

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 25th September, 2007

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

Report of the Departmental Committee on Administration, National Security and Local Authorities on the Prevention of Organised Crime Bill, 2007.

(By Mr. Kajembe)

COMMUNICATION FROM THE CHAIR

DISTINGUISHED MEMBERS OF PARLIAMENT FROM UGANDA IN SPEAKER'S ROW

Mr. Deputy Speaker: Hon. Members, this House is privileged this afternoon to have five Members of the Committee on Commission, Statutory Authorities and State Enterprises of the Parliament of Uganda, in the Speaker's Row.

They are:-

| | | | |
|---------------------------------|---|---------------|-------------|
| The Hon. Malinga Johnson, MP, | - | Leader of the | delegation; |
| The Hon. Bacyonayandi Tress, MP | - | Member | |
| The Hon. Mulumba Mandie, MP | - | Member | |
| The Hon. Manyira Rose Wabwire | - | Member | |
| The Hon. Bagiire Aggrey | - | Member | |

The Members are accompanied by Mr. Enamu Jonathan and Mr. Mujuni Mpitsi Lawrence, Research Officer and Secretary respectively. They are on a study tour of the Parliament of Kenya. Let me take this opportunity on behalf of the House and on my own behalf to welcome them to our country and wish them a happy and enjoyable stay in our Republic.

Thank you.

QUESTION BY PRIVATE NOTICE

TERMS/CONDITIONS OF SERVICE OF CDF ACCOUNT MANAGERS

Mr. Ligale: Mr. Deputy Speaker, Speaker, Sir, I beg to ask the Minister for Finance the

following Question by Private Notice.

(a) What are the terms and conditions of service of the newly appointed CDF Account Managers?

(b) What is the relationship between the new officers and the serving management staff recruited by the CDF Committees?

(c) Could the Minister confirm that the new Account Managers have received adequate training and induction to enable them effectively discharge their functions?

Mr. Deputy Speaker, Sir, I have no written reply to this Question.

The Minister for Finance (Mr. Kimunya): Mr. Deputy Speaker, Sir, before I reply, I wish to acknowledge the fact that I have consulted with the hon. Member. He does not have the written reply, but I will be so detailed as to carry him along.

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

(a) With regard to the terms and conditions of service of the CDF Account Managers, the managers will be recruited on a three-year contract, renewable, subject to effective performance throughout the period of the contract. They are subject to a probation period of three months. The personal emoluments are basically on a basic salary of Kshs38,515; house allowance of Kshs10,000 and a medical allowance of Kshs2,000. This brings the total to Kshs50,515. The CDF Account Managers are employees of the CDF under the National Management Committee (NMC). They are, therefore, accountable and answerable to the NMC.

The duties of the CDF Account Managers are as follows:-

- (i) The co-ordination of the CDF projects within the constituency.
- (ii) Liaising with the district departmental heads in the management of the CDF projects.
- (iii) The co-ordination of the project management committee within the constituency.
- (iv) The preparation and submission of books of accounts and other operational and financial reports to the National Management Committee, as required, on a monthly basis.
- (v) To maintain the minutes of meetings, records and information relating to the CDF projects being implemented in the constituency.
- (vi) To prepare and maintain a list of all the constituency projects for submission to the National Management Committee in accordance with the CDF Act.
- (vii) To prepare the community action plans, the annual work plans, the budget and the strategic plans through participatory approaches as well as guide the Constituency Development Committees (CDCs) and communities in project management.
- (viii) To network and collaborate with the development partners operating in the constituency to avoid duplication and overlaps.
- (ix) To co-ordinate the implementation, monitoring and evaluation of the CDF projects in the constituency.
- (x) To maintain a register of all the assets and liabilities of the CDCs.
- (xi) To undertake any other duties that may be assigned by the Secretary to the NMC from time to time.

(b) The CDF Account Managers relate very closely to the CDCs by performing the following roles which would facilitate the performance of the CDCs:-

(i) They are *ex-officio* members of the CDC and they will be the technical officers assigned to the CDCs. In addition, they shall be assisting the CDC Secretary in the compilation of minutes and circulation of the minutes and agenda.

(ii) They shall maintain parallel books of accounts as maintained by the District Treasury; basically the mirror of what the District Treasury has. This is for the purpose of advising the CDC on the accounts and the preparation of the final books of accounts for the NMC.

(iii) They will also assist the CDC in verifying the records from the district treasuries.

(iv) In addition, they shall be assisting the treasurer to submit monthly constituency financial reports to the NMC and to Parliament.

(v) They shall also be assisting the Project Management Committee to prepare the project workplan and budget, assist in maintaining books of accounts, cash book, the ledger book, the folders and registers of fixed assets.

(vi) Lastly, they shall be linking the CDCs with the District Development Officers (DDOs), District Accountants, the DIS and other line Ministries.

(c) I would like to confirm that the new CDF Account Managers are professionally qualified to discharge the duties and the responsibilities for which they have been deployed. In addition, the NMC has conducted induction courses in order to prepare them to take up their duties. Further workshops and inductions will also be undertaken in order to make the officers effective managers for better managed and co-ordinated operations of the CDCs.

I have deliberately been very elaborate because this information is for the benefit of all of us in this House. I wish to thank hon. Ligale for prompting it.

Mr. Ligale: Mr. Deputy Speaker, Sir, first of all, I would like to thank the Minister for a very detailed reply to this Question.

However, before these Account Managers were appointed, we already had, in the various CDCs, committees with chairmen, secretaries and treasurers, with their duties defined under the regulations of this Act. We also had managers who were appointed with the approval of the National Management Committee. These managers were qualified and were already performing the very duties that the Minister has very elaborately described.

Are we not duplicating duties and causing a lot of conflict? These duties are going to be duplicated by the CDF Account Managers. The duties were being performed by the managers we had appointed with the approval of the National Management Committee.

Mr. Kimunya: Mr. Deputy Speaker, Sir, it is true that, in some constituencies, there have been some managers. In some constituencies, there are very technically competent staff within their CDF offices. That is not the case in all the constituencies. In response to an appeal by hon. Members to provide technical expertise on a uniform basis, we agreed that the NMC should recruit and assign, to every constituency, an independent technical advisor, who will help that constituency on an even basis, so that we do not have the problems that we seem to be having; of somebody waking up and deciding that an hon. Member is misappropriating funds and soon there are investigations.

There should be an independent person on a continuous basis, monitoring, reporting and liaising with the NMC. This is for the benefit of each of the Committees, and is aimed at strengthening areas where officers have been recruited and assigning officers to areas where nobody has been recruited. It can only be for the better. There is no duplication of duties.

Mr. Wambora: Mr. Deputy Speaker, Sir, I have no problem with the recruitment of CDF Account Managers. But could the Minister confirm or deny that the CDF Account Managers are, in fact, the chief executive officers of CDF offices from now on? In fact, they are going to take over the jobs of CDF Managers and Coordinators! Could he confirm that absolutely, so that it is in black and white?

Mr. Kimunya: Mr. Deputy Speaker Sir, the Constituency Development Committee (CDC) is defined in law. It is a committee of volunteers who have been appointed for a two-year period. Those people are supposed to be there to serve. They are not accountable to anybody because they are volunteers. To safeguard the public kitty, it is important to have people who are accountable to Parliament through the National Management Committee (NMC). But having them there does not, in any way, indicate that they are the chief executive officers of the Fund. But they are Fund Managers. They are there to help Members and the Committees to manage the Fund better.

Mr. Billow: Mr. Deputy Speaker, Sir, the current management of CDF has a provision of 3 per cent of the total allocation to be spent on administration. Currently, that money works out to approximately Kshs80,000 for most constituencies. It is barely enough to pay the staff who are currently employed and the rent for the office. Now that you have engaged an account manager, there will be additional costs because of the need to maintain parallel books of accounts. Given the need to maintain other activities, there will be additional costs for stationery, printing and other things. Now, without an increase on the 3 per cent administration cost, there are questions on who will bear the additional costs which will be incurred because of the engagement of the accounting managers. That is a matter that has not been reflected even in the proposed legislation. So, could the Minister explain whether the new accounting managers will have an additional vote to assist them to run the offices, in addition to whatever is already happening at the CDF offices?

Mr. Kimunya: Mr. Deputy Speaker, Sir, the CDF Account Managers are employees of the NMC. They will be funded directly from the amount of money allocated for the operations of the NMC. So, they will not occasion any expenditure at the constituency level. They can only help in reducing the cost at the constituency level, including monitoring and all that. So, you do not need to worry about their cost in terms of their salaries. All they need is an office and equipment, which are provided by Parliament. So, all you need to do is to allocate them where to sit so that they can work for you. It can only get better.

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

Mr. Deputy Speaker: This is an important matter! But certainly, hon. Members, we will not take the whole afternoon.

Yes, Mr. Lesrima!

Mr. Lesrima: Mr. Deputy Speaker, Sir, the responsibilities as outlined by the Minister are extremely heavy. They have posted people with Bachelor of Science, Mathematics, to be CDF Account Managers and the only experience they have is working as polling clerks at the Electoral Commission of Kenya. I have no problems at all with accepting those mathematics graduates. But I would rather recommend that we put them under the District Development Officers to gain some experience. The appointed CDF Managers do not have the experience required to undertake the responsibilities that the Minister has just outlined. Could the Minister agree that it is necessary, since Government money is actually extremely secure under the DDOs who are Authority to Incur Expenditure (AIE) holders? There is also the District Accountant at the District Treasury. Could the Minister agree that those young people should spend some more time to be trained by DDOs, who are already AIE holders, before they take up the responsibility of being chief executive officers? That is because, definitely, they do not have the experience. They will get lost in the constituencies. They do not come from those constituencies.

Mr. Kimunya: Mr. Deputy Speaker, Sir, as I indicated, we recognise that this is the first time we have CDF Account Managers. So, it would not have been possible to get anyone with that kind of experience. There are induction courses that are being undertaken. They will work closely with the District Accountants and the CDCs. That is what will give the CDF Account Managers the experience in terms of what is required. But they have been given some thorough training. That training will be on a continuous basis.

Mr. Deputy Speaker, Sir, in terms of where they come from, a deliberate decision was made in line with all the other policies, that we distribute the people to ensure that no employee works in his or her constituency. That was done, first of all, to shield them from local politics and, secondly, to bring the independence of mind that those managers work for NMC. They will not be

seen to work for one or two people at the constituency. So, to protect that, every one has been posted outside his or her constituency. That will give a sense of independence and fairness in terms of their work.

Mr. Manoti: Mr. Deputy Speaker, Sir, some of the work of the CDF Managers will involve inspection of some projects which are carried out in the constituencies. Is the Ministry prepared to give out vehicles to assist those officers?

Mr. Kimunya: Mr. Deputy Speaker, Sir, should the issue require facilitation in that angle, I believe those are modalities that can be worked out. It varies from area to area. Some areas have already bought motor-cycles for their CDF. Other areas have other working mechanisms. So, I do not want to give a blanket solution. But I think that issue can be looked into on a point-by-point basis, so that those people can work. It is quite possible that the issues that are coming up will be looked into. That will be done by looking at the end-product, which is alleviating poverty at the grassroots, rather than taking all the money to offset administrative costs.

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

Mr. Deputy Speaker: What is, Mr. Mwanicha?

Mr. Mwanicha: Mr. Deputy Speaker, Sir, the Minister is deliberately refusing to answer the question. North Horr Constituency is bigger than some provinces. Most of those expansive constituencies will require a vehicle. Could the Minister tell the House, candidly, whether there will be a provisions for a vehicle or not?

Mr. Deputy Speaker: Mr. Mwanicha, that is a very good question! It is not a point of order!

Mr. Mwanicha: Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Order, Mr. Mwanicha! It is not a point of order! But in public interest, I will allow the Minister to answer your question.

Mr. Kimunya: Mr. Deputy Speaker, Sir, we are taking cognisance of the fact that, CDF has been in operation for the last four and a half years. So, the monitoring has been going on---

*(Messrs. Were, Marende and Ahenda were
applauded as they entered the Chamber)*

Mr. Deputy Speaker: Order, Mr. Marende! Mr. Marende, this is the Kenya National Assembly!

Yes, Mr. Minister, continue!

Mr. Kimunya: Mr. Deputy Speaker, Sir, for once, I thought they were applauding me! Like I said, CDF has been in operation for the last four and a half years. So, the monitoring mechanisms that have been there in each of the constituencies have not been interfered with. We expect the Fund Managers to flow into those mechanisms. Where it is necessary, they will come up with their suggestions on how they need to be facilitated to actually do their work. If a constituency has been having a car, so be it. If it has not been having a car and monitoring has been going on, let them continue, so that they actually blend with what is the reality on the ground, rather than having super managers who come and disrupt the order in the constituencies.

Mr. Deputy Speaker: Last question, Mr. Ligale! We have taken over 30 minutes on this Question!

Mr. Ligale: Mr. Deputy Speaker, Sir, the Minister has confirmed that in quite a number of constituencies, we had working arrangements with the managers and the committees were working very well. Before these CDF Account Managers were appointed, most of our work was demonised as if nothing was working out properly. So, these managers have been appointed against a backdrop of insinuation and innuendo. It looks like they are going out there to correct everything

that is wrong.

Mr. Deputy Speaker, Sir, could the Minister ensure that there are positive aspects of this CDF that is going on in many constituencies? If there have been problems, these are very few. They are not very many. We want these people to come and work with existing committees so that they do not appear as if they intend to replace them. They should work with the committee, particularly where work is going on very well. They should work closely with the existing committees. Could the Minister confirm that?

Mr. Deputy Speaker: Mr. Minister, before you answer that, could you also clarify why it was not possible to recruit those managers who were already in place, if they were qualified rather than creating unemployment by removing those people because eventually they will have to go? Why was it not found necessary to recruit those people who were already on the job rather than introducing new people?

Mr. Kimunya: Mr. Deputy Speaker, Sir, if I may start with your question, the recruitment process involved advertising. The jobs were specified in terms of the quality of the people that were required. It was advertised. People were given the opportunity to apply. All those who qualified have actually been employed. There is at least one person recruited from each constituency and then they are swapped around all the 210 constituencies. There are some constituencies that are yet to produce a person who will then be sent to another constituency. In such cases, re-advertisement has actually taken place. For all those who are working hard, and they applied and qualified, have been taken on board.

In terms of whether there is duplication, and I mentioned this in response to Mr. Ligale's question, these people have not been posted because of suspicion. They have been posted because hon. Members have asked for reinforcement in terms of accountability. We have yielded to that request and we will, therefore, post them and finance them through the central kitty which is the NMC. This will also stop a lot of volunteers from going round the constituencies to look at what is happening because the CDF is here to stay.

We have all seen the benefits of CDF and we would like to make a good thing better.

ORAL ANSWERS TO QUESTIONS

Question No.411

UNDERPAYMENT OF CASUAL LABOURERS BY ASORO CONSTRUCTION LIMITED

Prof. Oniang'o asked the Minister for Local Government:-

(a) whether he is aware that Asoro Construction Limited who is the contractor awarded the contract for the construction of Sabatia Market Centre in Butere Constituency is paying local youths only Kshs150 for a 10-hour day and always delays their payment;

(b) whether he is also aware that the same contractor was awarded contracts for the construction of Mbale Market in Nambale and Chavakali Market in Vihiga respectively;

(c) why one contractor was given so many contracts resulting in delayed construction of the above markets; and,

(d) whether he could inform the House what contractors in other markets are paying each casual labourer and ensure the amount paid in the cases stated above is raised from Kshs150 to a reasonable figure.

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

(a) I am not aware that the contractor awarded the contract for the construction of Sabatia Market Centre in Butere Constituency is paying local youths only Kshs150 per day.

I am aware that the workers get between Kshs200 and Kshs300 a day in addition to free lunch.

(b) I am also aware that the same contractor was awarded contracts for the construction of Mbale Market in Nambale and Chavakali Market in Vihiga. This is because the three markets were tendered as one project.

(c) Construction of the three markets was awarded as one contract. The contractor is carrying out work in the three markets as scheduled.

(d) Casual labourers are paid in accordance with the Ministry of Labour and Human Resource Development minimum wage guidelines.

Prof. Oniang'o: Mr. Deputy Speaker, Sir, I asked this Question because when I visited the market, about 30 youth were on strike because they had not been paid for nine days and they were receiving Kshs150 per day. Could the Assistant Minister tell us when he will ensure that all these contractors are following the minimum labour guidelines in this country?

Mr. Shaaban: Mr. Deputy Speaker, Sir, the information we have is that the labourers are paid between Kshs200 and Kshs300 per day in addition to free lunch. They are paid according to the Ministry of Labour and Human Resource Development Minimum Wage Guidelines.

If that is contravened according to the Ministry of Labour and Human Resource Development guidelines, then they are free to complain to that Ministry.

Mr. Deputy Speaker: I really sympathise with the Minister for Local Government. How would the Minister for Local Government know whether the workers are being paid in accordance with the labour laws? This Question should have, probably, been directed to the Minister for Labour and Human Resource Development. Once he gives contracts, the Minister for Local Government would not be able to know how much the contractor is paying the workers. Is that not so, Prof. Oniang'o?

Prof. Oniang'o: Mr. Deputy Speaker, Sir, I can see that the Question, probably, needed to have been split into two but the issue is that one contractor was given three markets which are very far apart, when we know that there is a shortage of jobs where more contractors could actually be given the same job. I believe that this Ministry could actually answer this Question.

Mr. Shaaban: Mr. Deputy Speaker, Sir, the three markets were tendered during the same period as one project. Therefore, the most suitable bidder was awarded the contract.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, these are several markets. Why should the contract for these three markets be given to one contractor? Why not award each market a different contractor or a maximum of two markets for one contractor? Why give so many markets to one contractor unless there is somebody in the Ministry with some interest?

Mr. Shaaban: Mr. Deputy Speaker, Sir, there was nothing wrong in one contractor bidding for the three markets. Both markets had their BQs and the best contractor was, therefore, awarded the project and he is doing well. So far, he is on schedule.

Prof. Oniang'o: Mr. Deputy Speaker, Sir, the Question has not been adequately answered. With all due respect, I do not think the Assistant Minister really has the capacity to answer it.

Mr. Deputy Speaker, Sir, I would like to seek the Chair's indulgence that the Minister for Labour and Human Resource Development answers the portion of the Question about whether contractors are meeting the minimum guidelines all over the country.

Mr. Deputy Speaker: Prof. Oniang'o, you will have to submit a Question specifically to the Minister for Labour and Human Resource Development. If you do so, I will approve it. All right?

Prof. Oniang'o: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Very well.

Next Question!

Question No.440

ABOLITION OF CROP CESS

Mr. Mwanicha asked the Minister for Local Government:-

(a) whether he is aware that crop cess levied on farmers for maintenance of roads is not utilized for the intended purpose in most parts of the country; and,

(b) whether he could abolish all crop cess considering that many farmers grow a variety of crops for which they pay cess which amounts to multiple taxation.

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

(a) I am aware that the agricultural produce cess that is collected from farmers for the purpose of improving rural roads is managed by the Kenya Roads Board.

(b) I will not abolish crop cess since a portion of the revenue from crop cess forms part of the general revenue of local authorities which is used to finance critical services and facilities necessary to improve the livelihood of the people within the area of jurisdiction of the local authorities.

Mr. Mwanicha: Mr. Deputy Speaker, Sir, this is a case where revenue is collected from farmers by the Government. However, these funds are not utilised at all. For instance, in Kitutu Masaba where we grow a lot of coffee, pyrethrum and tea, which roads have been repaired using this cess money?

(Mr. Raila was applauded as he entered the Chamber)

Mr. Shaaban: Mr. Deputy Speaker Sir, the Question was asking how cess money is utilised for roads within the country. It did not ask, specifically, what roads were being improved, particularly where the hon. Member comes from. I do not, therefore, have that answer. However, if the hon. Member files a Question on that, I will answer it. The Question by the hon. Member was general in nature; it was not on a specific constituency.

Mr. Maore: Mr. Deputy Speaker, Sir, one of the reasons why we passed the Local Authorities Transfer Fund Act was to stop these loopholes where the Ministry is able to charge this kind of cess and they do not use it. Could the Assistant Minister tell us what happens to this cess once it is collected? Does he have evidence that it is used in any local authority in the country?

Mr. Shaaban: Mr. Deputy Speaker, Sir, once this cess is collected, 8 per cent of it is remitted to the Kenya Roads Board which, in turn, transfers the same to the various District Roads Committees. That money is distributed by the Kenya Roads Board of which the local authorities and Members of Parliament are members.

Mr. Sambu: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House that the Kenya Roads Board refunds to the local authorities these funds which are deducted from farmers when we know for sure that they never refund even a penny? Is he in order to mislead the House?

Mr. Shaaban: Mr. Deputy Speaker, Sir, according to the Statute Law (Miscellaneous Amendments) Act No.2 of 2002 issued by the Minister for Agriculture, it states that monies collected as cess shall be used in maintaining roads and other services of local authorities. The same amount of money is remitted to the KRB and, thereafter, directed back to the District Roads Committees.

Prof. Olweny: Mr. Deputy Speaker, Sir, the Assistant Minister said that this money is remitted to the KRB. The cess from sugar-cane farmers is taken to the local authorities. It stays

there and it is not taken to the Kenya Roads Board. Could he help in this case and have the cess money paid by sugar-cane farmers remitted to the KRB?

Mr. Shaaban: Mr. Deputy Speaker, Sir, according to the information I have, the amendment to the Act by the Ministry of Agriculture was responsible for the transfer of 8 per cent of the money from the local authorities to the Kenya Roads Board (KRB). The money was later remitted to the DRCs. The composition of the District Roads Committee includes, among others, the local authority, the Kenya Roads Board, the District Accountant and the District Commissioner. Members of Parliament are also members of the Committee.

Mr. Maore: Mr. Deputy Speaker, Sir, I wish to, sincerely, request the Assistant Minister, if he is not out of order, to state which example he is citing because the KRB gets all its revenue from the Petroleum Fuel Levy that we pay at the petrol stations and not from *kiosks* or from *mama mboga*.

An hon. Member: *Kama hujui, sema!*

Mr. Shaaban: Mr. Deputy Speaker, Sir, in view of what the hon. Member is asking, I need to get more information to answer this Question appropriately.

Mr. Deputy Speaker: This Question will, therefore, be deferred because it has not been satisfactorily answered and the Assistant Minister has accepted. It is deferred until Thursday afternoon.

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

Mr. Deputy Speaker: Mr. Mwanicha, will you not be available on Thursday?

Mr. Mwanicha: No, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: So, when do you want it to be answered?

Mr. Mwanicha: I want it answered on Tuesday.

Mr. Deputy Speaker: Very well! Mr. Assistant Minister, the Question is deferred to Tuesday afternoon, next week.

(Question deferred)

Question No.431

TARMACKING OF NUNGUNI-KIKOKO ROAD

Mr. Ndambuki asked the Minister for Roads and Public Works:-

(a) when the Ministry will tarmack the two and a half kilometre road between Nunguni and Kikoko; and,

(b) whether he could inform the House how much money has been budgeted towards tarmacking of the road.

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Deputy Speaker Sir, I beg to reply.

(a) The construction of Nunguni-Kikoko Road is set to be done during this financial year. The Ministry has already commenced mobilization for the works. It is estimated that this exercise will cost Kshs68 million.

(b) In this financial year, a total of Kshs68 million, that is Kshs10 million from the Development Vote and Kshs58 million from the Petroleum Levy Fund, has been set aside for the construction of the road.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for that answer. I remember that, when this Question came up last time, he refused to answer it. He has

answered this Question more than seven times! I thank him for the stand he has taken; not to give the same answer he had given previously. I appreciate the answer he has given. However, I would like to know who is doing the job and when it will end. He should be specific about when this work will commence instead of just saying it will be done during this financial year.

Eng. Toro: Mr. Deputy Speaker, Sir, the Ministry is going to undertake the construction of this section of the road. We have already sent Kshs58 million to the Provincial Works Officer, Eastern Province. I want to assure the hon. Member that we will not go through the rigorous exercise of advertising and awarding tenders to those who have tendered. We are doing that, as a Ministry, and the work will commence as soon as we are ready.

Mr. Deputy Speaker: Very well! I think there is no other question. Mr. Ndambuki, you are satisfied. Are you not?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, if the money has been sent, I thank the Assistant Minister. He should make sure that his people at the Ministry do not sell the "things."

Mr. Deputy Speaker: Mr. Ndambuki, that is not a question. This is Question Time!
Next Question by the hon. Member for Samburu West!

Question No.050

ESTABLISHMENT OF ANTI-STOCK
THEFT UNIT AT MBUKOI

Mr. Lesrima asked the Minister of State for Administration and National Security whether he could consider establishing an Anti-Stock Theft Unit (ASTU) at Mbukoi near Marti and upgrade Baragoi and Nyiro police posts to police stations.

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

Considerations are being made to establish an Anti-Stock Theft Unit (ASTU) at Mbukoi area near Marti. Upgrading of Baragoi Police Post to a full police station is in progress. However, necessary facilities have to be sourced to ensure that the post operates as a fully fledged police station to enhance security in the area. There are no immediate plans to upgrade Nyiro Patrol Base to a full police station or post. However, we advise the hon. Member to liaise with the District Development Committee to secure land for future consideration for upgrading of the current patrol base in Nyiro Division.

Mr. Lesrima: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for that answer. I wish to assure him that we have 11,000 square kilometres of land and we will provide land for the establishment of a police post. I would like the Assistant Minister to explain the difference between a police station, a police patrol base and a police post. I would also like him to tell us what the ratio of policemen to the number of Kenyans is. There are only five policemen guarding 100,000 people in the two divisions.

Mr. Munya: Mr. Deputy Speaker, Sir, a patrol base is where you have a police station placed temporarily and not a permanently gazetted place. They are put somewhere when there is a lot of crime to be contained. So, those are not permanent stations. A police post, even though permanent, is under a police division. It operates at an area permanently and it is gazetted. Its numbers vary.

Mr. Lesrima: Mr. Deputy Speaker, Sir, Mbukoi area, where we are requesting for an ASTU, is the gateway to the notorious Suguta Valley. For a number of years, the Government has not established an ASTU because of lack of water. Now that there is a lot of water, when will the Ministry deploy officers to the region because incidents of cattle rustling are emerging from neighbouring districts? Could he also give us a specific timeframe?

Mr. Deputy Speaker: Order, Mr. Lesrima!

Mr. Munya: Mr. Deputy Speaker, Sir, we have said that we will do that when we have the necessary funds. However, we think it is necessary and it will be put up. Right now, there are no facilities. It will be considered in the next financial year. Right now, we are relying on a number of the police reservists who are in Morijo and Marti areas. They are very many and they are taking care of the area. We also have an ASTU in Longewan and Lorok areas. We also have GSU personnel in Nachora and Baragoi divisions. So, those are assisting to maintain security for now. In fact, the cattle

rustling problem is under control right now because of those other services that are available. However, we are considering putting up one so that it can deal with the problem once and for all.

(Mr. Lesrima stood up in his place)

Mr. Deputy Speaker: Mr. Lesrima, you have already asked two questions regarding that issue! Am I right?

Mr. Lesrima: Mr. Deputy Speaker, Sir, is the Assistant Minister satisfied that---

Mr. Deputy Speaker: Order, Mr. Lesrima! Do not ambush the Chair! You have already asked two questions and that is it!

Hon. Members, that is the end of Question Time! We have a number of Ministerial Statements, one by the Minister for Agriculture.

MINISTERIAL STATEMENTS

STATUS OF THE SUGAR (AMENDMENT) BILL 2006

The Assistant Minister for Agriculture (Mr. Muiruri): Thank you, Mr. Deputy Speaker, Sir. On 19th September, 2007, the Nominated Member of Parliament, Prof. Ruth Oniang'o, demanded a Ministerial Statement on the Sugar (Amendment) Bill, 2006. The bone of contention in this matter was that the Sugar (Amendment) Bill, 2006, has taken long to reach Parliament for discussion and enactment into an Act to enhance and steer development of the sugar industry. The object of the Bill is to seek amendment to the Sugar Act, No.10 of 2001, to enable it become more organised, realistic and practical. The Sugar Act, 2001, was reviewed by all the stakeholders for more than a year to capture their concerns and incorporate them into the Bill.

Towards the end of 2006, the Sugar (Amendment) Bill, 2006, was submitted to the State Law Office for drafting. There have been various correspondence between my Ministry and the Attorney-General's office with regard to rectifications and alterations to the various clauses in the draft Bill to fine-tune it towards achieving its objective and purpose before presentation to Parliament.

Mr. Deputy Speaker, Sir, the Bill, among other issues, seeks to expand definition and provide clarity of terms of the Act. It also seeks to add or to remove ambiguous terms that are of specific relevance to activities in the Act, clarify the functions and mandates of the various organs and institutions in the sugar industry and strengthen the powers of the Kenya Sugar Board (KSB). It also seeks to promote good corporate governance and accountability of the various institutions of the industry, enhance consultation over regulation of the industry on market distortions and enhanced efficiency levels in the industry.

The Sugar (Amendment) Bill, 2006, is being finalised by the Attorney-General and is expected to be ready by the first week of October, 2007. The Joint Sessional Paper on Sugar and a

Cabinet Memo were forwarded to the Treasury on 18th May, 2007, for signing by the Minister for Finance. However, the Ministry of Finance has raised the following two issues which need the concurrence of other stakeholders.

First, are comments by the Ministry of Energy on the modalities of blending of power alcohol and petroleum fuels. The Ministry of Agriculture is in consultation with the Ministry of Energy over the same. Secondly, is concurrence of the major stakeholders, the Industrial Development Bank (IDB), Shell Kenya and Fireco Babco, in the sugar factories to convert the debt owed to them into equity. The Ministry is consulting for their concurrence.

Prof. Oniang'o: Mr. Deputy Speaker, Sir, the primary purpose of that amendment was to empower the more than one million sugar-cane farmers, who feel neglected in comparison to other farmers. It has taken so long since my very good friend handed this Bill over to the Minister. Now they are telling me about 1st, October, 2007, and I am not sure whether this Parliament will still be sitting by then. Could the Assistant Minister tell us whether they are going to accelerate this process so that, in fact, the Bill can become an Act by the time the House is dissolved?

Mr. Deputy Speaker: But, Professor, you are involving this House in a matter that it should not be involved in. You moved a Motion seeking leave to introduce a Bill, and the House granted you the leave. In your own private discussions with the Minister, you handed over the Bill without involving the House. You are really involving us in a matter that does not concern the House. The House gave you the authority---

*(Mr. Omingo was applauded as
he entered the Chamber)*

Order, hon. Members!

The House gave you the authority, and you have made private arrangements with the Assistant Minister. He has let you down and you are bringing the issue back to the House. What do we do, yet we gave you the authority? In fact, the House should be demanding the Bill from you because it gave you the authority!

Prof. Oniang'o: Mr. Deputy Speaker, Sir, I will take the blame on my part, but I did not do this privately in the Assistant Minister's office! We had a seminar attended by hon. Members including the relevant Departmental Committee Members. I did not have any private discussions with the Assistant Minister! So, being a new hon. Member at that time, I assumed that, that was the proper procedure. The Assistant Minister told us in a meeting, a seminar in Naivasha, and mine was not the only Bill, that, because of the weighty matters associated with the sugar industry, in fact, he was going to accelerate its drafting, as the Government. So, he has let me, and the sugar-cane farmers, down. Hon. Members can tap their feet as much as they want, but as far as I am concerned, it was in an open forum, where the Departmental Committee on Agriculture, Lands and Natural Resources was in attendance. I believed we were following the proper procedure!

Mr. Deputy Speaker: Very well! Could the Assistant Minister make a comment on that?

The Assistant Minister for Agriculture (Mr. Muiruri): Mr. Deputy Speaker, Sir, this is not a matter for the Ministry of Agriculture alone. There is also the Ministry of Energy and the Ministry of Finance. There are also private companies like Shell, but I think she is right that we are now getting towards the end of September. If this matter was to come even next week, I do not think it is going to be through this year because I can see Parliament--- I do not see it happening in two weeks.

Mr. Deputy Speaker: Order, Mr. Assistant Minister! I want to assist the hon. Member. She talked of being new, which means that it was almost five years ago. So, are you saying that it has taken you nearly five years to prepare a Bill and bring it--

(Mr. Muiruri stood up in his place)

An hon. Member: *Sikiliza!*

Mr. Deputy Speaker: Order, Mr. Assistant Minister! Has it taken you nearly five years to prepare---

(Mr. Muiruri stood up in his place)

Mr. Deputy Speaker: Order, Mr. Assistant Minister! I am speaking!

For the third time, has it taken you nearly five years to prepare a Bill and bring it to the House?

The Assistant Minister for Agriculture (Mr. Muiruri): Mr. Deputy Speaker, Sir, that is not true! We are talking about the Sugar (Amendment) Bill, 2006, which is not five years back. I think in 2006 Prof. Oniang'o was not a new hon. Member. She joined this House in 2003.

Mr. Raila: Mr. Deputy Speaker, Sir, the issue of the plight of the sugar-cane farmers is a very serious one. It is so unfortunate that a very important Bill like this one should have been frustrated. I do not know whether this was done by collusion, or a whole Professor was duped to hand over the authority granted to her by this House! In this year's Budget, they have factored in Kshs600 million to assist coffee farmers, Kshs600 million for pyrethrum farmers but not a penny for sugar-cane farmers! When the farmers in Mumias recently told the Government that the Constituencies Development Fund (CDF) was a burden, they were told that they could uproot the sugar-cane and plant guavas instead. The attitude of the Assistant Minister shows that the Government deliberately frustrates the sugar-cane farmers, and that is the reason why they have failed to bring this Bill before this House. Could the Assistant Minister confirm that?

The Assistant Minister for Agriculture (Mr. Muiruri): Mr. Deputy Speaker, Sir, the Government has taken great care of the sugar-cane farmers by, first, reducing the interest rate on the Sugar Development Fund loans from 10 per cent to 5 per cent. The Government has also suspended and written off loans, interest and penalties of the Sugar Development Fund (SDF) to the tune of Kshs4.7 billion.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Let the Assistant Minister finish!

The Assistant Minister for Agriculture (Mr. Muiruri): Mr. Deputy Speaker, Sir, the Government has not at all neglected the sugar farmers, because it has gone to the extent of settling arrears owed to the farmers to the tune of Kshs800 million!

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order, hon. Members! This is not a matter for debate! Next Ministerial Statement, Mr. Munya!

The Assistant Minister, Office of the President (Mr. Munya): Mr. Deputy Speaker, Sir, I have two Ministerial Statements. One of them relates to Kenyans who were killed in Tanzania.

KENYA BY TANZANIAN POLICE

Mr. Deputy Speaker, Sir, on 12th September, 2007, the hon. Member for Laikipia West, hon. G.G. Kariuki, rose on a point of order to request a Ministerial Statement concerning the killing of 14 Kenyans in Moshi, Tanzania.

Mr. Deputy Speaker, Sir, on 5th September, 2007, 14 suspected criminals were gunned down by the Tanzanian Police in Weruweru Area of Hai District. The suspects comprised of 13 Kenyans, including an adult female and one unidentified suspect believed to be a Tanzanian.

Mr. Deputy Speaker, Sir, following that incident, a team of officers from the Special Crimes Prevention Unit was dispatched to Tanzania to investigate the killings. According to preliminary investigations, the suspects entered Tanzanian territory on 4th September, 2007, all through temporary permits, through the Namanga Border Point, and proceeded to Weruweru area, 13 kilometres from Moshi Town. The following day, the suspects were driving along Weruweru Road on the way to Moshi Town. According to initial investigations by the Kenyan security team, the Tanzanian Police in Kilimanjaro Region had, a day earlier, received information about an intended bank robbery. The police acted swiftly by laying an ambush in Weruweru area in order to pre-empt the intended robbery.

Mr. Deputy Speaker, Sir, at about 7.30 p.m., three vehicles approached the police ambush area. The vehicles were being led by vehicle registration No.TZ 298A KK, a Suzuki Vitara. The other two vehicles were following it at a distance. The police noted that the vehicles were the ones they were looking for and opened fire at the first vehicle. The suspects fired back at the Tanzanian Police and their nearby parked official vehicle. During the shoot-out, the police managed to shoot down five suspects, including an adult female.

Mr. Deputy Speaker, Sir, some of the other suspects, who were in the other two vehicles, tried to flee on foot, but nine of them were gunned down in a nearby farm. However, the drivers of the other two vehicles managed to escape with an unknown number of suspects. A total of 14 suspects were gunned down at the two scenes. There were no casualties reported on the side of the Tanzanian security personnel. However, vehicle registration No.T168 AA, a Toyota, had five bullet holes on both the windscreen as well as on its left top side, an indication that there was, indeed, an exchange of fire.

Mr. Deputy Speaker, Sir, after the shoot-out and upon search, the police officers recovered the following: Three AK-47 rifles, two Tokalev pistols, one Ceska pistol, two hand grenades, 207 assorted ammunition, motor vehicle registration TZ298A KK, Suzuki Vitara, passport and temporary entry permits as well as identification documents, mobile phones and assorted currencies of different countries. Also recovered were two sketch maps which indicated the location of a local Exim Bank and the road leading to and from the bank.

Mr. Deputy Speaker, Sir, a Kenyan detective fingerprint expert who had accompanied the team lifted the suspects fingerprints for comparison with the criminal records held in Kenya. It was established that ten of the 14 suspects who were gunned down had adverse criminal records which included robbery with violence, carjacking, illegal possession of firearms and assault. Most of them have cases pending before various courts. The rest are accomplices.

Among the recovered firearms were three AK-47 rifles. One of the AK-47 rifles belongs to the Government of Kenya. The firearm was taken from the late police constable Duncan Muchiri on 15th July, 2007, during a robbery at the Barclays Bank, Westlands. The late police constable was killed by robbers during the incident. Similarly, a Ceska pistol recovered by the Tanzanian Police from the suspects was stolen within Mwingi District in 2000, from one police constable Richard Njiru. The officer has since been dismissed from the Kenya Police for failing to take due precaution of the firearm.

From initial investigations and from the above evidence, it is evident that the gunned down suspects were on a robbery mission in Tanzania. However, the Kenyan Police and their Tanzanian counterparts are carrying out investigations on the incident and we are still waiting for the final report, which will be placed in the public domain.

Thank you, Mr. Deputy Speaker, Sir.

Mr Deputy Speaker: Mr. G.G. Kariuki had asked for that Ministerial Statement. Mr. Maore, have you stood to seek for a clarification?

Mr. Maore: Yes, Mr. Deputy Speaker, Sir.

Mr Deputy Speaker: Okay. I will allow three requests for clarifications. I will start with Mr. Maore.

Mr. Maore: Mr. Deputy Speaker, Sir, according to the chronology and details given by the Assistant Minister, could he confirm or deny that the Kenyan Police are the likely culprits who tracked those "criminals" into Tanzania and executed them here?

Mr Deputy Speaker: Okay, Mr. Munya, note down those points.

Proceed, Mr. Ndambuki, and then Mr. Sungu!

Mr. Ndambuki: Mr. Deputy Speaker, Sir, according to the Assistant Minister, those people were caught on the road as they were driving. He has said that they were going to steal from a bank. Having a sketch map in the vehicle is not really good enough to prove that they were actually going to steal. Does he have any information showing that they were going to steal from the bank?

Mr. Sungu: Thank you, Mr. Deputy Speaker, Sir. I would like to know from the Assistant Minister--- Under our laws, one is presumed innocent until proven guilty. There is a common tendency by the police to shoot on mere suspicion. We know the dangerous work that the police do. But, in that case, there is evidence to suggest that those people were shot at a very close range!

Mr. Deputy Speaker, Sir, in fact, it was so close that it suggested an execution! What action is the Government taking to protect Kenyans who go out of this country, because there is no proof that those people were criminals, until they were taken to court?

Mr Deputy Speaker: Mr. Assistant Minister, you can now answer the three points.

The Assistant Minister, Office of the President (Mr. Munya): Mr. Deputy Speaker, Sir, as I have clearly explained, if anybody wanted to look at the situation, he or she would clearly see that those people were not going to do business in Tanzania. They were not tourists. They entered Tanzania on the same day. They were armed. They were ambushed by the police. They shot at the police. The police shot them as they were exchanging fire! They were not innocent people who were just walking or touring Tanzania and they were shot by the police. They were armed! What were they doing with AK-47 rifles stolen from the Kenyan Police? They had guns that had been used in robberies in Kenya before! Those were criminals who met their match in Tanzania.

Mr. Deputy Speaker, Sir, the idea that the Kenyan Police followed them into Tanzania is ludicrous! It is the Tanzanian Police who did it. We only sent our police to investigate because we care about Kenyans! If they were innocent Kenyans, then we would have taken it up with the Tanzanian Police. That is because it is our responsibility to protect Kenyans! But it is not the responsibility of Kenya to protect trans-national criminals who export crime to other countries.

Mr Deputy Speaker: Mr. Assistant Minister, you may issue the next Ministerial Statement.

UPSURGE OF INSECURITY IN BOBASI

The Assistant Minister, Office of the President (Mr. Munya): Mr. Deputy Speaker, Sir, on 12th September, 2007, the hon. Member for Bobasi, Mr. Manoti, stood on a point of order to

request a Ministerial Statement from the Minister of State for Provincial Administration and National Security on the issue of insecurity, specifically in Bobasi.

Mr. Deputy Speaker, Sir, on 25th August, 2007, at 12.10 a.m., a report was received from a resident of Nyamache Division in Gucha District, that Peter Maoki Ombati and one Charles Kaucho, a teacher at Naikuru Secondary School within Nyamache Division, were shot dead by gangsters a few kilometres away from each other.

The two bodies were taken to Gucha District Hospital Mortuary for postmortem. An inquest was opened and investigations are ongoing.

Similarly, on 11th, September, 2007, security officers from Nyangweso area received information that armed criminals were terrorising the residents of Nyamache and Nyachechi in Gucha District and were planning to commit robbery at Nyamache area. The security officers laid an ambush and managed to gun down two men and recovered two AK-47 rifles and 22 bullets. Three suspects managed to escape. Since then there has not been any other serious incident reported in the area. An inquest file has also been opened and investigations are ongoing.

Mr. Deputy Speaker, Sir, security operations in Gucha District have been intensified with a view to protecting life and property in the area. During the period from 1st, June to 20th, September, 2007, the following crimes and incidents were reported:-

- (1) Murders: A total of five cases were reported. Two are pending before court and three are being investigated.
- (2) Robbery with violence: One case is pending before court.
- (3) Burglary and stealing: A total of three cases were reported, two cases are pending before court and one investigation is ongoing.
- (4) Attempted rape: One case was reported and it is pending before court.
- (5) Infanticide: One case was reported and it is pending before court.
- (6) Assault: A total of 12 cases were reported and all are pending before court.
- (7) Theft: A total of 12 cases were reported and all are pending before court.
- (8) Creating disturbance: Three cases were reported and two are pending before court. With regard to one of them, investigations are still ongoing.
- (9) Being in possession of narcotic drugs: Two cases were reported and are pending before court.
- (10) Malicious damage to property: One case was reported and investigation is going on.
- (11) Defilement: One case was reported during the last three months. The case was investigated and is pending before court.
- (12) Taking part in unlawful assembly: One case was detected and investigation is ongoing.

From that list, it is very clear that officers are doing a commendable job in that area. I, therefore, wish to assure the hon. Member that patrols have been intensified by the police. The police are doing a good job in that district. However, at the same time, I would like to encourage members of the public to give information to police to assist in tackling crime.

Mr. Manoti: Mr. Deputy Speaker, Sir, my constituency is one of those that, when it gets to 8.00 p.m., people start worrying whether they would still be alive the following morning. Criminals take over! We have various police stations, including that of the Office of Gucha Officer Commanding Police Division (OCPD) which do not do anything. However, for last six months, about ten people have been killed by bullets. Over 20 others have been seriously injured. How come that nobody has ever been arrested? What the Assistant Minister says here are reports of petty cases. Why is he not addressing the real issue as I raised in the House two weeks ago?

Secondly, why can he not establish a police post at Nyamache Market which is the centre of

the criminals? He should also establish another police post at Itumbe which also keeps the criminals.

The Assistant Minister, Office of the President (Mr. Munya): Mr. Deputy Speaker, Sir, there is no denying that there is high crime rate in this area. However, I said here that the police are trying their level best to deal with the problem. That is the reason I gave the chronology and all those incidents. This is to show that the police are not just sitting there and letting crime go on. They are doing a good job. However, we will try to increase their numbers and look into the possibility of creating more police posts are the hon. Member is recommending. I will consult him to see if it is possible to do so.

Mr. Deputy Speaker, Sir, the police have been trying to do a good job. We are also telling members of the public to assist the police because these criminals live among them!

Mr. Deputy Speaker: Last point of clarification, Mr. Angwenyi!

Mr. Angwenyi: Mr. Deputy Speaker, Sir, is this country going the way of Congo where one part is being run or ruled by thugs? The situation in Bobasi is what precipitated to what somebody is referring to out there. I understand that there are police officers who might be involved in these incidents, who have been transferred from Nyamache to Sengera in the next constituency. Why can the Assistant Minister not transfer all those police officers and, maybe, even investigate their activities? He should post new, properly trained and effective police officers.

The Assistant Minister, Office of the President (Mr. Munya): Mr. Deputy Speaker, Sir, we will investigate those allegations. If we find out that there is any evidence that police officers could be involved, we will deal with it. As of now, I have no information that police officers are involved. To the contrary they have been trying very hard to deal with crime.

POINTS OF ORDER

OPERATIONALIZATION OF THE PERSONS WITH DISABILITIES ACT

Mr. Weya: Mr. Deputy Speaker, Sir, two weeks ago I asked the Vice-President and Minister for Home Affairs to give: the reason why this House passed the Persons with Disabilities Act in 2003, but to date, it has not been operationalised.

Mr. Deputy Speaker, Sir, the funds for persons with disability have not been given out and a Board has not been created. It is critical that when this House passes a Bill, it should be operationalised almost immediately!

Mr. Deputy Speaker: Mr. Weya, you raised that matter! I have looked at the HANSARD and the Chair directed the Vice-President and Minister of Home Affairs to report to the House when he was going to operationalize the Persons with Disabilities Act. However, it has just occurred to the Chair that, that Act comes under the purview of the Ministry of Gender, Sports, Culture and Social Services and not the Office of the Vice-President and Ministry of Home Affairs. Therefore, the Chair directs that the Minister for Gender, Sports, Culture and Social Services comes to the House in seven days and reports to the House when he will he actualise that Act!

ASSAULT ON ODM LEADERS AT NYAMARAMBE

Maj-Gen. Nkaisserry: Mr. Deputy Speaker, Sir, I rise to demand a Ministerial Statement from the Minister of State for Administration and National Security on the shameful criminal incident that took place in Mr. Magara's constituency.

(Applause)

Mr. Deputy Speaker, Sir, I demand that in the Statement addresses the following:-

- (i) Under what circumstances an hon. Member is assaulted in his own constituency by an armed gang;
- (ii) What action is the Minister taking to ensure takes its process to ensure that the culprits are brought to book; and,
- (iii) the measures that the Government will be putting in place to ensure that peace prevails in this country during election.

Those found inciting citizens should be dealt with. In fact, they should be charged with crime against humanity. People should not bring this country to turmoil like Sierra Leone and Liberia.

Mr. Deputy Speaker: Yes, Mr. Assistant Minister!

The Assistant Minister, Office of the President (Mr. Munya): Mr. Deputy Speaker, Sir, I will give the Statement on Tuesday next week.

Mr. Deputy Speaker: Thank you, Mr. Assistant Minister!

Mr. Raila: On a point of order, Mr. Deputy Speaker, Sir. There is a general practice in this House, that those hon. Members going to other hon. Members' constituencies, usually, because of courtesy, inform those hon. Members. I would like some guidance from the Chair as to whether that practice exists. I would also like to know whether other hon. Members are actually exempted from observing that practice, including Ministers, which has existed in this House since I became a Member of Parliament.

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

Mr. Deputy Speaker: Order! That point of order was not directed to Mr. Angwenyi. It was directed to the Chair!

Mr. Raila, the Chair is not prepared to respond to that. Maj-Gen. Nkaisserry had seen the Chair with the intention of raising the matter that he has just raised. That is, probably, a matter that could be addressed when the Assistant Minister responds and the ensuing clarification is sought. Then, we can address that matter at that time.

The Assistant Minister, Office of the President (Mr. Munya): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Assistant Minister, you are going to come with a Statement! Do you want to give a Statement now?

The Assistant Minister, Office of the President (Mr. Munya): Mr. Deputy Speaker, Sir, I wanted to clarify what hon. Raila has raised.

Mr. Deputy Speaker: I prefer the way the Chair has directed; that this Statement is going to come on Tuesday! Therefore, that matter that you want to raise or the matter that Mr. Raila has raised can come at that time together.

Finally, Mr. Ndambuki!

Mr. Ndambuki: Mr. Deputy Speaker, Sir, the Assistant Minister has just seen me and requested me to wait until tomorrow. But let it be tomorrow!

Mr. Deputy Speaker: Very well! For the purpose of record, Mr. Ndambuki, and given the way you have put it, what would the HANSARD report? What was it? You have just referred to your private conversation. This matter must be properly recorded! You saw the Chair to raise a matter. So, raise it and then the Assistant Minister can respond for the purpose of record!

TRADE CO-OPERATION REGIME

Mr. Ndambuki: Mr. Deputy Speaker, Sir, two weeks ago, I rose to request for a Ministerial Statement from the Ministry of Trade and Industry. The current preferential and non-reciprocal trade regime in which the European Union and the African, Caribbean and Pacific trade with each other established under the Cotonou Agreement of 2000, is scheduled to expire at the end of this year, when the World Trade Organisation (WTO) waiver granted to give it legal status---

Mr. Deputy Speaker: Mr. Ndambuki, the Assistant Minister has that information. You wanted to remind him about that Statement. What does he have to say now?

The Assistant Minister for Trade and Industry (Mr. Miriti): Mr. Deputy Speaker, Sir, I had talked to the hon. Member and told him that the Minister at that particular time was away addressing the same issues in Europe. We wanted to wait for him to come back so that he can give us the latest information. So, we will give the Statement tomorrow.

Mr. Deputy Speaker: Very well!

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. So that we do not have to ask further questions next week when the Assistant Minister gives a Statement with regard to---

Mr. Deputy Speaker: Order, Mr. Angwenyi! You know that you are out of order! The Member for Kajiado Central Constituency sought a Ministerial Statement on a matter. How do you come in it now? Let us be very clear. Mr. Angwenyi, if it is a matter that Maj-Gen. Nkaisserry asked for a Ministerial Statement on, it is premature for you to stand now on a point of order on it. Please, wait until the Assistant Minister comes with the Statement.

If you wish to seek clarification or make any comment, I am sure the Chair will give you an opportunity to do so. But for you to now want to start a matter that is not on the Floor of the House is not acceptable.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I want to apologise. I just want to add to hon. Raila's addendum---

Mr. Deputy Speaker: Order! I ruled on that matter! I said that Mr. Raila's issue will come together with the Statement. It will be raised at that time when the Statement will be given. So, Mr. Angwenyi, hold your horse until then!

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 LABOUR INSTITUTIONS BILL

(Resumption of Consideration)

interrupted on 20.9.2007)

(Several hon. Members started withdrawing from the Chamber)

The Temporary Deputy Chairman (Mr. Sungu): Order, hon. Members! I wish to draw the attention of the hon. Members to the fact that we are in the Committee of the whole House. Therefore, if you want to withdraw from the Chamber, please, do so in an orderly manner. We are on Clause 44 and there is no amendment to it. Therefore, I will proceed to put the Question.

(Clause 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 subclause (1) in paragraph (a)-
 (a) by deleting the words "Labour Commissioner" and substituting therefor the words "Commissioner for Labour;"
 (b) by deleting the letter "s" appearing at the end of the word "officers."

(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 45 as amended agreed to)

Clause 46

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

THAT, Clause 46 of the Bill be amended in Subclause (1) by deleting the word "Act" appearing at the end thereof and substituting therefor the word "law."

The Temporary Deputy Chairman (Mr. Sungu): Mr. Minister, for your guidance, all hon. Members have copies of the Order Paper. So, just refer to the Order Paper so that we can save some time.

I will now proceed to propose the Question.

(Question of the amendment proposed)

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, I appreciate the proposal by the Minister but I was just wondering; to tidy it up, would it not have been easier to delete the word "law" but just before the word "labour," to insert the word "other" so that it reads: "Or any other

labour law?"

Mr. Temporary Deputy Chairman, Sir, the Attorney-General is close to him and can explain to him. If you look at the Bill, as printed, it reads:-

"An authorised officer may, either alone, or in the presence of another person enter any premises or place where persons are or may be employed---"

The Temporary Deputy Chairman (Mr. Sungu): Order, Muturi! For the guidance of the Minister, could you state the page so that he could refer to it?

Mr. Muturi: It is page 368, Clause 46, Subclause (1). It is the one that I am reading as originally printed so that we can understand his amendment.

The Temporary Deputy Chairman (Mr. Sungu): Proceed, please!

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, it reads:-

"An authorised officer may, either alone, or in the presence of another person enter any premises or place where persons are or may be employed for the purpose of performing his duties as specified under this Act or any "other" labour law."

I am proposing to the Minister to adopt the word "other" before "labour law".

The Temporary Deputy Chairman (Mr. Sungu): Could the Attorney-General comment on this or does the Minister want to respond immediately?

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I want to say something about what Mr. Muturi has just said. I think it is important that we read from the same script. He is reading the Bill in its original form but most of us have this Order Paper.

The Temporary Deputy Chairman (Mr. Sungu): Order, Mr. Minister! I would advise you to seek the advice of the Attorney-General sitting next to you. We have got the Bill and the Order Paper. Both are relevant because all the amendments refer to the Bill. Therefore, what the hon. Member is suggesting is that he wants to tidy up your amendment so that it becomes clearer. If you get advice from the Attorney-General, we may just dispose of it. But if you force it, then we will just put it to the vote.

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

THAT, Clause 46 be further amended as proposed by Mr. Muturi.

The Temporary Deputy Chairman (Mr. Sungu): I assume that you have no objection, therefore, we can proceed to put the Question.

*(Question of the further
amendment proposed)*

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

*(Question, of the further amendment,
that the word to be inserted in
place thereof be inserted,
put and agreed to)*

(Clause 46 as amended agreed to)

The Temporary Deputy Chairman (Mr. Sungu): I would like to draw the attention of Mr.

Muturi to the fact that your proposed amendment must be in writing. So, we will give you the benefit as accepted by the Minister. But just proceed to put something in writing so that we have it on record.

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 Subclause(1)-

(a) by deleting the word "Act" wherever it appears and substituting therefor the word "law";

(b) in paragraph (d) by deleting the words "Part VII" and substituting therefor the words "Part VI";

(c) in paragraph (m) by deleting the words "Employment Act" and substituting therefor the words "law relating to employment".

(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-

(a) by deleting the word "power" appearing in the marginal note;

(b) in Subclause (1) by deleting the words "employment and" appearing in the second line.

(Question of the amendment proposed)

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

The Temporary Deputy Chairman (Mr. Sungu): Hon. Members, I understand that there is a proposal by the Committee represented by Dr. Manduku. Let us clear some matters here. Let us refer to page 577 on the Order Paper. Is the Chairman here? He is not here! Proceed, Mr. Ogur!

Mr. Ogur: (Inaudible)

The Temporary Deputy Chairman (Mr. Sungu): Order, Mr. Ogur! You must be heard so that you are recorded on the HANSARD. These are very important matters. We are making the law here.

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

THAT, Clause 48 of the Bill be amended in Subclause (1) by deleting the words

"employment officer" appearing in the first line and substituting therefor the words "authorised officer".

The Temporary Deputy Chairman (Mr. Sungu): We will now consider the Committee's amendment as proposed by Mr. Ogur.

(Question of the amendment proposed)

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I wish to say that the proposal by the Committee be accepted and should be part of the Bill.

(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 Temporary Deputy Chairman (Mr. Sungu): Hon. Members, I understand that the Committee has an amendment to Clause 49 at page 578 of the Order Paper.

Mr. Ogur, are you still standing in for the Chairman?

Mr. Ogur: Yes, Mr. Temporary Deputy Chairman, Sir. The amendment is merely to correct a typographical error.

The Temporary Deputy Chairman (Mr. Sungu): Mr. Ogur, please, stand near the microphone and listen very carefully. You need to move that the Clause be amended as per the Order Paper, for clarity purposes. We can then proceed from there.

Mr. Ogur: You are right, Mr. Temporary Deputy Chairman, Sir.

(Laughter)

The Temporary Deputy Chairman (Mr. Sungu): Order, Mr. Ogur! Please, move your amendment or the Chair will ignore it!

Mr. Ogur: Mr. Temporary Deputy Chairman, Sir, earlier on, I---

The Temporary Deputy Chairman (Mr. Sungu): Mr. Ogur, just say "I beg to move that Clause 49 be amended as per the Order Paper".

Mr. Ogur: Correct, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Sungu): You have to move the amendment or I will withdraw it!

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

THAT, Clause 49 of the Bill be amended in paragraph (f) by deleting the letter "y" appearing at the end of the seventh line and substituting therefor the word "by".

(Question of the amendment proposed)

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

Temporary Deputy Chairman, Sir, I accept the amendment.

The Temporary Deputy Chairman (Mr. Sungu): Thank you.

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

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

(Clause 49 as amended agreed to)

Clause 50

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

THAT, Clause 50 of the Bill be amended by inserting the words "and shall on conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both" immediately after the word "offence" appearing at the end thereof.

(Question of the amendment proposed)

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

(Clause 50 as amended agreed to)

(Clauses 51 and 52 agreed to)

Clause 53

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

THAT, Clause 53 of the Bill be amended in Subclause (1) by inserting the words "and shall on conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both" immediately after the word "offence" appearing at the end thereof.

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

*(Clause 53 as amended
agreed to)*

Clause 54

The Temporary Deputy Chairman (Mr. Sungu): Mr. Minister, on this one, you will move one part after another. So, you will start with part (a) of the amendment. We will dispose of it and then you will move part (b). Or, you can move parts (a) and (b) of the amendment to this Clause, if you so wish.

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 (1) by deleting the words "Labour Commissioner" and substituting therefor the words "Commissioner for Labour";

(b) in Subclause (2)-

(i) by deleting the words "Labour Commissioner" wherever it appears and substituting therefor the words "Commissioner for Labour"; and,

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

The Temporary Deputy Chairman (Mr. Sungu): Mr. Minister, for the time being, let us deal with parts (a) and (b) of the amendment, first. There are reasons for leaving out part (c). There are other things coming.

*(Question of the amendment
proposed)*

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, unfortunately, the Minister is not using the original Bill. He would actually have known that even in his own amendment, he proposes to amend Clause 54 in Subclause (1) by inter-changing the words "Labour Commissioner" with "Commissioner for Labour", and in Subclause (2), paragraph (b), so that we do not have any confusion.

He can say that he begs to move that Clause 54 be amended as per the Order Paper, yet when we go to the Clause itself, Subclause (2) has got paragraphs (a)-(h), before we get to Subclause (3). So, it could easily cause some confusion.

The Temporary Deputy Chairman (Mr. Sungu): Mr. Minister, what you need to have said, really, is that Clause 54 be amended in Subclause (1) and Subclause (2), as per 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)*

The Temporary Deputy Chairman (Mr. Sungu): Hon. Members, we will now go to page 578 of the Order Paper. Mr. Ogur, on behalf of the Departmental Committee, will move a further amendment to Clause 54.

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

THAT, Clause 54 of the Bill be amended-

(a) in Subclause (2) in paragraph (c) by deleting the word "inspection" appearing in

- the first line and substituting therefor the word "inspected";
- (b) in Subclause (3) by inserting the following new paragraphs immediately after the dash at the end thereof-
- (a) the staff under the jurisdiction of the Director;
- (b) productivity level; and,
- (c) labour market information and employment trends.

*(Question of the amendment
proposed)*

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, the proposed amendment is acceptable to us.

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, when Mr. Ogur was moving this amendment, particularly to Subclause (3), he pointed out something very interesting, which I think the Minister should have, among other things, congratulated the Departmental Committee for. Subclause (3) reads as follows-

"(3) without limiting what may be included in the Director of Employment's report, the report shall cover the following issues---"

Then there is nothing given thereafter. Therefore, I wanted to point out the fact that the Committee went on to provide the issues that are supposed to be covered in the Director's report. The Minister should have congratulated the Members of the Committee for doing so.

The Temporary Deputy Chairman (Mr. Sungu): Mr. Muturi, I agree with you!
Yes, Attorney-General!

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, we congratulated the Committee in Naivasha, when we held a joint review of this Bill.

The Temporary Deputy Chairman (Mr. Sungu): Thank you, Mr. Minister! But next time, please, wait until you are recognised by the Chair! I had recognised the Attorney-General!

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, first, why should the Minister be so grateful to the Committee, when the Committee was doing its job?

Secondly, the amendments are, more or less similar, except for one phraseology, which is "productivity level". If you look at the proposal by the Minister and that of the Committee, they are, more or less, the same. It is only the "productivity level" which is an addition. Why should he be congratulated for that?

Anyway, I support the amendment!

*(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 Temporary Deputy Chairman (Mr. Sungu): Hon. Members, there is a further amendment by the Minister, which has now been overtaken by events. So, we shall proceed to the next clause.

Mr. Muturi: On a point of order, Mr. Temporary Deputy Chairman, Sir. Are you saying that the amendment by the Minister has been overtaken by events?

The Temporary Deputy Chairman (Mr. Sungu): Well, we are talking about Clause 54(c) in the original amendment by the Minister. As you can see, the Committee has taken care of that. It is no longer necessary. I will, therefore, put the Question for the entire clause!

(Clause 54 as amended agreed to)

Clause 55

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

THAT, Clause 55 of the Bill be amended-

(a) in sub-clause (2) in paragraph (a) by deleting the words "or employees" appearing in the third line;

(b) in sub-clause (4) in paragraph (b)

by deleting the word "pf" appearing in the first line and substituting therefor the word "of";

(c) in sub-clause (6) by deleting the expression "(4)" and substituting therefor the expression "(5)".

Mr. Temporary Deputy Chairman, Sir, Clause 55(b)(4) has a typographical error. Sub-clause (6), which is on nomination of members to the Council, is found in Sub-clause (5) and not Sub-clause (4).

The Temporary Deputy Chairman (Mr. Sungu): Mr. Ogur, I hear you. You are moving that Clause 55 be amended as in the Order Paper!

*(Question of the amendment
proposed)*

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Temporary Deputy Chairman, Sir, I support the amendment as moved by Mr. Ogur. Let me also add that my Committee had also picked up the same.

The Temporary Deputy Chairman (Mr. Sungu): Well, I understand that you are supporting the amendment by Mr. Ogur!

*(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 55 as amended agreed to)

Mr. Muturi: On a point of order, Mr. Temporary Deputy Chairman, Sir. The proposal by the Minister to re-number the parts should also be taken through. Clause 55 is at Part VII. But, actually, it should be in Part VI as proposed by the Minister. That is because there is a Part that was completely expunged last week.

The Temporary Deputy Chairman (Mr. Sungu): Where is the proposed amendment by the Minister?

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, it is at page 577. The proposal is that the Bill be amended by re-numbering Part VII as Part VI. That amendment has not been dealt with.

The Temporary Deputy Chairman (Mr. Sungu): That is understood according to the details that I have here. That will be taken care of when the Attorney-General is tidying up. It comes naturally in their work of drafting. **The Attorney-General** (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, but there is no harm in---

The Temporary Deputy Chairman (Mr. Sungu): But if you want me to put the Question, I can put it!

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, there is no harm in the House also doing it. It lessens our work.

The Temporary Deputy Chairman (Mr. Sungu): In that case, let us go backwards! Dr. Kulundu, please, refer to Parts VII and VIII on Page 577! *PART VII*

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

THAT, the Bill be amended by renumbering PART VII as PART VI.

*(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)*

(PART VII as amended agreed to)

PART VIII

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

THAT, the Bill be amended by renumbering PART VIII as PART VII.

*(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)*

(PART VIII as amended agreed to)

*(Clauses 56, 57, 58, 59, 60, 61, 62,
63, 64, 65 and 66 agreed to)*

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

THAT, Clause 67 of the Bill be amended in Sub-clause (2) in paragraph (b) by deleting the words "unless that employment agency is registered under this Act" appearing in the fourth line.

(Question of the amendment proposed)

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

(Clause 67 as amended agreed to)

Clause 68

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

THAT, Clause 68 of the Bill be amended in Sub-clause (8) by deleting the words "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 68 as amended agreed to)

*(Clauses 69, 70, 71, 72, 73
and 74 agreed to)*

Part IX

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

THAT, the Bill be amended by renumbering Part IX as PART VIII.

*(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)

(Part IX 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-

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

(b) in sub-clause (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 be inserted in
place thereof be inserted,
put and agreed to)*

Mr. Ogur: On a point of order, Mr. Temporary Deputy Chairman, Sir. My Committee had proposed some amendments as in the Order Paper on pages 578 and 579.

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

THAT, Clause 75 of the Bill be further amended by-

(a) in sub-clause (3) by deleting the words "become judges and members of the Industrial Court respectively, as the case may be, of the National Labour Court for the remainder of their tenure in accordance with the appointment under the repealed Trade Disputes Act" and substituting therefor the words "be deemed to have been appointed under this Act.

(b) in sub-clause (4) by deleting the words "as if they were appointed under sections 13 and 15 respectively";

(c) in sub-clause (5) by deleting the words "become an employee of the National Labour Court and substituting therefor the words "be deemed to be an employee of the 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 14

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

THAT, the Bill be amended by deleting Clause 14 and substituting therefor the following new clauses-

Remedial powers
of the court in
cases of wrongful
dismissal

14A. If the Industrial Court finds that a dismissal is unfair, the Industrial Court may order the employer to -

- (a) reinstate the employee from any date not earlier than the date of dismissal; or
- (b) re-engage the employee, either in the work in which the employee was employed before the dismissal or in other reasonably suitable work on any terms and from any date not earlier than the date of dismissal; or
- (c) pay compensation to the employee to a maximum of twelve months' wages.

14B (1) The Industrial Court shall have and exercise jurisdiction throughout Kenya and for that purpose the principal judge shall establish gazette divisions of the Industrial Court as he deems necessary.

(2) The Chief Justice may, after consultation with the Minister and the principal judge by order in the gazette designate any Magistrate court to hear matters relating to labour laws.

(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 14 as amended agreed to)

Clause 76

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

THAT, the Bill be amended by inserting the following new clause immediately after Clause 75-

Existing laws 76. Any written law, relating to the regulation of labour matters shall have effect subject to modification as may be necessary to give effect to this Act, and where the provisions of any law conflict with the provisions of this Act, the provisions of this Act shall prevail.

(Question of the amendment)

proposed)

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

(Clause 76 as amended agreed to)

Schedule

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

THAT, the Schedule to the Bill be amended-

(a) in paragraph 1(3)(a) by deleting the word "ay" and substituting therefore the word "any",

(b) in paragraph 2(4) by deleting the word "threat" and substituting therefor the word "threat".

*(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)*

(Schedule as amended agreed to)

(Title agreed to)

(Clause 1 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 Labour Institutions Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE LABOUR INSTITUTIONS BILL

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Labour Institutions 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 Labour Institutions Bill be now read the Third Time.

The Assistant Minister for Labour and Human Resource Development (Ms. Mwau) seconded.

(Question proposed)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I just want to put it on record that this is one of my happiest days because I appointed a task force to review all the labour laws in this country, which were archaic and did not meet the modern needs of the Kenyan society. The task force, chaired by Justice Said Cockar and eminent people in the labour fraternity, made recommendations and actually drafted six different pieces of legislation. This is the first of those new pieces of legislation governing labour laws in this country, which this House is now going to pass. I know that Parliament will enact this law when the President gives consent.

Mr. Temporary Deputy Speaker, Sir, it, therefore, gives me great pleasure that this Bill has now been passed. I would like, first of all, to thank the Minister for Labour and Human Resource Development and members of the task force who drafted the Bill.

More importantly, I would like to thank the Permanent Secretary and his staff for having expedited implementation of the recommendations made by that task force. I want to put my record on them.

I also would like to appeal to the House to go through the Committee Stage of the remaining Bills as expeditiously under the able chairmanship of Mr. Gor Sungu.

Mr. Mwandawiro: Bw. Naibu Spika wa Muda, wafanyikazi wa nchi hii wameteseka kwa muda mrefu sana chini ya ubepari ulioko katika nchi. Natarajia kwamba baada ya kupitisha sheria hii kutakuwepo na utekelezaji. Natarajia sheria hii itekelezwe kwa manufaa ya wafanyikazi. Sharti Wizara ya Leba na Ustawi wa Wafanyikazi iamuke ili iweze kutumikia wafanyakazi wala siyo mabepari katika nchi hii.

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I just wanted to take this opportunity to congratulate the Minister, the Permanent Secretary and all the people who were involved in the preparation of this Bill.

This shows that when the private sector, the Central Organisation for Trade Union (COTU) and other players are together and co-operate---

When a law is preceded by a commission, its passage in this House actually becomes very easy, forthright and has very few amendments.

I would also like to take this opportunity to congratulate the Departmental Committee

on Health, [**The Assistant Minister for Transport**] Housing, Labour and Social Welfare for a job well done and for having had the courtesy of discussing these issues with the Minister thereby agreeing on the necessary amendments.

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, having chaired the Committee of the whole House, allow me to congratulate the Minister for a job well done.

Kenyan workers are suffering. I hope that these laws that we are making will be followed to the letter. This is because we know of countless employers in this country who treat Kenyans like rubbish.

I want to urge the Minister and his officers to make sure that they look after poor helpless Kenyans who are sacked day in, day out without any reasonable cause and without being paid their dues. They are rendered redundant. I want to assure the Minister that we will support all his Bills if only the House Business Committee, where the Attorney-General sits, brings them to the Floor. Some of us are ready to do that.

Mr. Temporary Deputy Chairman, Sir, with those few remarks I beg to support.
Thank you.

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

The Temporary Deputy Speaker (Mr. Kosgey): Order, hon. Members! I am not going to open up debate. I will recognise Mr. Muite and the Minister, and then move on.
Mr. Muite!

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, it is one thing to enact laws. It is quite another to implement those laws. In the benefit of the legislation that we have enacted--- Workers who labour in this country will benefit from the full implementation of the law that we have enacted.

So, I appeal to the Minister and the Government to see to it that this new law, which we have now passed, is enacted and fully implemented as quickly as possible, so that the benefits can begin to flow to the workers of this country.

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

The Temporary Deputy Speaker (Mr. Kosgey): Ms. Mwau! Mr. Minister, you moved the Third Reading! You cannot take the Floor again!

The Assistant Minister for Labour and Human Resource Development (Ms. Mwau): Mr. Temporary Deputy Speaker, Sir, I want to congratulate the Ministry and, especially, the officers who worked tirelessly to see this Bill thorough.

I want to say that Questions in Parliament will be answered factually because we know how much time a case will take to be expedited. The implementation of this Bill is very necessary and it needs to be done as quickly as possible.

Mr. Kajembe: Mr. Temporary Deputy Speaker, Sir, I am sorry because my voice is low. It is time the Minister started with Export Processing Zones (EPZs), which employ more than 100,000 people. Their terms are very poor.

I hope the Minister will start with EPZs. Those investors are just playing with the Government. There is no revenue to the Government and workers get almost nothing!

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, I just want to correct ourselves! The Bill that we have just passed is dealing with labour institutions.

I believe the Bill to deal with issues like conditions of work at work places will come. But, nevertheless, I feel happy that, at least, we have been able to go through this first hurdle, which was the most difficult one. I congratulate the Minister.

(Question put and agreed to)

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

BILL

Second Reading

THE PREVENTION OF ORGANIZED
CRIME BILL

(The Attorney-General on 30.8.2007)

*(Resumption of Debate interrupted
on 19.9.2007)*

The Temporary Deputy Speaker (Mr. Kosgey): Who was on the Floor?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, it is my Bill, but I believe Mr. Muturi was on the Floor.

Mr. Muturi, you have 20 minutes.

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

The Temporary Deputy Speaker (Mr. Kosgey): What is your point of order, Mr. Kajembe? The Attorney-General has not said anything?

Mr. Kajembe: Mr. Temporary Deputy Speaker, Sir, I rise under Standing Order No.21 to request the Chair and the House to refer this matter to my Committee for further scrutiny!

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

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

Mr. Temporary Deputy Speaker, Sir, this Bill has been rushed. I am saying it has been rushed because no adequate consultations were made.

The Temporary Deputy Speaker (Mr. Sungu): Order, Mr. Kajembe! Under the Standing Order that you have raised, which states as follows *inter alia*:-

"A Member who wishes to postpone to some future occasion the further discussion of a question which has been proposed from the Chair, may claim to move "That, the debate be now adjourned", or in Committee of the whole House "That, the Chairman do report progress".

Now, you have not moved any such Motion.

Mr. Kajembe: Mr. Temporary Deputy Speaker, Sir, under that Standing Order, there is no need to put the Motion in writing. I do it---

The Temporary Deputy Speaker (Mr. Sungu): Order! Order! If you want to move a

Motion, you must move it. If you do not move the Motion---

Mr. Kajembe: Mr. Temporary Deputy Speaker, Sir, I now beg to move the Motion under Standing Order No.21:-

THAT, the debate on this Bill be adjourned.

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

[Mr. Deputy Speaker took the Chair]

The reason for that is that, we have not been given ample time. The Committee has not been given adequate time to deliberate on this Bill. There is need to do some consultations with the Office of the Attorney-General, the National Security Intelligence Service and all the other stakeholders.

Mr. Deputy Speaker, Sir, therefore, I think there is need to refer this Bill to my Committee. Let me say this: The Bill is being rushed. It is very sensitive.

If you go through this Bill, you will see that its contents and clauses are similar to those clauses that were contained in the Suppression of Anti-Terrorism Bill.

Mr. Deputy Speaker, Sir, I am the Chairman of the Departmental Committee on Administration, National Security and Local Authorities.

Mr. Deputy Speaker, Sir, I have laid a Report in this House this afternoon. If you go through that Report, you will see that what the Government has done is just to change the title of that Anti-Terrorism Bill. If you go through the clauses, you will see that the Government has only changed the numbering of clauses, just to confuse the Kenyan people.

In the Report of the Committee, we have produced a chart for ease of reference by Members.

QUORUM

Dr. Ali: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: What is it, Dr. Ali?

Dr. Ali: Mr. Deputy Speaker, Sir, there is no quorum in the House!

Mr. Deputy Speaker: Very well. I think the issue of quorum supersedes any other matter. Yes! I am looking and it appears that there is no quorum. I order that the Division Bell be rung.

(The Division Bell was rung)

ADJOURNMENT

Mr. Deputy Speaker: Order, hon. Members! The attention of the Chair having been drawn to the lack of quorum in the House, and the bell having been rung for the prerequisite five minutes, and having realised no quorum so far, the Chair has no alternative but to adjourn the proceedings of today.

The House, is therefore, adjourned until tomorrow, Wednesday 26th September, 2007, at 9.00 a.m.

The House rose at 5.05 p.m.