

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 10th May, 2007

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

NOTICE OF MOTION FOR THE ADJOURNMENT UNDER STANDING ORDER NO.18(1)

UNSATISFACTORY REPLY TO QUESTION NO.3 BY PRIVATE NOTICE: GOVERNMENT'S COMPLIANCE WITH PROCUREMENT/ANTI- CORRUPTION ACTS

Mr. Deputy Speaker: Hon. Members, I wish to issue the following Communication, which is connected with end of normal sitting day. I have received a written notice from the Member for Ndhiwa, Mr. Ojode, of his intention to raise a Motion of Adjournment at the end of normal day's sitting, pursuant to Standing Order No.18(1)(2), on a matter contained in reply to Question No.3 by Private Notice, concerning a contract for consulting services which the Government signed with a private firm on 17th January, 2007 and answered on Thursday, 3rd May, 2007. I have considered the matter and have acceded to the request. I will, therefore, call the hon. Member to move the Motion of Adjournment at the time of interruption of business on Wednesday, 16th May, 2007, morning sitting.

Hon. Members, as the Chair has advised, it would be useful for the hon. Member concerned, and even in future for matters of this nature, for the hon. Member who is dissatisfied with a Question that was answered by a Minister, to send to the Minister written information, showing specific areas that he would like to be addressed by the Minister when the time comes. That way, we will save time and the purpose for which the time has been allocated will be achieved. Thank you.

Next Order!

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of Catering and Tourism Development Levy for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Sunset Hotel Limited for the year ended 30th June, 2004, and certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Sunset Hotel Limited for the year ended 30th June, 2006,

and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Kenya Wildlife Service for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for
Co-operative Development and
Marketing (Mr. Mwenje) on behalf of
the Minister for Tourism and Wildlife)*

Annual Report and Accounts of National Hospital Insurance Fund for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for
Co-operative Development and
Marketing (Mr. Mwenje) on
behalf of the Minister for Health)*

The Report of the Departmental Committee on Housing, Labour and Social Welfare on the Labour Relations Bill, 2007.

(By Dr. Manduku)

Mr. Deputy Speaker: Next Order!

QUESTION BY PRIVATE NOTICE

IMPOSITION OF NEW TAXES ON COUNCILLORS' ALLOWANCES

Eng. Muriuki: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) Is the Minister aware that councillors in various local authorities are being charged new taxes on their allowances?

(b) Under what law are these new taxes being imposed on the allowances?

(c) Could the Minister refund the amounts deducted until an appropriate law is in place?

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

(a) I am not aware that councillors in the various local authorities are being charged new taxes on their allowances outside the amounts spelt out in existing tax regulations.

(b) In view of the reply to part "a" of the Question, the issues raised under parts "b" and "c" of the Question do not arise.

Eng. Muriuki: Mr. Deputy Speaker, Sir, the taxes being deducted from councillors' allowances were not there before October, 2005. What made the matter even worse is that when the taxes were introduced, the charges were back-dated to the year 2003, when councillors joined their various local authorities. Could the Minister, therefore, tell the House what are those existing tax regulations, which were not there before last year and, maybe, bring them to the House, so that we can change them and save our dear councillors?

Mr. Kimunya: Mr. Deputy Speaker, Sir, Income Tax is regulated through legislation that is passed by this House, specifically, Cap.470 of the Laws of Kenya, which is the Income Tax Act.

The issue of the councillors' allowances as, indeed, all other employment income, is defined under Section 5(2)(A) of Section 37 of the Income Tax Act. So, we are not introducing anything new. These taxes have always been there. They should have been collected. The fact that they were not collected does not mean that they were not collectable.

However, just for the purpose of informing the House, in 1980, the Ministry of Local Government had petitioned the then Minister for Finance, who is currently His Excellency the President, to exempt councillors' allowances from taxation. He did give that exemption in December, 1981. That exemption was based on some regulations that were issued by the Ministry of Local Government which had prescribed the maximum amount that would qualify for taxation. Since that time those minutes have never been updated. The councillors pay has gone way beyond those limits that were allowed at that point. That is why the incident of tax has befallen on the councillors.

Mr. Billow: Mr. Deputy Speaker, Sir, we recognise the Ministry's efforts to try and raise revenue in accordance with the law. Personally, I think that the Minister is being penny-wise and pound-foolish by trying to tax the petty allowances and allowing the loss of billions through LATF because of poor management. Could the Minister tell this House how much money in actual taxes he has collected in 2005 and 2006 for example, from taxing the councillors?

Mr. Kimunya: Mr. Deputy Speaker, Sir, I believe that figure can be calculated, but as it was not the subject of this Question, I do not have that figure now. The fundamental issue here is that the allowances are above the income tax threshold for income tax relief. So, we cannot quite say that these are petty taxes. The principle is that anyone who is earning a salary or allowances over and above the amount of which there is an income tax relief should be paying that tax. As I said, there was a special exemption for councillors' allowances. That was through a circular that was done in 1980. The allowances then were based on the figures for 1980. The amounts may be out of date and we need to look at a revision of that circular in principle to capture the ones by the councillors and what we need to do for them. That work is ongoing as we talk.

Mr. Deputy Speaker: Let me choose Mr. Kipchumba because of his chairmanship of the Public Accounts Committee. I am saying this so that hon. Members do not think that I am concentrating on the Front Bench.

Mr. Kipchumba: Mr. Deputy Speaker, Sir, the Minister has clearly said that, that money was collectable and that the Income Tax Department failed to collect that money within one year to the extent that they are now backdating it. Is it not the case, therefore, that the Ministry of Local Government or the Income Tax Department did not perform its function, therefore, they are punishing councillors by backdating the collection of taxes for one year which is very punitive? Could the Minister, therefore, consider waiving one year of backdated allowance so that they can start taxing from now henceforth? It appears that the Ministry is now punishing the councillors unnecessarily!

Mr. Kimunya: Mr. Deputy Speaker, Sir, let me first of all confirm that it has not been a failure by the Kenya Revenue Authority in terms of not having collected the tax. I think they have been compiling all the information, but they have only managed to make the breakthrough within the last two years. It is an ongoing effort. In terms of the law passed by this House it empowers the Kenya Revenue Authority to go as far back as possible. So, that is within their powers. We are in the process of reviewing the situation to see how we can balance that incident of the burden on the councillor. I would probably urge the House that when we reach consensus on the way forward, we will report accordingly.

Mr. Deputy Speaker: The Minister has been very positive on this Question. Let me go to the last question.

Eng. Muriuki: Mr. Deputy Speaker, Sir, I think the Minister agrees that it is really very

unfair to tax and backdate taxes for councillors which were not there before. Since the decision to stop taxing councillors will not be made outside this House, could the Minister remove this particular provision when he is bringing his budgetary proposals? I think this is very unfair because even the allowances of hon. Members are not taxed. Could the Minister confirm to the House and the nation that he will bring amendments to those tax regulations so that he can relieve the councillors of this uncalled for burden?

Mr. Kimunya: Mr. Deputy Speaker, Sir, I believe the hon. Member wants to ambush me on the proposals that we will be making on the Budget. Suffice to say, we are looking into this matter. I think that is the only promise I can give to the House. We will resolve the matter one way or the other.

COMMUNICATION FROM THE CHAIR

DEFERMENT OF MR. OJODE'S MOTION
FOR ADJOURNMENT TO TUESDAY
23.5.2007, MORNING SITTING

Mr. Deputy Speaker: Hon. Members, before we go to the next Question, let me make a communication in regard to Mr. Ojode's request. I have since consulted the Minister for Finance who is supposed to address this issue. He will be out of the country the whole of next week. Therefore, I have also consulted with Mr. Ojode and I now want to vary the time and date from 16th May, 2007 morning sitting to Wednesday 23rd May, 2007, morning sitting. That is the time we shall adjourn for matters raised in Mr. Ojode's Question.

ORAL ANSWERS TO QUESTIONS

Question No.231

AMOUNT OF OUTSTANDING PENDING BILLS

(Question deferred)

Question No.137

DENIAL OF KENYAN CITIZENSHIP
TO REV. SINGH SODI

Mr. Khamisi asked the Minister of State for Immigration and Registration of Persons:-

- (a) why Rev. Paul Singh Sodi who applied for Kenyan citizenship in 2001 and holds Immigration Reference No.435689 has not been granted the same; and,
- (b) why his daughter Meena Singh Sodi is being denied a national identification card yet she is a Kenyan citizen.

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Deputy Speaker, Sir, I wish to apologise for not being in the House yesterday to answer the Question.

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

- (a) Rev. Paul Sodi has not been granted Kenyan citizenship because his immigration status

became void when his current work permit No.815812 expired on 24th January, 2007. Besides, the subject has not responded to our letter of 18th January, 2005 requesting him to collect a set of citizenship questionnaire forms for completion and return them to the Ministry for consideration and final action.

(b) Miss Meena Singh was born on 25th October, 1985 to an Indian father, Mr. Sodi, and a Kenyan mother Ms. Kombo. The subject has both constitutional claim to Indian and Kenyan citizenships until she attains the ages of 21 to 23 when she is required by law to renounce the alternative Indian citizenship and discard dual citizenship status. This is consistent with Section 97(1) of the Constitution of Kenya. The Ministry can only consider her application for a Kenyan Identity Card (ID) if Miss Meena renounces her Indian citizenship because Kenyan IDs are only issued to bona fide Kenya citizens.

Mr. Khamisi: Mr. Deputy Speaker, Sir, I thank the Minister for that answer. The Minister has said that the reason why this individual has not been issued with citizenship is because his work permit expired on 24th January, 2007 and that he was supposed to collect some forms on the 18th. This individual has been chasing this citizenship since 2004. In fact, I have a copy of a letter here that was written by the Vice-President then also questioning and wondering why the citizenship had taken so long. Could the Minister tell this House why it has taken almost four years now for the Ministry to say now that his work permit has expired?

Mr. Konchella: Mr. Deputy Speaker, Sir, I said that in 2004 he was sent a set of questionnaires to fill in so that we could see whether he is qualified for Kenyan citizenship. When we investigated what he is doing here, the referee he gave could not be found. So, we were unable to question the referee because he gave a person who had no address and we were unable to contact him. We eventually sent him some more documents for him to fill in which, so far he has not returned until now when his permit expired on January 24th. So, as of now, he is actually in the country illegally and could be prosecuted for that.

Mr. Bahari: Mr. Deputy Speaker, Sir, on the issue of the Identity Card, my understanding is that at the age of 21 years, if that lady does not decide that she is a Kenyan citizen, she automatically loses her Kenyan citizenship. It is not a question of submitting an application. Could the Minister clarify why she cannot get an identity card now because I think the explanation is the opposite of what the Minister is saying? At the age of 21 if she does not denounce the other citizenship; she automatically loses Kenyan citizenship and not the reverse of what the Minister has said.

Mr. Konchella: Mr. Deputy Speaker, Sir, the law says that between the age of 21 and 23 any child born of a Kenyan mother or father and is residing at the behest of one the parents being a Kenyan, they have to apply at that age to change their status from that of a dependant to that of a resident. In order for her to do that, she needs to renounce the dual citizenship of the other country. In this case, her father is an Indian. Therefore, she needs to renounce her Indian citizenship and apply for the Kenyan citizenship. Once she has got her Kenyan citizenship, she can now apply for the national identity card. It is not the other way round. She will not be able to apply for the identity card now because she has to be a citizen of Kenya before she can get an identity card.

Mr. Khamisi: Mr. Deputy Speaker, Sir, while I am not satisfied with that answer, I would just like to inform the Minister that the elder brother of this girl who is not yet 23 years old is a holder of a Kenyan identity card.

Mr. Deputy Speaker: That was a point of information! Mr. Minister, have you heard the information?

Mr. Konchella: Mr. Deputy Speaker, Sir, I would inform the hon. Member that, that is illegal and we will arrest that fellow.

Question No.182

SUB-DIVISION OF SHAVIRINGA LOCATION

Mr. Khaniri asked the Minister of State for Administration and National Security whether he could consider sub-dividing Shaviringa Location to enhance administration and bring services closer to the area residents.

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

(a) The Shaviringa Location will be considered for sub-division once the Government receives the request from the District Development Committee of Vihiga District.

Mr. Khaniri: Mr. Deputy Speaker, Sir, I am very surprised with the answer given by the Assistant Minister. Shaviringa Location is the largest location in the district, if not the province. Yesterday, I talked with the Assistant Minister and he knows the statistics of this particular location. He knows that it is more than qualified to be sub-divided. Shaviringa Location is almost the size of Sabatia Constituency which is in the same district represented by the Minister, Mr. Akaranga. What is surprising is that, recently, we had three locations in Sabatia being sub-divided without coming through the DDC as the Assistant Minister is explaining. Why is the Assistant Minister applying double standards?

The Minister of State for Public Service (Mr. Akaranga): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Minister, let the Assistant Minister answer the question first and then I will give you a chance to raise your point of order!

Mr. Kingi: Mr. Deputy Speaker, Sir, as far as I am concerned, I am not applying any double standards. As I told the hon. Member yesterday, we will only subdivide that location once the residents there indicate that they want it to be subdivided, through the District Development Committee (DDC).

Mr. Deputy Speaker: Mr. Minister, what is your point of order!

The Minister of State for Public Service (Mr. Akaranga): Mr. Deputy Speaker, Sir, is it in order for an hon. Member, by the name Mr. Khaniri, to come and tell this House that there are certain locations in my constituency which have been subdivided, when there are none at all? Could he give documentary evidence to support this allegation? If he does not have documentary evidence, I think serious action should be taken against him by this House, because we do not need to tell lies here! Is he in order!

Mr. Deputy Speaker: You have raised a very good point of order! Leave the rest to the Chair now!

Mr. Khaniri, you have heard what the Minister has said. You allege that three locations were subdivided in his constituency, but he says that there are none that have been subdivided. Are you in order?

Mr. Khaniri: Mr. Deputy Speaker, Sir, first of all, the Minister is out of order, because he used an unparliamentary word. He said that I "lied." Could he first of all withdraw that word?

Mr. Deputy Speaker: Did he say that?

Hon. Members: Yes, he did!

Mr. Deputy Speaker: Very well. Mr. Khaniri, I will deal with the Minister first, before you.

Mr. Minister, if you used the word "lie", which is unparliamentary, withdraw it!

The Minister of State for Public Service (Mr. Akaranga): Mr. Deputy Speaker, Sir, I

asked: "Why should an hon. Member come and tell something which is completely different?"

(Loud consultations)

Mr. Deputy Speaker: Mr. Minister, just withdraw the word!

The Minister of State for Public Service (Mr. Akaranga): Mr. Deputy Speaker, Sir, I withdraw the word, but let the hon. Member substantiate his remark!

Mr. Deputy Speaker: That is my work! Now that the word has been withdrawn, Mr. Khaniri, are there three locations, in the Minister's constituency, which have been subdivided?

Mr. Khaniri: Mr. Deputy Speaker, Sir, this Minister has really surprised me today. I even shared this issue with him yesterday when this Question appeared on the Order Paper. The Minister, who is also a full reverend, told me: "Why are you wasting your time asking this Question in Parliament, when I just talked to the District Commissioner (DC) and my three---"

Hon. Members: Shame!

Mr. Khaniri: Mr. Deputy Speaker, Sir, he told me that yesterday! Could he confirm or deny that?

The Minister of State for Public Service (Mr. Akaranga): Mr. Deputy Speaker, Sir, I have asked the hon. Member to provide documentary evidence to support his claim. This is because we cannot allow anyone to come up with allegations which are baseless!

Mr. Deputy Speaker: Mr. Khaniri, the discussions that you hold outside this House cannot be binding here. Perhaps, that was hearsay; that some locations have been subdivided and maybe, the good Minister wanted to show that he can do it. But, it is now apparent that no locations have been subdivided.

So, in view of this new information that we have; that there are actually no locations which have been subdivided, what is your position?

Mr. Khaniri: Mr. Deputy Speaker, Sir, I am going to check the records. But the Assistant Minister says that he will subdivide the location if recommendations come from the people of Shaviringa. I represent the people of Shaviringa in this House, and I would like to inform him that they want their location to be subdivided. In view of this, what is the Ministry's position?

Mr. Deputy Speaker: Mr. Khaniri, I will not let you get away with your allegation! You cannot leave this House with that information which is not substantiated.

Can you withdraw if you have no facts?

Mr. Khaniri: Mr. Deputy Speaker, Sir, in the meantime, I withdraw, but I will go and get evidence.

Mr. Deputy Speaker: Very well! Could you now ask your last question?

Mr. Khaniri: Mr. Deputy Speaker, Sir, I will repeat the last question which I have just asked.

The Assistant Minister said that if the residents of Shaviringa request for the subdivision of the location, they will do it. I would like to tell him that, as their representative, they want their location to be subdivided. In line with the Government policy of moving administration closer to the people, what does the Assistant Minister have to say about this?

Mr. Kingi: Mr. Deputy Speaker, Sir, that makes my work a bit easy, but what the hon. Member has to do is to go to the DC, who will initiate the DDC. Once they bring the minutes of the DDC to our office, we will act as per their request.

Mr. Deputy Speaker: Next Question!

AMOUNT OF OUTSTANDING
PENDING BILLS

Mr. Ojode asked the Minister for Finance:-

- (a) how much money is still outstanding as pending bills; and,
- (b) whether he could table a list of the firms owed money to date and how much has been paid or recommended for payment following Kenya Gazette Notice No.297.

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

(a) It is not possible for me to state the total value of outstanding pending bills, since the Pending Bills Closing Committee has not finalized the exercise of examination and evaluation of pending claims.

(b) In view of "a" above, "b" does not arise.

Mr. Ojode: Mr. Deputy Speaker, Sir, the Minister is not serious in answering this Question, because I am aware that payments are being done selectively. The reason why I am worried is because of the following: Sometime back, the same Minister forced a roads contractor to build housing units in his own plot in Nyandarua, in the name of the House of Mahiga.

I think it would be in order for the Minister to tell us who is being paid and who is not, because I know that some people have been paid, and I have the evidence to that effect.

(Loud consultations)

Mr. Deputy Speaker: Just a minute, Mr. Ojode! You have now mixed up issues. You are talking about pending bills and construction. Now, what does that construction have to do with pending bills? Could you, please, ask your question in regard to the matters raised in Question No.231?

Mr. Ojode: Mr. Deputy Speaker, Sir, first of all, I said that I am a worried person, because the Minister is not straight. That is the key word. He has failed the credibility test. The reason why I am saying this is because the majority of those companies undertake construction works---

Mr. Deputy Speaker: Order! Order!

Mr. Ojode: Mr. Deputy Speaker, Sir, let me just give the background information!

Mr. Deputy Speaker: Order, Mr. Ojode! I have no problem with that, but I just want us to be clear! You are lecturing us, Mr. Ojode! What is your supplementary question?

Mr. Ojode: Mr. Deputy Speaker, Sir, my supplementary question is whether the Minister is aware that payments are being done on a selective basis. My worry is that because he is involved in some of these shoddy deals within the Treasury, that is why I am also worried as to whether those construction firms will be paid. That is my worry!

Mr. Deputy Speaker: Have you asked a question now?

Mr. Ojode: Mr. Deputy Speaker, Sir, when is he going to pay those firms whose bills are still pending since those bills are accruing interest in the banks? Why is he paying others selectively and not the rest?

*(Several hon. Members stood
up in their places)*

Mr. Deputy Speaker: I will come to you! Mr. Minister!

Mr. Kimunya: Mr. Deputy Speaker, Sir, you may recall that this Question was raised here

last year.

Mr. Speaker, in the Chair, cautioned hon. Members about turning this House into a debt collection agency; by asking Questions on behalf of creditors because they have personal interests in those. However, for purposes of this House, the position is as follows:-

The Pending Bills Committee (PBC) has been meeting. They received claims from a whole array of contractors. They received claims from contractors. The claims are many. They have identified them and split them into two batches. The first 40 claims amounted to about 70 per cent of the total value of the claims which was Kshs68,979,274,209.30. Those were 40 claims. Out of those 40 claims, they have categorised them into four after completion of the analysis. The claims that were found payable - I believe those were seven - amounted to only Kshs230,110,446.59. The claims that were found not payable amounted to Kshs68,735,293,665.37. Then there is a whole number of claims for which there had been over-claiming. These amounted to Kshs872,920,743.36. We have communicated to all the 40 claimants who were evaluated and cleared within that first batch. The seven who were payable, we have paid the entire Kshs230 million and they have discharged this Government of any further claims on those claims that they had submitted.

On all the others, they have been written to and told of the fate of their claims. On those that are being followed for investigations, again, that action is ongoing. On all the others, the second phase of that investigation is ongoing. It is about to be completed and we will take similar steps.

Mr. Deputy Speaker, Sir, touching the second issue as raised by the hon. Member, it is very strange that when you do things in public interest, you actually get chastised instead of being praised. That, in terms of the construction that is going on, on Road C69, because of the need to expedite that process, I offered, in the public interest, part of my plot for the contractor to put up their construction site on a temporary basis at no fee at all.

(Loud consultations)

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order!

Mr. Kimunya: Mr. Deputy Speaker, Sir, again, the Minister for Roads and Public Works will confirm what is usually the tendency. There is supposed to be compensation for anyone who gives his part of the land for use on a construction site. For purposes of expediting the works that are ongoing, I offered my land for free to the public to ensure that, that road is constructed.

Mr. Deputy Speaker: That is it, Mr. Minister!

Mr. Kimunya: Mr. Deputy Speaker, Sir, I am not as corrupt as some of those hon. Members who are raising this issue!

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: That is it! Order, hon. Members! I was patient enough to allow the Minister to derail from the Question simply because an allegation had been made by the hon. Member. Surely, the Chair will not allow us now to move from the Question and start debating matters. If you wish to bring that matter, fine, there is no problem! However, I will not allow a matter which is not in the subject. Mr. Ojode has already made an allegation and the Minister has

responded. That is the end of the matter of the House on Mahiga or whatever you are calling it.

(Laughter)

(Loud consultations)

Let us go to the issue of pending bills! Mr. Muite!

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. Before the Minister can explain to this House as to whether stone buildings, double-storeyed, can be described as temporary or not - before he can do that - did you hear him say that hon. Members in this House are paid to come and ask Questions by contractors and that they are corrupt? Is that Parliamentary? Could the Minister withdraw and apologise or substantiate which hon. Members he is talking about?

Mr. Deputy Speaker: You are right, Mr. Muite! I think that is a substantive issue. The Minister said that hon. Members are paid to ask Questions on behalf of some clients. That is, indeed, casting aspersions against hon. Members. I think, Mr. Minister, you ought to withdraw that matter and apologise to the House. It is, indeed, not in order!

Mr. Kimunya: Mr. Deputy Speaker, Sir, I have no recollection of having uttered those words.

*(Several hon. Members stood
up in their places)*

Mr. Deputy Speaker: Order, hon. Members! What is the problem? The only way to verify, is through the HANSARD. However, I think the Chair heard the Minister make such allegations. If you insist, we can still defer the matter until we come and read the HANSARD. It is up to you!

Mr. Kimunya: Mr. Deputy Speaker, Sir, if I recall what I said, I said that Mr. Speaker, sitting on the Chair, said that he does not want the House to be reduced to a debt collection agency by hon. Members asking claims on behalf of contractors. I never said about hon. Members being paid to ask Questions. I think I have enough respect for the Membership of this House not to allege that anyone would be paid. I do not think any hon. Member would lower himself or his dignity so low to be paid to ask a Question. I never said that and it is not my intention.

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! The only way I will do this is to defer this Question. I will verify with the HANSARD because now the Minister has said that he did not say it; you say you heard and I also say I heard. I think that is the best way, for the Question to be deferred.

*(Several hon. Members stood
up in their places)*

Order! When a Question is deferred, it is deferred! So, whatever point of order you are bringing---

*(Mr. Wamunyinyi consulted loudly)
(Mr. Gitau stood up in his place)*

Order, Mr. Wamunyinyi! We are in Parliament! Mr. Gitau, will you sit down? This Question is deferred!

(Loud consultations)

Order, Members! When you defer a Question, it means that the matter will be dealt with at a later date. So, if you have any matter that you want to raise, you are supposed to hold on until the Question comes to the Floor.

Mr. Gitau: Mr. Deputy Speaker, Sir, unless you hear me, you will not know what I wanted to say!

Mr. Deputy Speaker: Mr. Kabogo, you are out of order because you were standing while I was talking! I have deferred this Question, first of all, to verify from the HANSARD whether the Minister uttered the words which have been alleged here or not. Then we shall continue with the Question because it was not exhausted. So, now if we go on with it, what would be the purpose of-- - Unless you want us to continue with it and not defer it-- However, I have already ruled that for as long as the Minister does not accept the words alleged to have been uttered, we cannot continue until we verify from the HANSARD. That is it!

Mr. Gitau: Mr. Deputy Speaker, Sir, it is not about the Question!

Mr. Deputy Speaker: All right!

Mr. Gitau: Mr. Deputy Speaker, Sir, you said here categorically that you heard the Minister and you even asked him about it. Are you now withdrawing what you heard, Mr. Deputy Speaker, Sir?

Mr. Deputy Speaker: Mr. Kabogo, my ears are as good or as bad as yours! The only authentic way of verifying is the HANSARD. I may be right or wrong and you may be right or wrong too. In parliamentary practice, all matters are verified through HANSARD and not through the Chair.

The Question is deferred to Tuesday, 22nd May, 2006, in the afternoon when the Minister will have come back.

(Question deferred)

Question No.129

MARKETS/BUS PARKS FOR CENTRES
IN ISIOLO SOUTH

Mr. Bahari asked the Minister for Local Government:-

(a) whether he is aware that no sites have been set aside for markets and bus parks in Modogashe, Garba-Tulla and Kinna Divisional Headquarters; and,

(b) when markets and bus parks will be constructed at the above centres.

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

(a) Yes, I am aware.

(b) The Division Land Board, which operates under the Trust Land Act, was gazetted by the Minister for Lands on 16th March, 2007. This Board has the responsibility of setting apart land for development in areas where the Trust Land Act applies. The physical development plans of the urban centres mentioned in this Question are being prepared by Isiolo County Council in conjunction with the District Physical Planner and the District Surveyor. When the same is

completed, land will be set aside for bus parks, markets and other facilities in Modogashe, Garba-Tulla and Kinna trading centres for future development.

Mr. Bahari: Mr. Deputy Speaker, Sir, although the Assistant Minister is a friend of mine, this is a very unsatisfactory answer and I have to do my part now---

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! We want to hear the hon. Member.

Mr. Bahari: Mr. Deputy Speaker, Sir, these centres that I have mentioned, that is, Modogashe, Garba-Tulla and Kinna have been in existence even before I was born. Businesses have been going on in these centres and these people need markets. The council has been allocating plots. Could the Assistant Minister stop dilly-dallying and direct the council to immediately set aside plots in the same manner they have been allocating plots to the general public?

Mr. Muchiri: Mr. Deputy Speaker, Sir, I have just said that Isiolo County Council is undertaking a development plan for those centres. It is not in doubt that they are going to set aside the land for bus parks and markets. There is no shortage of land in that area. So, the hon. Member is very much aware that these are upcoming trading centres. In terms of road traffic, hardly ten cars pass through the centres everyday. In the first instance, the viability of bus parks is in question, but that of markets is not in doubt.

Mr. Bahari: Mr. Deputy Speaker, Sir, every other day, the public health people push hawkers around that place because there is no market that has been set up. This is a very common phenomenon in those trading centres. It is only that, perhaps, this Assistant Minister is looking for the common buses. The type of buses that we have in that place are pick-ups and so on. I am sure that the Chair is very much aware of that fact. My people cannot afford to wait for the Assistant Minister to conduct physical planning and all that! They want to continue with their business in an organised manner. Could the Assistant Minister direct the council, which, actually does nothing, and I say nothing, to move with speed and set aside, at least, a temporary site?

Mr. Muchiri: Mr. Deputy Speaker, Sir, the Isiolo County Council will be directed to set aside a temporary site for markets in these areas with immediate effect.

Question No.233

ADDITIONAL GRADER FOR RUIRU
MECHANICAL BASE

Mr. Deputy Speaker: Mr. Mbau is absent. The Question is dropped!

The Minister for Roads and Public Works wants to say something about this Question.

The Minister for Roads and Public Works (Mr. Nyachae): Mr. Deputy Speaker, Sir, this is the second time the hon. Member who raised this Question has failed to turn up. Yesterday, a number of my colleagues did not answer their Questions. As for my Ministry, we were here to answer this Question. You deferred it because that hon. Member was not present. But when you referred to the specific Ministries, today, the *Standard* Newspaper included the Ministry of Roads and Public Works among the ones that you reprimanded for being absent. That is misleading and actually mischievous. Either the reporter is irresponsible or has some wickedness against the Minister for Roads and Public Works.

Mr. Deputy Speaker: Thank you, Mr. Minister! I can only reiterate what the Chair has been saying from time to time; that those reporters who are privileged to be reporting the proceedings of the House must do so accurately. Indeed, it was the hon. Member who was absent

and not the Minister. We deferred the Question because Mr. Mbau was not present. Now that he is not present again, we will drop the Question. However, the Minister's point should be taken seriously. I hope that the reporters are listening! It will be very useful if they reported the proceedings of the House correctly. I cannot say more on that one.

(Question dropped)

The hon. Member for Kanduyi now!

Question No.230

RESTORATION OF SCHOOL
EQUIPMENT SCHEME

Mr. Wamunyinyi asked the Minister for Education what measures he is taking to restore the Kenya School Equipment Scheme to undertake its original functions so as to harmonize the supply of equipment and teaching materials for the strengthening of free primary education.

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

The Ministry has no intention of restoring or reviving the Kenya School Equipment Scheme (KSES) because all primary schools in the country are currently receiving Free Primary Education (FPE) funds directly into their school accounts.

These funds cater for the purchase of instructional materials which used to be procured and issued under the KSES. Free Primary Education funds also cater for other general purpose expenses in the schools and, therefore, more beneficial than the KSES.

In the FPE, each enrolled pupil is entitled to a sum of Kshs1,020 annually, out of which Kshs650 goes to Account I (SIMBA Account) and Kshs370 goes to Account II (General Purpose Account).

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, I would like to thank the Minister for his answer and for successfully steering the FPE Programme. However, one issue that he needs to clarify is that in some schools where funds have been provided as he has just stated in his answer, you will find that the funds are not expended on the intended issues, particularly the instructional materials. If he has no plans to ensure that instructional materials are provided by KSES, what is he doing to ensure that the schools that are provided with funds use them to buy those materials and not other things?

Prof. Saitoti: Mr. Deputy Speaker, Sir, I believe that the Question was whether my Ministry is going to revive Kenya School Equipment Scheme. But he is now raising the issue of how the funds provided under the Free Primary Education Programme are being used and accounted for. Nevertheless, I want to inform the House that the Ministry has a scheme or a structure for monitoring how the funds which are intended to provide the appropriate instructional or learning materials for free primary education are properly used. We do have school committees which are charged with the responsibility of ensuring that they inform the parents on how the funds are used. The schools have also been instructed to ensure that at the end of the term, there is an exhibition of the amount of money received and how it is being used. In addition to that, also the auditing organ of the Ministry continues to audit the use of those funds.

Mr. Karaba: Mr. Deputy Speaker, Sir, the Minister is telling us that the schools should buy various scientific equipment from various shops. To me, what is happening in the country is that, some heads are using the same money to buy some tattered science equipment. What my

friend there is asking is whether there is a way of coming up with one shop that should be centralised so that the science equipment which is very important can reach the schools countrywide. That is our concern. What policy does the Ministry have to make sure that science equipment is provided cheaply and is accessible to schools?

Prof. Saitoti: Mr. Deputy Speaker, Sir, appropriate guidelines have been provided to the schools as to the type of equipment that they should actually purchase. Those who do not purchase in accordance with those guidelines will have violated them and they will be caught by auditing. However, the Ministry does not consider it to be prudent to have one monopoly body, then direct the schools that they must go and purchase their needs in one monopoly shop. That will even become more expensive.

Mr. Deputy Speaker: Last question, Mr. Wamunyinyi.

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, the reason why I asked this Question is that, in some schools, I have witnessed that funds are provided for the purchase of books for pupils but in these schools, I witnessed 12 pupils sharing one book and in another case, there were no books procured although there was evidence, according to the records, that they received money and bought the books. It is for that reason that I ask the Minister what he is doing to ensure that the money for school material, that would have been provided from one central place is of good quality and will reach the school. What is he doing to ensure that standards are not going to be compromised and that the required equipment is procured?

Mr. Saitoti: The hon. Member has observed a scenario where a school was provided with free primary education grants and that books were not purchased. I will be quite happy to receive that information and I will take appropriate action, not only against the headmaster but against the school committee. As I said earlier, we do have an auditing organ in the Ministry which goes all over the country to audit the manner in which the free primary education grants are being utilised.

Question No.270

REFUND OF KANGUNDO COFFEE
FARMERS' MONEY

Mr. Deputy Speaker: I can see that the very able Minister for Co-operative Development and Marketing, Mr. Ndwiga, is here. But Mr. M. Maitha called very early in the morning and said that he is unable to come and requested that the Question be deferred to any day next week. I would like to ask the Minister to choose which day he wishes to answer this Question.

The Minister for Co-operative Development and Marketing (Mr. Ndwiga): Mr. Deputy Speaker, Sir, we are able to answer the Question any day because we are in Parliament all the time.

Mr. Deputy Speaker: So, the Question is deferred to Tuesday next week.

The Minister for Co-operative Development and Marketing (Mr. Ndwiga): That is fine, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Thank you for your understanding.

(Question deferred)

Question No.271

CONSTRUCTION OF SUGAR FACTORY
IN KERIO VALLEY

Mrs. Kilimo asked the Minister for Agriculture:-

(a) when the Ministry will construct a sugar factory in Kerio Valley of Marakwet District, considering that trials undertaken in the year 2005/2006 indicated that the area is good for sugar-cane growing; and,

(b) what the estimated cost of constructing the factory is.

The Minister for Agriculture (Mr. Kirwa): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The sugar-cane trials carried out indicated that the region has medium level potential for sugar-cane production and, therefore, a sugar factory will be constructed as soon as a willing investor is identified.

(b) The estimated cost of the factory will be established once the investor carries out a detailed feasibility study which will spell out the actual technology to be employed and the size of the factory.

Mrs. Kilimo: Mr. Deputy Speaker, Sir, you have heard the Minister say that as soon as a willing investor is identified, they will come. In this country sugar consumers are deducted 7 per cent levy and that money is collected by the Sugar Levy Development Authority. That money that is collected is enough to start a medium sized factory. Last year, Mumias Sugar Company, which is under the Ministry of Agriculture, tried to force itself to invest in the sugar industry in Tana River and the people of Tana River refused. How can he say that they have not identified an investor? Why can he not redirect Mumias Sugar Company to come and start investing in sugar in Kerio Valley? Finally, I would like to ask the Minister what he has done to identify an investor. Has he advertised in the local dailies? Has he sent a request to the Investment Promotion Centre (IPC) so that investors could be found? There is so much money collected by the Sugar Levy Development Authority and can be used for investment.

Mr. Deputy Speaker: Hon. Member, ask a question!

Mrs. Kilimo: Mr. Deputy Speaker, Sir, I have asked the question! In fact, they are three questions!

Mr. Deputy Speaker: We always ask one at a time!

Mr. Kirwa: Mr. Deputy Speaker, Sir, I did not expect Mrs. Kilimo to be so harsh to me given the fact that we have discussed this issue. The policy position is that, as a Government, we do not have new investment in the factories. What we have done is to encourage as many people as possible, including Mumias Sugar Factory, to express interest in the Kerio Valley.

Prof. Oniang'o: Mr. Deputy Speaker, Sir, the Minister knows that the sugar industry in Kenya is not competitive. As he encourages a proliferation of sugar factories, could he tell us what measures he is putting in place to make sure that the production cost for the farmers goes down?

Mr. Kirwa: Mr. Deputy Speaker, Sir, we have put in place a number of measures. One, we have been able to remove the high level of indebtedness from the industry. We have also been able to improve efficiency through various measures, including modernisation of factories. We also intend to move in that direction, particularly for Sony and other factories.

Mr. Osundwa: Mr. Deputy Speaker, Sir, I am surprised by the answer coming from the Minister. Indeed, when I was an Assistant Minister in that Ministry, there were so many inquiries from people wishing to invest in this industry. The Kenya Sugar Board has billions collected as Sugar Development Levy. We want the Minister to answer my colleague, as to what method has he used to entice people to come and invest. He has not told us whether he ever advertised in the Press; whether he has ever held any conference. What are you doing, because there is potential in Kerio Valley? To follow up on that--

Mr. Deputy Speaker: You have asked a question, my friend; let the Minister answer!

Mr. Kirwa: Mr. Deputy Speaker, Sir, the hon. Osundwa was doing a nice job as my Assistant Minister. Indeed, it is true that many people make inquiries. But to translate inquiries into

tangible investment programmes is a different matter.

Mr. Sambu: Mr. Deputy Speaker, Sir, as a way of inducing farmers to grow cane, and then the cane will induce investors to come, will the Ministry consider taking some acres, because I believe there are some farmers' training land in the valley, and plant with it cane, so that the farmers can see that cane is viable in that area?

Mr. Kirwa: Mr. Deputy Speaker, Sir, it is true, and we have already taken some two acres in the Kerio Valley, and the viability of the same has been indicated. We will also explore the possibility of encouraging more, and also looking for investors so as to assist the people of the valley, because it is not only going to address the issue of food security, but it is going to address the issue of security by creating a buffer zone between the Marakwet District and the neighbouring districts.

*(Prof. Olweny stood
up in his place)*

Mr. Deputy Speaker: Last question, Mrs. Kilimo! Look at the clock.

Mrs. Kilimo: Mr. Deputy Speaker, Sir, while I am satisfied with the Minister's answer, I am only surprised that the Government, which the people of this region, and which the Minister represents, has taken so long to bring industrialisation to Marakwet in Kerio Valley, considering that when they, especially the youth, saw that the President promised 500,000 jobs, they voted overwhelmingly for this Government, and now we only have six or seven months before the time expires. Can he promise that in that six months, they will have brought industrialisation to Kerio Valley instead of the barter trade that we are still doing and we have been doing up to now?

Mr. Kirwa: Mr. Deputy Speaker, Sir, I promise I will do what it takes within my means.

Mr. Deputy Speaker: Very well. Hon. Members, that is the end of Question Time, and we now go to the next Order.

Next Order!

BILLS

Second Reading

THE EMPLOYMENT BILL

*(The Minister for Labour and Human
Resource Development on 8.5.2007)*

*(Resumption of Debate
interrupted on 9.5.2007)*

Mr. Deputy Speaker: The Minister was replying when we were interrupted by lack of quorum. Now, Minister, you may resume.

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Deputy Speaker, Sir, let me just repeat what I had read so far, so that the whole thing makes sense.

I thank the hon. Members for the enthusiasm with which they received and debated the Employment Bill. I also thank the hon. Members for their varied and constructive criticisms, which will help in finalising work on the Bill, especially at the Committee Stage.

Mr. Deputy Speaker, Sir, I take note of the concerns raised, and proposals made to enrich the Bill. Of special significance are the comments made by the hon. Members on the plight of child

workers, casual workers, EPZ employees, workers in the protective security industry, whose wages and terms and conditions of employment are a national concern, issues of discrimination at workplaces as well as sexual harassment.

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

I am happy with the insight given on statutory basic minimum wages, maternity and paternity leave and housing, especially for workers living in slum areas. The Employment Bill is important, and will ensure effective protection to all workers in the various sectors in the economy.

Mr. Temporary Deputy Speaker, Sir, a lot of functional shortcomings observed, relating to labour officers, is a reflection of the weakness in the current Employment Act, Cap.226, which this Bill seeks to repeal. I am in full agreement with the valid observations made by hon. Members regarding the definitions in the Bill, and see the need for re-examination.

Finally, I agree with hon. Members that there is need to recruit more officers for the effective implementation of the Employment Bill when it comes into law. Most Members of Parliament are in support of the Bill, and I assure the House that all the concerns raised by the hon. Members will be looked into to make sure that workers' rights are fully addressed and protected.

Mr. Temporary Deputy Speaker, Sir, I may add here that we have asked for, and received authority, to recruit 150 labour officers. Every district should, therefore, have a labour officer in the very near future. We are very much concerned that a labour officer covers more than three districts on foot, thus rendering his work extremely difficult. I appeal to hon. Members to lobby for a generous budgetary allocation from my friend, the Minister for Finance here, because labour is key to economic development.

With those remarks, I beg the House to pass the Bill subject to amendments proposed by the hon. Members.

Thank you.

(Applause)

*(Question put and agreed to)
(The Bill was read a Second Time
and committed to a Committee of
the whole House tomorrow)*

Second Reading
THE LABOUR RELATIONS BILL

The Minister for Labour and Human Resource Development (Dr. Kulundu): Thank you very much, Mr. Temporary Deputy Speaker, Sir.

I beg to move that The Labour Relations Bill be now read a Second Time.

This is an important Bill dealing with the democratisation of industrial relations. The background information for this Bill is the same as the one I provided for the Employment Bill. The principal object of this Bill is to provide a legal framework to promote freedom of association and the right to collective bargaining, to streamline the registration process of trade unions, employees' organizations, federations of trade unions and employers' organization to provide a mechanism for the effective management of property, funds and accounts of trade unions,

employers' organizations and their respective federations; and to promote expeditious and conclusive dispute settlement.

Mr. Temporary Deputy Speaker, Sir, Part I of the Bill contains preliminary provisions which include the general interpretation and application process. Part II contains provisions that protect the freedom of association of employees and employers, and Part III provides for the establishment and registration of trade unions and the employers' organizations. It sets out the procedure for application and consequences of registration, and also provides for suspension and cancellation of registration of trade unions and employers' organizations. Part IV represents who may become a member, official or officer in a trade union or employers' organization. It also provides the manner in which elections of officials of a trade union or employers' organization shall be conducted.

Mr. Temporary Deputy Speaker, Sir, Part V makes provision for the management of the property, funds and accounts of trade unions or employers' organizations. Part VI provides for the deduction of trade union dues, agents' fees as well as payment of employers' organization fees in recognition for their service.

Part VII provides for the election of trade union representatives, trade union access to employers' premises, recognition of trade unions by employers and registration of collective bargaining agreements. Part VIII deals with trade dispute resolution and empowers the Minister to appoint conciliators to resolve disputes arising under the Bill. Part IX makes provisions for adjudication of trade disputes in the National Labour Court, which is called the Industrial Court in the Current Bill. Part X provides for the management of strikes and lockouts. Part XI contains miscellaneous provisions.

Mr. Temporary Deputy Speaker, Sir, the benefits of the Labour Relations Bill are:

(i) The Labour Relations Bill merges the current Trade Union Act, Chapter 233, and the Trade Disputes Act, Chapter 234, making this Statute user-friendly while maintaining the same subject.

(ii) The Bill sets out the provision for the exercise and protection of the freedom of association for both employees and employers.

(iii) The Labour Relations Bill promotes the freedom of association and right to collective bargaining with a view to bringing the legislation into harmony with both the Constitution of Kenya and the international labour standards.

(iv) The Bill streamlines the registration process of trade unions, employers' organizations and their federation.

(v) It provides mechanism for effective collective bargaining and promotes expeditious and conclusive dispute settlement within an industrial relations judicious set up.

(vi) The Labour Relations Bill is easy to read and understand, so I hope.

(vii) It promotes democratic practice through enhanced involvement and the participation of individuals and lawful collective groups.

(viii) It asserts individual and collective group rights and obligations in labour relations.

(ix) The Bill establishes fair and objective criteria of the registration of trade unions, employers' organizations and their respective federations.

(x) It establishes trade unions and employers' organizations special role in the conduct of labour relations affairs within the country and, therefore, eliminates room for interference by other social organizations.

(xi) The Bill establishes how trade unions should access employers' premises for purposes of trade union activities.

(xii) Pre-industrial court trade disputes resolution machinery has been streamlined and the

process given a specific time frame within which to dispose of disputes. This will eliminate delays in dispute resolutions and make the process more transparent.

(xiii) The Bill minimises room for interference with worker's rights to go on strike by setting out clear guidelines on protected strikes and lockouts. And, lastly,

(xiv) The Bill introduces alternative dispute resolution machinery.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I beg to move the Labour Relations Bill, Bill No.8 of 2007, and request the Minister for Co-operative Development and Marketing, hon. Ndwiga, to second the Bill.

Thank you very much.

The Minister for Co-operative Development and Marketing (Mr. Ndwiga): Thank you, Mr. Temporary Deputy Speaker, Sir.

First of all, I would like to start off by congratulating the Minister for the timely moving of this Bill. This Bill is extremely relevant at this time; at the time when the economy of this country is booming. It is absolutely necessary at this time because the Government is putting its footprint and thumb on the recognition of workers' rights and the constitutional rights of Kenyans to mingle and meet freely.

Mr. Temporary Deputy Speaker, Sir, in the past, we have had occasions where employers have refused their employees and actually forced them not to join trade unions. Joining a trade union or a savings and credit society is a fundamental right of every worker.

While congratulating the labour movement in this country for conducting itself responsibly in the recent past, it has also realised that this country is rising from the doldrums and a deep depression. It gave time to this country to recover. It is true that, through collective bargaining, the workers of this Republic today are much happier than they were three years ago. I wish to thank the labour movement. I want to tell employers, who did not allow their employees to join labour movements in the past, that the law has finally caught up with them. It is a criminal act to prevent a human being from joining an organisation of choice.

Mr. Temporary Deputy Speaker, Sir, we have also noted that the economy is booming because the workers are happy. They are contributing enthusiastically to the economic growth of this country. Through collective bargaining, workers are properly motivated. Therefore, they are producing much more than they were in the past. It is, therefore, the Government's responsibility to make sure that the workers of this Republic are properly protected.

Mr. Temporary Deputy Speaker, Sir, we have made statements in the past that, some employers, apart from hindering workers from free access to trade unions and other organisations such savings and credit societies--- The Government will bring another Bill here - the SACCO Bill - which will follow the principles of the current Bill. We have employers who have a habit of deducting workers' dues and not remitting them to SACCOs, National Hospital Insurance Fund (NHIF) and National Social Security Fund (NSSF). Therefore, this Bill is timely. It will make sure that such things will not happen.

Mr. Temporary Deputy Speaker, Sir, I would like to urge my colleagues that, on the ground, the labour movement needs to be given some "teeth". I urge this House to support the Minister to get adequate budgetary support.

Mr. Temporary Deputy Speaker, Sir, on the ground, we have labour officers who have not tuned themselves to the current mode. They are still working in the past. They have not realised that things have changed. Today, they are still "employees of employers"! Apart from working for the workers of this country, they work for the employers. We have seen, particularly in the rural areas, very many employers who do not pay the minimum wage and yet, we have labour officers. Workers have complained about that to the labour offices. I know that very many Government officers have changed their past trends. But our labour officers on the ground must, even before

this Bill is enacted, wake up and represent the workers. If they do not do so, workers will be highly exploited.

Mr. Temporary Deputy Speaker, Sir, we have seen situations recently, particularly in the Export Processing Zones (EPZs), where Kenyans have been employed on temporary basis for over five years. That should not happen. We need very clear labour guidelines and procedures stating that, after a certain period--- The laws are there. But the practice on the ground is such that Kenyans are subjected to long periods of employment as casuals. If you work as a casual for five years, you have no opportunity to contribute to a SACCO. That is because you do not know whether you will still be in employment after two months. You have no opportunity to contribute effectively to a social security fund or a provident fund. You have no opportunity to even join a health insurance facility because of the temporary nature of your job. Therefore, we need to have a strengthened labour movement. Our employees should be able to join trade unions of their choice so that, that kind of mistreatment can stop. I want to urge my colleagues to even allow casuals to join labour unions. That is necessary. If they work for an institution, they should be allowed to join a labour union of their choice.

Mr. Temporary Deputy Speaker, Sir, because I see there are very many of my colleagues waiting to contribute to this Bill, I beg to second.

(Question proposed)

The Assistant Minister for Justice and Constitutional Affairs (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, may I take this opportunity to congratulate the Minister for Labour and Human Resource Development for moving the Labour Relations Bill.

Mr. Temporary Deputy Speaker, Sir, in the classical marxist theory of labour, labour and management are supposed to be rivals. They are not supposed to be working together. They are supposed to be independent and fighting for positions of power and control of the instruments of production. But that theory has no proper place in the 21st Century. The current thinking in labour relations is that both management and labour are two components of the production process that are not supposed to be rivals. They are supposed to be working together to improve production. That is the 21st Century thinking of labour relations. I, particularly, congratulate the Minister because he has moved our state of legislation from where it used to be, to the 21st Century.

Mr. Temporary Deputy Speaker, Sir, there are clear provisions in this Bill that give specific rights to both the labour movement and employer unions. We find obligations and duties created for both labour movement and, on the other side of the coin, employer movements. That is a big step from what used to exist in our laws, that we are trying to improve right now.

Mr. Temporary Deputy Speaker, Sir, there is a clear provision on the side of the labour unions for the protection of workers. As my colleague has mentioned, there is a clear right to participate in a strike. An individual is not supposed to be victimised, harassed, isolated or discriminated against because he participated in a strike. Clause 5 is very crucial for the development of the labour movement in Kenya. Many times, workers who participate in strikes or picketing to protest against specific practices or issues that have been raised with management are isolated or branded as black sheep in industries. So, whenever an opportunity arises for them to be promoted, they are left out. Therefore, this particular clause is crucial for the protection of the labour movement in this country.

Mr. Temporary Deputy Speaker, Sir, one of the issues I would want to raise in Clause 5 is the protection of labour union leaders. Ordinarily, people who organise the pickets, strikes and lockouts are the labour leaders. Many times when it comes to firing, they are particularly targeted. We saw it happen recently when the University Academic Staff Union went on strike. Even if the

participants are reinstated after negotiations are carried out, usually, a lot of obstacles are placed on the way of the union leaders who organised the strike, lockout or picketing against management.

I would have wished for a situation where special protection is provided for under Clause 5 for protection or non-discrimination against union leaders. In many other parts of the world, there is, indeed, provision to them. In our country, and in many other third world countries, they are left exposed. They are discriminated against when it comes to re-employment when the industrial action is over. So, the proposed Clause 5 should be buttressed to provide protection of a special kind to union leaders.

I want to thank the Minister for giving workers a clear right of freedom and association under Clause 4. In this clause, they are allowed to join trade unions and participate in those kind of activities. During a recent visit I made to some country in the south, I discovered that a trade union that supports domestic workers is very strong. You cannot just hire and fire or put them under inhuman conditions without that trade union criticising your actions. You cannot stop them from joining labour movements. You cannot also harass or intimidate them.

In South Africa, trade unions have gone one step ahead to protect the lower cadre of people because of their history. Historically, many people who formed part of the black labour were employed as houseboys, maids and domestic servants in the country that was then dominated and ruled by the white community. So, their history helped them to develop very strong provisions for the unions that are specific and directed towards domestic workers.

Although there is a clear provision for the right to join a trade union, as provided for under Clause 5, I would have preferred that there be a very special protection for lower cadre workers such as domestic workers. Although we did not suffer apartheid in this country, we have had a colonial history. It is a pity that the oppression of lower cadre staff has continued in our country.

This category of people should be given specific protection. In this case, there should be a clear clause to make it difficult for employers to hire people from the free market for that kind of labour and not allow them to join a trade union. We should not leave them exposed. We need to protect them. As Members of Parliament, one of our prime duties is to protect all, including those who are lowly in terms of employment. So, Clause 4 is a very good effort, but it could have gone further in terms of putting special provisions for the protection of the workers who are lowly paid.

Looking at the provision that deals with the management of trade unions in this Bill, I would like to congratulate the Minister. Under Part III, he has made specific efforts in terms of how labour unions should be registered and managed. In particular, Part V, talks about the property, funds and accounts of trade unions, employers, organisations and federations. It is very welcome that the Minister has made clear provisions in terms of trade unions; how they ought to make returns every year. This is very important because the money deducted from workers is protected. This is commendable.

There is also a clear provision for inspectors to be appointed by the Registrar of Trade Unions to inspect properties and accounts of trade unions. This is a very good provision. The Minister went further to provide that obstructing an inspector who has been appointed by the Registrar of Trade Unions to inspect such properties is an offence. This is a very good provision. It is commendable.

However, I would have preferred that the same transparency and accountability apply to employers' unions. While we have been talking so much about transparency, accountability and failure to create corruption-free environment within the State and public institutions, we also need to look at other institutions that are basically semi-private and create in them, the same culture of transparency and accountability. The employers' unions should not be left out in this provision. They must render accounts and have clear provisions in terms of transparency and accountability.

The other clause that needs to be included in this Bill - and I am sure the Minister will

consider incorporating it - is the one that talks about the idea of organizing the organized labour. Already, we know that it is very important to have numbers, whether a labour union is planning a strike, picketing or go-slow. But the numbers or memberships in a trade union do not tell us enough; for example, whether the membership itself understands the role of trade unions. Numbers do not also tell us whether that membership is an able membership. We know that labour unions have continued to collect dues from the members for a long time. Indeed, this is where they collect their strength to organize--- We would like to see, in this law, a clause that would make training of the membership of labour unions a compulsory kind of thing, so that we can have an informed labour movement; a movement that knows its responsibility. We should not have a labour movement that only knows how to strike, go on a go-slow or one that will have a membership that can be easily influenced into participating in non-industrial action in the name of the labour union.

So, it is important that there should be clear provision for the training of the membership of labour unions. There must be standards created for the labour unions. If we want to organize the labour movement in Kenya, then let us do it wholesome. This will ensure that the membership of trade unions is trained, so that they know what is their right and responsibility as well.

Mr. Temporary Deputy Speaker, Sir, the future of the labour movement rests in an informed and committed membership that knows what it is doing, and not one that is easily influenced into doing other things. Why do I say this? As Members of Parliament, I think it is important for us to create very strong labour and employers' movements, because in this 21st Century, what we need is an organization that will help us produce more in the economy. We do not need organizations that will not help us in terms of that eventual goal.

Mr. Temporary Deputy Speaker, Sir, one of the intentions of this Bill is to democratize trade unions and employers' organizations or federations. Democracy does not necessarily mean that you have to agree all the time. One of the things that we may not agree on--- For example, if there is a call to go on strike, picket, lock-out or go-slow, it may not be true that all individuals in a particular industry are willing to participate in that strike, lock-out, picket or go-slow. It is not uncommon in this country - and that is part of the reason why we need this law - for people who do not wish to participate in a strike, go-slow or any form of industrial action, to be victimised by the people who are intending to participate in that industrial action, whether legal or illegal.

A situation may develop, where a person does not want to participate in a go-slow and, for some reason, he is victimised by the trade union. I think the time has come for us to democratize the trade unions and employers' federations and movements; that, that right to disagree or not to participate in a strike, must be respected. That must be provided for in this Bill. Although, it has been stated in this Bill, in principle, that need to democratize the labour movement and employers' organizations, it is clear that the individuals who refuse to participate are not protected. So, I think a new clause needs to be introduced by the Minister, to see to it that the individual's right to disagree not to participate in a strike or any form of industrial action, is recognized and entrenched in this law.

Mr. Temporary Deputy Speaker, Sir, I would like to support the Minister, in his clear intention of creating alternative dispute mechanisms within this Bill. That is a good thing, because for those of us who have practised law either inside or outside the courts, we know that any court action, in this country, takes a long period of time. Even the courts that are proposed to be created by this Bill will contribute to the clogging of the system. There will then be interference in terms of speed of finalising any cases that may be pending in these courts. Therefore, the Minister's move to create alternative dispute resolution mechanism is to his credit.

However, it would be a very good thing--- Some countries have created special departments of conciliators within their Ministries that deal with these matters. Therefore, it would be a good idea to create such a department, deliberately, to deal with the efforts to settle disputes. Those who

have practised law know that any matter that is resolved outside the courts is better than that which is resolved within the courts. This is because any outside resolution on any matters involves dialogue and it helps people to reach to a conclusion that helps both sides to come up with something that is reasonable.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to, particularly, state that it is a good idea to recognize the special roles of trade unions in this Bill. This has, sort of, set them apart clearly under law, although we had it in practice. The trade unions will have a special role. I say this because, of late, we have had many people who have gone--- I am, particularly, talking about the flower farms. Some Non-Governmental Organisations (NGOs) have gone out of their way to bring out some of the things in a manner that has hurt the production and profits of that industry. There is a labour movement but it has also been demonised. It has been told that it is not doing enough. In the recent history in Kenya, those NGOs have gone to the international markets, tried to malign the name of the country and the industry as a whole. They are saying that the labour movement in Kenya is not doing enough.

Mr. Temporary Deputy Speaker, Sir, it is very good that now, that will have to come to an end because of the special role that has been recognised. Why I say so is that if you have other organisations that are not limited by law and are not operating within the framework of the law, say or keep saying things that will hurt a whole industry, that will cost us so much and yet there is a labour movement that is regulated and knows how to engage, then we will not be doing very well for this country. Otherwise, I, again, want to support this Bill wholeheartedly. I also want to say that we are now moving into the 21st Century. There is a very clear attempt to bring our standards of labour relations to the International Labour Organisation's (ILO's) standards. This is good for this country. I want to congratulate the Minister and the Government in general for pushing us ahead.

Normally, in countries like Canada where many companies are being bought by United States investors, when they go and fire people - or say: "You are supposed to go! You cannot do this or participate in that!", trying to apply American law, they are promptly told: "In Canadian law, this cannot happen." I am so happy that in Kenya now, we are moving to a stage where we are protecting the workers' and employers' organisations to a level that is 21st Century; to a level we will all move together in increased production.

Thank you.

With those few remarks, I beg to support.

Mr. Muturi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill. I want to start by saying that I support. I can see that my good friend, the Minister for Labour and Human Resource Development was getting apprehensive. However, like I said yesterday and the day before while contributing to The Employment Bill, I just think there has been a problem in sequencing. Since this is among the very few Bills that are coming from this Ministry, we can understand and excuse the inexperience noticed. Although, I want to appreciate that when the Minister, during the Eight Parliament, was the Chairman of the Departmental Committee that actually is responsible for these kind of Bills, we used to see a lot of action. Indeed, I think part of the reason why a number of us--- I want to appreciate the comments made yesterday by Mr. Wetangula about the work done by Departmental Committees. Had Mr. Wetangula been an hon. Member in the Eighth Parliament, he would actually have been sorry to observe that the very Committee which should be guiding this House in debating these five Bills - which I believe are very important and critical to this country - appears to have gone to sleep. This is quite unlike what we used to see the Minister do when he chaired that same Committee during the Eighth Parliament. It was an extremely active Committee and credit goes to the Minister.

Mr. Temporary Deputy Speaker, Sir, once again, as we begin to debate this, as is obvious,

not a single hon. Member of the Departmental Committee chaired by a fellow Medical Doctor, Dr. Manduku, is present in the House. This Bill was referred to that Committee so that they can go through it, tooth comb it and file a report to this House. This will ensure that as we debate, we know that the Committee has gone through every Clause of the Bill. It is not expected, the world over, that Parliament, in its plenary, would be able to do that work of tooth combing bills. I, therefore, feel sad that, once again, we are engaging in debate of this very important Bill without the benefit of any report from the Departmental Committee.

This Bill is a bit more straightforward than the one which has just passed the Second Reading. If you look at the Memorandum of Objects and Reasons, it is clearly stated that:-

"It is to provide a legal framework to promote freedom of association and the right to collective bargaining, to streamline the registration process of trade unions, employees' organisations and federation

of trade unions and employers' organisations, to promote a mechanism for the effective management of property, funds and accounts of trade unions, employers' organisations and the respective federations and to promote expedition and conclusive dispute settlement."

I think it is very clear, save for the fact that we have said that the Minister and his team assumed that Parliament plays a rubber-stamp role. This is Bill No.8; of course, it is making reference to Bill No.9 - The Labour Institutions Act. Of course, there is no such Act, as we noted even yesterday. There are only two areas that one can quarrel with. Therefore, I will take an extremely short time to give the Official Response.

I will go straight to page 235, at the very top. There is the definition given of the word "award". It is indicated that:-

"Award means an award made by the National Labour Court."

I just want to find out from the Minister when he makes his reply, whether since--- This is now the practical difficulty that we are put in. I am forced to debate things which are provided for in a Bill which was read for the First Time yesterday - The Labour Institutions Act. It is actually Bill No.9. It is not even an Act. Therefore, either by the acquiescence of the Chair or of the House, I should be allowed to anticipate debate.

So, I am put in a very awkward position. I want to find out from the Minister's response, if the award is made by the National Labour Court, what then is to be termed of "various court results similar to awards which are made by the subordinate labour courts which are proposed in the Labour Institutions Act", which like I have said, is Bill No.9 that has not yet even matured for debate? I just want to invite the Minister to think that, may be, even those awards by those subordinate labour courts should be included. Whatever kind of awards they make there should also be included in this definition of an award so that what they do there becomes recognisable. This is because not all of those decisions are always appealed against. At times, like the hon. Mungatana has just said---I like the innovativeness of this Bill. There is the area of conciliators. So, it means that, actually, at that level a decision can be made that satisfies all parties to a dispute. Therefore, in the case of a dispute that is before a subordinate labour court being adjudicated in one way or another and an award being made, which satisfies the parties in that dispute, then that kind of award should be included in the definition of an "award" in this Bill. I would invite the Minister to look into that.

Mr. Temporary Deputy Speaker, Sir, I am only assuming that the word "Board" which is included there stands for the National Labour Board established under the Labour Institutions Act. I hope that the Minister will not appoint any other Board and only then stick to that.

There is also the definition of "Executive Director". I wonder whether we should limit it to only mean the head of an employers' organisation or employers' federation. Supposing a trade

union or any other union decided that their boss, that is, their head, should also be called an "Executive Director", are you saying that by operation of this Act, they will be in breach of the law? These titles are used quite liberally and we should not be restrictive. I think that during the Committee of the Whole House, we would be able to discuss and agree with the Minister.

Mr. Temporary Deputy Speaker, Sir, there is something that I find new on page 236 of this Bill. It states that:

"Judge means the Judge of the Labour Court appointed under the Labour Institutions Act."

I assume that then the judge at the National Labour Court is not one of them. Is that the case or is it that the word "Judge" shall mean, for purposes of this Act, a judge appointed to serve in the National Labour Court or the Labour Court? This is because you appear to have two cadres of courts, that is, the Labour Court and the National Labour Court. If it is not the intention to have the two cadres, then it is important to come out clearly on this matter because just below the Bill states:-

"National Labour Court means National Labour Court established under the Labour Institutions Act."

However, up there, the Bill states that "Judge" means judge of the Labour Court and not the National Labour Court. You could get into some practical difficulties, especially from legal practitioners when they begin questioning whether decisions by certain persons were actually decisions by the kind of persons envisaged in the Bill.

Mr. Temporary Deputy Speaker, Sir, I have no quarrel with the definition of the "Registrar". If he is meant to play a certain important role, there is need also to provide for his appointment. There is need to provide for the mechanism of appointing the "Registrar". Is he to be appointed by the Minister in consultation with the various labour organisations or an advisory board? It is important to specify that.

On page 238, there is Clause 3(1)(a) and (b). There is no Clause 3(2). So, there is no point of having Clause 3(1) and then provide for (a) and (b) and no other. It should just be Clause 3(a) and (b). That is the proper arrangement. It is just a question of form.

Mr. Temporary Deputy Speaker, Sir, as I was reading through this Bill and listening to the Minister, I wondered what his position is. The Bill states:-

"This Act shall not apply to any person in respect of his employment or service-

(a) in the Armed Forces or in any reserved Force thereof.

(b) in the Kenya Police, the Administration Police Force, the Kenya Prisons Service and the National Youth Service (NYS) or in any other reserve Force or service thereof."

For the case of the clause that we have just concluded discussing, the Government will be bound. What is the position of the staff employed by the Parliamentary Service Commission (PSC)? Have you thought about that? We have staff here in Parliament employed by the PSC. Are they entitled to form themselves into some union? Can they do that and will the PSC be bound by this Bill or the Employment Bill that we are going to pass? As we define who is bound, I think there is need to think about the people employed by the PSC. You never know, somebody could very well, at some point in time, try to, if it suits them to do so, put in some disclaimer and argue that staff of Parliament are either covered or not covered, depending on what favours them at whatever stage. I am just giving the Minister food for thought. It is something that I would want the Minister to consider.

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

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

Mr. Temporary Deputy Speaker, Sir, Clause 8(1) states:-

"Every trade union, employers' organisation or federation has a right to-

(a) subject to the provision of this Act determine its own constitution and rules;

(b) hold elections to elect its officers;

Is it just to hold elections? Should we not be a bit specific and say, "hold periodic elections"? It should be periodic otherwise people will do elections and for 10 or 20 years, they would not hold other elections. They should be made to hold periodic elections. Those are some of the things that the Registrar should look at in the constitutions of trade unions or employers' organisations whether they provide for the holding of periodic elections for their officers. I think that is important.

Mr. Temporary Deputy Speaker, Sir, I am moving on to Clause 10 which provides that:-

"If there is a dispute about the interpretation of application of any application of any provision of this part, any party to the dispute may refer the dispute in writing, (a) to the Minister appoint a conciliator as specified in part 8---"

I am just wondering, supposing my very good friend Dr. Kulundu received an application and he felt that this is an election year and it could wait until elections are held, would he still be acting within the law? Should we not require that Dr. Kulundu acts within some specified time frame? So that whoever is applying or asking him to appoint a conciliator feels that the Minister has actually served him without unreasonable delay. Therefore, I am suggesting that we could say that, the Minister, upon receipt of the application and having consulted, shall appoint a conciliator within a specified time frame. That, I think the Minister with his team are better placed to know. If it was me, I would say within three days. But perhaps, in the Ministry, the experience may be different. It might require two weeks or 30 days.

Mr. Temporary Deputy Speaker, Sir, if you go to Clause 12 where it says:-

"The Registrar shall issue a certificate within 30 days of receiving an application, unless the application is defective or the name of the proposed trade union or employers' organization is the same as that of an existing trade union or employers' organization."

I am wondering, if the Registrar is required to issue a certificate within 30 days and finds that the application is defective, is she or he required to write back to the applicant within the same period of 30 days? You should make that provision clear. That, within the same period, he or she must issue the certificate. I think this is a good Clause. I suspect that it could be the one to provide for under Clause 20 although it deals with something slightly different. But again, that is food for thought when we go into Committee of the whole House for the Minister and his team to consider.

Mr. Temporary Deputy Speaker, Sir, Subclause 5 states:-

"The Registrar may withdraw a certificate issued under this section if the registrar has reason to believe that the certificate was obtained by false misrepresentation or as a result of a mistake".

Again, I think that anybody who has been aggrieved by the decision of the Registrar in that respect, would be at liberty to go to court to challenge the decision of the Registrar. Unless it is the desire of the Ministry that a dispute like that one could go to the various dispute resolution mechanisms provided for within this Bill. Maybe the Minister could specify that. If a person has their certificate withdrawn, do they seek redress in the labour courts or the national courts or do they go the ordinary courts? We should make some distinction so that people do not think that if they went to

the normal court to seek redress, then somebody goes somewhere and argues that there is a mechanism provided for under the Labour Relations Act. May be you could just specify that if a person has his or her certificate withdrawn, they can actually lodge a protest or complaint for resolution with one of the institutions that is proposed in the other Bill.

Mr. Temporary Deputy Speaker, Sir, Clause 20 says:-

"If the Registrar is not satisfied that a trade union or employers' organization or federation meets the requirements for registration and refuses the application for registration, the Registrar, shall advise the trade union, the employers' organization or federation, the reasons for that refusal in form "D" set out in the second schedule."

The point that I want to draw here is that, this should also be done within some specified time frame to avoid causing unnecessary anxiety which could very easily result in some form of stress or other maladies that are associated with anxiety or extreme anxiety as the case may be. I think it is a good idea for the Bill to provide for the way the dues of members to organizations are treated. I would want to commend the Minister and his team for that.

Mr. Temporary Deputy Speaker, Sir, Clause 60, Page 282, states:-

"Every collective agreement shall be submitted to the National Labour Court for registration within 14 days of its conclusion."

As I had said with regard to the other Bill, this is a very good provision but I am wondering, now that we are in the Information Technology (IT) era, whether we should not provide for its publication elsewhere other than at the National Labour Courts. But I think that the Minister and his team will advise when we go into Committee Stage.

Subclause 7 on Page 283 states:-

"The National Labour Court shall give reasons for refusing to register any collective agreement."

Again, my proposal is, let us not leave it to eternity. We must fix time lines within which the National Labour Court should give those reasons because it could easily cause a lot of unrest. If the National Labour Court is to have the confidence of workers and members of any organization, then it must give reasons within a stipulated time frame, why it refuses to register any collective agreement that applied to be registered with it.

Similarly at Clause 78, on Page 291, Part 10; Strikes and Lock-Outs, it states that:-

"No person shall take part in a strike or lock-out or in any conduct in contemplation of a strike or a lock-out if, among other things---"

Several things are proposed there. For instance part (c) says:-

"The parties have agreed to refer the trade dispute to the National Labour Court or to arbitration."

Again, my proposal is that even when those disputes are referred to arbitration of the National Labour Court, we must require those arbitrators at the courts to arbitrate within a specified time limit and not in omnibus provisions like "without unreasonable delay" because undue delay cannot be defined. It is very elastic.

I would like to point out some small typographical error that the Minister should consider, at Clause 78, on Page 291, Subclause 1(e).

It says: "If the trade dispute was not referred for..." then it reads 62(4). I think this is a mistake. You can remove this. This is a typographical mistake, because it should continue to read in the next page: "If the trade dispute was not referred for conciliation in terms of Section 62(4)..." I think that is the way it should read, not the way it is framed here.

Mr. Oloo-Aringo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Considering that this Bill has been exhaustively discussed, would I be in order to ask that the Mover be called

upon to reply?

The Temporary Deputy Speaker (Mr. Poghisio): I thought you would want to hear the other side!

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, neither the Minister nor any other person can push a person who is giving the Official Opposition position. It actually means that this Bill has not been exhaustively debated. I have tremendous respect for my good friend, the hon. Peter Aringo. I think he assumed that this is the same Bill we were debating yesterday. But I am just about to conclude. It is because this Bill is consequential upon what we have been debating in the last two days.

Mr. Temporary Deputy Speaker, Sir, perhaps there was need for us to define what are these essential services. I think we have provided at page 292 something called "an employer or employee are engaged in an essential service". I think there is need to define those essential services, so that we do not take every striking worker as being engaged in essential services. We need to define now. This is because we have seen in this country, every now and then strikes being declared illegal. Then, in some functions, either in a funeral or where people have been called upon to go and officiate at the official opening of a pit latrine, they are being declared illegal. Those are road-side decisions. We would want the definition of what are essential services, so that employees who are engaged in essential services know that they are actually engaged in such services, so that we do not have every strike being declared illegal.

Mr. Temporary Deputy Speaker, Sir, as I conclude---

The Temporary Deputy Speaker (Mr. Poghisio): But you know you do not have a time limit?

Mr. Muturi: Yes, I know I have no time limit, but I want to be fair, because I also want to take part in the next business. As I conclude, I find no serious complaint about what is provided for in Part XI, Clause 82, that the subordinate labour court has jurisdiction in respect of any prosecution for an offence under this Act. This tallies with my argument yesterday that, actually, those labour courts, which I believe will be spread out in very many parts of the country, will need to be given specific jurisdictions. The reason I was arguing about that yesterday is because, like in this one now, it is clearly provided that those subordinate labour courts will have jurisdiction in respect of all prosecutions for offenses under this Act.

Mr. Temporary Deputy Speaker, Sir, either I read this Bill too fast, but I have not quite seen the mode of the appointment of the members of the board. But if the board is well appointed after due consultation with the relevant stakeholders, I would have no reservations about the Minister making regulations on any matter for the better carrying out of the provisions of this Act. But I only hope that this will not be a licence for the Minister to purport to hold consultations--- We have seen during the tenure of this Parliament, Ministers who have purported to even issue legal notices claiming to have consulted when they had actually consulted nobody. I only hope that we can make this consultation something that is capable of trace. I remember on this very podium, while discussing another report, I did raise the issue of a purported consultation which the members of a particular board denied it ever took place. I think we should make this consultation something definite, so that anybody who wants to know that the Minister consulted the board will find some record of such consultation. It is only to strengthen this Bill actually. It is not in any way, in my view, a proposal to weaken the provisions of this law.

Finally, as I said, I do not think there is much controversy about this Bill. I think it is a direct consequence of the other one. But I wonder whether the last statement at the back on page 321 is correct, that "the enactment of this Bill will not occasion additional expenditure of public funds". A while ago, the Minister said that there will be certainly appointments beyond the existing establishments. Those appointments will obviously occasion additional expenditure. We have

tended, as a House, to assume that when a Bill is published by the Minister and he makes this kind of sweeping statement, it is correct. I think the enactment of this Bill will obviously occasion additional expenditure of public funds, but I believe it will be funds which will be provided for during the annual Estimates. I think that would be the better drafting method.

With those remarks, I beg to support.

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

The Temporary Deputy Speaker (Mr. Poghisio): Why point of order? What is your point of order?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I have read this Bill, and it seems to me that the Members who have so far talked about it are in agreement with its contents. Shall I be in order to request that the Mover be called upon to reply?

The Temporary Deputy Speaker (Mr. Poghisio): I really do not think it is necessary to raise that kind of debate when we have the actual debate. If there is nobody else contributing, I think I will just call upon---

*(Mr. Wamunyinyi stood up
in his place)*

Do you want to contribute?

Mr. Wamunyinyi: Yes, Mr. Temporary Deputy Speaker, Sir. Thank you very much---

The Temporary Deputy Speaker (Mr. Poghisio): Order! Hon. Members, if you want to contribute, normally, you should rise up and catch the Speaker's eye. I am not used to a situation where you only get interested when it has been asked in the House. Mr. Wamunyinyi, what happened? Because you normally know that you have to rise up and catch the Speaker's eye, but now, you are, all of a sudden, getting interested when a Motion has been moved. Anyway, I will give you a chance to contribute. But after that, I think I will just call upon the Mover to reply. We do not have to move that Motion. I do not think it is necessary!

Mr. Wamunyinyi: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I believe that, truly, I caught the Temporary Deputy Speaker's eye and that was why I moved to the microphone to speak.

Mr. Temporary Deputy Speaker, Sir, first of all, at the outset, I would like to thank the Minister for this timely move, because workers of this country have had to go through very difficult conditions, particularly in areas where a dispute arises between the employees and the employers. It has taken so much time in the process of the dispute; it has had to be referred to the Minister, the Ministry of Labour and Human Resource Development and, of course, you and I know that the Minister for Labour and Human Resource Development is a very busy person sometimes. We also know that the processes that take place within the Ministry make it such a difficult process; it makes it very difficult for a case to be processed quickly. So, if this law is passed, it is going to reduce the time that the dispute mechanism will be in place to resolve it. Attempts to resolve the dispute are going to be hastened.

Mr. Temporary Deputy Speaker, Sir, secondly, the alternative measures provided in the Bill, that other avenues can be exploited and other channels, not necessarily through the Minister, can be adapted if the parties mutually agree to particularly resolve the dispute or if they can agree on any other person to preside over the reconciliation, not necessarily through the Ministry or the Industrial Court. This will also help and it will mostly, help the employees who have had to wait for long periods for the Ministry's actions.

Mr. Temporary Deputy Speaker, Sir, this Bill also endeavours or tries to enact a law that will protect the workers, making sure that the environment under which the workers will be

conducting themselves or doing their work is conducive; that, it takes into account the health provisions and the fact that they are human beings and are also entitled to be protected.

Mr. Temporary Deputy Speaker, Sir, I believe that many hon. Members have contributed on this, and I have realized that it is time we wanted the Mover to reply.

With those few remarks, I beg to support.

Thank you very, much, Mr. Temporary Deputy Speaker, Sir.

(Applause)

The Temporary Deputy Speaker (Mr. Poghisio): I would now just call upon the Mover to reply.

The Minister for Labour and Human Resource Development (Dr. Kulundu): Thank you very, much, Mr. Temporary Deputy Speaker, Sir. I would like to take this opportunity to thank all hon. Members for their comments and useful debate. Their criticisms have been constructive and we will take them in that light.

Mr. Temporary Deputy Speaker, Sir, I should take this opportunity to thank hon--- I do not know if it is parliamentary or not, but I would like to take this opportunity to thank hon. Muturi for his insight into this Bill. As he was speaking today and yesterday, I was wondering whether we should not have recruited him as part of the draft team, because he seems to have a special talent in grasping the issues in the two Bills. So, I take this opportunity to single out hon. Muturi for special mention.

Mr. Temporary Deputy Speaker, Sir, I take note of concerns raised and proposed by the hon. Members and assure the House of my commitment to examine the issues brought forward very carefully and to use the same to enrich this Bill.

Mr. Temporary Deputy Speaker, Sir, observations made by the hon. Members which are intended to enrich and realign positions of the proposed Labour Relations Act, hopefully, are noted with appreciation. Special note is taken on hon. Members' observation on final awards and the National Labour Council, and the institutions to which the Act or the Bill should apply. We must admit here that we made a mistake from the beginning. I think a gentleman should admit when mistakes have been made. When these two Bills were tabled, I and the senior officers in my office were in Addis Ababa attending the International Labour Organization (ILO) meeting.

Mr. Temporary Deputy Speaker, Sir, we intended to present these five Bills at once, if possible, because they are interrelated. You will realize that the hon. Members' comments today coincided with what they said yesterday because these Bills are interrelated. The establishment of the Labour Advisory Board, for example, is something that is in the next Bill, which we shall discuss next week. So, I beg for the indulgence of the House that, whereas it looks haphazard, it will become clearer when all the Bills are examined together in the Committee Stage.

Mr. Temporary Deputy Speaker, Sir, I am happy that hon. Members laid emphasis and recognition of the role of social partners in industrial relations. The role of social partners is not a theoretical one. We, in Kenya, attach a lot of importance to the role of social partners. Indeed, they have been at the centre of solving various disputes. Hon. Members will agree that, of course, although the economy has not generated a lot of jobs, the existing jobs have been protected from unnecessary strikes. It is through using social partners that we have been able to achieve a relatively tranquil atmosphere.

Mr. Temporary Deputy Speaker, Sir, I do not want to take Mr. Oloo-Aringo's time---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Dr. Kulundu! That is not a reason! If you want to take your time, you can take your time.

The Minister for Labour and Human Resource Development (Dr. Kulundu): Sorry, Mr. Temporary Deputy Speaker, Sir! I do not want to take the House's time! But I can assure you that we are all the richer by the comments of hon. Members. When this Bill comes to the final stage, those concerns will be taken on board. My officers are here. They have heard what you have said. They have already began to work on some of the concerns raised by hon. Members on the Bill. I will encourage them, between now and Tuesday, to work on those concerns. We will do our best to live up to the expectations of hon. Members. We look forward to your co-operation. If hon. Members have any more suggestions to make they should, please, move amendments at the Committee Stage and we will be happy to take them on board, but only if they will serve Kenyans better.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to move that Bill No.---

The Temporary Deputy Speaker (Mr. Poghio): Order, Dr. Kulundu! Just say: "I beg to move"! That is sufficient.

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to move.

(Question put and agreed to)

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

Next Order!

Second Reading

THE LABOUR INSTITUTIONS BILL

The Minister for Labour and Human Resource Development (Dr. Kulundu): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think there is a mistake in the Order Paper. The Labour Institutions Bill has not matured. I only read it for the first time yesterday. Therefore, I think we should move on to the next Order.

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

The Temporary Deputy Speaker (Mr. Poghio): Yes, Mr. Muturi!

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, it is true that these three Bills, the Labour Institutions Bill, the Occupational Safety and Health Bill and the Work Injury Benefits Bill were only read out for the first time yesterday. In terms of our Standing Order No.101(a)(3), at the request of the Minister, they were committed to the relevant Departmental Committees which, within the provisions of that sub-section, are supposed to give a report within seven days. Therefore, it is very clear that the seven days have not lapsed. Therefore, it is a mistake for these Bills to be placed on the Order Paper for Second Reading.

The Temporary Deputy Speaker (Mr. Poghio): Well, if these Bills were referred to the relevant Departmental Committees yesterday, the Committees have seven days within which to bring their reports, so that the Bills could come back for the next stage. That is in reference to Standing Order No.101(a)(3), which Mr. Muturi has referred to.

Let us move on to the next Order!

(Bill deferred)

*Second Reading*THE OCCUPATIONAL SAFETY
AND HEALTH BILL

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Speaker, Sir, the same argument applies to this particular Bill. We only moved this Bill yesterday. In fact, the Departmental Committee is organising to proceed to some resort to discuss those three Bills, so that we can benefit from their tranquil discussions---

The Temporary Deputy Speaker (Mr. Poghio): Order, Dr. Kulundu! That is enough! Just say that the Bill has been referred to the relevant Departmental Committee.

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Speaker, Sir, the Bill has been referred to the relevant Departmental Committee.

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

(Bill deferred)

Second Reading

THE WORK INJURY BENEFITS BILL

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Speaker, Sir, the same applies to this Bill. The Bill was referred to the relevant Departmental Committee yesterday.

The Temporary Deputy Speaker (Mr. Poghio): All right! I hope hon. Members understand why we had to go through all those Bills. That is because they have been listed in the Order Paper. The Minister had to go through the process of telling us why we are not proceeding to the next stage, and why we have to wait.

We now have a different Order and I request Mr. Oloo-Aringo to proceed!

(Bill deferred)

Second Reading

THE FISCAL MANAGEMENT BILL

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, Sir, you can see I am extremely happy to move this Bill at long last, after a long and protracted struggle.

Mr. Temporary Deputy Speaker, Sir, I beg to move that the Fiscal Management Bill be now read a Second Time.

The Fiscal Management Bill will provide for an Act of Parliament, when it is enacted into law, that will enable the National Assembly to regulate and exercise oversight over the national budget process. It will also provide for the establishment of the Budget Committee in the National Assembly and the Parliamentary Office of Fiscal Analysis in the Parliamentary Service. The difference between this approach is that, it is true that there has been consultations over the Budget. But year in, year out, it is *ad hoc* and amorphous. The Treasury, for example, calls a number of the so-called stakeholders to a one day meeting at the Kenyatta International Conference Centre

(KICC), and hon. Members are supposed to join that group of stakeholders. That one day has been considered by the Treasury as the basis of consultations over the Budget. However, there is no structured manner of doing so. This Bill, therefore, will bring into law, a structured approach in the interrogation of the Budget. It is those two provisions that make this Bill extremely important.

Mr. Temporary Deputy Speaker, Sir, first, I will go into the Bill itself. As I do so, I will also explain the implications of passing this Bill. There are 28 sections in the Bill, which are grouped into nine parts. The first part, as in all Bills that we bring here, discusses various definitions. There are several definitions, but the most important definition is that of the "Budget". We have debated budgets year in, year out. But at no time have we ever asked: What is a national budget? What is involved in the national Budget? For the first time, this Bill defines what a national Budget is all about. For example it is broken into four parts. The first part of a national Budget is formulation and preparation of the Budget. The second part, which we take part in as Parliament, is the legislation and adoption of the Budget. It is during this second part that we listen to the Minister on his financial statement and debate it. Secondly, we enact into law the Finance Bill, the Appropriation Bill and the Supplement Appropriation Bill. The National Assembly actually engages in the Budget process at the level of legislation. The third stage in the Budget process, is the execution and implementation of the national Budget. Again, this is largely the work of the Executive. But through Questions and Motions in this House, we are able to oversee how the Executive is implementing the national Budget. So, we take part in that section of the national Budget.

Mr. Temporary Deputy Speaker, Sir, the fourth and final one, is the audit. The National Assembly actually takes part in the audit, because our Public Accounts Committee (PAC) and Public Investments Committee (PIC) always focus on the findings of the auditors, and bring the reports here. Therefore, the National Assembly is engaged in the audit. What is the missing link is the first part: the formulation of the Budget process. That is the area of policy.

The importance of the Budget is not the figures which come towards the end. The importance of the Budget is the policy. The figures simply implement the policy. But we have had a raw deal year in, year out. We are presented with a huge box with a lot of figures, but we do not take part at the stage of formulation. Therefore, in anticipation of what I am going to say, is that it is restoring this formulation stage, where after the Minister has drafted the Budget, he brings it to this House early. We are providing here two to two-and-half months, so that we can look into the policies which made the Minister arrive at certain figures. We shall discuss the policy which allow the Minister to give priorities in his Budget Statement. Therefore, we are now restoring the actual role of the representatives of the people. It is at that stage that we, as parliamentarians, must contest those policies. For example, if the Minister gives the Ministry of Defence---

Mr. Wamunyinyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Oloo-Aringo is moving a very important Bill---

*(Mr. Oloo-Aringo remained
standing in his place)*

The Temporary Deputy Speaker (Mr. Poghisio): How can both of you be on your feet? Mr. Oloo-Aringo, will you yield by taking your seat?

Mr. Oloo-Aringo: Thank you for protecting me, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Oloo-Aringo, take your seat!

Mr. Oloo-Aringo: I thought you were protecting me!

The Temporary Deputy Speaker (Mr. Poghisio): The hon. Member is on a point of order!

Mr. Wamunyinyi: My point of order is that Mr. Oloo-Aringo is moving a very important Bill directed at the Ministry of Finance. Is it in order for us to proceed hearing him move the Bill when the Minister for Finance, or even his Assistant, are not in the Chamber?

The Temporary Deputy Speaker (Mr. Poghiso): Is that your point or order?

Mr. Wamunyinyi: Yes.

The Temporary Deputy Speaker (Mr. Poghiso): Well, the Front Bench is definitely empty, as you can see. But it would not be really out of order for there not to be anybody. Mr. Oloo-Aringo can proceed.

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, Sir, I was trying to explain that we are not involved at the formulation of policy stage.

The Temporary Deputy Speaker (Mr. Poghiso): Order! You have plenty of time. But Mr. Wamunyinyi raised a very crucial point. This is a Private Member's Bill and the Mover will be called upon to reply before we end this debate. The Government may respond but our Standing Orders do not compel the Government to respond in this particular situation. At this point we do not have anybody, but I hope that during the process somebody from the Ministry will show up.

Proceed.

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, Sir, thank you for your wise comments.

As I was saying, the National Assembly does not get involved in the formulation of policy, but we would like to interrogate that policy before we approve or accept it. As I said, it is not the figures at the end, it is the policy and I was giving an example. If year in, year out, the Ministry of Defence receives Kshs60 billion from the Budget and the Ministry of Water and Irrigation receives Kshs2 billion, clearly that is a skewed manner in which the allocation has taken place. It simply means that for ever and ever, we shall never get irrigation projects moving. We shall never get priority on water. It is that type of debate that hon. Members will put in their own contribution by altering the priorities of the Government from, say, the Ministry of Defence to the Ministry of Water and Irrigation. That is the sort of thing that we shall look at when it is brought early in March. There are two months during which it is sent to the various Departmental Committees, co-ordinated by the Budget Committee. When it comes back, therefore, it is debated by this House. The priorities are handed back to the Minister who will then take into account the contribution and comments of hon. Members. That is what we are asking for, and that is what has not been happening.

In the past, the policies were determined by, largely, civil servants who dictated them. If you want to know one reason why our country has not developed, it is because the most important section of our policies, which is the Budget, is controlled by civil servants. They determine the allocations and they also determine the re-allocations.

However, by bringing the Budget early in March, we will have two months during which Departmental Committees will scrutinise, in great detail, their portfolio. The Budget Committee will co-ordinate this, and the Minister will take those comments to make the final Budget. That is participation.

It is important in two ways. We are not taking over the role of the Executive in drafting the Budget. No. That has been the story which has been spread as a propaganda in order to kill this Bill. We acknowledge that the Government is elected on a certain manifesto and comes here to implement that manifesto. We do not usurp that role as Parliament, but we are saying that we have a right to ask: Are they correctly implementing the manifesto on which they were elected? Was their priority to buy guns and other weapons at the expense of irrigation, water and agriculture? For example, we may decide, as we have almost decided, that we want to put more money in education. It is at that stage that we will prioritise education and tell the Minister that when you go

back to make the final Budget you take into account, our priority which is education, over defence, for example. Therefore, the representatives of the people will be setting priorities in the Budget process. That is as important as this Bill is. I am highlighting that in the first part.

Mr. Temporary Deputy Speaker, Sir, there are other aspects, which I have highlighted in the Bill. For example, we have brought in compliance reports and treasury reports year in, year out. This House, and particularly the PAC, has noted that there is very little compliance. But the Minister, or the Ministry continues, to receive money. This compliance report will now be mandatory. It will be required that you must show how you have complied with the previous Budget before you are allocated the money for this year. Now, that type of sanction will bring sanity to the management of public affairs in our country. The Compliance Report, therefore, indicates the extent to which the Government has met Budget targets and objectives. The Treasury Report will indicate the steps that the Government has taken to implement audit recommendations. This has been the missing link. As hon. Members of Parliament, we have the power. Therefore, we cannot go home complaining, particularly when we complain outside there and yet, we have the power to make the law to compel compliance. What are the people supposed to do? That is being defined here.

Part I of the Bill also provides for the commencement date, which is, 90 days from the date of enactment. This is important because, as hon. Members will agree with me, we had a ping-pong here over the Donde Bill, just because of the commencement date. Because of the delay, the commencement date passed before it was implemented. The Government refused to implement the Bill because the commencement date had not been applied. It is important, therefore, that it be taken care of here; that the date will be three months after the President has given assent to the Bill. So, there is no escape about that. Therefore, we are making sure that the commencement date is water-tight this time. The Bill, when it becomes law, will become an integral part of the existing law to implement prudent fiscal and financial management of public resources. The prudent management of financial resources in this country has been a futile exercise. Even this afternoon, we were talking about the Anglo Leasing and Goldenberg scandals, which are demonstrations of the skewed manner or corrupt way in which some things were done.

Part II of the Bill deals with the principles of prudent fiscal management. We want Parliament to lay these principles. In the past, nobody paid attention to any principles. If you read budget speeches by the Ministers for Finance over the last 20 years, you will find that they were almost the same. You would almost only change the titles and find that they were saying the same thing. It is our responsibility now to set bench marks against which we shall judge the Minister for Finance. So, Part II of the Bill is devoted to the principles of prudent fiscal management. It has three objectives.

The first objective is to lay down the principle of proper budget management. The second objective is to identify who is responsible for making sure that these principles are followed. There, we name the Minister for Finance as being responsible for ensuring that those principles are followed. Three, it provides a situation where it may be necessary to depart from this principle. In other words, we are equally flexible. If there are circumstances under which the Minister must waive this, then that is allowed, but he must come back to the House to explain why he has not complied with the principle.

Section 4(1) lays down the principle of proper budgeting. This principle will cover crucial budgeting elements. I will name them, because they are important. The elements include aiming at maintaining sustaining debt levels and minimising financial risks to the Government of Kenya, especially, on guarantee on loans, pensions and pending bills. I am sure we were all here in the afternoon, when the Minister gave figures about the so-called pending bills; staggering figures which we still owe. They were not made clear to this House until we demanded that they be made

clear.

The third principle is on designing wage policies that are sustainable and capable of attracting and retaining competent staff thrift, as well as consistence with the size of the economy. The fourth principle provides tax policies that are predictable and stable. I know that we have moved a long way from the taxes that used to be announced at midnight to be implemented. We want to be able to predict. This must be a principle which is enshrined in law.

The fifth principle is ensuring transparency and accountability in the management of budgets and economy. Now, this is our major argument; that we must be transparent. If we had been transparent, there would have been no loophole for the Anglo Leasing or Goldenberg scandals, because we would have anticipated what was coming. The reports would be coming on a regular basis.

Section 5(1) and 5(2) allows for deviation from these principles, once the Minister comes and explains to this House. All deviation, therefore, must be temporary. The Minister must justify a deviation before it is implemented. He or she must state his or her plan of action to deal with situations, as well as indicate how long the duration will last. In other words, this House must be in a position to guide the Minister, but not just to be taken for granted, as has happened in the past.

Part III of the Bill is about Budget Statement of Intent and Objective. It has four elements. The first element specifies the contents of the budget statement of intent and objectives. The second part creates reporting obligation, through the regular filing of compliance reports. If these reports were brought to the House, the Goldenberg scandal would never have reached the heights that it did. Likewise, the Anglo Leasing scandal would never have taken place, because we would have been able, as a House, to anticipate what was coming. Therefore, there is no need for us to go and complain in funerals. Let us make the law that will control this, and this is the law.

The Bill also intends to identify the nature and content of compliance reports before general elections. Every Government that comes to power blames the previous Government saying the coffers are empty. On the other hand, in this law, the Government must lay on the Table of this House the last compliance report, which will be 90 days before the general elections, so that we know what it is that it is leaving behind. It is important that we know that one cannot run down the economy and hope to give excuses. This law will curb situations where the Government that comes into power will be blaming the previous Government, when, indeed, the problems could be of its own making.

Mr. Temporary Deputy Speaker, Sir, we are, therefore, building or putting in place institutions. Whether we shall be there or not, the generations to come will know in advance--- For example, this year, we have announcements of goodies everywhere, including new districts, this and that, but nobody will factor them in the Budget. So, we are doing it for political reasons. Nobody included them in the Budget and, yet, the goodies are being given in the morning and evening. We want to stop this culture so that we can work through institutions. The institution to control this is Parliament.

Mr. Temporary Deputy Speaker, Sir, the Bill also includes content of the budget statement which must be laid before the National Assembly by 31st March of each year. If Parliament is not in Session, it will be laid before it as soon as possible after it reconvenes. The statement, therefore, is analogous in intents and content, like the budget outlook paper, which is usually produced by the Treasury. But the Treasury does not bring it to this House. So, hon. Members do not know about it. That information must be in the public domain, but it must also be interrogated by the representatives of the people in Parliament.

Mr. Temporary Deputy Speaker, Sir, the Budget Strategy Paper of Intents and Objectives lays out objectives and priorities that will guide the budget preparations for the year. It includes, for the financial year and the next two years, the estimates on revenue, expenditure by vote and sub-

vote, interest and debt service charges, loan repayments and capital expenditure for votes and sub-votes. In addition, it contains proposals for financing any deficits, the borrowing plans of the Government of Kenya, budgeted and actual revenue levels for the two previous years, focused financial position of the financial year and the next two years' statement and specific fiscal policy risks and contingency liabilities, such as guaranteed loans, pending bills and insured risks. We do not want to be given these pending loans through Questions in this House. We want to know in advance what are the pending loans. We do not even want them to be translated into campaign funds. I am told that once elections are near, these are the sources of funding for election purposes. This Parliament must rise above elections. This Parliament must protect the property and the resources of the people of this country.

Mr. Temporary Deputy Speaker, Sir, in addition to that, the Budget must also show the policy objectives that will guide the Government Budget decisions during the financial year. If the Government changes policy, for example, or if there is an emergency like famine, that is an excuse enough for us to look at it again.

QUORUM

Mr. Gachagua: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think in the light of the importance of this Bill and given the number of hon. Members in the House, it is important that we proceed with a quorum.

The Temporary Deputy Speaker (Mr. Poghisio): All those words just for saying there is no quorum in the House? That is what you are saying! It is true, we do not have a quorum.

Please, ring the Division Bell!

(The Division Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! There is no quorum in the House. The House is, therefore, adjourned until Tuesday, 15th May, 2007, at 2.30 p.m.

The House rose at 5.57 p.m.