

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 12th February, 2009

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.439

NUMBER OF POLICE OFFICERS UNDER INTERDICTION

Mr. Wamalwa asked the Minister of State for Provincial Administration and Internal Security:-

- (a) whether he could indicate the number of police officers currently under interdiction;
- (b) whether he could explain the circumstances surrounding the interdiction of Police Superintendent Joseph Kasili Kundu (P/No.217751), a former DCIO, Embakasi, as well as the status of his appeal; and,
- (c) what measures the Government is taking to ensure that all such cases are finalised expeditiously.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I would like to request that I answer this Question later on the second round of Questions. I am waiting for some details.

Mr. Speaker: Very well! Next Question, Mr. K. Kilonzo.

Question No.555

ERADICATION OF CATTLE RUSTLING IN MUTITO CONSTITUENCY

Mr. K. Kilonzo asked the Minister of State for Provincial Administration and Internal Security:-

- (a) considering the persistent cattle rustling in Malalani border town of Mutito Constituency and the shooting of one Mr. Kavunduu Kithome at Ililuni Market by cattle rustlers in August last year, what action he is taking to eradicate cattle rustling in the constituency; and,
- (b) when he will bring back the Anti-Stock Theft Unit to the area as promised by the Government early last year.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I beg to reply.

(a) Incidents of cattle rustling within Mutito, especially the Malalani area are not alarming. The security situation is under control. During this year, a total of six cases were reported, but with no fatalities. The death of one Mr. Kavunduu Kithome, a Kamba male adult aged 70 years, is not attributed to shooting as alleged, but due to natural causes. Mr. Kavunduu died at Ililuni Market on 28th October, 2008, while attending to a customer who was buying his merchandise. This man was trading in ropes.

Mr. Kenyatta Mului, aged 42 years was, however, shot on the chest on 19th August, 2008, at 6.00 p.m. and died instantly after he and other Kamba kinsmen encountered some Somali pastoralists who had gone to water their camels at Ililuni water point. Security forces pursued the pastoralists and arrested one of them, Mr. Sahen Atuar Robro, aged 45 years. The suspect was arraigned before court and bonded for Kshs50,000 to keep peace for one year vide Kitui Case No.28/08 of 3rd September, 2008.

(b) Cases of stock theft in the area are not rampant and the security agencies are in control of the situation. The Anti-Stock Theft Unit is normally deployed where incidents of cattle theft cannot be controlled by the regular and the Administration Police. The Mutito cattle rustling cases are still under control. However, the Government has opened Mutito Police Station and provided two vehicles, namely, GKA 352 and GKA 736F to boost security in the area.

The Government is also in the process of reviewing the security situation in the area. If cattle rustling persists, then the Anti-Stock Theft Unit (ASTU) will be deployed in the area immediately.

Mr. K. Kilonzo: Mr. Speaker, Sir, first, I want to thank the Member for Bura, Mr. Nuh, who has been a very good neighbour to me. The pastoralists were coming from his constituency. He got in touch with me, expressed his condolences and even ordered the suspect to be arrested. I want to thank him for that effort. My constituents and his constituents have co-existed peacefully. Secondly, I want to sympathise with this good Assistant Minister. The right hand of this Coalition Government does not seem to know what the left hand is doing. He is trying to tell me---

Mr. Speaker: Order! It is Question Time! I have already allowed you a lot of latitude.

Mr. K. Kilonzo: Mr. Speaker, Sir, the Assistant Minister should know that already, the Government has deployed the Anti-Stock Theft Unit in my constituency. He should not be telling me that he will consider that which has been done. I thank him for that. How could the Government bond someone who has killed in the pretext that he is being bonded to keep peace and order?

Mr. Ojode: Mr. Speaker, Sir, I have the postmortem report here. The fellow who was trading in ropes died of tuberculosis. The ASTU was established in the constituency two years ago. When the cattle rustling menace came down, we decided to minimise the ASTU staff because it was not as rampant as in other areas. The hon. Questioner should also thank me for having opened a police station in the area to take care of the criminal activities. I have also provided two vehicles for purposes of patrolling the area, whose registration numbers I have given. He should, at least, thank me for that.

Mr. Linturi: Mr. Speaker, Sir, cattle rustling in this country has become a very common phenomenon. Last night, Igembe South, Igembe North, Tigania East and Tigania West which harbour the northern grazing area in the former Nyambene District, lost over 300 herds of cattle to Samburu cattle rustlers. What is the Assistant Minister doing to arrest this situation permanently? I would like him to consider arming some of the communities that do not have rifles, so that they can be in a position to protect themselves from the cattle rustlers.

Mr. Ojode: Mr. Speaker, Sir, I accept that the cattle rustling menace is a big problem. This comes as a result of illegal ownership of guns. In some areas, we had given the communities an opportunity to return the illegally acquired guns. We will disarm these communities. In Igembe---

Mr. Linturi: On a point of order, Mr. Speaker, Sir. The Igembe people are known to be very peaceful. The Government disarmed my constituents. So, when the Assistant Minister says that cattle rustling, especially in my constituency, is as a result of the possession of illegal firearms, he is not right.

He should apologise to this community that is permanently losing cattle to cattle rustling while the inefficiency on the part of the Government continues.

Mr. Ojode: Mr. Speaker, Sir, if the hon. Member gave me time, he would have listened to what I am saying. Cattle rustling is quite rampant as a result of the acquisition of illegal arms. It is not just within Igembe. Even the Samburus, who are armed, can steal cattle from Igembe. That is why we are disarming those who are having illegal arms. I have said in the past and I also confirm now that cattle rustling will end. We are trying our level best at the Office of the President. The cattle rustling menace was rampant in Turkana, Samburu, Pokot and Isiolo districts. But now, the menace has gone down. My colleagues should also thank us for having done a wonderful job. Within six months, we have reduced the level of cattle rustling. We are doing a good job for this country, but we need their co-operation and support. My Minister and I, will be visiting the former Nyambene District with all the leaders from the area, so that we can find a lasting solution to this problem.

Mr. Shakeel: Mr. Speaker, Sir, about five months ago, I brought the issue of cattle rustling in Kolowa East. The Assistant Minister---

Mr. Yinda: On a point of order, Mr. Speaker, Sir. I would like to know what interest the Member for Kisumu East Constituency has in cattle rustling.

Mr. Shakeel: Mr. Speaker, Sir, I think the hon. Member is ignorant of the fact that Kisumu Town East Constituency---

Mr. Speaker: Order, Mr. Shakeel! You are a Member of Parliament and, therefore, you have interest in the whole country!

(Applause)

Please, ask you question!

Mr. Shakeel: Thank you very much, Mr. Speaker, Sir, for your guidance. Kisumu Town East Constituency covers a very large rural part---

Mr. Speaker: What is your question, Mr. Shakeel?

Mr. Shakeel: Mr. Speaker, Sir, six months ago, we complained about cattle rustling to the Assistant Minister. First, he said that Kisumu does not have cattle. He then said he was going to make sure that we had an Anti-Stock Theft Unit in Kisumu Town East Constituency. However, we still do not have one. Could the Assistant Minister, please, tell me when we will get that Anti-Stock Theft Unit? He also said that the Luos of Kisumu Town East Constituency do not have cattle. I want him to apologise for that because we have cattle.

Mr. Ojode: Mr. Speaker, Sir, the Luos have cattle. What I do not understand from the hon. Member is whether he is talking about fish rustling or cattle rustling.

(Laughter)

Mr. Speaker, Sir, in Kisumu Town itself, even the city council does not allow the rearing of cattle in town---

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. Kisumu Town East Constituency covers a very large rural area. The Assistant knows that and in all rural communities, we have cattle. We border the Nandis on one side and there is cattle rustling in Kisumu Town---

Mr. Speaker: Order, Mr. Shakeel!

Mr. Ojode: Mr. Speaker, Sir, it is quite fortunate that I was born in Kisumu and I know that there has never been any problem with cattle rustling within Kisumu. However, there is a place called Kopere. Kopere is within the borders of Kipsigis and Muhoroni. If there is anything within Kopere and Nyakach, I am aware of that.

Mr. Speaker, Sir, in Kisumu Town East Constituency, I have never heard a case---

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Did you hear the Assistant Minister say that it is fortunate that he was born in Kisumu? Why is it fortunate that he was born in Kisumu?

(Laughter)

Mr. Ojode: Mr. Speaker, Sir, you know Kisumu is a city and if I am born within the city, that is an opportunity.

(Laughter)

Mr. Abdirahman: Mr. Speaker, Sir, the Assistant Minister has talked about disarmament. It is a very contentious issue in areas that are predominantly occupied by pastoralist groups. Disarming people without assuring them of their security and without ensuring that people who live across borders from Somalia, Ethiopia or Uganda--- What arrangements do they have with countries that are stable like Uganda in terms of ensuring that disarmament is not only done on one side but it is also done on all other parts?

Mr. Ojode: Mr. Speaker, Sir, as a Government, we cannot disarm and not provide security. We have enough security personnel. They will guard people in areas where we have cattle rustling menace. Where we do not have security personnel, we will recruit Kenya Police Reservists (KPR). So, do not worry about security. We are taking care of the security of this country very well.

Mr. Pesa: Mr. Speaker, Sir, while I want to commend the Assistant Minister for at least taking action when I have been complaining about cattle rustling in Migori, there is a new dimension which he should address now. Of late, these people have decided to run to the neighbouring country in the southern part. I do not know what steps the Government is taking to ensure that we have security along the border with our neighbours down in Tanzania.

Mr. Ojode: Mr. Speaker, Sir, we know their tactics and we have deployed enough security personnel within our international borders.

Mr. Speaker: Last question, Mr. K. Kilonzo!

Mr. K. Kilonzo: Mr. Speaker, Sir, I wish to thank the Commissioner of Police Maj-Gen Ali through the Assistant Minister. When this problem broke out, he moved very quickly and deployed the ASTU into my constituency. I am very happy. The Assistant Minister seems not to be aware of this. However, I want the Assistant Minister to tell this House what action he is going to take to stop fish rustling in Kisumu Town like *Mheshimiwa* has asked.

(Laughter)

Mr. Ojode: Mr. Speaker, Sir, if he can bring a substantive Question with regard to fish rustling, I will reply.

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

Mr. Speaker: What is it, Mr. Shakeel! Make sure, it is a point of order because you are now treading on dangerous grounds!

(Mr. Shakeel resumed his seat)

(Laughter)

Very well! Next Question!

*Question No.547*DISMISSAL OF POLICE CONSTABLE
A.M. MURINGI

Mr. Mbau: Mr. Speaker, Sir, I have not received a written answer.

Mr. Speaker: Mr. Assistant Minister, the hon. Member does not have a written answer!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I had supplied the answer. I could read the answer or we could go through the second round so that I give him the written answer and then he can ask the Question.

Mr. Speaker: Mr. Mbau, are you prepared to proceed or you want some time to study the answer?

Mr. Mbau: Mr. Speaker, Sir, I can have some time to study the answer and then ask the Question later.

Mr. Speaker: Very well! Mr. Assistant Minister, let the hon. Member have access to your written answer.

Next Question by Mr. Mwaita!

Question No.616

REPAIR OF NAKURU-MARIGAT ROAD

Mr. Mwaita is not here! Therefore, the Question is dropped!

(Question dropped)

Next Question by Mr. Mbadi!

*Question No.623*RECONSTRUCTION OF RODI-KOPANY-
KARUNGU ROAD

Mr. Mbadi asked the Minister for Roads what plans he has to reconstruct Rodi-Kopany-Karungu Road (C18), which is in a deplorable state.

The Assistant Minister for Roads (Dr. Machage): Mr. Speaker, Sir, I beg to reply.

Mr. Speaker, Sir, in June, 2008, the tender for the repair and rehabilitation of the road was advertised by the Ministry and the procurement process is on-going.

Mr. Mbadi: Mr. Speaker, Sir, I really do not want to go into the details of the economic importance of this road to the region. However, if the tender for repair and rehabilitation was done in June, 2008, could the Assistant Minister tell me exactly when work will start on this road? I am more interested in the results and not the process.

Thank you very much.

Dr. Machage: Mr. Speaker, Sir, in the current financial year 2008/2009, I have allocated a total of Kshs12,705,000 for routine maintenance of this road as I procure for a more comprehensive management of this road, which is very important. I agree that it is a very important economic network

for that area.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. The Assistant Minister has still not made it clear to me on which tender was done. Was it for the maintenance or for comprehensive repair of Rodi-Kopany-Karungu Road? Could he clarify the one in process? Is this different or it is the temporary measures he is referring to here in the answer?

Dr. Machage: Mr. Speaker, Sir, there are two issues here; repair and rehabilitation and routine maintenance. The money I have allocated is for routine maintenance to make that road at least useable, as I plan to have a comprehensive repair and rehabilitation of this road. So that money is for the contractors. If they are not on site, please, let me know.

Eng. Rege: Mr. Speaker, Sir, could the Assistant Minister tell this House when the Kendu Bay-Homa Bay Road which has been tendered will be repaired? I am told that work was supposed to have started in January this year but until now, it has not.

Dr. Machage: Mr Speaker, Sir, this is a completely different Question. However, I have taken great notice of the fact that the contractor has not started the work. He should have started the work. I will check on it.

Mr. Lekuton: Mr. Speaker, Sir, the problem of deplorable roads is all over the country. In my case, the problem is insecurity. If you could repair our roads, they could be of great help to our security forces who travel those vast areas in northern Kenya to catch up with cattle rustlers. Could the Ministry of Roads consider having a joint programme with the Ministry of State for Provincial Administration and Internal Security to map those specific roads within those specific areas in the northern part of Kenya to reduce cattle rustling?

Dr. Machage: Mr. Speaker, Sir, the hon. Member is very right. Most roads in some of those areas in this country are very important for maintaining security. My Ministry is very much in touch with the Ministry of State for Provincial Administration and Internal Security to prioritise the roads that we finance. The prioritization of roads, as I have said in this House, will be ready, maybe, in the next two or three months. Every hon. Member will see which road in his constituency is actually prioritized.

Mr. Mbadi: Mr. Speaker, Sir, the Rodi-Kopany-Karungu Road is 48 kilometres and Kshs2 million is too little. I had expected the Assistant Minister to give a commitment that, in the financial year 2009/2010, that road will be allocated enough money for comprehensive repairs and rehabilitation. Could the Assistant Minister confirm that?

Dr. Machage: Please, be assured so long as this House gives me the money.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Next Question by Mr. Mbugua! The hon. Member for Kamukunji!

Question No.620

COMPLETION OF MUTHURWA MARKET

Mr. Mbugua is not here. Question dropped.

(Question dropped)

Next Question. The hon. Member for Nyatike!

Question No.574

CONSTRUCTION OF DYKES/DAMS

ALONG RIVER KUJA

Mr. Anyanga asked the Minister for Water and Irrigation what steps she is taking to construct dykes and dams along River Kuja to control perennial flooding in Nyatike Constituency and other surrounding areas.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Speaker, Sir, I had a long discussion with the hon. Member, together with my Minister. First of all, I would like to congratulate him for achieving what other Members of Parliament from that area have not achieved after 45 years; that is pushing for a new district called Nyatike District.

We have agreed that we are going to tour the district in April. We have confirmed that with the Minister. That way, we can tackle the water issues collectively in the district.

Mr. Anyanga: Mr. Speaker, Sir, thank you so much. I think that is a good idea because if the Minister goes to Nyatike, I am sure everything will be addressed. So, I have no objection on that.

Thank you so much.

Mr. Deputy Speaker: Very well. The hon. Member himself has no further question. Anybody else interested?

Yes, Mr. Linturi.

Mr. Linturi: Mr. Speaker, Sir, in this country, it is not only Nyatike that does not have water. The lower zones of Igembe Constituency especially Kianda, Ogoti and Suni are areas that have no gravity-flowing water.

Mr. Assistant Minister, could you kindly assist us get some water or dams? As you remember sometimes back, I gave a notice to your good office about our problems in the lower sides of Igembe Constituency.

Mr. Kiunjuri: Mr. Speaker, Sir, that applies to all Members of Parliament. Those who come to our offices, we usually come up with an arrangement on either to tackle the questions from the office or go to the ground. That can be done on an individual basis. If you want to raise a Question in the House, we tackle it in the House. If you come with a certain request in our offices, we deal with it there. So, any Member of Parliament is free to walk into our offices; either my office, the Minister's office or the Permanent Secretary's office at any day or at any time.

Mr. Pesa: Mr. Speaker, Sir, while I also appreciate the gesture by the Assistant Minister to tour Nyatike, I just want to know whether he can also assure me, through this House that, on his way to Nyatike, which was split from Migori, he will pass through Migori and see the problems we have on the same matter?

Mr. Kiunjuri: Mr. Speaker, Sir, we can try to look at the neighbouring districts, depending on the number of days that we have. Considering the distance from Nairobi, it would be good to spend more than one day in that area. So, you can come so that we can programme the trip together. If it is possible, we shall pass through Migori.

Mr. Speaker: Last question, Eng. Rege!

Eng. Rege: The Assistant Minister does not expect every Member of the House to walk into their offices to look for water designs. The water system design in this country is wanting. I have been to most constituencies in this country and the water designs are very bad, particularly Karachuonyo---

Mr. Speaker: Eng. Rege, could you ask your question?

Eng. Rege: I am asking the Minister to kindly come to Karachuonyo to look at the water system design, please.

Thank you.

Mr. Speaker: Mr. Assistant Minister, do not respond because there is no question that has been asked!

Next Question by Mr. Chachu!

Question No.628

CRITERIA FOR ALLOCATION OF
FUNDS BY NWC&PC

Mr. Chachu asked the Minister for Water and Irrigation:-

- (a) what criteria does the National Water Conservation and Pipeline Corporation use in allocating funds for drilling boreholes in arid districts;
- (b) on what basis did the corporation allocate only one borehole for Chalbi District during this Financial Year 2008/2009; and,
- (c) what steps she is taking to ensure equity in allocation of resources for drilling boreholes in arid districts.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Speaker, Sir, I beg to reply.

(a) Funds for implementation of borehole projects in arid districts are normally allocated depending on the water needs of the respective districts and the total available budget. Other alternative water sources are also considered, particularly water conservation structures such as dams and pans in cases where ground water potential is poor.

(b) In the beginning of every financial year, the corporation, in liaison with the respective water services boards agrees on the projects to be implemented. In the financial year 2008/2009 Marsabit District has a budget provision of Kshs10 million. The funds are to be used in the drilling and equipping of one borehole at Loyangalani, operationalization of four existing boreholes at Furakana, Korr, Burharamia and Kamboe, rehabilitation of another four boreholes at Burgabo, Dosawacho, Turbi and Bubisa.

(c) Before the allocation of the available funds is done, there are a lot of consultations between the corporation, Northern Water Services Board and district leaders on how the available resources should be shared. That process ensures equitable allocation of available resources as the needs of various districts are assessed.

Mr. Chachu: Mr. Speaker, Sir, I thank the Assistant Minister for attempting to answer my Question. My question is very clear. I wanted to know on what basis did the National Water Conservation and Pipeline Corporation allocated only one borehole to Chalbi District during the last financial year. He is talking about Marsabit District. My question is very specific about Chalbi District, which is a gazetted new district. Could the Assistant Minister answer my Question?

Mr. Kiunjuri: Mr. Speaker, Sir, when we were planning for the allocation of funds, we considered Chalbi within the other district; even Saku. We had not taken into consideration that it was a district on its own. So, we were planning for the larger Marsabit District. But from this financial year, we shall consider Chalbi as a separate district. However, the criteria still stands. We have to consult local leaders, Northern Water Services Board and then the Ministry. The three have to agree. It is upon Members of Parliament to attend district meetings, so that they can prioritise their needs.

Mr. Letimalo: Mr. Speaker, Sir, people in Arid and Semi-Arid Lands (ASALs) depend entirely on water pans or service dams for water, because boreholes have been proved to be unreliable due to low water table. What measures has the Ministry put in place to respond to emergencies when these water pans or service dams dry up? We have a big problem in Samburu East District.

Mr. Speaker: Order, Mr. Letimalo! The question is asked. Allow the Assistant Minister to respond!

Mr. Kiunjuri: Mr. Speaker, Sir, we do sympathise, especially with northern Kenya and

ASAL districts as a whole. But Members of Parliament should also realise that much as we want to mitigate on those problems, it has now occurred that the situation is almost the same in the whole country. This is because even when we have water towers and rivers are supposed to flow, they are no longer flowing. Therefore, it is very difficult now to even deal with emergencies in the northern districts. However, we are trying as much as possible. It is upon the Members of Parliament now to lobby together with the Ministry, so that we can allocate more money to the Ministry of Water and Irrigation. That way, we shall be sorting out our problems.

As an emergency measure, we are trying to go in line with the Ministry of Roads and inviting people who are willing to invest in water, so that we can get grants and other loans. This will ensure that we do not only rely on the national budget, so that we can construct more dams and get other sources of water.

Mr. Abdirahman: Mr. Speaker, Sir, the reforms in the water sector have brought a lot of confusion. You will not even know who is implementing what. Currently, you will find that the National Water Conservation and Pipeline Corporation has the equipment and resources. The Water Services boards are not in control. Could the Assistant Minister consider directing funds to the water service boards, so that the National Water Conservation and Pipeline Corporation can only implement what you agree as a Ministry?

Mr. Kiunjuri: Mr. Speaker, Sir, it is true that the National Water Conservation and Pipeline Corporation is supposed to be a contractor. However, it has been handling both the construction and money to implement. This year, we have tried as much as possible, to channel money to the relevant water boards, so that they can even decide and allocate funds for easier implementation. However, the National Water Conservation and Pipeline Corporation will still be charged with the responsibility of construction and they can be hired by the boards.

Mr. Lekuton: Mr. Speaker, Sir, I agree with my fellow hon. Member, Mr. Letimalo, that boreholes are a way of getting water, but not totally. In my constituency, there are huge mountains with a lot of rocks that could be an incredible water catchment area. Could the Ministry undertake a study in Laisamis District and find out how much rain water we can harvest from those mountains?

Mr. Kiunjuri: Mr. Speaker, Sir, much as I agree with him that we should carry out a research, hon. Members should be aware that we have water from an organization called Water Resources Management Authority (WRMA), where we have money for water catchment and river embankment rehabilitation. Since the money is there, hon. Members should visit our offices so that we can issue actual directives. For example, water catchment should not be a problem. You just have Water Users Associations (WUAs) which can be guided clearly on the projects we are implementing. We have Kshs500 million for that. We have not even spent Kshs150 million. Hon. Members from today should go and sit down with their Water Users Associations, for every one river that exists. Where we have no rivers, the low catchment areas can be considered the way we consider rivers or any other source of water. We shall be able to implement those projects. Otherwise, be coming to our offices. Much as I agree that all of you cannot come, we shall inform you on how you can also do your proposals.

Mr. Speaker: Last question, Mr. Chachu!

Mr. Chachu: Mr. Speaker, Sir, the Assistant Minister in his response, did indicate that the Ministry has set aside some money during this financial year to rehabilitate boreholes in Burgabo, Dosawacho, Turbi and Bobisa. When will this be done?

Mr. Kiunjuri: Mr. Speaker, Sir, we carried out advertisements for bidding for construction and equipping of boreholes. The tender came up in the last two weeks and by the end of this week, I believe 21 days will have lapsed. We shall then be able to get contractors to do the work. So, I would like to assure hon. Members that most of the work, including capping and drilling will be done in the next three weeks. Contractors should be on the ground by then.

*Question No.633*GOVERNMENT PLANS TO ASSIST
AVOCADO FARMERS IN KANDARA

Mr. M. Kamau asked the Minister for Agriculture what plans the Ministry has in assisting avocado farmers in Kandara reap maximum benefits from their produce, especially in light of a struggling tea sector, the only other commercial crop supporting the people.

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

My Ministry together with the stakeholders has undertaken the following measures to assist avocado farmers in Kandara reap maximum benefits from their produce:-

(i) We have initiated the process of reviewing the contractual arrangement between the farmers and avocado buyers for acceptability to enhance benefits.

(ii) We have introduced farmers to micro-franchising for oil extraction.

(iii) We have linked the farmer groups to the local Constituencies Development Fund (CDF) for financing micro-franchising for avocado oil extraction.

(iv) We have encouraged farmer groups through Equity Bank partnership to access credit for crop improvement.

(v) We have enhanced capacity building to all avocado growers on the avocado value chain for the production of highly marketable quality products.

(vi) We have approved the proposal for a private entrepreneur for the construction of avocado oil processing plant in Kandara Constituency.

Mr. M. Kamau: Mr. Speaker, Sir, I would like to thank the Assistant Minister for giving that answer, but it leaves a lot to be desired. This is because he is talking about encouraging the farmers to go to the bank, yet I have not seen anybody getting money from Equity Bank. Sometime in April, 2007, a ban was imposed by the Government of South Africa citing a funny disease called fruit fly. Could the Assistant Minister tell us what he is doing to ensure that we continue selling these fruits to South Africa?

Mr. Mbiuki: Mr. Speaker, Sir, the Ministry intends to link up with relevant market players. So far, we have contacted even a company in New Zealand which is in the process of setting up a multi-million factory in Kandara Constituency. So, at the end of the day, the avocados will have an international market.

Mr. C. Mwangi: Mr. Speaker, Sir, the Assistant Minister has made an effort to try and explain about the fruit fly that affects the avocados. Could he tell us also how he is going to assist the mango growers from lower Kiharu region to market their crop in the international market?

Mr. Mbiuki: Mr. Speaker, Sir, the Ministry is aggressively pursuing the market for mangoes in the entire international market. We are sure that by the end of this year, we shall have secured an international market for the mangoes, more so, on their value addition. This is because you will find that mangoes come in a big season which normally expires and we have a lot of wastage. We are trying to secure an international company that can set up a factory here in the country.

Mr. Speaker: Last question, Mr. J.M. Kamau!

Mr. M. Kamau: Mr. Speaker, Sir, I want to thank the Assistant Minister for the answers he has given. But we have a problem with avocados in Kandara. This is because we have about 125,000 trees, but they do not seem to be producing the best grade that is required in the international market. What is the Assistant Minister doing to help us to carry out a research that will come up with modern methodologies of growing avocados in our constituency?

Mr. Mbiuki: Mr. Speaker, Sir, the Ministry of Agriculture has established training for farmers

in Kandara Constituency through the Kenya Agricultural Research Institute (KARI). We have established high quality avocados farming in the entire country. So, we are here to assure the House that we are going to enhance the quality of the avocados we have in the country, so that farmers in Kandara can reap maximum benefits from their harvest. We are also going to ensure that most farmers do not rely only on maize and tea but also rely on avocados.

Question No.655

GOVERNMENT POLICY ON TUITION

Mr. Yakub asked the Minister for Education:-

(a) whether he could indicate the official learning hours for public primary schools and state the Ministry's policy on tuition or extra classes; and,

(b) what the Government is doing to stop the common practice of teachers charging extra fees for tuition, considering that it is now Government policy to provide free primary education.

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

(a) The official learning hours in a day in public primary schools is: Lower primary, from 8.00 a.m. to 12.45 p.m., making it four hours and 45 minutes with three and half contact hours. For upper primary, it is from 8.00 a.m. to 4.30 p.m., including assembly, break, lunch and games, giving a total of eight hours 30 minutes, five and a quarter hours being contact hours.

(b) The Ministry has banned tuition, or extra lessons, in all public schools; instead it encourages remedial teaching which involves spending extra time to attend to slow learners or children with difficulties, in order to assist them catch up with the rest of the learners. This does not involve payment by parents.

Field officers and heads of schools have been given firm instructions and guidelines on tuition and mock examinations to ensure that the ban on tuition, or extra fee charged for tuition, is enforced. This has been clearly outlined in our circular letter dated 18th August, 2008.

Mr. Yakub: Mr. Speaker, Sir, I wish to thank the Assistant Minister for his answer, but I also wish to inform him that in spite of the circular dated 18th August, 2008, up to now, in Mombasa, there are several schools which teach for almost 14 hours, with 12 contact hours. What is the Ministry going to do with such schools which have more than ten contact hours?

Prof. Olweny: Mr. Speaker, Sir, I did not get him clearly. The consultations here are too loud! Could he repeat it?

Mr. Speaker: Mr. Yakub, repeat the question only!

Mr. Yakub: Mr. Speaker, Sir, the question is: What action will the Ministry take against schools that are teaching for more than ten contact hours?

Prof. Olweny: Mr. Speaker, Sir, anybody in public schools violating what we indicated in the circular is subject to disciplinary action. Let such teachers be reported and we shall take the necessary action against them.

Mr. Yakub: Mr. Speaker, Sir, in part "b" of his answer, the Assistant Minister mentioned that there is a ban on tuition, but, unfortunately, I would like to inform him that there are certain schools in Mombasa which have tuition on Saturdays and Sundays. Could he use the Municipal Education Officers (MEOs) to stop that trend with immediate effect?

Prof. Olweny: Mr. Speaker, Sir, I have said that it is not allowed. Any head teacher, principal or school management committee allowing school premises to be used for tuition outside the normal teaching hours is subject to disciplinary action. Please, give us information on those schools and we shall take appropriate action. We shall do it!

*Question No.653*MARKETING OF TOURIST ATTRACTIONS
IN NORTHERN KENYA

Mr. Lekuton asked the Minister for Tourism what steps he is taking to market tourist attractions in north Kenya region following the on-going construction of Isiolo-Marsabit Highway.

The Assistant Minister for Tourism (Ms. Mbarire): Mr. Speaker, Sir, I beg to reply.

In March 2008, the Kenya Tourism Board (KTB) organised a familiarisation tour of the media, which included the KBC, KTN, NTV, *The People*, Citizen TV, CNBC of South Africa and *Twende Magazine* to market northern Kenya as a tourist destination. The areas visited included Samburu, Marsabit, Sibiloi, Loyiangelani, Maralal and Archers Post, among others. Further, the KTB has produced a brochure on northern Kenya and a comprehensive map of tourist hotels, lodges and routes that cover not only the northern areas of Kenya but also the whole country. That map is distributed at all major world travel shows, exhibitions and Kenyan embassies abroad. Parts of northern Kenya have also been identified as important bird areas (IBA). This is an important tourist product that targets wealthy tourists. Under Vision 2030, the Government is embarking on establishing the Isiolo Resort City, which will include an international airport. This will have far reaching touristic and commercial benefits to the whole region. Once the road is completed, more marketing initiatives will follow.

Mr. Lekuton: Mr. Speaker, Sir, I would love to believe what the Assistant Minister has said; that all those TV stations went up north because I have never heard of that. Nevertheless, we are dealing with a new frontier of tourism now that we have the road from Isiolo to Marsabit tarmacked, and, hopefully, to Moyale. We have a shift in interest in tourism. Our country has relied on the "Big Five" syndrome for many years. Based on the speciality in those regions of the country, could the Ministry shift the way it markets tourism in northern Kenya? For example, we have some serious mountain climbing, fishing, public sites like Kobi Fora, Sibiloi and Dessert Museum. Could we have a package, or a concept similar to the "Big Five" specifically geared to northern Kenya?

Ms. Mbarire: Mr. Speaker, Sir, we realise that Kenya has only been known as a safari and beach destination. It is in our interest to diversify tourism products. Northern Kenya is part of the areas that we will be targeting. The Ministry will be undertaking a trip to northern Kenya, and all hon. Members from that region are encouraged to ensure that they accompany us as we go to those regions to identify the tourist sites that can become a product for marketing out there.

Mrs. Noor: Mr. Speaker, Sir, our country is very rich in wildlife; in particular, Ijara District has a unique antelope called "Hilora". What is the Ministry doing to promote Hilora in Ijara District?

Ms. Mbarire: Mr. Speaker, Sir, as I have said, we are keen on identifying new tourism products, not only from northern Kenya, but in all parts of Kenya. We want to partner with the leaders in all these regions in identifying these new products, so that we can ensure that we begin marketing them. We also have the Tourists Destination Map of Kenya, which was developed by the Kenya Tourism Board (KTB). I will table it and ask the Members of Parliament who are really interested in tourism to look at what we have and ensure that all the products that we have listed here actually take care of their concerns. In case there is anything missing out, I request the hon. Member to make sure that she avails herself during our trip to northern Kenya, so that, that particular issue can be taken on board.

I wish to table the map.

*(Ms. Mbarire laid the map
on the Table)*

Mr. Letimalo: Mr. Speaker, Sir, the road to Isiolo passes through an area with a lot of community-based conservancies. How has the Ministry taken care of these conservancies to make sure that they benefit from the tourism attractions that you are advertising. That area has potential for eco-tourism.

Ms. Mbarire: Mr. Speaker, Sir, once we identify all the tourism products that we want to start marketing, and once we bring to this House the Kenya Tourism (Amendment) Bill, we will be decentralising tourism circuits into various regions. Each region will have a tourism board that will ensure that the marketing of whatever products that are in that area, is undertaken. We will give those boards enough money to market their regions.

An hon. Member: Very good!

Ms. Mbarire: Mr. Speaker, Sir, I would, therefore, urge that once that Bill comes to this House, hon. Members do support it. That is the only way we can ensure that money will be in every region for marketing.

Mr. Namwamba: Mr. Speaker, Sir, it has been customary for the Ministry to indicate that, say, region "B" or region "X" is the next frontier for tourism. A few years ago, the western circuit was identified by the Ministry as the next big thing in the exploitation of the tourism potential of this country. So, I would want the Assistant Minister to tell the House what became of that big dream of exploiting the western circuit, including my own constituency of Budalangi, which has a lot to offer in respect of tourism. Does the Ministry have any concrete plan budgeted, for exploitation of these new frontiers for tourism?

Ms. Mbarire: Mr. Speaker, Sir, that dream still remains very much alive in the Ministry. The biggest challenge we have been having is lack of enough resources to enable us do proper marketing of all the tourist destinations within the country. The regional tourist boards will consist of Mount Kenya Tourism Circuit, Western Tourism Circuit, Rift Valley Tourism Circuit, Northern Kenya Tourism Circuit and Coast Tourism Circuit. We will see much more happenings, because they will decentralise the activities of the KTB.

I would like to tell Mr. Namwamba that the Western Tourism Circuit is even more critical to us right now than before. We want to ensure that between Nairobi and all the way to Nyanza Province, we have in place a proper routing that will lead up to Kogelo. So, hon. Members, rest assured that my Ministry will be working very closely with the hon. Members. We have identified bull fighting as one of the tourist attraction activities. I am sure that this will also help Dr. Khalwale to improve on his products. So, feed the bulls.

Mr. Lekuton: Mr. Speaker, Sir, my last question was actually to know the composition of the KTB. Since the Assistant Minister has assured us that each region will have its own tourist board, I have no further questions.

Mr. Speaker: Next Question, Mr. Nyamai.

Question No.431

IRREGULAR ACQUISITION OF YATTA
RANCHING SOCIETY LAND

Mr. Nyamai asked the Minister for Co-operative Development and Marketing:-

(a) whether he is aware that B2 Yatta Ranch Co-operative Society is threatened with extinction as a result of irregular acquisition of the land on which they graze their

cattle; and,

(b) what action is being taken to ensure that the future of the society is safeguarded.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Speaker, Sir, I beg to reply.

(a) I am aware.

(b) In the meantime, my Ministry is consulting with other relevant Government departments and Ministries in order to find a solution to the problem. This is because the matter cuts across a number of Ministries such as the Ministry of Lands, the Ministry of Local Government, and the Ministry of State for Provincial Administration and Internal Security. At the moment, there is also a pending court case on this matter. Hence, the need to await the ruling of the court.

Mr. Nyamai: Mr. Speaker, Sir, I would like to thank the Minister for that answer. I appreciate the issues he has raised. However, I need his confirmation that he is doing something about it. I believe by the time they will be through with the consultations, there might be nothing to safeguard. What is the Ministry doing, save for the ongoing court case, to make sure that things on the ground are okay?

Mr. Nyagah: Mr. Speaker, Sir, we are aware of security problems as a result of many squatters moving into the area illegally. We have had meetings with the various Ministries in order to address the security and squatter problems, which are likely to cause problems in that particular area. We know that the co-operative society wishes to develop a half of that land and make it productive by planting cash crops that will help conserve the environment and also help the people of that area.

Mr. Nyamai: Mr. Speaker, Sir, I would like to thank the Minister for that commitment. We had discussed this matter with the Minister. I know that he is facing the same problem back in his own constituency. I hope that he will move fast to safeguard what is on the ground.

Mr. Nyagah: Mr. Speaker, Sir, I do not have a constituency. Mr. Nyamai is referring to my former constituency, which is now Mr. Musyimi's constituency. However, we will work closely with the leadership of the area, because there are political implications in dealing with those issues. The Ministry will take a leading position in order to solve the problem.

Mr. Speaker: Next Question, Mr. Abdirahman.

Question No.615

ESTABLISHMENT OF PASSPORT OFFICE
IN NORTH EASTERN PROVINCE

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

(a) when the Ministry will establish an office in the North Eastern Province (NEP) for the issuance of passports to residents in those areas; and,

(b) when he will gazette and post Immigration Officers to Diff Division of Wajir South District, considering that the Kenya Revenue Authority (KRA) has also gazetted Diff Division as a Customs Border Post.

The Assistant Minister, Ministry of State for Immigration and Registration of Persons (Mr. Baya): Mr. Speaker, Sir, I beg to reply.

(a) My Ministry will upgrade the current Immigration Office at Garissa to enable it issue passports before the end of the current financial year. Similar services will be extended to Eldoret.

(b) The Ministry plans gazette of 16 new border control posts, including Diffu Division in the NEP to address the challenges of a porous border. However, due to financial constraints, this had to be done in two phases.

In the current financial year, the following border control posts have been gazetted: Ngomeni within Kilifi District, Vanga in Kwale District, Kilifi Town within Kilifi District, Mbita Point in Suba District, Sio Port in Busia District and Mihuru Bay in Migori.

The gazettement of Diff as a border control post and the subsequent posting of Immigration Officers will be undertaken in phase two, in the 2009/210 financial year. This will be done along with other control border points, namely, Elwak in Mandera District, Rhamu, which is also in Mandera, Kolbiyo in Ijara, Banya Fort in Turkana District, Lokiriama in Turkana District and Malkamar within Mandera District.

Mr. Abdirahman: Mr. Speaker, Sir, I want to sincerely thank the Assistant Minister for the very good response. This is something that we have waited for, for a long time. I would like to ask him to ensure that he implements what he has proposed.

Mr. Baya: Mr. Speaker, Sir, I want to assure the hon. Member that it will be done. On 2nd February, we sent officers---

Mr. Deputy Speaker: Order, Mr. Assistant Minister! You have been asked to give the assurance which you have done. You should stop there.

Mr. Baya: Thank you, Mr. Speaker, Sir. I assure him.

Mr. Chachu: Mr. Speaker, Sir, could the Assistant Minister also include Moyale District? Moyale is a border town with a well established border post that has been established by the Ministry for quite some time. Could he consider also posting senior officers so that passports could be issued to the residents of Moyale and the larger Marsabit?

Mr. Baya: I wish to assure the hon. Member that the other border control points will be considered because most of our borders are very porous. The next lot will be posted in the areas I have talked about.

Mr. Speaker: Next Question, Mr. Chanzu!

Question No.592

UPGRADING OF MBALE RURAL
TEACHING HOSPITAL INTO MTC

Mr. Chanzu not here? The Question is dropped.

(Question dropped)

Question No.617

ILLEGAL ACQUISITION OF LAND IN KISUMU

Mr. Olago asked the Minister for Medical Services:-

(a) whether he could explain the circumstances under which individuals/developers acquired the houses/lot numbers KISU/HG/73, KISU/HG/74, KISU/HG/75, KISU/HG/76, KISU/HG/79, KISU/HG/80, KISU/HG/81 and unregistered HG Block 12/348, 349 and 353 in Milimani area which were part of Nyanza Provincial General Hospital; and,

(b) what steps he is taking to ensure the allocations are revoked and the proprietorship thereof reverted to the Government.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, my Permanent Secretary has written to the Ministry of Housing referring this Question to them because it

really belongs to that Ministry. The reason for this is that matters of housing are handled by the Ministry of Housing. We have established that these houses were constructed with funds from the Russian Government for use by senior staff at the New Nyanza General Hospital. The intention was to have them housed in a nearby area where they could be reached at short notice. Since the management of all Government of Kenya houses falls within the docket of the Ministry of Housing, we have requested the PS to take up this matter and let the Ministry answer the Question accordingly. I have informed my colleague, Mr. Shitanda.

Mr. Olago: On a point of order, Mr. Speaker, Sir. I expected the Minister to be familiar with the circumstances surrounding the allocation. In view of what he has said, I think it would be in order that the Question is not referred to the Ministry of Housing, but that it is referred to the Minister for Lands.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Unfortunately, Mr. Olago Aluoch, Member of Parliament for Kisumu West is not in charge of ordering Government business. He should politely accept the answer from the Minister for Medical Services.

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

Mr. Speaker: You have received an answer. Have you not?

Mr. Olago: Mr. Speaker, Sir, the Minister has said that the answer to this Question would be given by the Minister for Housing. He only gave the historical background of the construction and the reason for the construction of the houses.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, it is history which informs events of the moment. I could not divorce history from the action to be taken now which shall be taken by the Ministry of Housing.

Mr. Speaker: Very well! As it is, the Question is answered, Mr. Olago. The Minister has told you what action he has taken and the balance of action to be taken as the Minister contends will be by another Ministry. So, the question, for that purpose, is answered.

*(Hon. Members applauded as
His Excellency the President
entered the Chamber)*

We will go back to the Question by Mr. Mbau.

Question No.547

DISMISSAL OF POLICE CONSTABLE
A.M. MURINGI

Mr. Mbau asked the Minister of State for Provincial Administration and Internal Security:-

- (a) whether he is aware that Police Constable Anthony Maina Muringi (P/No.77572) was dismissed from the force even after proving that he was actually hospitalised in Nyahururu District Hospital for the days he was declared absent from station,
- (b) whether he could confirm that the officer actually booked his illness in the OB at Loruk ASTU base on 13th January, 2008,
- (c) whether he is further aware that the then Nyahururu Officer Commanding Police Station sent a signal message to the officer's station stating the facts of the officer's absence from duty; and,
- (d) what urgent steps he has taken to address Constable Muringi's situation.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I beg to reply.

(a) The police constable (P/No.77572) was dismissed from the force after having been charged and convicted on his own plea of guilty for an offence of being absent without leave for a total of 60 days. The constable was informed of his right of appeal against the sentence of dismissal---

*(Hon. Members applauded as the
Prime Minister entered the Chamber)*

The constable was informed of his right of appeal against the sentence of dismissal within seven days from the date of sentence as per the police regulations but he never appealed.

(b) The officer booked his departure to Marigat Health Centre for treatment. He never returned to the station since then. After being absent without leave for 21 days he was declared a deserter. Sixty days elapsed and the officer was arrested within Ng'arua Police Station area on 16th March, 2008, where he was engaged in petty criminal offences. The officer never produced any documents to show that he was admitted in hospital for all the days he was absent.

(c) The OCS Nyahururu had on 14th January, 2008, sent a signal to the effect that the constable was admitted in hospital. The signal was based on false information from the constable. A visit to the health facility by OCS, Nyahururu, to ascertain if, indeed, the officer was hospitalised found that he was not hospitalised.

(d) The officer should be advised to appeal again in order for us to consider his case along with others.

Mr. Mbau: Mr. Speaker, Sir, I want to thank the Assistant Minister for that partially satisfying answer. I only want to make the correction that this officer whose name is Anthony Maina actually got admitted to Nyahururu District Hospital and that the documents are here. The admission and discharge form is here with me. This officer sent a signal to his commandant, which copy I have, signifying that he had reported to this base. On the basis of the last answer, which says that "we advise this officer to appeal again", and this will be a second appeal--- He had appealed again on 20th April, 2008. The response that he did not appeal is not in order. Since the Assistant Minister admits that the officer will be given a second chance to appeal for re-consideration and since I believe in all things that are said in this House, I want to say it is very gratifying. This officer will be advised to appeal.

Mr. Speaker: Order, Mr. Mbau! Ask your question!

Mr. Mbau: Mr. Speaker, Sir, my question is--- I hereby want to thank the Assistant Minister for bringing in---

Mr. Speaker: Order, Mr. Mbau! Order, Mr. Mbau! If you have no question, just resume your seat!

Is there anybody else who is interested? Yes, Mr. Olago?

Mr. Olago: Mr. Speaker, Sir, the issue of discipline in the Police Force has been reduced to a joke. That is because in the Orderly Room proceedings or at the Public Service Commission, senior officers take constables, such as that one - very lightly. There are matters that are either not handled or they are kept in abeyance for too long.

In the circumstances, Mr. Speaker, Sir, what is the Assistant Minister doing to ensure that issues concerning junior officers are dealt with expeditiously?

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

Mr. Speaker: What is it, Mr. Ruto?

Mr. Ruto: Mr. Speaker, Sir, hon. Ojode is answering this Question on behalf of the Office of the President. The Minister in charge is here and the President, himself, is also here. Would I be in order to request that he lets his seniors answer the Question?

(Laughter)

(Applause)

Mr. Speaker: Order, Mr. Ruto! Order! Order! Order! You are out of order, Mr. Ruto! Mr. Assistant Minister, proceed! Your Standing Orders tell you what a Minister is. As you know very well, the definition of a Minister includes the Assistant Minister!

Mr. Ojode: Thank you, Mr. Speaker, Sir, for coming to my aid.

Mr. Speaker, Sir, first, if I could respond to hon. Olago's question, the regulations are quite clear. If that constable deserted duty for 60 days, ordinarily, he has to be dismissed.

Mr. Speaker, Sir, that is not a requirement just within the Police Force, but even in other institutions. If you desert duty and your whereabouts are not known, you will definitely be interdicted and, later on, summarily dismissed.

Mr. Speaker, Sir, we have accepted that we will consider that case once he appeals. I would like the hon. Member to hand in some of the documents that he is having. We can peruse them and see what is in the file and compare. Otherwise, we will assist the fellow if, at all, he was dismissed wrongly.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Last question, Mr. Mbau!

Mr. Mbau: That is why I said, Mr. Speaker, Sir, thank you. The Assistant Minister foots the bill. The seniors do not have to answer for him. I thank him, once again.

Mr. Speaker: Very well! That brings us to the end of the matter.

Question No.439

NUMBER OF POLICE OFFICERS
UNDER INTERDICTION

Hon. Members, by mutual agreement between Mr. Eugene Wamalwa and the Minister, Question No.439 is deferred until Tuesday next week!

(Question deferred)

Question No.620

COMPLETION OF MUTHURWA MARKET

Mr. Speaker: Hon. Members, Question No.620 is, for different reasons, deferred also to Tuesday next week!

(Question deferred)

Hon. Members, that brings us to the end of Question Time. We will take requests for Ministerial Statements as the Chair has had notice of. We do not have time to reach Ministerial Statements.

POINTS OF ORDER

RISING LEVELS OF CORRUPTION AND
IMPUNITY IN GOVERNMENT

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

Mr. Speaker: What is it, Mr. Linturi:

Mr. Linturi: Thank you, Mr. Speaker, Sir. On 21st January, 2009, I sought a Ministerial Statement in this House with regard to the rising levels of corruption and impunity in the Government.

(Applause)

Mr. Speaker, Sir, in the Ministerial Statement, the Minister was to specifically show---

Mr. Speaker: Order, Mr. Linturi!

Mr. Linturi: When will it be answered, Mr. Speaker, Sir?

Mr. Speaker: Order, Mr. Linturi!

Mr. Linturi: When will I receive it, Mr. Speaker, Sir?

Mr. Speaker: Order, Mr. Linturi! Very well! Mr. Minister, when will that Statement be available?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I think this matter was supposed to be dealt with by the Office of the Attorney-General. Could I suggest that it be tackled next Tuesday? We will, certainly, bring it to the urgent attention of the Attorney-General for Tuesday.

Mr. Speaker: Very well! It is so ordered!

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Not on the same matter!

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: No! I have already given directions on that matter!

Mr. K. Kilonzo: Mr. Speaker, Sir, that is because matters of justice and corruption are in the docket of the Minister for Justice, National Cohesion and Constitutional Affairs. Would I be in order to ask for your guidance on the issue of where justice lies? Is it in the province of the Attorney-General or the Minister for Justice, National Cohesion and Constitutional Affairs?

Mr. Speaker: Order, Mr. K. Kilonzo! The Leader of Government Business is best placed to know under whose portfolio corruption matters fall. Leader of Government Business, do you re-confirm that it is the Attorney-General?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, it is very clear. It is one grand unity Government and the Leader of Government Business has decided that it will be answered by the Attorney-General. So, I think that the hon. Member for Mutito should rest assured that this matter will be dealt with, with the seriousness it obviously deserves.

Mr. Speaker: Very well!

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

Order! Order! Order! Order, hon. Members! Order! That matter must rest. The Statement will be available on Tuesday next week!

Hon. Members who wish to ask for clarification will have to await the Statement. There will be no further issue on that matter!

Eng. Gumbo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: On a different matter?

Eng. Gumbo: Yes, Mr. Speaker, Sir.

Mr. Speaker: What is it, Eng. Gumbo?

AUTHENTICITY OF DOCUMENTS

TABLED BY DR. KHALWALE

Eng. Gumbo: Mr. Speaker, Sir, I rise on a point of order to seek clarification and guidance from the Chair on a matter which is causing quite a bit of anxiety, both within and outside the House.

Mr. Speaker, Sir, in seeking this clarification, I am aware that the business of this House has to be conducted within the confines of our Constitution, other written laws and Statutes and the Standing Orders. Indeed, the Standing Orders are, themselves, a derivative of those laws.

Mr. Speaker, Sir, on Thursday 5th February, 2009, that is last week, the Chair made a ruling which has caused a lot of anxiety, like I said, both within and without the House.

Mr. Speaker, Sir, the details of that ruling are available in the HANSARD, but I will request the indulgence of the Chair just to read the penultimate paragraph of that ruling.

Mr. Speaker, Sir, in response to the papers laid on the Table by Dr. Khalwale, the Chair made a ruling as follows:-

"As regards to documents tabled by Dr. Khalwale, only those that are in the official letterhead of the NCPB are acceptable. All other documents, including e-mails, are not genuine and shall be expunged from the records of the House."

Mr. Speaker, Sir, you will recall that late last year, this House passed the Kenya Communications (Amendment) Bill, which was subsequently enacted into law. Part 6(a) of that Act deals with electronic transactions. Section 83(g) under the short heading "Legal Recognition of Electronic Records" says as follows and I quote:-

"Where any law provides that information or other matter shall be in writing, then, notwithstanding, anything contained in such law, such requirements shall be deemed to have been satisfied if such information or matter is-

(a) rendered or made available in electronic form; and,

(b) accessible so as to be usable for subsequent reference."

Mr. Speaker, Sir, Section 83(h) and Section 83(i) also deals with the same matter, but allow me to read Section 83(k) with the subtitle "Recognition of parties of electronic messages".

Mr. Speaker, Sir, it states as follows:-

"As between the originator and the addressee of an electronic message, a declaration of intent or other statement shall not be denied legal effect, validity or enforceability solely on the ground that it is in the form of an electronic message."

Mr. Speaker, Sir, I seek this clarification because clearly, in my view, this ruling contradicts this Act.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. I rose last week to ask the Chair to allow us to hold a *Kamukunji* and the ruling of the Chair was that I talk to the Government Whips which I did and nothing has been forthcoming. For that reason, I wish also to ask for your guidance regarding rulings which also came from the same Chair. I wish not to have raised this in front of a camera but---

(Mr. C. Kilonzo's phone rang)

Mr. Speaker, Sir, sorry about that. The Chair made two rulings which we found a little

disturbing. One of them was that none of the documents to be tabled in the House should be tabled unless the Speaker knows about them in advance. That amounts to censorship.

Two, the ruling from the Chair was that also this House has no powers to query Government expenditure other than on taxes which means we cannot even query expenditure on the other money. We would want to know whether that is the real position of the Chair. Is it?

Mr. Namwamba: On a point of order, Mr. Speaker, Sir. Related to the same matter, I think that ruling should also delve into authenticity of documents that are computer generated because as we move into the era of e-government and e-communication, many of our registries are now computerised. You can walk in the Registry of Companies for instance and get documents that are computer-generated but may not necessarily appear on the letterhead of that department. Part of the document that the Chair ruled on that day included documents that I had tabled here that had been computer-generated from the Registry of Companies. Further, I think the Chair owes this House an explanation as to what forensic science is used in determining whether a set of documents is authentic or not authentic because unless that is clarified, the fear that this decision is made arbitrarily without any reference to any forensic science of any kind, will persist.

Mrs. Noor: On a point of order, Mr. Speaker, Sir. I want to reflect back to the events of last week on Thursday when the Assistant Minister for Transport, hon. Haroun Mwau, was thrown out of the House when he was responding to my earlier request for a Ministerial Statement requesting---

Mr. Speaker: Order, hon. Noor! Did you say he was "thrown out"?

Mrs. Noor: Yes, Mr. Speaker, Sir. So?

(Laughter)

Mr. Speaker, Sir, while he was responding---

Mr. Speaker: Order, Mrs. Noor! The reason I have posed that question to you is that as far as I know the Standing Orders, they do not provide for the "throwing out" of a Member. They provide for a Member to be ordered to withdraw. Was he, therefore, thrown out or ordered to withdraw?

Mrs. Noor: Mr. Speaker, Sir, he was ordered to withdraw and then he was thrown out of the House.

(Laughter)

Mr. Speaker: Proceed!

Mrs. Noor: Thank you, Mr. Speaker, Sir. I am reflecting on that event and I am seeking for a Ministerial Statement requesting for the status for a proposed railway line from Lamu, passing through Ijara, Garissa to Mandera and connecting to Ethiopia. So, I am asking for your direction and guidance on how we can revisit the same issue because we did not conclude on the matter.

Mr. Ruto: Mr. Speaker, Sir, further to the issues that have been raised concerning a variety of rulings from the Chair in the past few weeks and specific reference to an apparent excessive interference by the Executive in the ruling that was apparent in the past few weeks, could you assure this House that the Chair will remain impartial and uphold the dignity and independence of this House?

Eng. Rege: On a point of order, Mr. Speaker, Sir. I just want to warn hon. Members that---

Hon. Members: Warn?

Eng. Rege: Mr. Speaker, Sir, I just want to caution hon. Members that---

Hon. Members: No! No!

Eng. Rege: Mr. Speaker, Sir, in as much as mobile phones can---

Mr. Speaker: Order, Eng. Rege! You have stood on a point of order and proceed on that

line!

Eng. Rege: Mr. Speaker, Sir, I have stood on a point of information based on the---

Mr. Speaker: Order, Eng. Rege! You are out of order and resume your seat!

PERSONAL STATEMENT

MISREPRESENTATION OF MEMBER'S LETTER TO NCPB

Mr. Kathuri: On a point of order, Mr. Speaker, Sir. I wish to make a personal statement in respect of the maize scandal which has been very hot in the media and I wish to state as follows:-

Mr. Speaker, Sir, I was quoted in *The Standard* newspaper and in the Kenya Television Network (KTN) 9.00 p.m. news, I think on Tuesday that I wrote a letter to the National Cereals and Produce Board (NCPB) Managing Director requesting for bags of maize. It is true I wrote a letter of recommendation for one, Thika Millers which is owned by a member and a Constituent of Manyatta and I wrote this letter knowing clearly that I had no reason to hide from assisting him to apply for the maize because at the end of day, it would assist my people if it was made available at the subsidised prices. However, unfortunately, he never got any allocation for reasons which I do not know. It is unfortunate because I wish that maize came because we would have been celebrating in Manyatta having got the maize.

Hon. Members: *Pole sana!*

Mr. Kathuri: *Nimepoa!*

(Laughter)

Mr. Speaker, Sir, I would want to state very clearly that this should not be used as a diversionary tactic by the authorities concerned to divert the attention of the hungry Kenyans who are looking for maize. I would kindly request the Director of the Kenya Anti-Corruption Agency (KACA) to speed up the investigations and arrest those who are involved in the maize scandal because they are dragging our names in the whole saga when we did not actually benefit at all, even with a single bag of maize. I wish I got those bags because my people would be very happy.

Mr. Speaker, Sir, let me also take this opportunity to make a personal request to the Government and especially, to the Ministry of Agriculture that they should avail raw maize, not necessarily grounded maize flour to those of us who are not fond of *ugali* so that we can be able to prepare *githeri* which is what we like most other than just providing maize flour which is non-existent in our shops. Raw maize should be readily available and this hunger condition which we are talking about would not be there.

Thank you.

Mr. Mwathi: Thank you, Mr. Speaker, Sir. With due respect to your ruling, on Tuesday, last week, I rose to seek a Ministerial Statement with regard to three people of the same family who disappeared while in the hands of policemen. That assurance was given by none other than the Minister of State for Provincial Administration and Internal Security that the Statement would be issued yesterday afternoon. It was not possible. Yesterday, the Minister committed himself to issue the Statement today. Going by the sensitive nature of that case, I seek the indulgence of the Chair to allow that one Statement only to be made today so that we know the exact position of that case.

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

Mr. Speaker: Order, hon. Members! I am prepared to revisit the directions which I issued a little while ago subject to my receiving clear indications on how long those Ministerial Statements; will be. I understand that there are, perhaps, two very urgent Statements, that is, from the Minister for Agriculture and the Minister of State for Provincial Administration and Internal Security. The two Ministers could indicate how long each of the statements will last. If they will last five minutes each, then, perhaps, we will be prepared to accommodate them.

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

Mr. Speaker: I have given directions now, Dr. Nuh, and I will not revisit them yet again.

MINISTERIAL STATEMENT

ARREST AND DISAPPEARANCE OF THREE FAMILY MEMBERS IN LIMURU

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, with your permission, I intend to issue a Ministerial Statement requested by the hon. Member for Limuru and I will not take more than five minutes.

Mr. Speaker: Very well! You may proceed!

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, on the 10th of February, 2009, the Member of Parliament for Limuru, Mr. Mwachhi, rose on a point of order to seek a Ministerial Statement from me as the Minister of State for Provincial Administration and Internal Security, on the arrest and disappearance of three family members in Limuru and further that the lists of people reported to the police, especially in Central and Nairobi provinces have not been tabled. I wish to state as follows:-

First of all, Mr. Speaker, Sir, I think you will note the fact that in response to the list of the people who got lost or went missing in the two provinces, there is no timeline. So, it is fairly general. Therefore, on that particular score, I will need time because that will require going all the way down to produce a very big book.

However, on the more important matter here, the mysterious disappearance of the said George Kariuki Njenga was first brought to the attention of the police on 31st December, 2008, when the following people reported their disappearance at Nairobi Area Police Headquarters: Jane Wanjiku, Joyce Nyambura Wanjiku and Peter Njenga Kuria.

On 25th December, 2008, one George Kariuki Njenga was allegedly picked from his home by persons who identified themselves as police officers and since then, he has never been seen again. The reportees have also given to the police a cell phone number 0720221028 which they said belonged to one of the officers who had arrested the said George Kariuki Njenga. On 31st December, 2008, the police called the cell phone number which was answered by a man who introduced himself as police Chief Inspector Mutua. He claimed to be attached to the CID Headquarters. He said that he was waiting for the wife of the said George Njenga Kariuki at Kasarani Police Station as they had agreed to meet earlier.

The PCIO, Mr. Mutie Ngugi, referred the reportees to Kasarani Police Station with a written note to the DCIO, Kasarani Police Station. On reaching Kasarani, the DCIO, Mr. Cheruyiot, referred them to Kasarani Police Divisional Headquarters because Mwiki Police Post had earlier referred them to Kasarani OCPD. However, it is not clear whether the reportees went to Kasarani Police Division as advised.

On 20th January, 2009, the reportees, Mr. Peter Njenga Kuria of Limuru and Mr. George Wambua, a resident of Mwiki and the wife to Mr. George Kariuki Njenga, went to Mwiki Police Post where they made a report of the missing person. It was reported in the police Occurrence Book (OB),

No. 18 of 2009. The reportees were referred to Ruiru Police Station for further inquiries since they had also informed the police that the police officers who arrested the said George Kariuki were from Ruiru Police station. It is not, however, clear why the reportees did not proceed to Ruiru as they had been advised by the police in Mwiki on 20th January, 2009. Allegedly, they went to the police station on 31st January, 2009. On this date, two reportees, Mr. Peter Njenga Kuria and Ms. Jane Nyambura Wanjiku are said to have been arrested by the police and since then, they have never been seen or heard of.

On 2nd February, 2009, a lady by the name of Susan K. Njenga reported to Ruiru Police Station in the OB No.24 of 2009 that Peter Njenga Kuria, aged 75 years, and Joyce Nyambura Wanjiku, aged 27 years, and who had on 31st January, 2009, gone to the police station had not returned home. They have never been seen or heard of since then. On 2nd February, 2009, the OCS, Ruiru, was served with a demand letter for release of the said George Kariuki Njenga by the Jesiko and Nyambene Advocates. On 8th February, 2009, a demonstration was held along Nairobi-Nakuru Highway by the residents of Limuru, protesting the disappearance of the three family members.

Mr. Speaker, Sir, to underscore the importance the Ministry places on this matter and, in particular, the sanctity of life and the protection of life and property in accordance with the Constitution, three police officers from Ruiru Police Station who were handling this matter have now been placed under investigation with a view to ascertaining their role in this case.

With regard to the alleged systematic extra-judicial killings, I wish to state that this is not acceptable at all. It is illegal. Further, for incidents of killings where the police are involved, they are thoroughly investigated and all files forwarded to the Attorney-General for investigation. Later, the files are placed before a magistrate for disposal by way of inquest. Officers found to have a case to answer are charged accordingly.

Mr. Speaker, Sir, I wish to emphasize that police officers, just like other citizens, are not above the law and are subject to prosecution whenever they misuse their powers.

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

Mr. Speaker: Order, hon. Members! Order, Dr. Nuh! Prof. Saitoti, although Mathematics is a precise science, you did 13 minutes! One clarification, Mr. Mwathi!

Mr. Mwathi: Mr. Speaker, Sir, one thing that I would like to bring to the notice of the Minister is that I did not ask for a list of unlimited time. I stated carefully and clearly that it should be a list of people who were lost between January, 2007, up to now.

More importantly, in September, 2008, the Police Spokesman is on record as having accepted that 3,000 youths were lost in what he called "normal disappearance". That is normal to the police! In August, 2007, 200 youths were arrested by the police and executed. The Ministry ordered an inquiry but we have not received its results to date. We are now talking about three family members who---

Mr. Speaker: Order, Mr. Mwathi! You are allowed to seek clarification arising from the Ministerial Statement. What is not clear that you want clarified?

Mr. Mwathi: Mr. Speaker, Sir, I had to give that basic information.

Mr. Speaker: It is not time for debate, Mr. Mwathi!

Mr. Mwathi: Mr. Speaker, Sir, my point of clarification is that, three officers from Ruiru Police Station are under investigation. Who is going to investigate those officers, because we have not had any tangible report from the Police Department, which has been investigating that case?

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, the organ that we do have for carrying out investigations on these kinds of matters is the police. I do not also subscribe to the view by the hon. Member, that any investigations which have

been carried out by the police have never produced any result.

Mr. Speaker: Minister for Agriculture, could you please indicate how long your Ministerial Statement is going to take?

(Several hon. Members stood up in their places)

Order! As regards to the Ministerial Statement given by the Minister of State for Provincial Administration and Internal Security, I did direct, before we took the clarification sought by Mr. Mwathi, that I would allow only one clarification, and I will not revisit that direction. If you wanted to question it, then you should have done that at the time I gave.

Mr. M. Kamau: On a point of order, Mr. Speaker, Sir. Considering the fact that this particular Ministerial Statement!

(Mr. Namwamba gestured)

Mr. Speaker: Order, Mr. Namwamba! There will be no gesturing in the House.

Mr. M. Kamau: Mr. Speaker, Sir, considering that this Ministerial Statement has raised very many questions, and it is a serious issue because it is about killings of Kenyans, would I be in order to request you to have it read again sometime next week?

Mr. Waititu: On a point of order, Mr. Speaker, Sir. Cases of executions are very common in my constituency, to an extent that, even myself, I have been fearing that the *Kwekwe* Squad is soon coming for me! Could the Minister say when he is going to disband the *Kwekwe* Squad?

Mr. Speaker: Order! Order, hon. Members! Perhaps, because of the interest that this matter is generating, we will allow three more clarifications. I will give the first chance to Eng. Maina.

Eng. Maina: Mr. Speaker, Sir, the matter before this House is a serious one. I want to seek your guidance as to whether this House can be given enough time, so that it is brought to an end. Yesterday, the Minister informed this House that he had given orders that these executions should never happen. I think this House will have failed if this matter is concluded without---

Mr. Speaker: Order, Eng. Maina! I have allowed you time to seek a clarification. Proceed and do just that, otherwise, you are losing valuable time.

Eng. Maina: Mr. Speaker, Sir, I am doing that. First, I would like the Minister to give assurance to this House whether those killings are going to stop from now onwards. Secondly, could the Minister confirm who gives these orders, because the people who have the capacity to give such orders must be very few in number; maybe not more than three?

Mr. Imanyara: Mr. Speaker, Sir, given that the very preliminary steps taken to carry out investigations clearly show police involvement, I wish to revisit the issue that I raised yesterday. In these circumstances, could the investigations be conducted by a credible organization, and not the police force and in this case, the Kenya National Commission on Human Rights which is a Government body that is empowered to conduct this kind of investigation? Could they be allowed to conduct the investigation?

Mr. Njuguna: Mr. Speaker, Sir, this issue is of great concern. From the Ministerial Statement given by the Minister, he has not taken measures to protect the lives of the family members, who are now under threat as a result of those arrests and disappearances. Finally, it would be very prudent, now that so many people have disappeared and have been found dead, that the Police Commissioner be suspended from office immediately!

Mrs. Shabesh: Mr. Speaker, Sir, could the Minister clarify that his Ministry is not in possession of the exact number of people who have disappeared, their names and places? I have

personally taken that information to the Ministry and also the KNCHR and the Oscar Foundation have done the same. Could he state that this information is not with the Ministry?

Mr. Mwathi: Mr. Speaker, Sir, the Minister has said that, contrary to what I am saying, investigations by the police have always been completed and reports produced. It is known that 200 youths have been killed by the *Kwekwe* Squad, but investigations were conducted and no report has ever come out. That was in August, 2007. Now, the Minister is misleading the House that all reports have come out. Could he tell us exactly when this case, where three family members are involved, a report is going to be released? I would like to lay on the Table a list of 108 names of who have disappeared and 160 who are dead. They are from Nairobi and Central Province.

Mr. Speaker: Mr. Minister, before you proceed to respond to those clarifications as sought, I wish to draw the attention of hon. Members to the fact that Parliament has set up a Select Committee to investigate matters pertaining to gang operations in the country, including the *Mungiki* and others in that league, and that the House will have to await the report of the Committee to interrogate other matters further, as may be necessary. We will not, therefore, pre-empt the report that is likely to come from the Select Committee, neither shall we anticipate debate. That is what the Standing Orders tell us.

Proceed, Mr. Minister!

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

Mr. Speaker: Order, Mr. Ruto! You have had a lot of indulgence this afternoon!

Mr. Ruto: One more, Mr. Speaker, Sir!

(Laughter)

Mr. Speaker: What is it?

Mr. Ruto: Mr. Speaker, Sir, we are interrogating a very serious matter of extra-judicial killings by the police. Can that really wait for that Select Committee that may never finish its work? In any case, that Select Committee is dealing with gangs. What about the *Kwekwe* Squad and others who are killing Kenyans?

Mr. Speaker: Order, Mr. Ruto! Those matters have been raised in the clarifications that Members have sought. I am now allowing the Minister time to respond to those aspects that are set away from the report! So, certainly, your point of order is not that valid. But that notwithstanding, it is not completely out of the rules! So, you may rest with it.

Mr. Minister, please, proceed!

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, on the issue of the investigation to be carried out by the police in the case of people who are missing, I said much earlier that, indeed, we have the institution of the police which has all the investigative knowledge. However, that does not actually mean that other organizations like the Kenya National Commission of Human Rights (KHRC) cannot supplement that investigation. We are fully prepared to receive the information from them. We will also study whatever information they come up with.

Mr. Speaker, Sir, in addition, we recently, set up a Police Oversight Board which is supposed to be totally independent from the police. That too is tasked to carry out investigations into the various allegations that are made against the police. That body is also going to be involved in this particular case.

Mr. Speaker, Sir, I would also like to say that there is a body called *Kwekwe* Squad that has been talked about here. We had that body and I would like to inform this House that, instructions were given out for its disbandment. So there is no *Kwekwe* Squad attached with any authority. I want to be very firm!

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

Mr. Speaker, Sir, I should be allowed to state a fact---

Mr. Speaker: Order, hon. Members! Let us hear the Minister!

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

Mr. Speaker: What is it, Mr. Mbugua!

Mr. Mbugua: Mr. Speaker, Sir, the *Kwekwe* Squad is still in operation. Indeed, last week, they killed somebody at Machakos Country Bus Terminal and this matter is in the public domain. It is also a matter of public interest. Indeed, 160 people have been killed. Therefore, it is not just a matter of tossing balls around. It is a matter of public interest and should be dealt with accordingly.

Mr. Speaker: Order, Mr. Mbugua! You have made your point!

Mr. Minister, are you misleading the House that the *Kwekwe* Squad does not exist when, in fact, it does?

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, in no way am I misleading the House. My instructions were very clear and firm that such a body be disbanded. Therefore, as far as I am concerned and I want to say it here---

Mr. Waititu: On a point of order, Mr. Speaker, Sir. This case of *Kwekwe* Squad is very clear to us. We are victims in Embakasi. In fact, last week, one driver was killed at a bus stop in Umoja by members of the *Kwekwe* Squad. I would like the Minister to clarify whether he is in control of the police in this country. I would also like him to clarify whether he is in control of the Commissioner of Police. I believe that there is a time he called a meeting at his office and the Commissioner of Police refused to attend. Is he in control of Kenya Police?

(Applause)

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, I want to underline one fundamental point which I said at the very outset which is that extra-judicial execution is illegal and not sanctioned by the Ministry.

Secondly, we will take action against any officer who is thought to be involved in those unlawful acts.

Mr. Speaker, Sir, having said that, I do not want to deny that there could be some rogue police officers. I do not want to come here and tell you that we do not have one or two rogue officers. Not too long ago, a police inspector was arrested for having been involved in the killing of a young man. We are, therefore, in the process of hunting down those who have criminal inclination in the police force in order to wipe them out. We shall not spare them at all!

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

Mr. Speaker: Order, hon. Members! This matter must now rest! I have allowed as much time as I possibly could including increasing the number of clarifications from the direction that I originally gave by, in fact, tripling the number. It has to rest there!

Hon. Members, you know what to do if you are not satisfied with the Ministerial Statement. The Standing Orders tell you what else you can do.

Mr. Okemo, you have a request but it is not clear to which Minister!

POINT OF ORDER

CRISIS IN SUGAR-CANE FARMING
IN THE COUNTRY

Mr. Okemo: Mr. Speaker, Sir, the request is for a Ministerial Statement from the Minister for Agriculture regarding the question of sugar-cane and sugar industry problems. I think the Minister undertook to give that Statement on Thursday, which is today. I do not know what is unclear. Everything is crystal clear.

Mr. Speaker: Mr. Minister, could you, please, indicate how long you would require?

The Minister for Agriculture (Mr. Samoei): Mr. Speaker, Sir, indeed, Mr. Okemo is right. There are two pending Ministerial Statements from my Ministry. One was sought by Eng. Maina, the Member for Mathira and the other by Mr. Okemo. While I undertook that this Statement would be ready today, I want to seek the indulgence of this House that I issue it on Tuesday, next week.

Mr. Speaker, Sir, it involves more than one factory and there are negotiations going on at the moment between Busia Sugar Company and Mumias Sugar Company on matters that are related to what the hon. Member is asking me to state. By Tuesday next week, I should be able to make a clear Statement on the matters that have been raised by Mr. Okemo.

I beg the indulgence of this House.

Mr. Speaker: Is that fine, Mr. Okemo?

Mr. Okemo: Mr. Speaker, Sir, I sought clarification on about four issues. However, the Minister is delaying his Statement on the account of only one out of four. Would he be in a position to give the Statement on the basis of three and then give the remaining one next week on Tuesday?

The Minister for Agriculture (Mr. Samoei): Mr. Speaker, Sir, to be able to give a balanced Statement because issues of sugar are interrelated with sugar factories and the negotiations that are going on between the factories, I would seek the indulgence of Mr. Okemo that Tuesday is not too far. If he can be patient, then on Tuesday, we can conclusively address the issues he has raised.

Mr. Speaker: Mr. Okemo, you should be satisfied with that clear indication and a firm commitment for Tuesday next week!

Mr. Okemo: Mr. Speaker, Sir, if it is the Speaker's ruling, really, you are not giving me any latitude, I will have to abide.

(Laughter)

COMMUNICATION FROM
THE CHAIR

CHAIR TO REVISIT RULINGS

Mr. Speaker: Hon. Members, the Chair has been called upon to give directions and make clarifications with respect to a number of rulings that were made on Thursday last week. As hon. Members will no doubt be aware, I, who is in the Chair now, was not here last week. So, there is need for me to acquaint myself with the records as is on the HANSARD, before I can give any direction or clarifications.

You will note that the matters addressed and canvassed by hon. Eng. Gumbo, Mr. C. Kilonzo, Mr. Namwamba, Mrs. Noor and hon. Ruto are very loaded matters that are asking the Chair, among other things, to revisit the rulings of the Chair as was presiding on Thursday last week and, perhaps, to review those rulings. It is not a matter that I am about to do lightly, if at all. So, I will make the necessary communication, including the directions to be given on Wednesday afternoon, next week.

POINTS OF ORDERCANCELLATION OF CONTRACT
OF CLERK OF PAP

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. The Minister for Foreign Affairs assured us that he would give a Ministerial Statement regarding the Clerk of the Pan African Parliament. I wonder when that Statement would be given.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, yesterday, I opted to give the Ministerial Statement either today or Tuesday. But the Chair directed that I should do so on Tuesday next week.

Mr. Speaker: That direction will stand!

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

Mr. Speaker: What is it, Mr. Ogindo?

PRESIDENTIAL ASSENT TO
FISCAL MANAGEMENT BILL, 2008

Mr. Ogindo: Thank you, Mr. Speaker, Sir. Last Thursday, I stood here on a point of order and asked for a clarification from the Chair as to when the Fiscal Management Bill, which was passed by the House, will be assented to.

Mr. Speaker, Sir, the Chair promised to make a ruling this week. This House is privileged to have the presence of His Excellency the President. Could we have that ruling and, possibly, get a corroboration from His Excellency.

(Applause)

Mr. Speaker: Order, hon. Members! Indeed, hon. Ogindo, who is the Chair of the Budget Committee, has drawn my attention to that matter this afternoon. I did indicate to him that I will have a communication that will be fully exhaustive on the matter on Tuesday afternoon. On Tuesday afternoon, I will be able to give a comprehensive communication on that matter.

As for the presence of the hon. Member for Othaya in the House this afternoon, that is exactly so. He has not come here to exercise his Executive authority as conferred upon him by the Constitution. So, matters will stay that way.

Next Order!

BILL*Second Reading*THE CONSTITUTION OF KENYA
(AMENDMENT) BILL

*(The Minister for Justice,
National Cohesion and Constitutional
Affairs on 3.2.2009)*

(Resumption of Debate interrupted)

on 10.2.2009)

POINT OF ORDER

LETTER FROM HEAD OF PUBLIC SERVICE
TO MINISTERS/ASSISTANT MINISTERS

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

Mr. Speaker: What is it, Dr. Khalwale?

Dr. Khalwale: Mr. Speaker, Sir, I rise to seek the direction of the Chair on this particular Order because, important as it is, as evidenced by the presence of the two Principals in the House, I am disturbed that I am not too sure whether the independence of the House is going to be exercised today. That is because I would like to table a letter which I have with me. A letter that has been authored by somebody who is a stranger in this House; somebody who is not a Whip as pertains to our Standing Orders; somebody who is not the Prime Minister - that is because the Prime Minister is the only one who can supervise and co-ordinate Ministers and Ministries, and the Whip is the only one who can whip Members when it comes to matters of voting.

I table this letter which has been written to over 80 Members of Parliament. It is from the Office of the President---

Mr. Speaker: Order, Dr. Khalwale! You may table the letter! I would like to have a look at it before you read it.

*(Dr. Khalwale laid the
document on the Table)*

(Loud consultations)

Order, hon. Members! Order, Mr. Imanyara!

Hon. Members, I am satisfied that, although this is a photocopy of a letter, it does bear a signature, a date and it is on an official letterhead of the Office of the President, Permanent Secretary.

So, Dr. Khalwale, you may proceed and say what you want to say!

Dr. Khalwale: Mr. Speaker, Sir, this letter, which is dated 12th February, 2009, is from the Office of the President. It is written to all Ministers and Assistant Ministers. Those are Members of Parliament. The letter is a request to be in Parliament today, 12th February, 2008 at 2.30 p.m., to support the following:-

One, the Constitution of Kenya (Amendment) Bill and two the Bill on the Special Tribunal.

It reads as follows:-

"I have been directed to inform you to attend Parliament today, 12th February, 2009 at 2.30 p.m, to support the two above mentioned Bills. You are kindly requested to be punctual."

The letter is signed by Amb. Francis K. Muthaura, EGH, Permanent Secretary/Secretary to the Cabinet and Head of Public Service.

Mr. Speaker, Sir, I beg that you direct.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, Leader of Government Business?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, both the President and the Prime Minister are in this House. Both of them had a meeting yesterday and they

directed that we all come to this House. Therefore, I find nothing wrong with the letter from the Office of the President. The President, himself, is here. In fact, when he sits on that Chair, he becomes the Leader of Government Business. Therefore, I think we have to be decent and kind to public officers who cannot come and defend their positions. The letter read by the hon. Member for Ikolomani simply says: "I am directed". The ones who have directed are here. They are both the President and the Prime Minister.

Therefore, I suggest that we move to the next Order, Mr. Speaker, Sir.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Related to that matter and, with regard to the ruling that you are going to make next week, when we adjourned last week, the Chair directed that the business which we are just about to embark on be carried out next Tuesday.

Mr. Speaker, Sir, we would like to get your direction as to when that decision was changed, by who and whether it is Mr. Muthaura who directed that this session should take place today, rather than Tuesday next week as you had indicated.

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

The Vice-President and Minister for Home Affairs (Mr. Musyoka): On a point of order, Mr. Speaker, Sir. My learned friend, the Member for Imenti Central probably may not have heard the Deputy Speaker clearly when he made the ruling. First of all, it was on a matter of the Division. He said that since the Division has actually not taken place, then because he was supposed to exercise discretion; namely that this matter should be dealt with coming Tuesday, that does not apply. That is clearly elaborated in the HANSARD, and I do not think we need to belabour the point. I just want to ask my learned friend to give way so that we can deal with this matter which is so important. It is a matter of great national importance.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. From time to time, we have heard no other than the Prime Minister himself, who is seated here with us today, complaining that this particular officer has been interfering with his work. This is a true demonstration that the same officer is trying to influence the Executive which is an independent body of this country. The distinction between the Executive and the Legislature is being interfered with here. We seek your ruling.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): On a point of order, Mr. Speaker, Sir. I think it is important that you prevent frivolous points of order from being used to malign persons who are not before this House. There are ways of bringing issues that relate to people not before this House. When it comes to Government business, the Government can decide to whip in whichever manner it pleases. The letter is addressed only to Members of the Government and it is coming from the Office of the President. Clearly, there is no serious point of order here and we would urge you to rule so. It is quite clear that it may be that there are Members intent on filibustering to prevent us from proceeding with the business.

Mr. Speaker: The last point of order on this matter, hon. Ethuro!

Mr. Ethuro: Mr. Speaker, Sir, I think this matter is clearly within the Government domain. This is the day for Government business and I see no point in your ruling. It is proper for the Government to lobby its side. The letter is addressed to Ministers and Assistant Ministers. I am asking for the forbearance of my colleagues on the Back Bench, as a senior Member of the Official Opposition Caucus; that we have also to give to Caesar what belongs to Caesar and we will have an opportunity very shortly to demonstrate our determination and will against the Bill.

(Applause)

Mr. Speaker: Order, hon. Members! I will hear the Attorney-General and rule just now.

Mr. Attorney-General, do you have any comment on this?

Hon. Members: No!

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, on a number of occasions in this House, there have been complaints that Ministers are not in the House. Now and again, the same people who are complaining that the Ministers are now here, have been complaining that they are not in the House. Now that they are in the House, can we continue with the Order of the day?

Mr. Speaker: Order, hon. Members! I have heard the two matters as addressed by hon. Members. The first one was by Dr. Khalwale and was supported by a number of other Members. The second was by hon. Imanyara.

With respect to the letter dated 12th February, 2009, I see that it is addressed to Ministers and Assistant Ministers, exclusively. It is not addressed to Members of Parliament, neither is it addressed to Parliament nor copied to the Speaker nor the Clerk of the National Assembly. In my considered opinion, this document is strange to Parliament. We are not privy to it and, therefore, have nothing to do with it. It will not influence Parliament. It is a matter that is exclusive for the Executive. The Executive is at liberty to lobby in whatever manner it deems appropriate. Indeed, I am informed from institutional memory that circulars of this nature have previously been issued within the Executive. If Members of Parliament obtain it by whatever means, it ought not to affect their conscience or, indeed, constitutional duty to legislate independently. That, therefore, disposes of this matter. This letter is of no consequence for the purposes of the business before the House.

With respect to the business on this Order that is now before the House for deliberation, I am informed by the Standing Orders, and in particular, Standing Order No.145, that the procedure with respect to the Order Paper, is the preserve of the House Business Committee, which is constituted by this House. This House, therefore, will respect decisions made by the House Business Committee in relation to what matters will appear on the Order Paper as the business of the House. I, therefore, see nothing wrong with this Order appearing on the Order Paper today, because it was considered expedient and useful for it to appear today. The direction by the Chair has been ably dealt with in the response by the Leader of Government Business. We will, therefore, proceed with the Order, as is on the Order Paper.

(Mr. Speaker consulted with the Clerk)

Hon. Members will recollect that with respect to Order No.7 at which we are resuming, debate had in fact been concluded and we were on Division. So, we shall proceed to Division. I will ask that the Division Bell be rung.

(The Division Bell was rung)

DIVISION

(Question put and House divided)

(Question negatived by 101 votes to 93)

AYES: Ms. A. Abdalla, Mr. Abdikadir, Prof. Anyang'-Nyong'o, Messrs. Anyanga, Baiya, Balala, Baya, Bett, Bifwoli, Duale, Dr. Gesami, Messrs. Githae, Godhana, Eng. Gumbo, Messrs. Gumo, Haji, Kabando wa Kabando, Kajembe, Kamama, Ms. Karua, Messrs. Kenneth, Kenyatta, Keya, Khang'ati, Khaniri, Kibaki, Kilonzo M. Kimunya, Kingi, Kinyanjui, Kioni, Kipkiror, Kiunjuri,

Dr. Kosgei, Mr. Kosgey, Dr. Kutu, Mr. Lekuton, Ms. Leshomo, Eng. Maina, Ms. Mathenge, Mr. Mbadi, Ms. Mbarire, Messrs. Mbiuki, ole Metito, Eng. M.M. Mahamud, Michuki, Mohamed I.E, Mohamed A.C., Mudavadi, Mrs. Mugo, Messrs. Munya, Munyes, Muriithi, Murungi, Musyoka, Mwakwere, Mwau, Dr. Mwiria, Messrs. Namwamba, Nanok, Ndambuki, Nyagah, Nyamweya, Mrs. Ngilu, Ngugi, Maj-Gen. Nkaisserry, Messrs. ole Ntimama, Obure, Dr. Oburu, Mr. Ochieng, Ms. Odhiambo, Messrs. Ojode, Olago, Prof. Olweny, Messrs. Omollo, Omingo, Prof. Ongeru, Messrs. Onyonka, Oparanya, Orengo, Otieno, Otuoma, Pesa, Poghio, Rai, Raila, Prof. Saitoti, Mr. Samoei, Prof. Sambili, Mr. Sasura, Dr. Shaban, Mrs. Shabesh, Mr. Shitanda, Maj. Sugow, Mr. Thuo, Bishop Wanjiru, Messrs. Warugongo, Wathika, Dr. Wekesa, Messrs. Wetangula and Yinda.

Tellers of the Ayes: Messrs. Dr. Nuh and Mr. Kioni.

NOES: Ms. Abdalla S., Messrs. Abdirahman, Affey, Akula, Ali.M.H, Chachu, Ms. Chepchumba, Mr. Cheruiyot, Dr. Eseli, Messrs. Ethuro, Gaichuhie, Gitau, Githunguri, Gunda, Imanyara, Jirongo, Kaino, Prof. Kaloki, Messrs. Kamau J.I, Kamau J.M, Kambi, Kapondi, Kariuki, Kathuri, Dr. Khalwale, Messrs. Kigen, Kiilu, Kilonzo J.K, Kilonzo C.M, Kiuna, Kivuti, Koech, Konchela, Dr. Kones, Mrs. Kones, Mr. Kutuny, Dr. Laboso, Messrs. Lagat, Langat, Lesrima, Lessonet, Letimalo, Linturi, Litole, M'Mithiaru, Dr. Machage, Messrs. Magerer, Magwanga, Mbau, Mbugua, Mututho, Dr. Monda, Messrs. Mung'aro, Mungatana, Dr. Munyaka, Messrs. Muoki I.M, Muoki D.M, Mureithi, Murgor, Musyimi, Mwadeghu, Mwahima, Mwaita, Mwakulegwa, Mwangi, Mwatela, Mwathi, Mwiru, Nguyai, Njuguna, Mrs. Noor, Dr. Nuh, Messrs. Nyamai, Odhiambo, Ogindo, Ojaamong, Okemo, Olago, Ombui, Mr. Onyancha C., Dr. Otichilo, Eng. Rege, Messrs. Ruteere, Ruto, Sambu, Shakeel, Sirma, Waibara, Waititu, Wambugu, Washiali, Were and Yakub.

Tellers of the Noes: Messrs. Dr. Eseli and Eng. Rege.

Mr. Speaker: Order! Hon. Members, we have the results of the Division. The Ayes, 101. The Noes, 93. Abstentions, One. Total Voted, 194.

Hon. Members, the effect of this is that we will have to comply with the provisions of Standing Order No.61(B) and it provides as follows:-

"In every instance where the Constitution lays down that a fixed majority is necessary to decide any question - (such as in the case before the House this afternoon) -

(b) if the division on that question results in a majority of Ayes, but less than such fixed majority and the Noes have not numbered 35 per cent of all the Members of the House or more, Mr. Speaker may direct one further division on the same question to be held within seven days from the date of that first division; but if he does not so direct any further division, or if on such further division the fixed majority is not obtained, he shall declare that the Motion is negatived."

Hon. Members, the fixed number is 65 per cent. So, that will be 145 and 35 per cent of 222 is 77. So, the Noes have exceeded the minimum. Consequently, therefore, the Motion is negatived and, therefore, lost.

(Applause)

Hon. Members, that being the case, Order Nos.8, 9 and 10 are overtaken!

(Applause)

Hon. Members, let us proceed to the Next Order No.11

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE MERCHANT SHIPPING BILL

*(Resumption of Consideration
interrupted on 11.2.2009)*

Clause 366

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

THAT, Clause 366 of the Bill be amended by deleting the words "in the case of failure or refusal and five hundred thousand shillings" and substituting therefor the words "or to imprisonment for a term not exceeding fifteen months or to both such fine and imprisonment in the case of failure or refusal and five hundred thousand shillings or imprisonment for a term not exceeding three years or to both such fine and imprisonment"

(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 366 as amended agreed to)

Clause 367

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

THAT, Clause 367 of the Bill be amended by inserting the words "or to two years imprisonment or to both such fine and imprisonment" immediately after the word "shillings" appearing in subclause (8).

(Question of the amendment proposed)

(Question, that the words to be inserted

be inserted, put and agreed to)

(Clause 367 as amended agreed to)

Clause 368

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

THAT, Clause 368 of the Bill be amended by inserting the following new definition in proper alphabetical sequence-

"armed robbery against ships" means any unlawful act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, directed against persons or property on board such a ship, within territorial waters or waters under Kenya's jurisdiction;

(Question of the amendment proposed)

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

(Clause 368 as amended agreed to)

(Clauses 369 and 370 agreed to)

Clause 371

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

THAT, Clause 371 of the Bill be amended by inserting the words "or to imprisonment for a term not exceeding six months or to both such fine and imprisonment" immediately after the word "shillings" appearing in subclause (6).

(Question of the amendment proposed)

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

(Clause 371 as amended agreed to)

*(Clauses 372, 373, 374, 375, 376, 377,
378, 379, 380, 381, 382, 383, 384, 385,
386, 387, 388, 389, 390, 391, 392,
393, 394, 395, and 396 agreed to)*

Clause 397

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

THAT, Clause 397 of the Bill be amended by deleting the word "paragraph" appearing in subclause (2).

(Question of the amendment proposed)

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

(Clause 397 as amended agreed to)

(Clauses 398, 399, 400, 401, 402, 403, 404, 405 and 406 agreed to)

Clause 407

Eng. Rege: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 407 of the Bill be amended by deleting the word "Principal" wherever it occurs in subclause (1) and substituting therefor the word "Chief".

(Question of the amendment proposed)

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

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

(Clause 407 as amended agreed to)

Clause 408

Eng. Rege: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 408 of the Bill be amended-
(a) by inserting the words "or to imprisonment for a term not exceeding fifteen months or to both such fine and imprisonment" immediately after the word "shillings" appearing in subclause (4).
(b) by inserting the words "or to imprisonment for a term not exceeding fifteen months or to both such fine and imprisonment" immediately after the word "shillings" appearing in subclause (5).

(Question of the amendment proposed)

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

(Clause 408 as amended agreed to)

Clause 409

Eng. Rege: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 409 of the Bill be amended by inserting the words "or to imprisonment for a term not exceeding nine months or to both such fine and imprisonment" immediately after the word "shillings" appearing in subclause (5).

(Question of the amendment proposed)

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

(Clause 409 as amended agreed to)

*(Clauses 410, 411, 412, 413,
414, 415 and 416 agreed to)*

Clause 417

Eng. Rege: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 417 of the Bill be amended
(a) by inserting the words "or to imprisonment for a term not exceeding fifteen months or to both such fine and imprisonment" immediately after the word "shillings" appearing in subclause (1).
(b) by inserting the words "or to imprisonment for a term not exceeding fifteen months or to both such fine and imprisonment" immediately after the word "shillings" appearing in subclause (2).

(Question of the amendment proposed)

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

(Clause 417 as amended agreed to)

(Clause 418 agreed to)

Clause 419

Eng. Rege: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 419 be amended by inserting the words "or to imprisonment for a term not exceeding six months or to both such fine and imprisonment" immediately after the word "shillings" appearing in subclause (4).

(Question of the amendment proposed)

Mr. Temporary Deputy Chairman, Sir, we have a proposal that Clause 419 becomes Clause 420. Is that okay?

The Temporary Deputy Chairman (Mr. Imanyara): No, it cannot be so, Eng. Rege. We do not worry about numbering. I will propose the amendment that you have indicated in the Order Paper.

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

(Clause 419 as amended agreed to)

*(Clauses 420, 421, 422, 423,
424 and 425 agreed to)*

Clause 426

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

THAT, Clause 426 of the Bill be amended by deleting the words "five hundred and fifty thousand shillings" appearing in sub clause (1) and substituting therefor the words "ten million shillings or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment".

(Question of the amendment proposed)

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, the Chairman of the Departmental Committee needs to explain why there is a big shift from Kshs550,000 to Kshs10 million with regard to the penalty.

Eng. Rege: Mr. Temporary Deputy Chairman, Sir, the reason is that this provides an umbrella clause for the penalties that might arise in the regulations. The current law provides for only Kshs10,000. Pollution penalties need to be high because of the massive clean-up costs as well as the gravity of the crimes emanating from pollution that have the potential to ruin the economic lives of many Kenyans, especially those who rely on tourism and fisheries. Deterrent sentences are, therefore, called for. Some countries, for example, Saudi Arabia impose death penalty for such crimes.

The Temporary Deputy Chairman (Mr. Imanyara): I think the hon. Member is satisfied. Are you, Mr. Njuguna?

Mr. Njuguna: I am now delighted. I am satisfied, Mr. Temporary Deputy Chairman, Sir.

*(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 426 as amended agreed to)

*(Clauses 427, 428, 429, 430
and 431 agreed to)*

Clause 432

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

THAT, Clause 432 of the Bill be amended-

(a) by deleting Sub-clause (2) and substituting therefor the following new Sub-clause-

(2) Where a ship which has been detained, or in respect of which notice of detention or an order for detention has been served on the master, proceeds to sea before it is released by a competent authority, the master of the ship commits an offence and shall be liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

(b) by inserting the words "or to imprisonment for a term not exceeding five years or to both such fine and imprisonment immediately after the word "shillings" appearing in Subclause (5).

(Question of the amendment proposed)

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I am seeking clarification on the word "master." What if the ship is captained by a woman? Would she still be referred to as "master" or "mistress."

The Temporary Deputy Chairman (Mr. Imanyara): I think you do not have to answer that because the Interpretation and General Provisions Act provides for that. If you are satisfied we shall move on.

*(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 432 as amended agreed to)

*(Clauses 433, 434, 435, 436, 437, 438,
439, 440, 441, 442, 443 agreed to)*

Clause 444

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

THAT, Clause 444 of the Bill be amended by deleting the words "thirty thousand shillings" appearing in Sub-clause (7) and substituting therefor the words "fifty thousand shillings or to imprisonment for a term not exceeding four months or to both such fine and imprisonment."

(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 444 as amended agreed to)

(Clause 445 agreed to)

Clause 446

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

THAT, Clause 446 of the Bill be amended in Sub-clause (1) by inserting the following new paragraphs-

(f) for the welfare of the seafarers;

(g) for determining the composition of crew of Kenyan ships and foreign ships operating in Kenyan waters.

(Question of the amendment proposed)

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

(Clause 446 as amended agreed to)

(Clauses 447, 448 and 449 agreed to)

Clause 450

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

THAT Clause 450 of the Bill be amended-

(a) by renumbering the existing provision as Sub-clause (1), deleting the word "is" and substituting therefor the words "the Lakes and Rivers Act, Section 69 of the Penal Code and Sections 56, 57, 58, 59, 60, 61, 62, 63, 64 and 65 of the Kenya Railways Act are"

(b) by inserting a new Sub-clause (2) as follows-

(2) Notwithstanding the repeal of the Merchant Shipping Act, 1967, subsidiary legislation, licences, certificates and all administrative orders, directions, instructions made, given under or in pursuance of the Merchant Shipping Act, 1967, which are in force on the commencement of this Act, shall be deemed to have been made, given or issued under or in pursuance of the provisions of this Act, and shall remain in force until revoked, replaced, rescinded by subsidiary legislation, licences, certificates or any other administrative orders, directions or instructions made or issued under this Act.

(Question of the amendment proposed)

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

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

(Clause 450 as amended agreed to)

New Clause 434A

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

THAT the Bill be amended by introducing a new Clause immediately after Clause 434 as follow-

Compounding of 434A (1) The Director General may, where he or she is satisfied that any person has committed an offence under this Act in respect of which a fine is provided or in which anything is liable to forfeiture, compound the offence and may order such person to pay a sum of money, not exceeding the amount of the fine to which the person would have been liable if he or she had been prosecuted and convicted for the offence, as the Director General may deem fit; and the Director General may order anything liable to forfeiture in connection with the offence to be condemned.

(2) The Director General shall not exercise his or her powers under Sub-section (1) unless the person admits in a prescribed form that he or she has committed the offence under this Section.

(3) Where the Director General makes any order under this Section-

(a) the order shall be put in writing and shall have attached to it the request of the person to the Director General to deal with the matter;

(b) the order shall specify the offence which the person committed and the penalty imposed by the Director General.

(Question of the New Clause proposed)

(New Clause read the First Time)

*(Question, that the New Clause be read
a Second Time, proposed)*

*(Question that the New Clause be read
a Second Time, put and agreed to)*

(The New Clause was read a Second Time)

*(Question that the New Clause be
added to the Bill, put and agreed to)*

New Clause 15A

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Yinda, do you have an amendment to propose?

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

THAT, the Bill be amended by inserting a new Section immediately after Section 15 as follows-

15A. No owner of a ship or person providing the service of a shipping line shall, either directly or indirectly, provide in the maritime industry the service of crewing agencies, pilotage, clearing and forwarding agent, port facility operator, shipping agent, terminal operator, container freight station, quay side service provider, general ship contractor, haulage, ship broker, ship breaker, ship chandler, cargo consolidator, ship repairer, maritime training or such other services as the Minister may appoint under Section 2.

The reason for this, is because at present ship owners do the business of bringing in ships in the country, but they also double up in all other businesses where the local people could handle such businesses. In many countries, the practice is basically that---

(Mr. Githae gestured to the galleries)

The Temporary Deputy Chairman (Mr. Imanyara): Order, Mr. Githae! You are totally out of order. You do not conduct business of the House with strangers!

Mr. Yinda: Mr. Temporary Deputy Chairman, Sir, basically the other sub-businesses are done by the local people. My wish is to offer more business to local people as opposed to the present practice.

(Question of the amendment proposed)

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

New Clause 369A

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

THAT, the Bill be amended by inserting the following new clauses immediately after Clause 369-

Offences of piracy
and armed robbery

369A Any person who -
(a) commits any act of piracy;
(b) in territorial waters, commits any act of armed robbery against ships shall be liable, upon conviction, to imprisonment for life.

(Question of the new clause proposed)

(New Clause read the First Time)

(Question, that the New Clause be read a Second Time,

proposed)

*(Question, that the New Clause
be read a Second Time,
put and agreed to)*

*(The New Clause was read
a Second Time)*

*(Question, that the New Clause
be added to the Bill,
put and agreed to)*

New Clause 407A

Eng. Rege: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Bill be amended by inserting a new clause immediately
after clause 407 as follows-

Regulations on marine pollution 407A.(1) The Minister may make regulations
for the protection and preservation of the

marine environment from pollution by matter from ships.

- (2) Without prejudice to the generality of subsection (1), the regulations may give effect to any provision of the following international maritime conventions and agreements-
- (a) the United National Convention on the Law of the Sea (UNCLOS), 1982;
 - (b) the International Convention for the Prevention of Pollution from Ships (MARPOL), 1973 as modified by the Protocol of 1978 relating thereto, (as amended);
 - (c) the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969 (the Intervention Convention) as amended;
 - (d) the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by substances Other than Oil, 1973;
 - (e) the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990;
 - (f) the International Convention on the prevention of Marine Pollution by Dumping of Wastes and other Matter, (LDC) 1972;
 - (g) the Protocol on the Preparedness response and Cooperation to Pollution Incidents by Hazardous and Noxious Substances, 2000(NHS Protocol);
 - (h) the International Convention for the Control of Harmful Anti-Fouling Systems on Ships (AFS) 2001; and
 - (i) the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004;
 - (j) any international convention or agreement not mentioned in paragraphs (a) to (h) above which relates to the prevention, reduction and control of

pollution as well as liability and compensation for pollution damage of the sea or other waters by dumping of wastes and matter from ships;

- (3) In this section, reference to a convention, protocol or an agreement includes a convention, protocol or an agreement which provides for the modification of another convention, protocol or agreement.

(Question of the New Clause proposed)

(New Clause read the First Time)

(Question, that the New Clause be read a Second Time, proposed)

(Question, that the New Clause be read a Second Time, put and agreed to)

(The New Clause was read a Second Time)

(Question, that the New Clause be added to the Bill, put and agreed to)

Long Title

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

THAT, the long title to the Bill be amended by deleting the words "and the terms of the engagement of masters and seafarers and matters ancillary thereto; to provide for the prevention of collisions, the safety of navigation, the cargoes, carriage of bulk and dangerous cargoes; the liability of shipowners and others, inquiries and investigations into marine casualties; to consolidate the law relating to shipping and for connected purposes" and substituting therefor the words "training and the terms of engagement of masters and seafarers and matters ancillary thereto; to provide for the prevention of collisions, the safety of navigation, the safety of cargoes, carriage of bulk and dangerous cargoes; the prevention of pollution; maritime security; liability of shipowners and others, inquiries and investigations into marine casualties; to make provision for the control, regulation and orderly development of merchant shipping and related services; generally to consolidate the law relating to shipping and for connected purposes".

(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)

(Long Title as amended agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, although the Order Paper does indicate that we should proceed to the Proceeds of Crime and Anti Money Laundering Bill now, the amendments on that are not ready. So, we will not be proceeding with that. Therefore, we will proceed to Report.

The Minister for Transport (Mr. Mwakwere): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Merchant Shipping Bill, Bill No.19, and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

[The House resumed]

*[The Temporary Deputy Speaker
(Prof. Kaloki) in the Chair]*

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE MERCHANT SHIPPING BILL

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Merchant Shipping Bill, Bill No.19, and approved the same with amendments.

The Minister for Transport (Mr. Mwakwere): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Foreign Affairs (Mr. Wetangula seconded).

(Question proposed)

(Question put and agreed to)

The Minister for Transport (Mr. Mwakwere): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Merchant Shipping Bill, Bill No.19, be now read a Third Time.

The Minister for Foreign Affairs (Mr. Wetangula seconded).

(Question proposed)

The Assistant Minister for Medical Services (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, very briefly, I want to congratulate the Minister and the Chairman for the good work they have done. They have done a lot of work on this Bill. There were over 100 proposed amendments. But, today, we are very happy to note that we have an Act that protects trading in the Kenyan seas. The maritime law of Kenya has now come of age. We urge the Minister and Director-General to put things in order. There have been accusations that there is no power to do this or that. We have now given them the power. We also trust that employment will be created for the

many youths, especially those who are living at the Coast.

Mr. Temporary Deputy Speaker, Sir, again, I congratulate the Minister and the very able Chairman, Eng. Rege, who did a wonderful job.

Thank you very much and God bless you.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, it has been a long journey. I remember that this issue has taken quite some time. I remember that we dealt with it when I was at the Ministry of Transport.

I would just like to congratulate the Minister, the Director-General and her staff and also the Chairman of the Committee for having come up with these wonderful amendments. What really pleases me is that now, for the first time, Kenya will now be on the white list. We can now be able to train our seafarers. That is one area that has been neglected.

Mr. Temporary Deputy Speaker, Sir, secondly, I have always been saying that we need to encourage Kenyans to own ships. Whenever people retire they just venture into *matatus*. I think we have enough *matatus*. I would like to encourage Kenyans to start owning ships now. Do not just think of *matatus*.

Ms. Odhiambo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I want to congratulate the Minister and the Committee for doing a very good job. I was actually looking at this Bill and it looks like it is actually almost six Bills in one. So, the work you have done is really tremendous. Keep up the good work.

In light of the amendments that I brought yesterday in relation to children, I noticed later that there were further amendments that have to do with young people and children. Perhaps, at a later date, we may want to ask the hon. Attorney-General, whether those will be considered as editorial, or further amendments will be considered.

Mr. Temporary Deputy Speaker, Sir, I would just want to urge the Minister that when he is making regulations, he should consider provisions of the Children Act, especially in relation to child labour, because it does not allow the employment of children below the age of 16 years. It regulates the employment of children 17 and 18 years old.

Further, at a later time, the Minister may re-consider Clause 151, that has the opportunity of actually discriminating against persons living with HIV/AIDS.

Finally, especially on the issue of employment, when you were making regulations, there was a little omission on paternity and maternity leave. In relation to women, it might keep women off the shipping industry.

Otherwise, congratulations for the good work.

Mr. Mwachugu: Thank you, Mr. Temporary Deputy Speaker, Sir. I also wish to take this opportunity to congratulate the Minister, the Director-General and the Chairman and his team for a job well done. It is overdue and it should have come years back. I am particularly impressed by a number of clauses and additions which have come up; with greater emphasis on the fact that shipping companies, which are mainly foreign-owned, will not now be allowed to own clearing and forwarding agencies, cleaning of ships and all that appertains to it. Now, it is an opportunity for Kenyans to look far and wide. Just as the Assistant Minister has said, we should stop owning *matatus* and start owning ships, we should equally venture and start owning shipping agencies, clearing and forwarding firms and all that appertains to it. Now, it is a golden opportunity for Kenyans to move in and, at least, protect this industry.

Mr. Temporary Deputy Speaker, Sir, one vital point I would wish to add is that for a long time, most of the shipping agencies have been given commissions by the ship owners, based on what they consider appropriate, hence reducing the taxable income to this country. Given what has come on board now, that will be history.

I wish to take this opportunity to congratulate the Minister and his team.

Mr. Baiya: Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to also thank our Minister and the Members of the Committee on Energy, Communications and Public Works, for the good work that they have done on this Bill. I also want to take this opportunity to thank the Director-General, Kenya Maritime Authority because of all the information that they provided to the Committee in support of all the work that we have been going through. It was quite some work to be able to produce this Bill. It was truly due to the harmony of the whole Committee that we were able to come up with those amendments and the Bill in total. Let me also take the opportunity to thank the whole House for supporting us throughout the period until we came to this end.

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

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, I wish to raise one or two points.

First, I wish to thank the Committee that did a very commendable job, led by Eng. Rege. I also wish to express my appreciation for the manner in which they have presented their amendments. I also wish to extend my appreciation to the Ministerial staff and the Minister, in particular, for responding very satisfactorily to the issues raised by hon. Members.

Of great importance, is the introduction of security in our waters. We hope that security will be improved in Lake Victoria, where we have had fishermen getting threatened. We are also very aware that security in the oceans will be improved. With this, I think our shipping industry will compete favourably with other nations.

With those few remarks, I beg to support this impressive Bill.

Eng. Rege: Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to thank my colleagues in the Committee for their dedication in the search for answers to contentious issues in the Merchant Shipping Bill. I would also like to take this opportunity to thank Nancy Karigithu and her staff at the Kenya Maritime Authority for their support in providing answers promptly to our questions during the many meetings that we had with stakeholders.

Last year in August, my Committee travelled to Mombasa to investigate what was going on in the ports. We found out that ships are being built without any engineering specifications; with this Bill in place, we believe that such undertakings will be curbed. We also noticed that the life saving gear that we found being manufactured in Mombasa did not take into account infants, just as one of my colleagues indicated. I hope that, that will be looked into in future.

Thank you.

(Question put and agreed to)

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

MOTION

APPROVAL OF INCREASE
OF TOTAL INDEBTEDNESS

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, pursuant to Section 6(1) of the External Loans and Credit Act (Chapter 422 of the Laws of Kenya), this House approves the increase of total indebtedness for the time being outstanding in respect of principal amount of money borrowed or credit obtained under Section 2 of the Act from US\$6.3 billion (Kenya Shillings Five

Hundred billion, i.e. Kshs500 billion) to US\$10 billion (Kshs Shillings Eight hundred billion, i.e Kshs800 billion).

Mr. Temporary Deputy Speaker, Sir, on 27th July, 2007, pursuant to Section 6(1) of the External Loans and Credit Act, this House approved the increase of total external indebtedness from Kshs320 billion to Kshs500 billion. At the time of setting the ceiling, the Government's external debt stood at US\$468 million, which was equivalent to Kshs335 billion at the rate of Kshs75 to the US Dollar.

We need to increase the ceiling to accommodate new programmes and project loans we intend to borrow over the next four years, under the Medium Term Plan, 2008-2012, the first plan under Vision 2030, as part of the efforts to sustain the economic growth over that period and to continue our fight against poverty. We have, through the Medium Term Fiscal Framework, identified activities and projects that will need to be funded. For those, we need to borrow externally, about Kshs250 billion over a four year period.

Mr. Temporary Deputy Speaker, Sir, I wish to re-assure this House that concerns often raised on the utilisation of proceeds from external loans and grants are receiving serious attention by the Government and that, elaborate plans to strengthen financial management, including procurement, monitoring of projects and governance, have been put in place and will be fully implemented.

I wish to underscore to this House the importance of the timing of this Motion. The House has been demanding, and rightly so, to be more involved in the Budget formulation process. Indeed, the House, recently, passed the Fiscal Management Bill, and the Treasury concurs with the need to fully involve Parliament in the Budget process. In this regard, we plan to bring to this House the Budget proposals as contained in the Budget Strategy Paper around April, 2009.

Mr. Temporary Deputy Speaker, Sir, with the foregoing assurance, I beg to move that pursuant to Section 6(1) of the External Loans and Credit Act, Cap.422 Laws of Kenya, the ceiling of total indebtedness in respect of the principal amount of money borrowed or credit obtained under Section 2 of the Act, be raised from US\$6.3 billion to US\$10 billion.

Thank you.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I rise to second the Motion.

This is purely a procedural Motion. The ceiling is almost being reached. Therefore, in addition to congratulating the Deputy Prime Minister and Minister for Finance as one who represents the youth in the Ministry, I second.

(Question proposed)

Mr. Okemo: Mr. Temporary Deputy Speaker, Sir, while I support this Motion, there are very relevant concerns that I would like to raise. Fortunately, we have had an opportunity to meet with the Deputy Prime Minister and Minister for Finance at our Departmental Committee today. The concerns that we raised were taken into account by the Minister. I realise that, in his address to this House, he has actually acknowledged that there are governance areas that we will have to address.

The main governance area that I think we will need to deal with is the question of reporting to Parliament all external financial commitments that the Treasury gets engaged in with any donor. This is like an overdraft facility. Even if you have an overdraft facility, you do not get money out of that facility until you meet certain conditions.

Therefore, I wish to support the Motion, subject to those misgivings.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, I now call upon the Deputy Prime Minister and Minister for Finance to respond.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary

Deputy Speaker, Sir, I would like to assure this House that as we discussed in the Committee this morning, we have even agreed that the Treasury will be reporting to this House every six months on any new loans that have been contracted and to assure this House that the Treasury will work in very close co-operation as we move forward.

Thank you.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, it is now time for the interruption of the business. The House is, therefore, adjourned until next week on Tuesday, February, 17th, 2009, at 2.30 p.m.

The House rose at 6.33 p.m.