

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 11th October, 2007

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

COMPENSATION FOR WIDOW OF POLICE OFFICER ERICK KIPSANG

Mr. Sambu: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Administration and National Security the following Question by Private Notice.

(a) Is the Minister aware that a police officer, Erick Kipsang Sirtui (PC 60310) was accidentally killed by a colleague on 11th December, 2006, while on duty in Machakos Police Station?

(b) Is he further aware that the deceased officer left behind a widow and three young children?

(c) Could the Minister take immediate steps to compensate the widow for the tragic loss of her husband?

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

(a) Yes, I am aware that the late constable Erick Kipsang Sirtui (PC 60310) was accidentally killed by his colleague on 12th December, 2006 and not on 11th December, 2006 as stated.

(b) I am also aware that the late police constable left behind a widow and four young children. Already, we have initiated the following steps to have the widow compensated:

1. A group personal accident scheme compensation claim has been processed and submitted to the Director of Pensions for payment. The following pension claims are being processed:

(i) Death gratuity and dependants pension payable by the Director of Pensions; and,

(ii) Workman compensation payable by the Ministry of Labour and Human Resource Development.

Mr. Sambu: Mr. Deputy Speaker, Sir, while thanking the Assistant Minister for the reply, I would like to remind him there is something seriously wrong with the Pensions Department. I pity people like this poor widow. Could he take steps to ensure that those payments to be paid by the Pensions Department are expedited? We all know the Pensions Department is a very difficult place?

Mr. Kingi: Mr. Deputy Speaker, Sir, we will undertake to do that in consultation with the hon. Member and the department concerned.

Capt. Nakitare: Mr. Deputy Speaker, Sir, the question of compensation for a person who

has been wrongfully killed is the responsibility of the Government. How does the Pensions Department come in? This was a civil servant who was erroneously killed. The question of compensation lies in the hands of the Government which should pay the equivalent of Kshs60 billion to the dependants of the deceased, so that they can benefit from it. This is because we do not know whether this man was going to live for 100 years.

Mr. Kingi: Mr. Deputy Speaker, Sir, currently, the law allows us to pay compensation as I have outlined. If the hon. Member wishes that we do more than we have done, I think it is incumbent upon him to initiate a law in Parliament that will assist us to do what he asked for.

Mr. Ndolo: Mr. Deputy Speaker, Sir, the issue of police officers being killed and their families being taken for a ride is becoming too much in this country. Sometimes when a police officer has been killed let us say for about only a month, you find the family being chased out of the police lines or told that they are not supposed to take anything from the police station. What is the Assistant Minister doing to ensure that the families of the deceased officers are taken care of by the Government, so that they can feel that they are part of this Government?

Mr. Kingi: Mr. Deputy Speaker, Sir, I want to admit that, that had not come to my attention yet. Now that it has, we will do everything possible to ensure that the families of the deceased officers are not harassed.

Mr. Sambu: Mr. Deputy Speaker, Sir, could the Assistant Minister tell the House and the nation when the compensation which is an insurance matter, will be paid? An insurance matter should not take more than three months; it is now over a year. Why can the insurance not pay the Group Personal Accident immediately?

Mr. Kingi: Mr. Deputy Speaker, Sir, as I have already said, we will ensure that this payment is done as soon as possible in order to avoid suffering by the family.

Mr. Deputy Speaker: Mr. Kingi, the hon. Member has said that this matter has taken almost a year to pay. The issue of compensation and payment to public officers who either retire or are killed, is of contention. The hon. Member wants to know why it has taken nearly a year for the compensation to be paid and what you are doing to ensure that it is done almost now. I think that is what the hon. Member is asking.

Mr. Kingi: Mr. Deputy Speaker, Sir, I have undertaken to get personally involved in this matter. That is why I have said that we will liaise with the hon. Member to ensure the family does not suffer.

Mr. Muriithi: On a point of order, Mr. Deputy Speaker, Sir. You have put it quite well to the Assistant Minister. The hon. Member is asking whether there is any form of insurance scheme put in place because as a qualified man; an insurance claim does not take a year to be settled. Is there any form of insurance cover in place?

Mr. Deputy Speaker: I will allow Mr. Muriithi to ask that although he stood on a point of order. It was certainly not a point of order but in public interest. Could you, please, answer the question?

Mr. Kingi: Mr. Deputy Speaker, Sir, as far as I am concerned the scheme that is in place is a Group Personal Accident Scheme. That is the one we will use to ensure that these people are compensated.

Mrs. Mwendwa: Mr. Deputy Speaker, Sir, I am wondering whether the Assistant Minister is really aware of what happens to the widows of police officers. Most of these widows stay in the rural areas; they do not stay with their husbands. When the husband dies, first of all, it is not easy for the widows to access the police station where he worked. In most cases, the compensation takes forever or it is never paid. Is he aware of this, because this has been going on from time immemorial and even today? He says that he will personally intervene in this case, but what has he been doing for the past five years? The intervention should have taken place a long time ago. This

is what happens!

Mr. Kingi: Mr. Deputy Speaker, Sir, you will agree with me that this is not the only police officer that passed away. He is only one out of many. Definitely, we have been doing a lot and that is why you will find that we only have this case in isolation. As I have said, now that this matter has been brought to our notice, we will do everything possible to ensure that, that compensation is paid as soon as possible.

KILLING OF MR. WILSON ISUMBA

Mr. Khaniri: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Administration and National Security the following Question by Private Notice.

(a) Under what circumstances was Mr. Wilson Isumba gunned down on Saturday, 6th October, 2007, at Hamisi district headquarters?

(b) How many suspects have been apprehended in connection with the incident?

(c) Could the Minister assure the House that proper investigations will be conducted to ensure that the perpetrators of the killing are brought to book?

The Assistant Minister, Office of the President (Mr. Kingi): Mr. Deputy Speaker, Sir, I beg the indulgence of the House to allow me to bring the answer to this Question on Tuesday, next week. The reason is that the information that we received is not very satisfactory. I want to have some time to go through it and get more information.

Mr. Khaniri: Mr. Deputy Speaker, Sir, that is fine, but the reason I brought this Question through Private Notice was that we are burying this young man on Saturday. I was hoping that the Government could shed some light on this matter before then. However, I accept that the Question be deferred.

Mr. Deputy Speaker: I think the Assistant Minister has a valid point. If he wants to get you correct information, I think we can give him up to Tuesday, next week. Therefore, Mr. Assistant Minister, come up with an answer to the Question on Tuesday afternoon.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.479

NON-PAYMENT OF CASUAL LABOURERS BY KANG'ETHE CONTRACTORS

Mr. Rai asked the Minister for Labour and Human Resource Development:-

(a) whether he is aware that over 40 people hired on casual basis by a sub-contractor (Kang'ethe Contractors) at Nyari Sisal Estate, Taru, between 2005-2006 have not been paid their dues; and,

(b) what steps he is taking to ensure that the workers are paid their dues.

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that 87 casual employees engaged by a Mr. George Kang'ethe Mwanzia, a sub-contractor of Nyari Sisal Estate, Taru, have not been paid a balance of Kshs6,324,030 from a total of Kshs19,250,000 that was agreed upon in clearing 50 blocks of bushes at the latter's sisal

plantation. The non-payment of Kshs6,324,030 was occasioned by the fact that the employees did not perform the job to the satisfaction of the management. Consequently, the management asked the employees to re-do the clearing. However, to date the repeat work has not been done. The management has already paid them Kshs12,921,970 through the sub-contractor, and is willing to release the balance as soon as the repeat work is completed. The Provincial Labour Officer, Coast Province, held a meeting with the management of Nyari Estate and Mr. Kangeta on 16th February, 2007---

Mr. Deputy Speaker: Mr. Minister, are you answering this Question?

The Minister for Labour and Human Resource Development (Dr. Kulundu): Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: You have taken quite some time now!

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Deputy Speaker, Sir, I am detailed but I am about to finish.

Mr. Deputy Speaker: All right; finish, Mr. Minister!

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Deputy Speaker, Sir, at that meeting, it was agreed that the bush clearing balance be paid immediately. I confirm that the employees will be paid once they complete the bush clearing job to the satisfaction of the management.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Rai: Mr. Deputy Speaker, Sir, first, I would like to differ with the Minister. The total number of employees involved is 127, and not 87. Secondly, I would like to get proof of payment of the Kshs12 million from the Minister, because no payment has been made to those employees up to now. So, I want proof from the Minister, showing how the Kshs12 million was paid to those people.

Dr. Kulundu: Mr. Deputy Speaker, Sir, there were 40 permanent employees in the company. The employer hired the services of extra casual employees, bringing the total to 87 employees. As to the evidence of payment, I am sorry that I do not have it here, but I can avail it to the House next week.

Mr. Rai: On a point of order, Mr. Deputy Speaker, Sir. I seek the indulgence of the Chair for the Minister to come with evidence on Tuesday to prove that a sum of Kshs12 million has been paid to these employees. So, I would like the Chair to direct that the Question appears again on the order on Tuesday, so that the Minister can bring proof of that payment.

Mr. Deputy Speaker: The Minister has indicated that he will bring the evidence. Therefore, it is only fair that this Question is deferred, so that he can bring the information the hon. Member wants. Therefore, I defer the Question to Tuesday afternoon. Is that okay with you, Mr. Rai?

Mr. Rai: I am much obliged, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Is that okay with you, Mr. Minister?

Dr. Kulundu: It is okay, Mr. Deputy Speaker, Sir.

Mr. Osundwa: On a point of order, Mr. Deputy Speaker, Sir. On Tuesday, we would like the Minister to also furnish us with information as to how long the casuals were hired. For how many months were they hired?

Mr. Deputy Speaker: We will not be going into the details of the Question. What the Minister should be asked to do is to bring as much evidence as possible on everything that he is going to say.

(Question deferred)

Mr. Deputy Speaker: Next Question by the Member for Samburu West!

Mr. Sungu: Mr. Deputy Speaker, Sir, I have a request from Mr. Lesrima to ask this Question on his behalf.

Mr. Deputy Speaker: Very well, Mr. Sungu!

Question No.316

SALARY AND EMOLUMENTS
OF CONTROLLER AND
AUDITOR-GENERAL/KRA CEO

Mr. Sungu, on behalf of **Mr. Lesrima,** asked the Minister for Finance:-

(a) what the salary and emoluments of the Controller and Auditor-General is; and,

(b) what the salary and emoluments of the Kenya Revenue Authority (KRA) Chief Executive is.

Mr. Deputy Speaker: Minister for Finance!

(Mr. Awori stood up in his place)

Mr. Deputy Speaker: The Vice-President and Minister for Home Affairs will answer!

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Deputy Speaker, Sir, I regret that I will not answer the Question, but will ask for your indulgence that this Question be deferred to Thursday next week, the reason being that the Minister for Finance, Mr. Kimunya, is out of the country, and the Assistant Minister for Finance, Mr. Kenneth, is out of town. So, I request that we put this Question on the Order on Thursday next week, when both will be here, and will be happy to answer it.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Sungu: Mr. Deputy Speaker, Sir, I have no objection to that request, except that I would prefer that the Question be put on the Order Paper on Tuesday, the reason being that we are not sure whether we are going to be here next Thursday.

Mr. Deputy Speaker: You are not even sure whether you will be here on Tuesday. So, really, it does not make any difference. So, we shall have it answered on Thursday as requested by the Vice-President and Minister for Home Affairs.

(Question deferred)

Mr. Deputy Speaker: Hon. Members, regarding the next Question by the Member for Mumias, I have information that the Minister for Education has requested that it be deferred to next week. Therefore, it is deferred to Tuesday. Is that okay, Mr. Osundwa?

Mr. Osundwa: Mr. Deputy Speaker, Sir, it is not okay, because the Minister is here.

Mr. Deputy Speaker: Mr. Osundwa, the Minister for Education, Prof. Saitoti called, and I will go by his word. So, the Question is deferred to Tuesday.

Question No.490

CONFIRMATION OF GOVERNMENT

PLEDGE ON FREE SECONDARY
EDUCATION

(Question deferred)

Mr. Deputy Speaker: Hon. Members, the next Question is by the Member for Eldoret South. Again, the Minister for Roads and Public Works is out of town, and he requested that the Question be deferred to next week. Therefore, the Question is deferred to Tuesday, next week. Is that okay, Mr. Koros? Is Mr. Koros here?

An hon. Member: No!

Mr. Deputy Speaker: Mr. Koros is not even here. Therefore, the Question is deferred to Tuesday

Question No.491

REPAIR OF CHEPTIRET-MOI
UNIVERSITY-LESSOS ROAD

(Question deferred)

Mr. Deputy Speaker: Hon. Members, that is the last Question we have on the Order Paper.

Next Order!

**COMMITTEE OF THE
WHOLE HOUSE**

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. Sungu) took the Chair]*

The Temporary Deputy Chairman (Mr. Sungu): Hon. Members, we have four Bills to consider this afternoon. We shall start with The Work Injury Benefits Bill.

THE WORK INJURY BENEFITS BILL

The Temporary Deputy Chairman (Mr. Sungu): Hon. Members, the Minister has an amendment to Clause 2. Mr. Minister, please, proceed as per the Order Paper, on page 682.

Clause 2

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 2 of the Bill be amended-

(a) in the definition of the term "Board" by deleting the words "established under the Labour Institutions Act";

(b) in the definition of the term "Council" by deleting the words "established under the Occupational Safety and Health Act";

(c) in the definition of the term "Director" by deleting the words "appointed under Section 23 of the Occupational Safety and Health Act" and substituting therefor the words "of Occupational Safety and Health".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 2 as amended agreed to)

Clause 3

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 3 of the Bill be amended by inserting the words "other than the armed forces" immediately after the word "Government" appearing in the second line.

(Question of the amendment proposed)

(Question, that the words to inserted be inserted, put and agreed to)

(Clause 3 as amended agreed to)

(Clauses 4, 5, 6, 7 and 8 agreed to)

Clause 9

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 9 of the Bill be amended in Subclause (4) by deleting the words "in terms of the Employment Act".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 9 as amended agreed to)

*(Clauses 10, 11, 12, 13, 14, 15,
16, 17, 18, 19 and 20 agreed to)*

Clause 21

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 21 of the Bill be amended-

(a) by deleting the words "as soon as possible";

(b) by inserting the words "and a copy of the written notice or a notice of the verbal notice shall be sent to the Director within twenty four hours of its occurrence in the case of a fatal accident" immediately after the word "employer" appearing in the fourth line.

(Question of the amendment proposed)

*(Question, that the words to be left
out be left, put and agreed to)*

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 21 as amended agreed to)

Clause 22

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 22 be amended in sub-clause (2) by deleting the word "of" appearing immediately after the word "that" in the fifth line.

(Question of the amendment proposed)

*(Question, that the word to be left out be
left out, put and agreed to)*

(Clause 22 as amended agreed to)

Clause 23

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 23 of the Bill be amended in sub-clause (2) by deleting the words "any investigation in terms of the Occupational Safety and Health Act", and substituting therefor the words "any other investigation".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 23 as amended agreed to)

(Clauses 24 and 25 agreed to)

Clause 26

The Minister for Labour and Human Resource Development Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 26 of the Bill be amended by inserting the following new clauses immediately after Subclause (3)-

(4) An employer or insurer against whom a claim for compensation is lodged by the Director under this section, shall settle the claim within ninety days of lodging the claim.

(5) The Director shall, within thirty days of receipt of the money claimed under subsection (1), pay the money to the employee who made the claim or his dependants.

(6) An employer or an insurer who fails to pay the compensation claimed under this subsection commits an offence and shall on conviction be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 26 as amended agreed to)

(Clauses 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43 and 44 agreed to)

Clause 45

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 45 of the Bill be amended in sub-clause (1) by deleting the words "under the Occupational Safety and Health Act or".

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 45 as amended agreed to)

*(Clauses 46, 47, 48, 49,
50 and 51 agreed to)*

Clause 52

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 52 of the Bill be amended in sub-clause (2) by deleting the words "National Labour Court" and substituting therefore the words "Industrial Court".

(Question of the amendment proposed)

*(Question, that the words to be left
out be left out, put and agreed to)*

*(Question, that the words to be
inserted in place thereof be
inserted, put and agreed to)*

(Clause 52 as amended agreed to)

(Clauses 53 and 54 agreed to)

Clause 55

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 55 of the Bill be amended by deleting the word "fifty" and substituting therefor the words "two hundred".

(Question of the amendment proposed)

*(Question, that the word to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

The Temporary Deputy Chairman (Mr. Sungu): Order, hon. Members! Your Excellency the Vice-President and Minister for Home Affairs, we need this to appear in the HANSARD and there is absolutely no support from the Government side, neither is there any support from the Opposition side. We are making law here and if you do not vote, we will delete those clauses from

the Bill. So, hon. Members, be alert if you are interested.

(Clause 55 as amended agreed to)

(Clauses 56, 57 and 59 agreed to)

(First Schedule agreed to)

Second Schedule

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Second Schedule be amended in Part 1-

(a) in paragraph 30 in the first column by deleting the word "server" appearing in the fifth line and substituting therefor the word "severe";

(b) in paragraph 33-

(i) in the second column by deleting the word "The" appearing in the second line and substituting therefor the word "the";

(ii) in sub-paragraph (b) in the first column by deleting the word "a" appearing in the second line and substituting therefor the word "the".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Second Schedule as amended agreed to)

(Third Schedule agreed to)

(Title agreed to)

Clause 1

The Temporary Deputy Chairman (Mr. Sungu): Mr. Minister, you have proposed to amend Part 1, but I notice that you are only doing it because of a typing error, which will be rectified accordingly in the drafting stage. So, there is no need to move the amendment.

(Clause 1 agreed to)

The Temporary Deputy Chairman (Mr. Sungu): Order, hon. Members! I understand that there are amendments to the Labour Relations Bill (Bill No.8) and the Employment Bill (Bill No.7) as they appear on the Order Paper, but apparently, all the amendments are not ready. In that case, we are moving on to the last item, which is the Nutritionists and Dieticians Bill (Bill No.5). This is

Item No.IV on the Order Paper.

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, the Labour Relations Bill is ready and I can move the amendments. What is not ready is the Employment Bill, which we shall deal with at a later stage.

The Temporary Deputy Chairman (Mr. Sungu): Mr. Minister, I would wish you to consult with the Clerk, so that we are sure about this. I am told that all the amendments are not ready. I agree with you that your amendments are ready, as they appear on the Order Paper, but there are other amendments by Prof. Ojiambo on that same Bill, which have already been submitted to the Clerk, but they are not ready. They do not appear on the Order Paper. So, we cannot proceed.

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I do not want to be seen to be not complying with what you are saying, but I think Prof. Ojiambo had amendments on the Employment Bill. We talked about it just before lunch. I do not know if she has any amendments on the Labour Relations Bill.

The Temporary Deputy Chairman (Mr. Sungu): You have made your point. Let us hear from Prof. Ojiambo.

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, there were amendments on the Labour Relations Bill and I have got a copy of them here, except that I was informed that they were under authorship. But I do not see them here from the Clerk's office. It is true that there are amendments.

The Temporary Deputy Chairman (Mr. Sungu): Order, hon. Members! I think we have cleared the confusion now. A Supplementary Order Paper, which includes the amendments by Prof. Ojiambo, is now with us. So, we can proceed.

We will now go to the next item, which is the Labour Relations Bill (Bill No.8).

Mr. Ligale: On a point of order, Mr. Temporary Deputy Chairman, Sir. We do not have the Supplementary Order Paper.

The Temporary Deputy Chairman (Mr. Sungu): The Supplementary Order Paper is being distributed as we move on. While it is being distributed, we will proceed to the last item, which is the Nutritionists and Dieticians Bill (Bill No.5) and then we will come back to the Labour Relations Bill (Bill No.8), so that the hon. Members are clear about it.

Let us now move to Sub-item (iv) under Order No.7, which is the Nutritionists and Dieticians Bill (Bill No.5). This is what we will now consider.

THE NUTRITIONISTS AND DIETICIANS BILL

Clause 2

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 2 be amended -

- (a) by deleting the definition of "Director of dietetics";
- (b) by deleting the definition of "Director of nutrition"; and
- (c) in the definition of "Kenya Coalition Network for Nutrition" by deleting the words "Kenya Coalition Network for Nutrition" and substituting therefor the words "Kenya Coalition for Action in Nutrition".

The Temporary Deputy Chairman (Mr. Sungu): Yes! Is there any explanation for moving your proposed amendment?

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 2 as amended agreed to)

The Temporary Deputy Chairman (Mr. Sungu): I did not hear Prof. Ojiambo voting. So, I do not know whether she agrees with her own amendment!

Prof. Ojiambo: I said "aye"!

(Clauses 3 and 4 agreed to)

Clause 5

The Temporary Deputy Chairman (Mr. Sungu): I understand that the Minister for Health has proposed some amendments to Clause 5. Is the Minister with us?

Mr. Muturi: I thought she was sacked!

The Temporary Deputy Chairman (Mr. Sungu): There is no Minister for Health.

(The Minister for Justice and Constitutional Affairs (Ms. Karua) stood up in her place)

Yes, Minister? No, unfortunately, unless you have been named as the Acting Minister for Health, you cannot move that amendment. So, since the amendment is in the name of the Minister, we shall ignore it.

The amendment by the Minister is, therefore, dropped.

Prof. Ojiambo, you had an amendment to Clause 5?

Mr. Muturi: On a point of order, Mr. Temporary Deputy Chairman, Sir. I have a Supplementary Order Paper and all the amendments to Clause 5 appear to be proposed by the mover. Was it proposed by the mover or by the Minister for Health? There is no indication that the Minister was to do it.

The Temporary Deputy Chairman (Mr. Sungu): This one has been proposed by Prof. Ojiambo. I have asked her to move it.

Yes, Prof. Ojiambo, could you move your amendments to Clause 5?

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 5 of the Bill be amended in subclause (2), by deleting paragraphs (f), (g), (h), (i) and (j) and substituting therefor the following -

(f) one representative of the Kenya Medical Association elected by the Association;
(g) one representative of the Kenya Coalition for Action in Nutrition elected by the Coalition;

(h) one representative of the Federation of Kenya Consumer Organizations elected by the Federation;

(i) one representative of faculties of nutrition and dietetics of public universities elected at a meeting of the faculties convened by the Kenya Coalition for Action in

Nutrition; and

(j) one representative of the faculties of nutrition and dietetics of private universities elected at a meeting of the faculties convened by the Kenya Coalition for Action in Nutrition.

(Question of the amendment proposed)

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, let me just seek some clarifications. I just want to understand from Prof. Ojiambo. She is saying that those representatives will all be elected. For instance, one representative of the Kenya Medical Association elected by the Association; one representative of the Kenya Coalition for Action in Nutrition elected by the Coalition; and then, the more curious one is: One representative of faculties of nutrition and dietetics of public universities elected at a meeting of the faculties convened by the Kenya Coalition for Action in Nutrition. I just want to understand the following: In the event that those faculties do not convene those meetings, what then becomes of that kind of representation? Is there a mechanism in which they will be compelled to hold those meetings to elect those representatives?

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, those are professionals who meet at their own forums. Faculties in the country do meet to consider their professions. So, it is not possible that they will not meet.

The Temporary Deputy Chairman (Mr. Sungu): Are you satisfied, Mr. Muturi?

Mr. Muturi: I am.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 5 as amended agreed to)

The Temporary Deputy Chairman (Mr. Sungu): It is important that you vote, Prof. Ojiambo. Otherwise, let us now move to Clause 6.

Proceed, Prof. Ojiambo. You have proposed an amendment to Clause 6.

Clause 6

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move - THAT, Clause 6 be amended -

(a) in the opening paragraph by deleting the word "institute" and substituting therefor the word "council";

(b) by deleting the paragraphs (d) and (e) and substituting therefor the following -

"(d) approve institutions as institutions for the purpose of training persons seeking registration under this Act;"

Mr. Temporary Deputy Chairman, Sir, I also wish to consider a request for consideration to amend Clause 6, where it reads "institute" by substituting it with the word "council".

The Temporary Deputy Chairman (Mr. Sungu): Order, Prof. Ojiambo! Are you moving a further amendment or it is already there?

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, this is just a correction of a title.

The Temporary Deputy Chairman (Mr. Sungu): What are you saying? Are you making a further amendment to your amendment or you are moving the amendment as per the Order Paper in front of us?

Prof. Ojiambo: I have moved an amendment as per the Order Paper and I noted a title.

Mr. Temporary Deputy Chairman, Sir, I was proposing that I make an amendment to the title.

The Temporary Deputy Chairman (Mr. Sungu): Title of what? Of the Bill?

Prof. Ojiambo: A typographical error.

The Temporary Deputy Chairman (Mr. Sungu): Yes! Can you just say what it is, so that we can note it? Tell us if it is in line with the Bill.

Prof. Ojiambo: At Clause 6, I am proposing that where it reads "the functions of the institute" it should be amended to read "the functions of the council".

The Temporary Deputy Chairman (Mr. Sungu): Yes! But you have already moved that in Sub-item (a) of your amendment. If you read your amendment to Clause 6, you said:-

THAT, Clause 6 be amended -

(a) in the opening paragraph by deleting the word "institute" and substituting therefor the word "council";

The other amendment is there. So, you do not need to move any further amendments to your amendment. You should move as per the Order Paper.

Prof. Ojiambo: Yes, Mr. Temporary Deputy Chairman, Sir.

(Question of the amendment proposed)

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, Prof. Ojiambo's amendment in part (b) reads:-

(b) by deleting paragraphs (d) and (e) and substituting therefor the following -

"(d) approve institutions as institutions for the purpose of training persons seeking registration under this Act;"

Is it "approve" or "approved"? Maybe, Prof. Ojiambo could explain.

The Temporary Deputy Chairman (Mr. Sungu): I think that goes without saying. It is just a question of language. I think Prof. Ojiambo would agree that it should be "approved". Could you respond, please?

Prof. Ojiambo: Approved!

The Temporary Deputy Chairman (Mr. Sungu): I will kindly request you to use the microphone because we want what you say to be recorded in the HANSARD so that there is no doubt about it. The drafters are going to use these records to draft the final Bill and we do not want mistakes to occur.

Prof. Julia, the Chair will exercise its discretion and allow you to use the Dispatch Box so that we can hear you better.

Prof. Ojiambo: Thank you.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be)

inserted, put and agreed to)

(Clause 6 as amended agreed to)

*(Clauses 7, 8, 9, 10, 11
and 12 agreed to)*

Clause 13

The Temporary Deputy Chairman (Mr. Sungu): I think the Minister has some amendments. The Minister is not here, So, her amendments are dropped!

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I was just going to---

The Temporary Deputy Chairman (Mr. Sungu): Hold on, Madam Minister! Unless you are the Minister for Health---

The Minister for Justice and Constitutional Affairs (Ms. Karua): No, Mr. Temporary Deputy Chairman, Sir. We have a collective responsibility which requires that---

The Temporary Deputy Chairman (Mr. Sungu): I will order for the time being that you hold on to that as we hear Prof. Julia's amendments. As you know, your colleague was here when we dropped the other amendments.

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 13 of the Bill be amended in paragraph (a) by deleting the words "elected as per the First Schedule" and substituting therefor the words "appointed by the Minister".

The Temporary Deputy Chairman (Mr. Sungu): Do you want to state why you want to make that amendment? Hon. Members, the amendment is on page 701 in the old Order Paper and page 722 in the Supplementary Order Paper. We are talking about Clause 13!

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be
inserted in place thereof be
inserted, put and agreed to)*

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 13 of the Bill be amended -

(a) in Subclause (1) -

(iii) by deleting the words "Examinations Board" and substituting therefor the words "Accreditation Board".

(iv) by deleting the words "which shall be a corporate body".

(b) in Subclause (2) -

(i) by deleting the words "three" appearing in paragraph (c) and substituting therefor the word "two".

(ii) by deleting paragraph (e) and substituting therefor the following -(e) two

persons nominated by the Minister responsible for health".

Mr. Temporary Deputy Chairman, Sir, this is as a result of consultations between the various stakeholders.

(Question of the amendment proposed)

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, we consulted and we agreed on that matter.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 13 as amended agreed to)

Clause 14

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 14 of the Bill be amended by deleting the words "Examinations Board" and substituting therefor the words "Accreditation Board".

Mr. Temporary Deputy Chairman, Sir, again, this is as a result of extensive consultations.

(Question of the amendment proposed)

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I have no objection.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 14 as amended agreed to)

Clause 15

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 15 of the Bill be amended by deleting the words "Examinations Board" wherever they appear and substituting therefor the words "Accreditation Board".

Mr. Temporary Deputy Chairman, Sir, again, this is as a result of consultations.

(Question of the amendment proposed)

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I have no objection.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 15 as amended agreed to)

Clause 16

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 16 of the Bill be amended in Subclause 2(c) by deleting the words "Examinations Board" and substituting therefor the words "Accreditation Board".

Mr. Temporary Deputy Chairman, Sir, this is also as a result of consultations.

(Question of the amendment proposed)

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, we have no objection.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 16 be amended in Subclause (2) by deleting the words "university representatives" in paragraph (b) and substituting therefor the words "representatives of local universities."

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 16 as amended agreed to)

Clause 17

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT, Clause 17 of the Bill be amended -

(a) in paragraph (b) by inserting the words "certificate, diploma, or" immediately before the word "degree".

(b) in paragraph (c) by deleting the words "Examinations Board" and substituting therefor the words "Accreditation Board".

Mr. Temporary Deputy Chairman, Sir, I would like to confirm that this is as a result of consultations.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Mr. Sungu): Prof. Julia!

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I have no objection.

The Temporary Deputy Chairman (Mr. Sungu): I hope you do not mind me calling you Julia!

Prof. Ojiambo: It is a popular name!

(Laughter)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 17 as amended agreed to)

(Clauses 18, 19, 20, 21, 22, 23, 24 and 25 agreed to)

Clause 26

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 26 of the Bill be amended---

The Temporary Deputy Chairman (Mr. Sungu): Order, Madam Minister! I am sorry, we have to start with the amendment proposed by Prof. Ojiambo because of the order of the clauses. Prof. Ojiambo, you have your amendment on page 722 of the Supplementary Order Paper!

Clause 26

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 26 of the Bill be amended in sub clause (2)-

(a) in paragraph (a) by inserting the words "appointed by the Council" immediately

after the words "a chairperson";

(b) in paragraph (b) by inserting the words "appointed by the Council" immediately after the words "at least seven years' experience";

(c) in paragraph (d) by inserting the words "elected by the Council" immediately after the words "with at least five years' experience".

(Question of the amendment proposed)

*(Question, that the words be inserted
be inserted, put and agreed to)*

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 26 of the Bill be amended in paragraph (e) by deleting the words "Examinations Board" and substituting therefor the words "Accreditation Board".

Mr. Temporary Deputy Chairman, Sir, I confirm that the amendments by the Mover of the Bill do not in any way contradict this further amendment.

*(Question of the further
amendment proposed)*

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I have no objection.

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted,
put and agreed to)*

(Clause 26 as amended agreed to)

(Clause 27 agreed to)

Clause 28

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 28 of the Bill be amended in paragraph (c) by deleting the words "Clause 13(c)" and substituting therefor the words "section 14(c)".

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be
inserted in place thereof be
inserted, put and agreed to)*

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 28 of the Bill be amended in paragraph (c) by deleting the words "Examinations Board" and substituting therefor the words "Accreditation Board".
The amendments by the Mover are in line with this further amendment.

(Question of the further amendment proposed)

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I have not objection.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 28 as amended agreed to)

(Clauses 29, 30, 31, 32, 33, 34, 35 and 36 agreed to)

Clause 37

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 37 of the Bill be amended by renumbering the existing provision as sub clause (1) and inserting the following new sub clause-
(2) Any person who markets food and nutrition supplements without analysis, certification and registration

[The Minister for Justice and Constitutional Affairs]

by the Council commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years or both.

Mr. Temporary Deputy Chairman, Sir, this, once again, is as a result of extensive consultation.

(Question of the amendment proposed)

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, we have not objection.

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 37 as amended agreed to)

(Clauses 38 and 39 agreed to)

First Schedule

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the First Schedule to the Bill be amended in paragraph 1 - by inserting the following sub paragraphs immediately after sub paragraph (6)-

(7) The members of the Institute shall at every annual general meeting, elect eleven provincial representatives, being nutritionists or dieticians, who shall constitute the national officials of the Institute

(8) The national officials shall elect from among their number a vice-chairperson, secretary and treasurer of the Institute.

Again, this is as a result of consultation.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Mr. Sungu): Prof. Ojiambo, this is your Bill. Do you have any objection to that amendment?

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I have no objection to the Minister's amendment.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(First Schedule as amended agreed to)

Second Schedule

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Second Schedule be deleted.

The Temporary Deputy Chairman (Mr. Sungu): Prof. Ojiambo, I note that you are proposing to delete the Second Schedule. Maybe, you could explain to us why you are intending to do so.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, it was found not to be necessary.

The Temporary Deputy Chairman (Mr. Sungu): Well, I need an explanation from the initiator of the Bill.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Prof. Ojiambo, it was found not to be necessary.

The Temporary Deputy Chairman (Mr. Sungu): Order, Madam Minister, you cannot do that!

Prof. Ojiambo, in the absence of any explanation, I will put the Question!

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, after consultation with the Minister and other stakeholders, it was found that it was not necessary to include the Second Schedule in the Bill.

The Temporary Deputy Chairman (Mr. Sungu): So, do we delete it?

Prof. Ojiambo: So, I am proposing to delete it.

The Temporary Deputy Chairman (Mr. Sungu): So, you are deleting the provisions as to the conduct of the business of the Council.

*(Question, that the words to be left out
be left out, put and agreed to)*

(Second Schedule deleted)

Third Schedule

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Third Schedule be deleted and the following replaced.

(1) The Head of the Division of Human Nutrition and Dietetics in the Ministry in liaison with-

(a) the Nutrition Association of Kenya;

(b) the Kenya Community of Action in Nutrition;

(c) the Kenya Community Nutrition Association; and,

(d) the Clinical Nutrition and Dietetics Association of Kenya shall within twelve months from the date of the commencement of this Act convene the First Annual General Meeting at which the first members of the Institute shall be elected.

(2) The Head of the Division of Human Nutrition and Dietetics in the Ministry shall chair the meeting referred to in paragraph 1.

(3) Prior to convening the meeting referred to in paragraph 1, the Head of the Division of Human Nutrition and Dietetics in the Ministry in liaison with the organisation referred to in paragraph (1) shall facilitate the registration of the persons carrying on business or holding themselves out as nutritionist and dieticians.

(4) No person shall be eligible to participate in the election referred to under paragraph 1 unless such person is registered in terms of paragraph 3.

(5) After the expiry of twelve months after the commencement of the Act, no person may carry on business or hold himself or herself out as being a nutritionist or dietician, except in compliance with this Act.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be
inserted in place thereof, be
inserted put and agreed to)*

(Third Schedule as amended agreed to)

(Title agreed to)

The Minister for Justice and Constitutional Affairs (Ms. Karua): On a point of order, Mr. Temporary Deputy Chairman, Sir. I am seeking your indulgence and guidance. You will notice that on page 719, Clause 5 which is an amendment by the Minister, was passed. Unfortunately, I did not come in on time because the Question Time ended early. These amendments were shared between the Minister and the Mover. They were a result of consultation. This is a very important clause and it will affect the rest of the Bill.

I am, therefore, seeking to be advised in what manner we could seek the re-opening of this issue by the House, so that this amendment is proposed with the leave of the Chair.

*(The Temporary Deputy Chairman (Mr. Sungu)
consulted the Clerk-at-the-table)*

The Temporary Deputy Chairman (Mr. Sungu): Order, Mr. Minister. I have heard your explanation and do understand that it will affect the Bill. It is unfortunate that you were not there in time to move the amendments. The way to proceed--- As you know the Standing Orders, we cannot revisit an issue which we have made a decision on. We can do it when we report back to the House. The Clerks will advise accordingly, so that the matter could be reconsidered at the next Committee. I mean that particular section only.

Thank you.

Clause 1

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 1 be amended by deleting the words "but not later than thirty days from the date of assent".

*(Question of the amendment proposed)
(Question, that the words to be left
out be left, put and agreed to)*

(Clause 1 as amended agreed to)

The Temporary Deputy Chairman (Mr. Sungu): Order, hon. Members. We have now completed the Nutritionists and Dieticians Bill. We are now moving to the other item that we had left out. That is the Labour Relations Bill. For purposes of following the Order Paper properly, we will use the Supplementary Order Paper which has just been provided to hon. Members. It has all the amendments which were missing from the initial Order Paper.

The Bill is the Labour Relations Bill. Sub-item No.2 in the Order Paper.

THE LABOUR RELATIONS BILL

Clause 2

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 2 of the Bill be amended-

(a) in the definition of the term "award" by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";

(b) in the definition of the term "Board" by deleting the words "established under the Labour Institutions Act";

(c) in the definition of the term "Committee of Inquiry" by deleting the words "established under the Labour Institutions Act" and substituting therefore the words "appointed by the Minister to inquire into any matter relevant to a trade dispute",

(d) by deleting the definition of the term "employee" and substituting therefor the following new definition-

"employee" means a person employed for wages or a salary and includes an apprentice and an indentured learner";

(e) by deleting the definition of the term "employer" and substituting therefor the following new definition-

"employer" means any person, public body, firm, corporation or company, who or which has entered into a contract of service to employ any individual, and includes the agent, foreman, manager or factor of such person, public body, firm, corporation or company;

(f) by deleting the definition of the term "judge" and substituting therefor the following new definition-

"judge" means a judge of the Industrial Court";

(g) by deleting the definition of the term "National Labour Court";

(h) by deleting the definition of the term "redundancy" and substituting therefor the following new definition-

"redundancy" means the loss of employment, occupation, job or career by involuntary means through no fault of an employee, involving termination of employment at the initiative of the employer, where the services of an employee are superfluous and the practice commonly known as abolition of office, job or occupation and loss of employment;

(i) by deleting the definition of the term "Registrar" and substituting therefor the following new definition-

"Registrar" means the Registrar of trade unions";

(j) by deleting the definition of the term "sector" and substituting therefor the following new definition-

"sector" means an industry or service or part of an industry or service;

(k) in the definition of the term "trade union" by deleting the letter "s" appearing at the end of the word "organisations".

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be
inserted in place thereof be
inserted, put and agreed to)*

(Clause 2 as amended agreed to)

(Clause 3 agreed to)

Clause 4

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 4(1) be amended by adding a new paragraph after (b) to read as follows:-

(c) "leave a trade union"

The Temporary Deputy Chairman (Mr. Sungu): Do you not think, Prof. Ojiambo, that you need to explain that further? This is because you are saying that Clause 4 be amended by adding a new paragraph after "b" to read as follows:-

"leave a trade union".

What do you mean by that? I am not following?

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, we are merely trying to make it possible for a worker to leave a trade union.

(Question of the amendment proposed)

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I did not quite understand what she meant by saying that so and so could leave a trade union. But in this country, non-workers actually leave trade unions.

The Temporary Deputy Chairman (Mr. Sungu): I think, Mr. Minister, it appears you are in agreement with the Mover of that amendment. This is because if you look at---

The Minister for Labour and Human Resource Development (Dr. Kulundu): What is she saying?

The Temporary Deputy Chairman (Mr. Sungu): Take your seat! I will tell you. What Prof. Ojiambo is proposing to do is to amend Part Two - Freedom of Association Clause 4(1) - by adding a further sub-paragraph there. Now Clause 4(1) reads:-

"every employee has the right to-

(a) participate in forming a trade union or federation of trade unions and;

(b) join a trade union; and,

(c) leave a trade a union.

In other words, they also have a right to leave. That is what she is saying. That is the amendment. If you want to oppose it, just say so. The amendment she is adding gives the right to an employee to leave a trade union.

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, could I consult my officers?

The Temporary Deputy Chairman (Mr. Sungu): I will give you five seconds!

(Dr. Kulundu consulted his officers)

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, we have no problem.

*(Question, that the words to be added
be added, put and agreed to)*

(Clause 4 as amended agreed to)

(Clauses 5, 6, 7, 8 and 9 agreed to)

Clause 10

The Temporary Deputy Chairman (Mr. Sungu): The Minister has an amendment to Clause 10. There were no amendments to Clauses 5, 6, 7, 8 and 9. So, there was no need to move them.

The Temporary Deputy Chairman (Mr. Sungu): Mr. Minister, do you have an amendment to Clause 10?

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 10 of the Bill be amended -

(a) by deleting the expression (1);

(b) in paragraph (b) -

(i) by deleting the words "National Labour Court";

(ii) by deleting the words "in accordance with the provisions of the Labour Institutions Act".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 10 as amended agreed to)

(Clause 11 agreed to)

Clause 12

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 12 of the Bill be amended by adding the following paragraph after Clause 12(3) paragraph (b):-

"provided that in exercising his or her powers under this section, the registrar shall not seek the consent of any existing and related trade union in the same sector or act in any way that reasonably restricts the formation of trade unions in a given sector of trade"

(Question of the amendment proposed)

The Temporary Deputy Chairman (Mr. Sungu): Mr. Minister, do you have any objections?

The Minister for Labour and Human Resource Development (Dr. Kulundu): Yes, Mr. Temporary Deputy Chairman, Sir. I stand to object to the proposed amendment by Prof. Ojiambo. This is on the basis that the Registrar must be allowed to consult with the existing trade unions and the federation of employers as part of social dialogue under ILO Convention 144. Without such consultations, there will be an unnecessary duplication of the trade unions in industries or sectors where workers already have representation. This will lead to confusion, kill the spirit and the practice of the tripartite consultations, which are key to sound labour administration.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I just want to urge my colleague, Prof. Julia Ojiambo, to withdraw this

amendment because the bargaining power of labour is when people come together in large groups. This clause, which is seeking to register trade unions without consultations with the labour movement, will lead to the fragmentation of the trade union movement, thus weakening the bargaining power. In the end, it will militate against the workers' ability to organise and speak in one voice.

I seek to oppose the amendment but also beg my colleague to withdraw this clause as being anti-labour in the long run. **The Temporary Deputy Chairman** (Mr. Sungu): Prof. Ojiambo, can you respond?

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, the argument could also work contrary to the interest of the workers. There are incidents where these kind of consultations have worked against the workers because the existing institutions have not been in favour of workers consolidating themselves and starting their own trade movements. Therefore, it is felt by the workers that extensive investigations and consultations, as much as they are useful, some of them have hindered workers from moving on and organising themselves into unions.

*(Dr. Kulundu and Ms. Karua stood
up in their places)*

The Temporary Deputy Chairman (Mr. Sungu): I do not want there to be an exchange. I would like to involve all hon. Members.

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, there exists legal provisions where an unpopular decision by the Registrar of Trade Unions can be challenged in court. The issue of proliferation is something we have seen in our political system. The issue of proliferation of trade unions does not necessarily make them efficient or even representative. In fact, they may be ethnic or intended for profit making, among other issues. So, I still insist that the Registrar of Trade Unions should be allowed time to consult as widely as possible before a trade union is registered.

*(Question that the words to be added
be added, put and negatived)*

(Clause 12 agreed to)

(Clauses 13, 14, 15, 16 and 17 agreed to)

Clause 18

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 18(4) of the Bill be amended by adding the following paragraph after 18(4)(b):-

"provided that the registrar shall not refuse to register a trade union only on the grounds that there is already in existence, a trade union in that particular trade or sector of employment"

The Temporary Deputy Chairman (Mr. Sungu): It would always be helpful if you explained your amendment of the Bill so hon. Members understand what you are amending.

*(Question of the amendment
proposed)*

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I object to the amendment for the same reason that I offered for the previous one.

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I just wanted to say that the proposed amendment by "Her Excellency", Prof. Julia Ojiambo, may cause confusion in trade unions. It will, definitely, cause a lot of confusion.

(Mr. Katuku stood up in his place)

The Temporary Deputy Chairman (Mr. Sungu): What is it, Mr. Katuku?

The Assistant Minister for Transport (Mr. Githae): I withdraw!

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, he has withdrawn!

The Temporary Deputy Chairman (Mr. Sungu): Mr. Githae, there are only a few people in this country who are allowed to be called his or her "excellency".

(Laughter)

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I am wishing her good luck.

The Temporary Deputy Chairman (Mr. Sungu): But I understand that you are opposing this amendment. This amendment flows from the other amendment which has been deleted. Prof. Ojiambo, your amendment to Clause 12 has been defeated. What do you say?

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, this amendment follows the previous one that we have deleted. It is in the interests of the workers that if the first amendment worked, then this would have automatically followed. Therefore, there would have been an opportunity to have one or two trade unions in one employment sector, but I have no objection.

The Temporary Deputy Chairman (Mr. Sungu): So, are you withdrawing your amendment?

Dr. Ojiambo: Yes.

The Temporary Deputy Chairman (Mr. Sungu): So, there is no amendment to Clause 18. The amendment by Prof. Ojiambo has been withdrawn.

(Amendment withdrawn)

(Clause 18 agreed to)

*(Clauses 19, 20, 21, 22, 23,
24, 25 and 26 agreed to)*

Clause 27

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 27 be amended by adding the following subclause after Clause 27(3) to read:-

(3A) "Upon receipt of the notice of change of name or constitution, the registrar

shall give a notice of at least 21 days in the Gazette and in three daily newspapers of national circulation inviting any objections to the proposed change of name or constitution by members of the trade union, and where any such objection is raised the registrar shall investigate the complaint and the grounds relied upon and may-

- (a) refer the matter to the National Labour Court;
- (b) refuse to accept the proposed amendments; or,
- (c) make any orders that he or she may deem fit in the circumstances.

The Temporary Deputy Chairman (Mr. Sungu): As I said before, since you are amending the Minister's Bill, a short explanation is necessary for the other hon. Members to understand why you are amending it. Do it if it is possible.

(Question of the amendment proposed)

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I accept this amendment, except that in part (a) she refers to "the National Labour Court" which we have consistently replaced with "the Industrial Court". So, either she deletes part (a) or she re-aligns it with the rest of the Bill by referring to the Industrial Court instead of the National Labour Court.

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, I think the proposed amendment is introducing something that has already been deleted. It says that the matter may be referred to the National Labour Court. We have already done away with any references to such a court. Therefore, I think even if the amendment was to be carried, it would still be making reference to something that is not in existence. I would propose to Prof. Ojiambo to delete "the National Labour Court" and in place thereof insert "the Industrial Court".

The Temporary Deputy Chairman (Mr. Sungu): I think it is fairly clear, Prof. Ojiambo. The Minister has no objection to your amendment except that the National Labour Court is not in existence. So, would you concur with those comments and make a further amendment to your amendment?

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 27 be amended by adding the following subclause after Clause 27(3) to read:-

(3A) "Upon receipt of the notice of change of name or constitution, the registrar shall give a notice of at least 21 days in the Gazette and in three daily newspapers of national circulation inviting any objections to the proposed change of name or constitution by members of the trade union, and where any such objection is raised the registrar shall investigate the complaint and the grounds relied upon and may-

- (a) refer the matter to the Industrial Court;
- (b) refuse to accept the amendments; or,
- (c) make any orders he or she may deem fit in the circumstances.

The Temporary Deputy Chairman (Mr. Sungu): You will now do it in writing and there is concurrence and a good understanding on that.

(Question of the further amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

*(Question, that the words to be inserted
in place thereof be inserted,
put and agreed to)*

*(Question, that the words to be added
be added, put and agreed to)*

(Clause 27 as amended agreed to)

Clause 28

The Minister for Labour and Human Resources (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 28 of the Bill be amended in Subclause (5) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

The Temporary Deputy Chairman (Mr. Sungu): I think it is the same thing again, namely replacing the words "National Labour Court" with the words "Industrial Court" which is understood.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted,
put and agreed to)*

(Clause 28 as amended agreed to)

(Clause 29 agreed to)

Clause 30

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 30 of the Bill be amended by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

The Temporary Deputy Chairman (Mr. Sungu): It is the same thing again.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted,
put and agreed to)*

(Clause 30 as amended agreed to)

(Clauses 31, 32 and 33 agreed to)

Clause 34

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 34 of the Bill be amended in Subclause (4) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

The Temporary Deputy Chairman (Mr. Sungu): I understand that it is the same thing again; just replacing the words "National Labour Court" with the words "Industrial Court".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 34 as amended agreed to)

(Clauses 35, 36, 37, 38, 39 and 40 agreed to)

Clause 41

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 41 of the Bill be amended-

(a) in Subclause (1) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";

(b) in Subclause (2) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

The Temporary Deputy Chairman (Mr. Sungu): It is the same thing again.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 41 as amended agreed to)

(Clauses 42, 43, 44, 45 and 46 agreed to)

Clause 47

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 47 of the Bill be amended in

[The Minister for Labour and Human Resource Development]

Subclause (1) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted,
put and agreed to)*

(Clause 47 as amended agreed to)

Clause 48

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 48 of the Bill be amended in Subclause (3) by deleting the words "in the prescribed form" and substituting therefor the words "in Form S set out in the Third Schedule".

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted,
put and agreed to)*

(Clause 48 as amended agreed to)

Clause 49

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 49 of the Bill be amended-

- (a) in Subclause (1) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";
(b) in Subclause (6) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted,
put and agreed to)*

(Clause 49 as amended agreed to)

(Clauses 50, 51, 52 and 53 agreed to)

Clause 54

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 54 of the Bill be amended-

- (a) in Subclause (7) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";
(b) in Subclause (8) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted,
put and agreed to)*

(Clause 54 as amended agreed to)

(Clause 55 agreed to)

Clause 56

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 56 of the Bill be amended in Subclause (3) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

(Question of the amendment proposed)

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I just want to support the Minister's amendment. Kenyans have a lot of confidence in the Industrial Courts. So, we should not substitute it with something else.

The Temporary Deputy Chairman (Mr. Sungu): I think it was so self-explanatory here.

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted,
put and agreed to)*

(Clause 56 as amended agreed to)

Clause 57

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 57 of the Bill be amended-

(a) in Subclause (6) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";

(b) in Subclause (7) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted,
put and agreed to)*

(Clause 57 as amended agreed to)

Clause 58

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 58 of the Bill be amended-

(a) in Subclause (3) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";

(b) in Subclause (4) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

(Question of the amendment proposed)
(Question, that the words to be left out
be left out, put and agreed to)

(Question, that the words to be inserted
in place thereof be inserted,
put and agreed to)
(Clause 58 as amended agreed to)

Clause 59

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 59 of the Bill be amended in Subclause (5) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

(Question of the amendment proposed)

(Question, that the words to be left out
be left out, put and agreed to)

(Question, that the words to be inserted
in place thereof be inserted,
put and agreed to)

(Clause 59 as amended agreed to)

Clause 60

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 60 of the Bill be amended-

(a) in Subclause (1) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";

(b) in Subclause (2) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";

(c) in Subclause (3) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";

(d) in Subclause (4) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";

(e) in Subclause (5) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";

(f) in Subclause (6)-

(a) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";

(b) by deleting the words "under the Labour Institutions Act";

(g) in Subclause (7) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted,
put and agreed to)*

(Clause 60 as amended agreed to)

(Clause 61 agreed to)

Clause 62

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 62 of the Bill be amended in Subclause (4) by deleting the words "in accordance with Section 40 of the Employment Act".

The Temporary Deputy Chairman (Mr. Sungu): What is the explanation of deleting the words "in accordance with Section 40 of the Employment Act"? Why are you amending that?

The Minister for Justice and Constitutional Affairs (Ms. Karua): There will be no Employment Act!

The Temporary Deputy Chairman (Dr. Kulundu): Okay, I understand. I have to follow because questions can arise later.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 62 as amended agreed to)

(Clauses 63 and 64 agreed to)

Clause 65

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 65 of the Bill be amended in sub-clause (4) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 65 as amended agreed to)

(Clauses 66, 67, 68, 69, 70 and 71 agreed to)

Clause 72

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 72 of the Bill be amended by deleting the words "Labour Commissioner" and substituting therefor the words "Commissioner of Labour".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 72 as amended agreed to)

Clause 73

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 73 of the Bill be amended-

(a) in the marginal note by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";

(b) in Subclause (1) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";

(c) in Subclause (2) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";

(d) in Subclause (3) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be

inserted, put and agreed to)

(Clause 73 as amended agreed to)

Clause 74

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 74 of the Bill be amended-

(a) in the marginal note by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

(b) in sub-clause (1) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 74 as amended agreed to)

Clause 75

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 75 of the Bill be amended by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court."

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 75 as amended agreed to)

(Clause 76 agreed to)

Clause 77

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr.

Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 77 of the Bill be amended-

- (a) in the marginal note by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";
- (b) in Subclause (1) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court";
- (c) in Subclause (3) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 77 as amended agreed to)

Clause 78

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr.

Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 78 of the Bill be amended in sub-clause (1)-

- (a) in paragraph (c) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".
- (b) in paragraph (d) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 78 as amended agreed to)

(Clause 79 agreed to)

Clause 80

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr.

Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 80 of the Bill be amended in sub-clause (3) by deleting the words

"National Labour Court" and substituting therefor the words "Industrial Court".

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be
inserted in place thereof be
inserted, put and agreed to)*

(Clause 80 as amended agreed to)

Clause 81

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 81 of the Bill be amended in sub-clause (4) by deleting the words "National Labour Court" and substituting therefor the words "Industrial Court".

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 81 as amended agreed to)

Clause 82

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 82 of the Bill be amended in sub-clause (1) by deleting the words "subordinate labour court" and substituting therefor the words "Industrial Court".

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 82 as amended agreed to)

(Clauses 83 and 84 agreed to)

(First and Second Schedules agreed to)

Third Schedule

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Third Schedule to the Bill be amended by inserting the following Form S immediately after Form R.

FORMS (s.48)

NOTICE TO EMPLOYER AUTHORIZING DEDUCTIONS

To

1. In pursuance of an order made with effect from by the Minister under Section 48 of the Labour Relations Act, I, on behalf of the (trade union), hereby request you to deduct from the wages of the employees listed in this Notice, being employees who have acknowledged membership of the (trade union), the sum of shillings monthly as their current trade union dues.

2. The total amount of deduction so made is required to be proportioned and transmitted as follows:

(a) per cent thereof to the (trade union) by crossed cheque made payable into the account of that trade union at the Bank.

(b) per cent thereof to the (federation) by crossed cheque made payable into the account of that federation at the Bank.

3.(1) The remittances should be made, and notices thereof should be delivered, not later than the day of the month next after the month in respect of which the deductions are made.

(2) Notices of remittances should be delivered to the (trade union) at (address), and to the (federation) at (address).

(3) The above-named trade union and federation are required by Section 50 of the Labour Relations Act to deliver a receipt for every remittance within fourteen days of receipt of notice of such remittance.

(4) The employer to whom this notice is addressed is required to make returns to the Registrar of Trade Unions of all payments made hereunder, in accordance with the order of the Minister.

4. This notice applies to employees' wages payable by you at the end of the month next following the month shown in the date hereof.

Date 20

.....
Secretary-General

.....
Trade Union

COPY TO:-

Registrar of Trade Unions,
P.O. Box 30031,
Nairobi.

Employees in respect of whom deductions from wages are required to be made

We, the undersigned, hereby acknowledge that we are members of the (trade union)

| Union Membership Number | Name of Members | Signatures | Date |
|-------------------------|-----------------|------------|------|
| | | | |

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Third Schedule as amended agreed to)

(Fourth and Fifth Schedules agreed to)

(Title agreed to)

(Clause 1 agreed to)

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Nutritionists and Dieticians Bill and its approval thereof with amendments, subject to recommittal of the Bill today in respect of Clause 5 to a Committee of the whole House, pursuant to Standing Order No.109(2).

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Mr. Khamasi) in the Chair]*

REPORT

THE NUTRITIONISTS AND DIETICIANS BILL

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Nutritionists and Dieticians Bill and approved the same with amendments, subject to recommittal of the Bill today in respect of Clause 5 to a Committee of the whole House pursuant to Standing Order No.109(2).

Prof. Ojiambo: Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Justice and Constitutional Affairs (Ms. Karua) seconded.

(Question proposed)

(Question put and agreed to)

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

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. Sungu) took the Chair]*

THE NUTRITIONISTS AND DIETICIANS BILL

The Temporary Deputy Chairman (Mr. Sungu): Order, hon. Members! We are back to the Committee of the whole House. We are looking at the Nutritionists and Dieticians Bill with reference to Clause 5 only. This was a proposed amendment by the Minister which could not be moved due to her absence, but now that we have come back to the Committee of the whole House, this is what we are going to consider only.

Yes, Madam Minister!

Clause 5

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 5 be amended in sub-clause (2)-

(a) in paragraph (a), by deleting the words "elected as per the First Schedule" and substituting therefor the words "appointed in terms of the Second Schedule";

(b) by deleting paragraph (g) and substituting therefor the following new paragraph-
(g) four representatives appointed from four registered associations of nutritionists and dieticians.

(a) by inserting the following new paragraph in proper alphabetical sequence-

(i) two representatives from faculties of Nutrition and Dietetics from public and private Diploma Colleges.

Mr. Temporary Deputy Chairman, Sir, this amendment arose as a result of consultations.

(Question of the amendment proposed)

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I want to agree with the Minister that we had held consultations and agreed to the amendment as it appears on the Order Paper.

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be
inserted in place thereof be
inserted, put and agreed to)*

(Clause 5 as amended agreed to)

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its

consideration of The Work Injury Benefits Bill, The Labour Relations Bill and The Nutritionists and Dieticians Bill and their approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Temporary Deputy Speaker

(Mr. Khamasi) in the Chair]

**REPORTS, CONSIDERATION
OF REPORTS AND
THIRD READINGS**

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! As you know, we are dealing with three Bills. We will be concluding all of them. We will start with the one by Prof. Ojiambo, the Nutritionists and Dieticians Bill. I will ask the Chairman to report on that Bill and then we will move on to the other Bills.

THE NUTRITIONISTS AND DIETICIANS BILL

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Nutritionist and Dieticians Bill and approved the same with amendments.

Prof. Ojiambo: Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

Mr. Muturi seconded.

(Question proposed)

(Question put and agreed to)

Prof. Ojiambo: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Nutritionists and Dieticians Bill be now read the Third Time.

The Minister for Justice and Constitutional Affairs (Ms. Karua) seconded.

(Question proposed)

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I just want to take this opportunity to congratulate Prof. Ojiambo for all the efforts she has put in bringing this Bill to fruition. It is clear that what she has done is a very noble thing in the sense that, for the first time, we now have a Bill dealing with nutritionists and dieticians. It was not there. Really, today, is a wonderful day for this Parliament and the country.

(Question put and agreed to)

*(The Bill was accordingly read
the Third Time and passed)*

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Members, we will now look at the Report on the Work Injury Benefits Bill.

THE WORK INJURY BENEFITS BILL

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Work Injury Benefits Bill and approved the same with amendments.

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Assistant Minister for Transport (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Work Injury Benefits Bill be now read the Third Time.

The Assistant Minister for Science and Technology (Mr. Yattani) seconded.

(Question proposed)

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, I just want to congratulate the Minister. I also note that it is a great day for the workers of this country because this Bill has helped Kenya to comply with the International Labour Organisation (ILO) conventions for the benefit of our workers.

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, let me also endorse what Ms. Karua has said. Let me take this opportunity to congratulate the Ministry, together with Central Organisation of Trade Unions (COTU) and all the other stakeholders, who were involved in the formulation this Bill. This is an important Bill for the workers of this country. It is very clear that the Ninth Parliament has the welfare of workers at heart.

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, I also want to thank the Minister and the team that was involved in actually updating the Work Injury Benefits Bill. I believe it is repealing the Workman's Compensation Act and, therefore, actually updating and bringing to par our laws relating to the compensation to workers when they are injured at their work places. I, therefore, want to welcome this Bill and say that it is a great achievement.

Let me also warn the Minister that, in future, when he wants to bring Bills, they must be tidy. This Bill has given us a lot of headache!

Thank you.

(Question put and agreed to)

(The Bill was accordingly)

read the Third Time and passed)

The Temporary Deputy Speaker (Mr. Khamasi): Very well. We will now move on to the next Bill - the Labour Relations Bill.

The Temporary Deputy Chairman, can you report progress?

THE LABOUR RELATIONS BILL

Mr. Sungu: Thank you, Mr. Temporary Deputy Speaker, Sir. I beg to report that a Committee of the whole House has considered the Labour Relations Bill and approved the same with amendments.

The Minister for Labour and Human Resource Development (Dr. Kulundu): Thank you, Mr. Temporary Deputy Speaker, Sir. I beg to move that the Labour Relations Bill be now read the Third Time.

Mr. Sungu: House doth agree---

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order! Order, Mr. Minister! You are reporting what you have agreed on in the Committee stage! We are not yet in the Third Reading! You are only reporting on what you agreed upon in the Committee of the Whole House! What was the progress?

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Justice and Constitutional Affairs (Ms. Karua) seconded.

The Temporary Deputy Speaker (Mr. Khamasi): Yes, Minister, you should have--- That sounds right!

(Question proposed)

(Question put and agreed to)

Mr. Minister, you can now go to the Third Reading!

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Labour Relations Bill be now read the Third Time.

The Minister for Justice and Constitutional Affairs (Ms. Karua) seconded.

(Question proposed)

Mr. Sungu: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for this opportunity. Having chaired the Committee of the whole House, I want to congratulate the Minister. It has been a big Bill. These are important Bills for the benefit of Kenyan workers. I want to congratulate the capable Minister and his technical staff. I also want to congratulate hon. Members of this Ninth Parliament who have been sitting with us here to make sure that this Bill is passed into law.

Mr. Temporary Deputy Speaker, Sir, I would only like to recommend to Ministers or other people bringing Bills to this House to do a lot of consultations. That is because many amendments make it very difficult for Parliament to work. Parliament has got a lot of work. But the Ninth Parliament deserves a pat on the back for passing some laws which are going to improve the

welfare of workers in this country.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Assistant Minister for Transport (Mr. Githae): Thank you, Mr. Temporary Deputy Speaker, Sir. I just want to take this opportunity again to thank the Minister, his Permanent Secretary, his team and all the other stakeholders who were involved in the formulation of this Bill.

Mr. Temporary Deputy Speaker, Sir, I am one of the people who was happy that those amendments were there. Kenyans have a lot of confidence in the Industrial Court. Kenyans have a lot of confidence in their hon. Members. Therefore, this is an important Bill. It shows that the Ninth Parliament has the interest of workers at heart. Since Independence, it is only the Ninth Parliament that has been able to update all the labour laws.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Prof. Ojiambo: Thank you, Mr. Temporary Deputy Speaker, Sir. I also want to congratulate the Minister for bringing these important laws and having them passed this afternoon. I just want to urge the Minister to ensure that workers enjoy their rights in their places of work. They should not be subjected to frustrations by their employers.

Thank you, Mr. Temporary Deputy Speaker, Sir.

(Question put and agreed to)

*(The Bill was accordingly read the
Third Time and passed)*

The Temporary Deputy Speaker (Mr. Khamasi): Let us move on to the last Bill - the Employment Bill. Is that right? No! We have finished! That brings us to the end of reporting on the Committee of the whole House.

Next Order!

Second Readings

THE BIO SAFETY BILL

*(The Minister for Science and
Technology on 2.10.2007)*

*(Resumption of Debate interrupted
on 3.10.2007)*

The Temporary Deputy Speaker (Mr. Khamasi): The debate was interrupted on 3rd October, 2007. I am advised that the Minister, Dr. Wekesa, was replying.

(Mr. Yattani stood up in his place)

Mr. Yattani, do you want to continue?

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

The Temporary Deputy Speaker (Mr. Khamasi): What is out of order now?

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, I just want to seek your guidance. When we were debating this Bill the last time, the Minister was in the process of concluding. He was

replying to the debate on the Floor of the House. We were then going to put the Question. But it appears that the Minister is not here. So, I do not know whether, under the Standing Orders, somebody else can finish replying to the debate on his behalf or not. I seek your guidance.

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Sungu, I was just trying to find out how it was. Then, you interrupted me, and rudely so! Surely, that is the business of the Chair and not your business!

I have asked whether the Minister is here. I am told that the Assistant Minister is here. I have asked: What do you want to do, Mr. Assistant Minister?

The Assistant Minister for Science and Technology (Mr. Yattani): Mr. Temporary Deputy Speaker, Sir, I want to conclude the Minister's contribution.

The Temporary Deputy Speaker (Mr. Khamasi): Yeah! You are allowed!

The Assistant Minister for Science and Technology (Mr. Yattani): Thank you, Mr. Temporary Deputy Speaker, Sir. Hon. Members may wish to know that I shall be introducing some amendments at the Committee Stage. Those amendments will include, among others, views advanced by hon. Members and other stakeholders who, in many workshops organized in Nairobi and Mombasa, proposed various issues that will now be captured in those amendments.

Mr. Temporary Deputy Speaker, Sir, in particular, I have noted the contribution by Prof. Anyang'-Nyong'o, who pointed out that the Chair of the Biosafety Authority needs to be an eminent scientist, rather than a judge of the High Court, as earlier proposed in the Bill. Further, we have noted the need to have a majority of members of the Appeals Board and National Biosafety Authority to be comprised of many scientists. The moral aspect of biosafety as relates to stem cell technology, among others, shall also be addressed.

Mr. Temporary Deputy Speaker, Sir, finally, I want to assure the House that this Bill is not intended to interfere with the health of our people nor the environment. Countries like Brazil, India, Spain and others have been raising benefits of biotechnology for a long time and their economies have grown. We hope that the same will happen to Kenya.

Mr. Temporary Deputy Speaker, Sir, I thank hon. Members and hope that they will still support the Bill during the Committee Stage.

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)*

THE ANTI-COUNTERFEIT BILL

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, the Minister is engaged elsewhere and he is not present. With your leave, we seek for your indulgence that we go to the next Order to enable the Minister to be present and move this Bill.

The Temporary Deputy Speaker (Mr. Khamasi): Very well! We will go to the next Order!

(Bill deferred)

MOTION

ADOPTION OF REPORT ON SEVENTH
SESSION OF PAN AFRICAN PARLIAMENT

THAT, this House adopts the Report of the Kenya Parliament representatives to the 7th Ordinary Session of the Pan African Parliament held on 7th to 18th May, 2007, at Gallagher Estate, Midrand, the Republic of South Africa, laid on the Table on Wednesday 27th June, 2007.

The Temporary Deputy Speaker (Mr. Khamasi): Is the Leader of Delegation of the Kenya Parliament Representatives to the Pan African Parliament present? Who is it? The Leader of the Delegation seems not to be present in the House.

(Motion deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Members, that concludes the business on the Order Paper. The House is, therefore, adjourned until Tuesday, 16th October, 2007, at 2.30 p.m.

The House rose at 5.10 p.m.