasa wao wamekataa na wanasema wanataka kufanya kazi na NGOs, lakini hawataki kufanya kazi na hii Serikali!

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

The Temporary Deputy Speaker (Mr. Wetangula): Do you want information?

Mr. Shikuku: Bw. Naibu Spika wa Muda, nipe, sikatai.

The Assistant Minister, Office of the President (Mr. Sunkuli): Bw. Naibu Spika wa Muda, ningetaka kumwarifu, ndugu yangu Shikuku kwamba pesa hizo ambazo zinapewa NGOs zinatumiwa kwa njia ambayo haijulikani. Kama zile pesa zilizopewa NGO ya Mwanganza, zinatumiwa kwa kuunda chama kingine na hakuna maelezo kuonyesha jinsi zilivyotumika. Hata pesa NCKK inapokea, hakuna mtu anajua zinakwenda wapi.

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

The Temporary Deputy Speaker (Mr. Wetangula): Yes, Mr. Muite.

(Applause)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the hon. Assistant Minister, is making a very categorical statement, that Mwangaza was given money from outside---

An hon. Member: But you said it!

Mr. Muite: He is saying that the money is now being used to start a new party. He made a very categorical statement. Can we call the Assistant Minister to substantiate, how much money, from whom, when and to which account?

An hon. Member: But you know it!

The Assistant Minister, Officer of the President (Mr. Sunkuli): Bw. Naibu wa Spika wa Muda, kulingana na kanuni za Bunge, hakuna haja ya kuthibitisha mambo ambayo yanajulikana, kwa sababu hiyo Trust ya Mwangaza, iliundwa ili kutafuta pesa za kufanya kazi fulani. Na hizo sheria zake, zinasema hivyo. Kwa hivyo, tunajua kwamba sheria hiyo lazima ilikuwa imetimizwa kwamba, kazi yake ilikuwa ni ya kutafuta pesa.

An hon. Member: Pesa zilienda wapi?

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

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Shikuku, carry on! I am not going to open a parallel debate on SAFINA.

Mr. Shikuku: Bw. Naibu Spika wa Muda, ukweli huma, lakini ukweli lazima usemwe. Kwa nini wale wafadhili hawataki kupatia Serikali pesa? Ni kwa sababu Serikali haiaminiki. Wafadhili wanataka kufanya kazi na NGOs. Na kama NGOs pia haziaminiki wafadhili watuambia hii haiaminiki. Lakini ukweli ni kwamba nilithibitisha katika Bunge hili kwamba tunachukuwa pesa zetu na kuzipeleka ng'ambo. Mswada wa watoto unatafuta usaidizi, wa pesa. Nilithibitisha katika Bunge hili kwamba, pesa hizo zinapelekwa ng'ambo na zinapelekwa na sisi huko ng'ambo. Ninashukuru kwamba ukweli hauzi. Mnamo mwaka wa 1992, ilikubalika kwamba pesa zimekwenda ng'ambo na kwamba zitarudi. Mpaka leo hazijarudi. Mhe. G.G. Kariuki, anakubaliana nami kwamba pesa hizo hazitarudi na bado anataka kuomba pesa zingine. Katika hiyo Serikali yake anataka kuomba zingine. Wakipewa, wanachukua na wanaenda kuziweka tena. Serikali hii imekuwa kama watoto wadogo. Mtoto mdogo ukimpa peremende anachukua; halafu ukimwambia akupe, anaificha kwa mgongo. Hii Serikali inajifanya hivyo. Wanapewa halafu wanaficha kule Waingereza na Wachaina wanajua. Kila mtu anajua kwamba sisi tunaiba mali yetu wenyewe na tunataka msaada tena! Aibu ndiyo hatuna!

Hon. Members: Ukweli mtupu! Huu ndio ukweli!

Mr. Shikuku: Bw. Naibu Spika wa Muda, nimesema hapa kwamba, wazazi wa hawa watoto wako na pia wakati umefika tuseme ukweli. Hawa watoto wanakuja mtaani namna gani? Mungu alipotuumba sisi, alituwambia: Nendeni mkazaane, mjaze ulimwengu. Hakusema, mkafanye mchezo. Nikuzaana tu alisema. Lakini watu wamefanya ngono kama mchezo. Ukweli ni kwamba ni punda, ng'ombe, sungura na wanyama wengine wanazozifuata amri za Mungu. Wanafanya kazi hiyo tu kwa kuzaa. Baada ya hiyo, hawafanyi tena. Sisi wanadamu, tumefanya hiyo kuwa mchezo. Na katika huo mchezo, haya mambo yanatokea. Na hawakumbuki, Mwana wa pekee wa Mungu, alikufa ili tuwache dhambi. Tumekataa kumfuata Yesu, na hata nakaenda, tukamua. Sasa Mungu ametuletea UKIMWI. Hauna dawa na mtakwenda kweli kweli nyinyi wenye dhambi hapa. Hii shida ya watoto inakuja juu ya mchezo. Umefanya huo mchezo. Badala ya kuzaa mnafanya huo mchezo kila siku na sasa tumeharibu mambo na Mungu amekasirika. Ng'ombe, au mbuzi akiwa na mimba hakuna maneno hayo mpaka azae tena, yule mwingine awe mkubwa ndiyo tena afanye hilo jambo mara moja, basi inakwisha. Lakini nyinyi kila siku huo ndio mchezo.

(Laughter)

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Shikuku, which Clause is that in the Bill?

Mr. Shikuku: Bw. Naibu Spika wa Muda, Kifungu hiki kina husu kuzaliwa kwa watoto. Watoto huzaliwa na watu. Utaweza kuona hapa---

The Temporary Deputy Speaker (Mr. Wetangula): Carry on!

Mr. Shikuku: Bw. Naibu Spika wa Muda, Kifungu cha 7 kinasema kwamba:

"The Bill seeks to bar members of the public from attending hearing of Children's courts for reasons that are not very clearly put since representatives of the Newspapers and News Agencies will be allowed into the courts"

Mswada huu unajaribu kuzuia raia kwenda kortini lakini wanawakubalia waandishi wa magazeti kwenda kortini kusikiliza kesi za watoto. Kifungu hicho kinaendelea kusema hivi:-

"Although no person will be allowed to publish any report of the proceedings before a children's court except with

permission of the court, it is not clear whether such persons include journalists in the course of their duty."

Bw. Naibu wa Spika wa Muda, nimesoma hayo katika Kifungu hicho. Sasa korti ikiwako, kwa nini raia wasisikilize? Kwa nini inafanywa kuwa private? Ikiwa mambo yameharibika, mtoto amepatikana, yuko katika shida, amepelekwa kortini, kwa nini watu wasiende kusikiliza kesi hiyo? Huyo aliyeunda kifungu hicho alikiunda kwa nini? Ninaambiwa kwamba hicho Kifungu ni international na pia ni information ambayo inaweza kuwekwa hapa. Ukweli ni kwamba: katika Kenya---

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Shikuku, what about Clause 6(d)?

Mr. Shikuku: Bw. Naibu Spika wa Muda, Kifungu 6(d) kinasema kwamba ifuatayo:

"Bonafide representative of the Newspapers or Newspapers Agencies---".

Lakini ukisoma hapo chini hawakubaliwi kuandika na kusambaza habari hiyo. Kwa nini wasitangaze na huyu ni mtoto wa Kenya na baba yake amemwacha au amekufa au kitu kingine kimempata? Kwa nini tusikubalie raia kwenda kortini?

Bw. Naibu Spika wa Muda, ikiwa tunaweza kusikiza habari ya unajisi kortini ambako watu huuliza maswali ya ajabu sana, kwa nini hatukubaliwi kusikiliza kesi ya watoto? Katika korti, mtu huulizwa hivi: "Ulimuona? Alishika suruali namna gani? kwa nguvu au pole pole?" Mambo hayo yote husemwa kortini. Sasa haya mambo ya mtoto ni mabaya sana kushinda ya unajisi? Wewe ni wakili na unajua haya maneno ya unajisi, kwamba ushahidi hutolewa katika mambo mengine, na mawakili wanajua kuuliza sana. "Alikuangalia namna gani? Alivuta suruali kwa nguvu au pole pole? Haya mambo yote makubwa huulizwa. Je, mambao kuhusu mtoto ni makubwa kushinda ya unajisi ambayo hatuwezi kusikiliza? Ndiyo sababu nilisema kwamba huu Mswada ikiwa ni lazima upitishwe, kwa sababu sisi tumetia sahihi mkataba wa kimataifa kuhusu watoto, si lazima tukubaliane na hayo maneno. Sioni ni kwa sababu gani lazima tukubaliane. This law does not apply to every country. Hata kuna mambo yetu hapa ambayo yanahusu jamaa zetu hapa nimeyazungumzia hapo mbeleni. Lazima ujamaa wetu uwekwe katika Mswada huu.

Katika Kifungu cha 11, on Ukarasa 14, Mswada huu unasema:

"Where a child is charged with any offence or if for any other reason, brought before the court, his parents or guardians may, in any case, and shall, if they can be found, reside within a reasonable distance, be required to attend at the court before the case is heard or determined during all stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance."

Bw. Naibu Spika wa Muda, ikiwa kesi iko kortini na baba na mama wa huyo mtoto wangali hai, na pia jamaa zake kama wajomba wake waitwe. Hii ni kwa sababu hakuna mtoto ambaye hana mjomba wala shangazi. Ni lazima hawa watu waje ili tupate undani wa shida za huyo mtoto. Tukiweza kuwahusisha jamaa za huyu mtoto, wanaweza kutuambia ni kwa nini huyu mtoto anafanya hayo anayofanya au alitoroka kutoka nyumbani kwa sababu gani. Wanaweza kutusaidia, sio lazima iwe ni baba yake peke yake. Nilisema mtoto ni wa ukoo wa watu wetu. Kama mimi, *mwirechi*, mimi ni mtoto wa *aberechi* na kila *mwirechi* anatakikana aseme huyu mtoto wa Oyondi alikuwa hivi au vile. Tukifanya hivyo, tutasuluhisha matatizo. Lakini siyo kutegemea baba yake peke yake tu kuja. Hiki si kitu cha siri. Tumeona baba wengine wakiwanajisi binti zao, sasa tunataka huyo baba aliyefanya huyo mototo kutoroka nyumbani ndiyo aje kortini. Si unataka wale jamaa waje wakwambie huyo mtoto alitoroka kwa sababu baba yake alikuwa na mengine. Hata mama yake aliwachana na baba yake kwa sababu mama aligundua kwamba baba anatembea na binti wake. Kuna mengi!

Bw. Naibu Spika wa Muda, sisi tumesikia mengi. Kuishi kwingi kuona mengi. Kuna mabibi wameachana na mabwana wao kwa sababu mabwana wanatembea na binti zao. Hii ndio maana ya Mswada huu. Kuna maneno machafu katika Kenya hii na hata huko nje. Hata Wazungu wanafanya hii. Lazima tuchukue ukoo wa huyu kijana, aangaliwe, na watu wote waje kortini. Maneno haya ninayasema ni kweli. Wanaume wengine wanakwenda na binti zao tena ni watu wakubwa. Ningependa huu Mswada, katika hiki Kifungu, ubadilishwe ili watu wa ukoo wa huyo mtoto waweze kuja kusema habari zake. Ahsante.

Kwa hivyo, niliona nimueleze huyu bwana mkubwa ajue, na pia ningependa jambo jingine---

Mr. G.G. Kariuki: We have heard about that!

Mr. Shikuku: Mimi ninapozungumzia Mswada huwa nimefanya homework very extensively. Na ninapochukua---

The Temporary Deputy Speaker (Mr. Wetangula): Bw. Shikuku, hon. G.G. Kariuki has no authority to tell you to finish, hurry up or to do anything.

Mr. Shikuku: Thank you, Mr. Temporary Deputy Speaker, Sir. Clause 18, Page 17, says:

"No child shall be ordered to imprisonment nor to detention in a detention camp. No child, under the age of ten years, shall be ordered by a Children's Court to be sent to an approved school, unless there is no fit person or approved voluntary institution willing to take care of him, or unless for some other good reason, the court considers that he cannot suitably be dealt with otherwise".

Mr. Shikuku: Bw. Naibu Spika wa Muda kifungu hiki hakijasema mtoto anaweza kuwekwa jela kwa muda gani. Ninafikiri kuwa marekebisho yanaweza kufanyiwa kifungu hiki ili watu wa ukoo wa mtoto kama ami wapewa uwezo wa kumlinda mtoto kama huyu. Pia sehemu (a) ya kifungu hiki inasema:-

"No child shall be ordered to be imprisoned unless the court is of the opinion that he cannot suitably be dealt with in any other way permitted by the law and shall duly record such opinion and reasons thereof, provided that such order shall only be made upon the court being duly satisfied of the existence of facilities for the separate custody of the child in the particular prison."

Sasa ningependa kusema kwamba watu wengine - sisi tumeliona jambo hili katika remand homes - wanawachanganya watoto wadogo na watu wazima. Kwa sababu hii, mtoto aliyewekwa rumande au jela kwa kosa fulani anatoka huko akiwa amejifunza mambo mabaya zaidi kutoka kwa watu wazima. Hata ukimfanya nini mtoto kama huyu hawezi kuwa mtu mkamilivu tena. Kwa hivyo, wakati umefika kwa Serikali hii tukufu kujua kwamba inafaa tuzilinde pesa zetu. Kila kitu kinategemea pesa. Inafaa tuache kuibia Serikali yetu mabilioni ya pesa. Pesa zilizoko katika Kenya zinaweza kufanya maajabu. Ajabu ni kwamba Kenya ni nchi nzuri na iliyo tajiri ambayo inaibiwa na wale wanaotakiwa kuilinda na bado ingali inaendelea. Kama pesa zetu zote zingelindwa hatungekuwa na shida hizi zote. Hata tungejenga jela nzuri na rumande za vijana wetu. Tungekuwa na waalimu na maofisa wa jamii wa kuwafundisha vijana wetu katika remand homes.

Mimi ninayashukuru mashirika ya kigeni kwa sababu yamewasaidia watoto wa mitaani kuwa watu wazuri. Baadhi ya watoto hawa wameingia shule ya Starehe Boys Centre na wanafanya vizuri sana. Mbona sisi hatufanyi chochote kuwasaidia watoto hawa? Wakenya wanataka kula tu na si kutengeneza. Hata wanariadha wanajiendeleza wenyewe lakini Serikali haijawafanyia chochote. Makampuni ya BAT na Coca Cola yamewasaidia wasichana maskini kwa kuwapatia vitu kama viatu kufikia kiwango cha wasichana hao kuweka rekodi ya dunia katika riadha. Kwa nini Serikali ya Kenya haiwafanyii lolote? Watu walio Serikalini wanaendelea kunyakua tu! Lakini ingefaa kwamba badala ya wao kuendelea kula wapeane baadhi ya mali yao kwa wengine. Hakuna mtu anayeweza kula na kumaliza mabilioni ya pesa ambayo amenyakua katika maisha yake. Bilioni si pesa chache. Nikimpa mhe. Kariuki bilioni moja atayamaliza maisha yake hapa duniani kabla hajazimaliza pesa hizi, hata akiowa bibi mwingine, akunywe pombe atakavyo na anunue motokaa anayotaka.

Kwa nini watu wetu wana uchoyo mwingi kiasi hiki? Wananyakua mabilioni ya pesa ambazo hawawezi kuzimaliza katika maisha yao! Mbona hatuna utu? Hatujali hali ya wengine! Mbali na kunyakua, ukikutana na wengine baada ya kutoka katika Bunge hili utashangaa! Nimekutana na baadhi ya Wabunge wa zamani na kuona kuwa hali yao ni mbaya. Wamekonda sana na wakikuona wanataka uwasaidie kidogo. Kwa nini sisi Wakenya tuna roho mbaya? Inafaa tuzirudishe baadhi ya bilioni za pesa ambazo tumenyakua ili ziwasaidie wengine. Hata Balozzi wa Marekani ametuambia wazi kwamba ni lazima turudishe humu nchini pesa ambazo tumeweka nje ndipo na wao waletе pesa zao hapa. Tumeweka pesa zetu nje na tunawaambia wao waletе pesa zao humu nchini. Kwa nini tunafikiri wao ni wapumbavu? Sisi Wakenya ni watu wabaya sana!

Mr. Michuki: On a point of information, Mr. Temporary Deputy Speaker, Sir. I just want to inform hon. Shikuku that the recent misappropriation of Kshs14.7 billion can pay fees at all our universities for eight years!

Mr. Shikuku: Waona, Bw. Naibu Spika wa Muda, hizo Kshs14.7 billion zinaweza kulipa karo katika vyuo vikuu kwa muda wa miaka minane na hali sasa tunawauliza maskini walipe karo ya vyuo vikuu? Hata juzi tuliipitsha sheria hapa ambayo inasema wanafunzi wa vyuo vikuu watapewa mikopo ya kulipia karo yao, na hali Waziri wa Elimu ametuambia Serikali haitawapatia kazi wanafunzi hawa! Kweli unaweza kusema kwamba hii ni Serikali ya wananchi? Tunamwomba Mungu asikie maombi yetu na atuondolee watu hawa ambao hawana utu kwa watu wao wanyewe! Mungu tuondelee watu hawa kwa sababu sisi hatuna nguvu za kuwaondoa!

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

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Shikuku, do you want the point of information?

Mr. Shikuku: Sitaki kwa sababu amezoea.

Ningependa kusema kwamba tukizichunga pesa zetu, mambo tunayotaka yatafanyika. Sasa tunaongea juu ya Kshs14.7 billion, na bado kuna nyingine Kshs13.5 billion na tena Kshs4 billion ambazo zilienda na Bw. Somaia. Hata wakati huu, pesa zinaendelea kupelekwa nje. Mimi nitaleta ushahidi hapa wa kuonyesha kwamba baadhi ya watu ambao tumewapa uraia wa Kenya wanaandikiana makubaliano na Serikali ya India na kuahidi kwamba hata ndururu moja ya pesa wanazotoa nje ya Kenya haitarudi Kenya tena. Hii ni ahadi yangu kwa Bunge hili. Nataka kuwajulisha kwamba bado pesa zinatolewa nje na watu ambao tumewapa uraia wa Kenya. Kitu muhimu katika makubaliano nitakayoleta hapa ni kwamba mtu huyu anaahidi kwamba pesa zitakazotoka Kenya hazitarudi tena!

Serikali ilimpa mtu huyu uraia wa Kenya na hata ikampa tuzo la Elder of the Burning Spear (EBS). Jambo hili linaniudhi sana na ninaliahiidi Bunge hili kwamba Jumanne ijayo, Mungu akinijalia, nitayaleta hapa makubalino baina ya raia huyu wa Kenya na Serikali ya India. Mtu huyu ni rafiki wa watu wakubwa katika Serikali. Pia nitaleta

ushahidi wa kuonyesha mtu aliyependekeza mtu huyu apewe uraia wa Kenya na yule aliyempa uraia wa Kenya. Mtu huyu alifanya mpango na Serikali ya India ili pesa sizije hapa Kenya na hali kazi yake ya kutengeneza filamu aliifanyia hapa Kenya! Mswada huu unataka pesa za kuwatumza watoto lakini sijui watoto wetu tutawatumza kwa njia gani! Ingawa Mungu ameumba watu wabaya, wale walio Kenya wamezidi!

The Minister for Labour and Manpower Development (Mr. Masinde): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to confuse the activities of individuals with those of the Government? He has just put the record straight when he said that there are individuals in the country who are siphoning money out of the country. So, why is he confusing the Government with individuals? The Government is definitely not supporting individuals who commit malpractices.

Mr. Shikuku: Ahsante sana Bw. Naibu Spika wa Muda. Serikali hii ikipewa ushahidi kuhusu watu ambao wanaiba pesa, haifanyi lolote. Nimeleta hapa ushahidi wa wizi wa Kshs8.6 billion na Serikali haikuchukuwa hatua yoyote. Mwaka wa 1992 Mtukufu Rais alisema kwamba, pesa zitarudi, mpaka sasa, hata ndururu haijarudi. Sasa nitaleta ushahidi ya Jumanne kuonyesha kwamba kuna mtu ambaye ana mkataba na Serikali ya India kupeleka pesa India, na anasema India isitupe hata ndururu, na yeye alipewa uraia na Serikali hii tukufu. Hata nikileta ushahidi kama huo, Serikali hii haifanyi kitu. Hii ndiyo sababu tunasema Serikali hii ni mbovu sana.

Mr. Kariuki: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Ni haki kwa mhe. Shikuku kuendelea kutukana Serikali kwa sababu ya makosa ya mtu binafsi? Hakuna mtu ambaye amezaliwa na Serikali. Hakuna Baraza la Mawaziri lililokutana na kumruhusu mtu kupeleka pesa nje. Kuna tofauti kati ya vitendo vya mtu binafsi na vitendo vya Serikali.

Mr. Shikuku: Bw. Naibu Spika wa Muda, hii ndiyo taabu ya Serikali yetu tukufu. Ukiwaambia ukweli, wanasema ni matusi. Mtu binafsi yuko chini ya Serikali. Mimi niko chini ya Serikali, na makosa yakitokea, Serikali inahitaji kuchukuwa hatua. Tumethibitisha makosa katika Bunge hili na Serikali haichukuwi hatua. Sasa, mhe. G.G. Kariuki anataka tuimbe "Halleluya"? Halleluya hautapata kwa Upinzani, hasa kutoka kwa mhe. Mbunge anayezungumza. Mhe. Kariuki ananifahamu sana, tangu siku zile za Wabeberu, siku za Kenyatta na siku za sasa. Mimi sibatiliki. Hata ukinipeleka ndani, nitatoka huko. Niliwaambia kwamba, mkinipeleka ndani, nitarudi na nitapanda mahindi na nitaendelea na ukweli, na bado ninaendelea.

Ninasikia watu wengine walikufa. Sikuwako, kwa hivyo siwezi kutoa ushahidi kwamba niliona mtu akifa. Lakini ukweli ni Mungu na Mungu ni ukweli, na yule anayepinga ukweli, sharti aangamie! Mhe. G.G. Kariuki ajichunge sana! Zile dhambi alizotenda wakati ule bado tunazikumbuka. Hatuwezi kumkumbusha saa hii. Usichokoze nyuki, zitakuuma!

Bw. Naibu Spika wa Muda, tunakuja katika Kifungu cha 21--

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Shikuku, do you not think you are imputing improper motive on Mr. G.G. Kariuki by calling him a sinner?

Mr. Shikuku: Bw. Naibu Spika wa Muda, simjamwita "sinner" bure. Kuna mambo wakati wa enzi ya--

The Temporary Deputy Speaker (Mr. Wetangula): Atendaye madhambi ni nani?

Mr. Shikuku: Bw. Naibu Spika wa Muda, madhambi yake yako, kwa sababu hata yeye mwenyewe aliyakubali. Alipokuwa akizungumza alimwambia Bw. Orengo kwamba alikuwa akimfuata lakini hakumpata. Amesema hivyo hapa kwa mdomo wake. Dhambi zake wakati huo ni nyingi. Hata kusema KANU ni mgonjwa ilihesabiwa kuwa kosa kubwa sana. Wakati huo ulikuwa wakati mgumu. Hata kusema eti Rais anaweza kuwa mgonjwa ilikuwa dhambi, tena ungeweza kuenda jela. Eeh! Wakati wa Mhe. G.G. Kariuki, aah!

(Applause)

Mambo yalikuwa magumu sana. Tunashukuru Mwenyezi Mungu, ametujalia na mhe. G.G. Kariuki si Waziri tena. Sasa mhe. Mtukufu Rais yuko, tunaweza kusema kidogo.

Mr. Kariuki: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Wetangula): Do you want the information, Mr. Shikuku?

Mr. Shikuku: Sitaki ufahamisho wa Bw. G.G. Kariuki.

Bw. Naibu Spika wa Muda, ningependa kuwafahamisha kuhusu Kifungu cha 21 kinachosema:

"Power to order parents---"

Mr. Kariuki: Jambo la nidhamu Bw. Naibu Spika wa Muda. Kabla mhe. Shikuku hajaendelea na sehemu nyingine, kweli yeye ana haki ya kupotosha Bunge hili kwa kusema kwamba wakati wangu kulikuwa na dhambi nyingi, wakati yeye mwenyewe alikuwa Waziri Mdogo katika Wizara ya Mashauri ya Nchini? Kama madhambi yalikuwako wakati huo, yeye hawezi kuepuka lawama.

Mr. Shikuku: Bw. Naibu Spika wa Muda, rekodi za Bunge hili ziko. Kunifanya Waziri Mdogo au Waziri

hakunijalisha, nilikuwa bado ninaendelea kusema ukweli, na rekodi za Bunge hili ziko. Mimi sikuwa mtu wa kupewa, kula na kunyamaza. Hapana! Nimepinga uovu wakati huo na ninaendelea kupinga uovu wakati huu, mpaka Yesu arudi, au *Mohammed Swalalah Allahi Wa Salaam!*

Bw. Naibu Spika wa Muda, mhe. G.G. Kariuki anatafuta maovu kutoka kwangu, lakini safari hii, siko katika ile hali ya kuchambua chambua mtu. Bahati yake leo, nitamuachia hapo. Hiki kifungu cha 21 kinasema hivi: "If it appears to the court on evidence of a medical practitioner that a child, although not of unsound mind, requires or may benefit from mental treatment, the court, when making a Probation Order against him, may require him to undergo mental treatment at the hands or under the direction of a medical practitioner for a period not exceeding 12 months, subject to review by the court as condition of the Probation Officer".

Bw. Naibu Spika wa Muda, hiki kifungu cha 21 kinaeleza juu ya watoto kupelekwa katika hospitali ya wenda wazimu. Sisi wengine tunajua hospitali ya wendawazimu ni nini, hasa ile ya Mathari. Tungekuwa na fedha, tungejenga shule, remand home na mental hospital ndani ili hao watoto wasipelekwe na kuchanganywa na wagonjwa wengine wa matatizo ya akili ambao ni watu wazima. Hii ingekuwa Idara tofauti kabisa ambayo inajitegemea, ikiwa na kila kitu ndani yake ili hawa watoto wawekwe mbali na watu wa aina nyingine, ikiwa tunataka kulinda watoto. Utastaajabu kwamba kati ya hawa watoto, wengine watakuwa werevu na wazuri hivi kwamba wataweza kusaidia nchi yetu. Kwa hivyo, kama daktari amesema kwamba wawekwe katika hospitali ya wendawazimu, nakubaliana naye. Lakini watoto hawa wasije wakapelekwa katika ile Mathari ambayo mimi, Shikuku, ninajua kwa sababu nimepeleka wengi huko. Wengine wanaharibika zaidi na wengine, kwa bahati, wanapona. Kwa hivyo, hawa watoto wanahitaji kushughulikiwa na Idara maalum iliyotengwa kwa ajili yao ili waangaliwe vizuri.

Kifungu cha 22, kinachozungumza juu ya "The National Council of Children". Kifungu hiki kinasema hivi: "There shall be established a council to be known as National Council of Children's Services which shall consist of the Permanent Secretary, Ministry responsible for matters relating to Home Affairs, who shall be the Chairman".

Bw. Naibu Spika wa Muda, hili Bunge ni la kupiga muhuri tu? Hata wameamua tayari Mwenyekiti ni nani!

Bw. Naibu Spika wa Muda, sisi hapa kazi yetu nikutia kidole tu. Sisi wengine tumekaa miaka mingi katika Bunge hili kwa sababu tumekataa kutumiwa kama muhuri. Tunarudi katika Bunge hili baada ya kila Uchaguzi Mkuu mwaka baada ya mwaka kwa sababu tumekataa kuwa muhuri. Wengine wanakuja hapa na kusema, Ayes, halafu wanakwenda nyumbani.

Mswada huu unasema kwamba katika Kamati hii kutakuwa na "The Permanent Secretary in the Ministry responsible for matters relating to education". Anataka awe kwa hiyo Kamati. Ninaweza kukubali awekwe kwa sababu nimesema habari ya umuhimu wa elimu katika hiyo complex. Ninaweza kukubali huyo awoko. Lakini Permanent Secretary in the Ministry responsible for Labour and Manpower Development asiweko. Huyu anakuja kufanya nini kwa Kamati hii?

An hon. Member: Anakuweko kwa sababu ya ajira ya watoto.

Mr. Shikuku: Ninaambiwa kwamba atakuwako kwa sababu ya kuangalia jambo la ajira ya watoto lakini lazima tuletie sheria ya kumaliza jambo hilo. Miaka hii 32 tangu tupate Uhuru, mbona Serikali haijaleta sheria ya kupiga marufuku ajira ya watoto? Miaka hii yote mimi sijakuwa Waziri kama wale walioko na wanalala.

The Assistant Minister, Office of the President (Mr. Sunkuli): Jambo la nidhamu Bw. Naibu Spika wa Muda. Mhe. Shikuku anasema kwamba Serikali haijaleta Mswada kuhusu ajira ya watoto kwa muda wa miaka 32 iliyopita. Anasema hivyo na kuniangalia. Mimi ninakalia kiti ambacho yeye mwenyewe amewahi kukikalia. Je, hiyo ni haki? Alipokuwa akikalia kiti hicho si angefanya hivyo?

Mr. Shikuku: Bw. Naibu Spika wa Muda, sikusema mhe. Sunkuli. Kuangalia upande ule sio kusema kwamba ninamwangalia. Kuna G.G. Kariuki na mhe. Masinde upande ule. Sikusema ni yeye, tena yeye si Waziri. Hata siku moja nilipokuwa Waziri Msaidizi nilisema: "They are neither bats nor birds". Waziri Msaidizi hana lolote. Hawa wanajidai hapa kwamba ni Mawaziri Wasaidizi hawana lolote. Hata Waziri akiwa mgonjwa hawawezi kukalia kiti chake. Bure kabisa!

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Shikuku, a Minister means and includes---

Mr. Shikuku: Bw. Naibu Spika wa Muda, ninafahamu kwamba katika Standing Order No. 2, "Minister means a Cabinet Minister, Assistant Minister and anybody acting in that capacity". Ukweli ni kwamba mimi mwenyewe nilikuwa Waziri Msaidizi mara nyingi na ninajua ninasema nini. Utapata Katibu wa Kudumu anatoka ofisi yake na kwenda moja kwa moja kumwona Waziri bila kupitia kwa Waziri Msaidizi na hamwambii lolote. Kazi anayopewa ni kuja kujibu maswali katika Bunge. Hawezi hata kusoma a Cabinet Paper, nothing! Ninawajua. Nilisema hivyo nilipokuwa Waziri Msaidizi sio eti ninasema sasa kwa sababu ninamwonea wivu mhe. Sunkuli! Nilisema wakati ule nilipokuwa Waziri Msaidizi kwamba Waziri Msaidizi ni popo; sio ndege wala mnyama. They are bats. Tunaharibu pesa kuwalipa. Katika Mswada huu inasemekana kwamba, "The permanent secretary in the Ministry of

Labour and Manpower" atakuweco katika hiyo Kamati. Ninaona kwamba hakuna haja ya kuleta sheria hapa ya kupiga marufuku ajira ya watoto. Kwa hivyo, sioni haja ya huyu mtu kuwa katika hii Kamati. Sehemu ya "(d)" inasema, "Permanent Secretaries in the Ministry responsible for Culture and Social Services". Nitamkubali huyo mtu kwa sababu nilisema kwamba social workers waangalie watoto. Ninaonelea kwamba hiyo ndiyo Wizara ambayo inafaa kuwa hapo. "Permanent Secretary in the Ministry responsible for Research, Technical Training and Technology", huyu hana haja kuwa huko. Afutwe kabisa na kutolewa katika hiyo orodha. Nimekubali kwamba Katibu wa Kudumu katika Wizara ya Elimu awe katika hiyo Kamati. Sasa Katibu wa Kudumu wa Wizara ya Research, Technical Training and Technology anakuwa hapo akifanya nini? Si mtoto apate elimu kwanza.

Mswada unaendelea kusema kwamba, "Permanent Secretary in the Ministry responsible for Local Government" atakuwa katika kamati hiyo. Ukiangalia Katibu wa Kudumu wa ole Ntimama anaweza kukalia hiki kiti? Katibu wa Kudumu katika Wizara hiyo ya Local Government ambayo tunajua? Kwanza ameshindwa kuendesha hiyo Wizara. Je, hiyo shughuli ya kuhudumia watoto ataweza? Aende akae na watoto wake sio kukaa kwa kamati hii ya watoto.

The Temporary Deputy Speaker (Mr. Wetangula): It is not the individual, it is the Board.

Mr. Shikuku: Ukweli ni kwamba Katibu wa Kudumu wako na kazi nyingi sana. Mara nyingi utawaona wakiwatumia Under-Secretaries au Assistant Secretaries katika hiyo Kamati. Tukiwachagua hawatakuwa huko. Halafu hauwezi kukata shauri kwa sababu kwanza lazima Katibu wa Kudumu aliangalie hilo jambo. Jambo hili litachelewesha mambo. The permanent Secretaries are too busy. Na hii itakuwa ni maneno tu na hawatahudhuria mikutano. Watakuwa wakipeleka watu wengine wakubwa na wadogo safari na kupoteza wakati mwingi na hali hakuna jambo muhimu linapitishwa.

Nikiendelea kusoma Mswada, inasema kwamba kutakuwa na Solicitor-General or a person deputizing for the the Attorney-General katika hiyo Kamati. Hii ninakubaliana nayo. Sikuona hapa ameweka Attorney-General. That is being a bit realistic. Solicitor-General anaweza kuangalia hayo maneno. Mkuu wa Sheria huwa na shughuli nyingi sana. There is this Permanent Secretary in the Office of the President, anakuja kufanya nini katika hii Kamati? Wewe unafikiria Prof. Mbithi anaweza kuja kuketi kwa Kamati hii? Ana kazi gani hapo? Kwa vile alivyo na shughuli nyingi atapata nafasi kuhudhuria mikutano? Tena lazima amfuata Mtukufu Rais popote pale anapopatembelea. Atafanya kazi hii saa ngapi? Sisi hatuko hapa kutunga sheria ambazo tunajua kwamba haziwezi kufanya kazi. Na hata Prof. Mbithi akituma mtu mwingine kutoka katika Ofisi ya Rais there is nothing. The Ministry of Culture and Social Services is enough.

Mswada unaendelea kumtaja Kamishina wa Polisi kama mmoja wa wanakamati. Kamishina wa Polisi ameshindwa kufanya kazi. Sasa watu wanapigwa risasi ovyo ovyo na wizi unaendelea. Atapata wapi wakati wa kuhudhuria Kamati hii? Askari wake wanavamia watu ambao wanauza chang'aa tu. Hakuna chang'aa katika Board ambayo polisi wanatakiwa kuangalia. Kazi ya polisi ni kuhakikisha kwamba hakuna upikaji wa changaa. Hatumtaki kamishna wa polisi.

Bw. Naibu Spika wa Muda, wanataka nine persons representing Non-Governmental Organizations (NGOs).

Wale ambao nimesema kwamba watoke katika Kamati hii basi mahali pao pajazwe na watu kutoka Mashirika yasio ya Serikali. Tungetaka hawa watu wawe wengi katika hii Kamati. Hii ni kwa sababu watachukua nafasi za wale Makatibu wa Kudumu ambao nimesema watakuwa na kazi nyingi na hawatukwa na nafasi ya kuhudhuria mikutano. Pili, tukiwaweka hawa Makatibu wa Kudumu, wale rafiki zetu wa kutoka nchi za ng'ambo hawatakubali kuleta pesa za kuwasaidia hawa watoto kwa sababu wanafahamu kwamba "zitamezwa" kama kawaida. Ukiangalia katika Kifungu 31(2) ukurasa wa 23 inasema:-

"If at any time the Minister is dissatisfied with the condition or management of the approved school or considers its continuation as an approved school unnecessary, he may give to the manager not less than six months notice in writing of his intention to withdraw the certificate of approval and upon the expiration of notice, the certificate of approval shall be deemed to have been withdrawn and the school shall cease to be an approved school".

Hapa tunampa Mhe. Waziri uwezo regardless of the legality. Lazima kuwe na sheria ambazo zitafuatwa kabla cheti cha shule yoyote hakijafutiwa mbali. Ninaangalia mbele na kuona kwamba kutakuwa na watu ambao watataka kuwa na approved schools za kuwasaidia watoto. Sio Serikali peke yake ambayo inaweza kuendesha hii shughuli. Pia tunahitaji NGOs ambazo zitakuwa na approved schools. Lazima sheria ifuatwe, badala ya kumpa Waziri uwezo mkubwa kama huu kufanya vile anavyotaka.

Kifungu cha 2 kinasema:-

"Provided that the Minister instead of withdrawing the certificate, may by notice served on the manager of the school prohibit further admission of persons to the school for the time that may be specified in the notice or until the notice is revoked."

Bw. Naibu Spika wa Muda, tumejua mengi. Tukimpa Waziri uwezo huu, sisi kama Wabunge tutakuwa

hatufanyi kazi yetu. Kama Waziri hamtaki mtu fulani, atatumia haya madaraka kunyakua au kumfungia yule mwengine hiyo shule ili rafiki yake mwingine baadaye aweze kuendesha shule hiyo. Hatuwezi kukubali maneno kama hayo. Tunajua kuna ukabila, kuna ufisadi na mambo mengi maovu katika Serikali hii yetu. Kwa hivyo, tukitoa amri kama hiyo, Waziri awe akichukua hatua kama Waziri, yafaa mabadaliko yafanywe. Waziri akitaka kuchukua hatua hiyo awasilishe Hoja Bunge, kwa sababu anayeendesha hiyo shule ya kurekebisha tabia, haendeshi kwa watoto wake, anaendesha kwa watoto wote. Ikiwa ni watoto wote, basi, ni wajibu wetu kama wawakilishi wa wananchi tuhushishe ili, tumpe Waziri kibali cha kuchukua hatua.

Ningependa kuongea habari ya adhabu katika Kifungu cha 52. Taabu yangu ni kwamba, ninasoma kila Mswada kwa makini kwani hiyo ndiyo kazi niliyoandikiwa kufanya sio kufanya harambee. Wanaacha kazi ya kuangalia sheria, wanaiba pesa na wanawauliza wananchi wafanye Harambee. Tena wananchi wanakuwa wapumbavu wanaambiwa wapige makofi ya kilo na kumbe pesa hizo ni kodi yao.

The Assistant Minister for Agriculture, Livestock and Marketing Development (Dr Misoi): On a point of order! Is it in order for the hon. Shikuku to call women contributors in Harambee "wapumbavu"?

Mr. Shikuku: Bw. Naibu Spika wa Muda, nimesema hata wananchi wenyewe wamekuwa wapumbavu---

The Temporary Deputy Speaker (Mr. Wetangula): What did you say?

Mr. Shikuku: Nimesema wananchi wenyewe huko nje, wamekuwa wapumbavu kwa kupiga makofi ya kilo pesa ambazo zimeibwa kutoka kwa kodi zao. Mabilioni ya pesa hupotea halafu hawa wanachukua nyingine wanaenda kutoa katika Harambee na kuwaambia wananchi wapige makofi hali pesa yao ndio imekwenda. Huo si ni upumbavu? Ukweli ni kwamba---

QUORUM

Mr. Moiben: On a point of order! Mr. Temporary Deputy Speaker, Sir, I think there is no enough quorum.

Mr. Temporary Deputy Speaker (Mr. Wetangula): Ring the bell.

(The Division bell was rung)

Mr. Temporary Deputy Speaker (Mr. Wetangula): Order! Order! Mr. Shikuku, carry on.

Mr. Shikuku: Bw. Naibu Spika wa Muda, hii habari ya adhabu ndiyo niliyokuwa naeleza katika kifungu cha 52 ukurasa wa 31. Kuanzia mstari wa kwanza, wanasema:-

"If any person who has the custody, charge or care of any child and willfully assaults, ill-treats, neglects, abandons or exposes him or forces or permits him to be assaulted, ill-treated, neglected, abandoned or exposed in any manner likely to cause him unnecessary suffering or injury to the health, including injury to or loss of sight, hearing, limb or organ of the body and any mental derangement or;

(b) by any act of omission knowingly or willfully causes that child to become or contribute to his becoming in need of protection or discipline, he commits an offence and is liable on conviction to a fine not exceeding Kshs50,000 or to imprisonment for a term not exceeding four years, or both provided that the court at any time in the course of proceedings for an offence under this Sub-Section, may direct that the person charged shall be charged with, and tried for, an offence under the Penal Code if the court is of the opinion that the act or omission of the persons charged are of no serious or aggravated nature."

Bw. Naibu Spika wa Muda, kinachosemwa hapa ni hatari sana. Nimejua na nimeleta hii habari ya adhabu kwa sababu Kifungu cha 52 hakisemi kitawapa adhabu watu wengi kwa sababu mtoto au mtu yeyote ambaye anaweza kutumia huyo mtoto--- Kuna watu wengine ambao wanaweza kutumia huyo mtoto kufanya mambo ambayo yamesomwa hapa. Mimi nakubaliana na sheria kuwa mtu yeyote ambaye anafanya mabaya kwa mtoto, awe mtoto wa jamaa yake au mwingine, aadhibiwe kwa sababu mambo yaliyosomwa hapa ni mabaya. Lakini, tutatumia kifaa gani kujua kwamba haya yamefanyika? Tutaambiwa kwamba kutakuwako na ushahidi. Hilo litakuwa ni jambo ambalo ningesema kwamba--

Mr. Kamuyu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Can you tell the hon. Members on the KANU side to shut up because they are so noisy as opposed to the hon. Members on Opposition side who are very disciplined?

Mr. Temporary Deputy Speaker (Mr. Wetangula): Hon. Kamuyu, is that a point of order really? Proceed, hon. Shikuku.

Mr. Shikuku: Bw. Naibu Spika wa Muda, jambo ambalo nilikuwa nikitaka kusema ni hili: Hizi dhambi

ninakubaliana nazo; mtu akimfanyia mtoto vibaya adhibiwe. Ukweli ni kwamba watu wamekuwa wajanja kwa wakati huu na hata zamani. Unakumbuka mama anaweza kusema kwamba huyu ni mtoto wa mhe. Shikuku na kadhalika ili apate msaada? Kunaweza kutokea mama na ninazungumza kutokana na tajriba ambaye anajua kuwa mtoto huyu analindwa na mhe. Masinde au mhe. Shikuku, na yeye anafikiria kwamba huyu mtoto akilindwa na huyu pengine atakapokua mkubwa marupurupu yatamwendea Mhe. Shikuku au Mhe. Masinde. Huyu mama atafanya mkutano na mtoto huyu kutengeneza mambo ambayo si ya kweli. Ninazungumza kutokana na tajriba ya maisha. Kuna mtu wa jamaa yangu ambaye aliwachukuwa watoto wake akawaelimisha na mmoja akapata shahada ya digrii na mwingine akapata shahada ya diploma, na wakajaliwa kazi ya walimu. Lakini nilipojaribu kuwasomeza na kuwalinda huyu mama alikuwa akija kuwaeleza watoto mambo ya kuudhi, lakini kwa bahati nzuri nilifaulu. Hii ni kwa sababu huyu mama alikuwa akifikiria kuwa hawa watoto wakiwa wakubwa watanisaidia kinyume na hayo wanamsaidia huyu mama. Bahati mbaya mmoja wao amekufa, hata ndururu si kupata kwao.

Bwana Naibu Spika kwa Muda, kwa hivyo, tutaona ya kwamba huyu mama anaweza kutia fitina kwa hawa watoto kutoa ushahidi wa uwongo kuharibu jina la ule mlinzi. Haya yote ninasema kutokana na tajriba yangu. Lakini mimi nina furaha kubwa kwa sababu nilifanya wajibu wangu kwa ndugu yangu na sasa watoto ni wake. Hawa watoto wanamunulia nguo; marinda, kitambaa na kadhalika. Sisi hata ndururu hatupati kutoka kwa hawa watoto. Hii sehemu inaweza kutumiwa vibaya na watu wengi wanaweza kushikwa na kufungwa jela.

Bw. Naibu Spika wa Muda, mimi siwachukii kina mama. Akina mama ni watu wa Mungu, lakini Biblia inasema tujihadhari nao. Hii ni kwa sababu Adamu alikuwa akiishi peke yake na hakuwa na taabu. Alikuwa akila matunda katika shamba la Aden. Lakini Mungu alitoa amri ya kutokula tunda fulani. Lakini Hawa alipofika, alimfanya Adamu kula tunda hilo. Baada ya kula tunda ndio taabu hii ikaingia. Kina Hawa ni wengi ambao wanaweza kuharibu na kuwafanya watu wengi kuingia katika jela.

Akina Hawa walituletea kifo. Adamu alimwambia Hawa kuwa Mungu alisema wasile tunda la mti huu lakini alishikilia kuwa ni lazima ale. Kama Adamu alikuwa na roho ngumu, angekataa. Lakini alipoona machozi alikubali.

Nashukuru kwa sababu mmoja wao yuko hapa na yeye ni Mkristo na sijui atasema nini? Alipolia, Adamu akafikiria atakufa kwa kulia---

Ms. Wanjiru: On a point of order, Mr. Temporary Deputy Speaker, Sir. I just want to inform the hon. Members that Adam made a mistake and he was misled by his wife, but he was angry when he replied to God; that is why he was cursed. Otherwise, he would have repented and God would have forgiven him.

Mr. Shikuku: Bw. Naibu Spika wa Muda, nashukuru sana mhe. Wanjiru. Anasema Adamu hakuweza kuungama lakini Adamu alikuwa akifuata amri za Mungu miaka hiyo yote. Lakini Hawa alipofika akaleta mkosi huu na hakuwa na nafasi ya kuungama kwa sababu alipokula yale matunda, mambo yote yaliharibika mpaka sasa.

Bw Naibu Spika wa Muda, lakini Yesu alikuja kutuokoa. Kwa sababu ya dhambi ya Adamu na Hawa, tunakumbana na mambo mengine. Sasa Mungu ametuletea UKIMWI tutakufa sana kwa sababu hatumsikii.

Ms. Wanjiru: On a point of order, Mr. Deputy Temporary Speaker, Sir. Now that the hon. Member has provoked me to talk, I wish to deliver God's message.

Mr. Deputy Temporary Speaker (Mr. Wetangula): Order! The message you want to deliver apart from being irrelevant, has no time in this Bill. You cannot stand on a point of order to deliver God's message!

Order! Hon. Wanjiru, hon. Shikuku does not want your information.

Mr. Shikuku: Bw. Naibu Spika wa Muda, katika kifungu cha 53 ambacho kinahusu - Arrest with and searches without warrant katika ukurasa wa---

Ms. Wanjiru: On a point of information---

Mr. Shikuku: No, I do not need it!

Mr. Deputy Temporary Speaker (Mr. Wetangula): Order! hon. Wanjiru, the rules require that if you want to give information, the hon. Member on the Floor must consent. hon. Shikuku has rejected your information!

Mr. Shikuku: Asante sana, Bw. Naibu Spika wa Muda. Katika kifungu cha 23---

Mr. Deputy Temporary Speaker (Mr. Wetangula): Order! There is a point of order. What is your point of order?

Ms. Wanjiru: Mr. Deputy Temporary Speaker, Sir, I came to this Parliament through the power of God and I have to deliver the message of God. God has said that he is going to punish by death these donors who refuse to give Kenya aid!

Mr. Deputy Temporary Speaker (Mr. Wetangula): Order! Order! hon. Wanjiru, you have been grossly disorderly and you must leave.

Ms. Wanjiru: I am leaving but God is in charge.

(Ms. Wanjiru withdrew from the Chamber)

Mr. Shikuku: Bw. Naibu Spika wa Muda, nilikuwa katika ukurasa wa 32---

ADJOURNMENT

Mr. Deputy Temporary Speaker (Mr. Wetangula): Order! Hon. Members, it is now time for interruption of Business. Therefore, the House stands adjourned until 24th October, 1995 at 2.30 p.m.

The House rose at 6.30 p.m.