

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 10th December, 2008

The House met at 2.40 p.m.

[Mr. Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

INTRODUCTION OF COUNTER-TRAFFICKING IN PERSONS BILL

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, noting that trafficking in persons has been classified as modern day slavery constituting the third most lucrative transnational organised crime after drugs and arms; noting further that Kenya has been classified as a country of origin, transit and destination for human trafficking due to increasing economic differentiation within and between the countries of the East African region; concerned that there is no comprehensive law or policy addressing the issue of trafficking in persons; this House grants leave to introduce the Counter-Trafficking in Persons Bill to institute policies to eliminate trafficking in persons, especially women and children, and to establish the necessary institutional mechanisms for the protection and support of trafficked persons and to provide for penalties for violations and for connected purposes.

QUESTIONS BY PRIVATE NOTICE

MEASURES TO ADDRESS KBC'S WEAK FINANCIAL BASE

Mr. Mbadi: Mr. Speaker, Sir, I beg to ask the Minister for Information and Communications the following Question by Private Notice.

(a) Could the Minister confirm that the Kenya Broadcasting Corporation (KBC) has a weak financial base and is consequently unable to remit employee statutory deductions, including pension, VAT and PAYE?

(b) Could the Minister explain the circumstances under which the Corporation invested Kshs400 million in K24 TV and Ghetto Radio and clarify whether he approved the investment?

(c) Could the Minister table a list of the Corporation's news producers, TV news reporters, artists, news casters and managers, indicating their respective qualifications, home district and salaries?

(d) What steps is the Minister taking to rectify the anomalies and to ensure that the public

Corporation is run professionally and prudently?

The Assistant Minister for Information and Communications (Mr. Khaniri): Mr. Speaker, Sir, I beg to reply.

(a) The Kenya Broadcasting

Corporation (KBC) has a weak financial base. This is because the KBC undertook a radio modernisation project that was funded by a Japanese loan in 1989 and guaranteed by the Government of Kenya. Owing to financial constraints, the KBC was unable to repay the loan. The Treasury was approached and requested to repay the loan on behalf of the KBC. The Treasury started repaying the loan in 1992 under the terms of treating the repayment amount as a loan to the KBC to be repaid back with annual interests.

As at December, 2008, the KBC owes the Treasury roughly Kshs19 million. Other outstanding debts are for medical scheme, Value Added Tax (VAT), Pay As You Earn (PAYE), the KBC Pension Scheme and suppliers of foreign programmes amounting to Kshs968,500,000.

(b) The KBC has not made any actual monetary investments in K24 TV and Ghetto Radio. The KBC had two idle broadcasting frequencies and wanted to counter competition and generate additional revenue. Since the KBC did not have funds, it got a proposal from the Regional Reach Limited, which gave a goodwill of Kshs10 million. This investment was approved by the KBC Board of Directors as required by the law.

The Ghetto TV targets young adults and it is run by Radio Netherlands and Sarakazi Trust of Kenya, which are non-profit making organisations. Other joint ventures for KBC are with Multichoice Africa; the DSTV.

(c) Attached are the schedules of senior managers of the Corporation, staff in the television programmes department, the news department and the artists, showing their respective qualifications, home districts and salaries.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. I was seriously struggling to allow the Assistant Minister to proceed because I do not have a copy of the written answer. However, he has just tabled the list and I might not have an opportunity to read it now; I am troubling to allow him to continue without me having a copy of the written answer.

Mr. Speaker: Mr. Assistant Minister, do you have an extra copy of your written answer?

The Assistant Minister for Information and Communications (Mr. Khaniri): Mr. Speaker, Sir, as usual, we sent this answer to Parliament this morning. You reckon that this is a Question by Private Notice, which just came to us a couple of days ago. We had to research on the answer and as you can see, the list that I am tabling is very voluminous. We completed working on this answer just this morning. Personally, I made sure that an answer was dispatched to Parliament this morning.

Mr. Speaker: The Clerk of the National Assembly, what happened to the Parliamentary copy of the answer?

*(Mr. Speaker consulted
with the Clerk)*

The information I have, Mr. Assistant Minister, is that the answer has not yet arrived in Parliament.

The Assistant Minister for Information and Communications (Mr. Khaniri): Mr. Speaker, Sir, I do not know where the breakdown is. I confirm that the answer was dispatched from my office this morning. If the hon. Member is not comfortable, may I request that the Question be deferred to tomorrow, so that I can provide him with a copy of the written answer.

Mr. Speaker: Mr. Mbadi, do you agree with the Assistant Minister that we defer the

Question to tomorrow, afternoon, at 2.30 p.m?

Mr. Mbadi: Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well! It is so ordered. Make sure that you get a copy of the answer as it may be available in [Mr. Speaker] Parliament. We will take the Assistant Minister's word that it has been delivered. Notwithstanding the fact that he has not furnished us with the evidence that it has, we will take his word.

(Question deferred)

VIOLATION OF WORKERS' RIGHTS BY
WILDERNESS LODGES LIMITED

Mr. Letimalo: Mr. Speaker, Sir, I would like to inform the Chair that I have not received a written answer and I would not mind to have it now, owing to the gravity of the subject. However, I beg to ask the Minister for Labour the following Question by Private Notice.

(a) What reasons do M/s Wilderness Lodges Ltd. have to require their employees spouses to visit them for no longer than two weeks, and only after a two weeks' written notice to the management, and to disallow children from visiting parents who are employed at Samburu Lodge?

(b) What steps is the Minister taking against the firm, in view of this gross violation of the workers' rights, to ensure the same is stopped forthwith?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I am a bit mystified because all of us have just moved from the Old Chamber to this place. I request that we get back to this Question later. Indications from my office are that the Ministry was ready to answer this Question.

Mr. Speaker: Very well! We shall keep it in abeyance and return to it later on.

SALE OF MAIZE BY NCPB
TO MILLERS AT A LOSS

Mr. Warugongo: Mr. Speaker, Sir, although I have not received the written reply, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Could the Minister confirm that the National Cereals and Produce Board (NCPB) is currently selling maize to millers at a lower price than the purchase price, hence incurring losses?

(b) How does the Government plan to recover the difference?

Mr. Speaker: Mr. Assistant Minister for Agriculture, I am informed that you did not supply a written answer?

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Speaker, Sir, we supplied a written answer in the morning.

Mr. Warugongo: Mr. Speaker, Sir, I will be comfortable if he can proceed.

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

(a) The Government, through the NCPB, is selling maize from the Strategic Grain Reserve (SGR) to millers at a price lower than the purchase price to reduce the price of flour and other maize products.

(b) The difference is meant to be subsidy of maize flour and other products, hence not recoverable.

Mr. Warugongo: Mr. Speaker, Sir, I am happy to hear that answer from the Assistant Minister. I do not think I have any further questions.

Mr. Thuo: Mr. Speaker, Sir, having said that the difference is not recoverable, how does the Assistant Minister intend to finance it? Secondly, for how long will they subsidise maize flour? Is it for six months? Is the subsidy open-ended? How long will it be? How will they finance that unrecoverable portion because it was not part of the Budgetary Estimates in the current financial year?

Mr. Mbiuki: Thank you, Mr. Speaker, Sir. We are utilising funds from the SGR which were budgeted for previously. We are expecting to spend a sum of Kshs16 billion in terms of subsidy within the next financial year.

Mr. Speaker: How long, Mr. Assistant Minister?

Mr. Mbiuki: Mr. Speaker, Sir, in the course of next one year from now.

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

Mr. Speaker: Very well! Is that a point of order, Mr. Thuo?

Mr. Thuo: Mr. Speaker, Sir, the Assistant Minister has not answered my question. How will they finance it, given that the subsidy had not been given any budgetary allocation in the current financial year.

Mr. Mbiuki: Mr. Speaker, Sir, we had set aside money for the SGR. At the same time, we have lobbied for funds, through the Ministry of Finance, to provide the Ministry of Agriculture and the Ministry of State for Special Programmes, so that they can fund this subsidy in the interest of the Kenyan public.

Mr. Speaker: Order, Mr. Assistant Minister! That is not satisfactory! Given that this money was not provided for in the Budget, how do you intend to finance the subsidy?

Mr. Mbiuki: Mr. Speaker, Sir, this is a revolving fund. Some maize has already been bought. In this financial year, we expect to raise more funds. As I speak, the money is available. It has already been taken care of through the SGR. We have been utilising most of the money in the procurement process. The money to finance that subsidy, is already available.

Mr. Thuo: Mr. Speaker, Sir, he keeps on saying that the money is available. I still argue that we did not vote for this money? How did they create it? What was the source of this money?

Mr. Speaker: Mr. Assistant Minister, could you come clear on this issue. It is a fairly straightforward question. Where are you getting your money from, given that it was not provided for in the Budget?

Mr. Mbiuki: Mr. Speaker, Sir, the money was provided for in the Budget. There is money for the SGR which we were supposed to use to increase our grain reserves from 3 million to 8 million bags. That is the money we are utilising.

Mr. Speaker: Order, Mr. Assistant Minister! Under what vote and how much is this money?

Mr. Mbiuki: Mr. Speaker, Sir, this is under the Ministry of Agriculture and the Ministry of State for Special Programmes. Those are the Ministries which really take care of the SGR.

Mr. Midiwo: On a point of order, Mr. Speaker, Sir. The issue of maize and how it has been handled over the years is why our people are going hungry. Would I be in order to ask the Speaker to defer this Question, so that the Assistant Minister can explain to Kenyans on what is happening to maize in this country?

Mr. Speaker: Order, hon. Midiwo! This is Question Time. If you are not satisfied with the answer given by the Assistant Minister, you should say so. It is your duty to interrogate him until he gives you satisfactory answers. That is not the duty of the Chair.

Mr. Thuo: On a point of order, Mr. Speaker, Sir. The Assistant Minister has not answered the question. You even assisted him by asking him, specifically, under what Ministry and vote that money was allocated. He went ahead to comment about his own Ministry and another Ministry. He now says that what we passed in this House, for the purpose of the SGR has now been consumed by this subsidy. We are in serious trouble.

Mr. Speaker: Very well! It is the opinion of the Chair that the Assistant Minister is, so far, struggling and is unable to answer this Question satisfactorily. I will defer this Question to tomorrow 2.30 p.m. Please, come back with a satisfactory answer, inclusive of information on specific votes, where that money is, and how much of that money is in those votes.

Mr. Imanyara: Mr. Speaker, Sir, while the Assistant Minister is on his feet, this morning, he undertook on the subject of maize, to bring samples of some *unga* to this House. Could you direct that, now that he is on his feet and on the subject of maize, what became of that commitment that he made to the House this morning?

Mr. Mbiuki: Mr. Speaker, Sir, I asked my colleagues to bring the maize flour. I expect to lay it on the Table before the end of this Question Time. They are in the process of bringing it.

Mr. Speaker: Very well! You will be allowed a slot at the end of Question Time to lay on the Table, the samples and make any statements as may be necessary to satisfy the House and Kenyans at large.

STATISTICS OF DEATHS/INFECTIONS FROM
RABIES IN TAITA DISTRICT

Mr. Mwakulegwa: Mr. Speaker, Sir, I beg to ask the Minister for public Health and Sanitation the following Question by Private Notice.

(a) Could the Minister provide statistics of infections and deaths from rabies in Taita District in the last one year?

(b) What steps has the Government taken to provide drugs for treatment of the disease to control it from spreading further.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Speaker, Sir, I beg to reply.

(a) A total of 245 cases of bites have been reported in Voi resulting into one death. The figures are as follows: Wundanyi, 76 bites and no deaths; Mwatate, 67 bites; Voi 94 deaths; Tansa, 11 deaths; Mwambirwa, 6 bites; and Voi 110 bites.

(b) My Ministry has taken the following step to provide vaccines and control further spread of diseases:

Supply of anti-rabies vaccines to help facilities to administer to those bitten by animals suspected to be having rabies.

My Ministry has already placed an order for procuring more anti-rabies vaccines, since there has been some shortage countrywide. My Ministry is liaising with the Ministry of Livestock Development to bait and eliminate stray dogs and other animals likely to spread the diseases. Members of the public are continuously being provided with education through public *barazas* and other avenues on how to identify suspected rabied animals and the need for strong health seeking behaviour when one is bitten by any animal. My Ministry is currently liaising with the Ministry of Livestock Development to carry out vaccination of domestic animals in affected areas.

Mr. Mwakulegwa: Mr. Speaker, Sir, while I thank the Minister for this answer, some of the answers she has given are not satisfactory. For example, could she explain why minors who have been infected by the disease are being charged when they go for the jabs?

Mrs. Mugo: Mr. Speaker, Sir, I do not know of any minors who are being charged.

Treatment is free for children up to five years of age. If there are any minors under five years who are being charged, then the hon. Member should let me know. However, the charges are very minimal. For health centres, it is Kshs20 and dispensaries, it is only Kshs10.

Mr. Mwakulegwa: Mr. Speaker, Sir, I would like to inform the Minister that the vaccines are charged Kshs1,500 and the total cost for treatment is Kshs7,500. It is not Kshs20. Last Saturday, I gave money to two infected minors to be treated. Therefore, if it is true that it is free, then the Government---

Mr. Speaker: Order, Mr. Mwakulegwa! It is Question Time! What is your question?

Mr. Mwakulegwa: Mr. Speaker, Sir, could the Minister inform the House what she is doing to bring down the cost of the vaccines to Kshs20 because in Voi and Taita at large, victims are being charged Kshs1,500 per jab?

Mrs. Mugo: Mr. Speaker, Sir, let me remind the hon. Member that I am not "she"; I am an hon. Member of this House. To answer the question, I have just said that for children under five years, it is free. If he paid money for a child under five years to be treated, then he can let me know, since he might have been conned. However, for certain medicines for grown ups, it might be a bit higher, depending on what that treatment is.

ORAL ANSWERS TO QUESTIONS

Question No.088

TOXICATION OF LAKE NAIVASHA BY AGROCHEMICALS

Mr. Mututho asked the Minister for Environment and Natural Resources:-

(a) whether he is aware that Lake Naivasha is currently toxicated due to use of banned agrochemicals including Furadan;

(b) whether he is also aware that Furadan chemical has been blamed for causing nervous disorder in lions around the lake; and,

(c) what measures the Government is taking to impose a complete ban on the said chemicals.

The Assistant Minister for Environment and Mineral Resources (Mr. Kajembe): Mr. Speaker, Sir I beg to reply.

(a) No, I am not aware that Lake Naivasha is currently toxicated---

Mr. Mututho: On a point of order, Mr. Speaker, Sir. I do not have a written reply.

Mr. Speaker: Order, Mr. Mututho! You are raising that concern too late. At the time you asked the Question, you should have pointed out that you did not have a written answer. I will not entertain that complaint at this point in time!

Proceed, Minister!

The Assistant Minister for Environment and Natural Resources (Mr. Kajembe): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that Lake Naivasha is currently toxicated due to the use of banned agrochemicals including Furadan. My Ministry has established that, banned agrochemicals including Furadan are not currently being used in any of the flower farms around the lake. Flower farmers along the lake, including members of Lake Naivasha Growers Group and Lake Naivasha Riparian Owners Association stopped using such agrochemicals and their organic chlorines in 2003.

(b) I am also not aware that Furadan chemical has been blamed for causing nervous

disorder in lions along the lake. Carnivores, including lions do not occur regularly around Lake Naivasha, which consists mainly of herbivores such as hippopotamus, giraffes, zebras, wildebeest and waterbucks. I wish to state that the only recently observed case of nervous disorder in lions was in the Mara Conservancy where five lions showed indications of paralysis due to carbon furan pesticide used by wheat farmers around the Mara Game Reserve.

Mr. Speaker, Sir, the Government institution charged with the responsibility of controlling the importation of agrochemicals such as Furadan is the Pest Products Control Board. It is best placed to make decisions on whether to ban hazardous agrochemicals with due consideration to positive and negative impacts on environment, human and animal health.

Mr. Mututho: Mr. Speaker, Sir, Furadan is a systemic pesticide. It is systemic in that, you plant with it and it lasts in the plant. It is not true that this does not exist. Could the Assistant Minister reconfirm again, when they will ban Furadan because of its very grave consequences?

Mr. Kajembe: Mr. Speaker, Sir, we have not noticed any cases of Furadan with the lions. I am saying that we have identified only five lions in the Mara area which have been affected by this chemical. Otherwise, it is not common. So, the Pest Control Board deals with this problem which we have liaised with and they have told us that they have not experienced this problem in Lake Naivasha.

Mr. Mututho: Mr. Speaker, Sir, the Assistant Minister has just confirmed that there are five cases elsewhere and he does not know of any case. It is because the lions eat the herbivorous animals which consume that product and that leads to the level of toxicity. I still insist: Does the Assistant Minister have plans to ban Furadan so that it is not in the ecosystem?

Mr. Kajembe: Mr. Speaker, Sir, if this problem was there around Lake Naivasha, I would have told this House and also informed it of the measures my Ministry is taking. However, it does not exist around Lake Naivasha.

Mr. Speaker: Very well! We will have to move on to Question No.531 because the Minister is on call to attend to other Government business urgently. Mr. Anyanga!

Question No.531

PAYMENT OF HARDSHIP ALLOWANCE
TO TEACHERS IN NYATIKE

Mr. Anyanga asked the Minister for Education:-

(a) whether he could confirm that Nyatike, Karungu and Mihuru divisions in Nyatike Constituency are classified as Arid and Semi-Arid Lands (ASALs);

(b) whether he is further aware that teachers in the constituency are not paid hardship allowance; and,

(c) what the Ministry is doing to urgently implement payment of hardship allowance to teachers in the constituency.

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

(a) I am aware that Nyatike, Karungu and Mihuru divisions in Nyatike Constituency are classified as Arid and Semi-Arid Lands (ASALs).

(b) I am also aware that teachers in the three divisions are not paid hardship allowance since the divisions are not designated as hardship areas.

(c) The Ministry cannot implement payment of hardship allowance to teachers in Nyatike Constituency because the constituency is not gazetted as a hardship area.

Mr. Anyanga: Mr. Speaker, Sir, teachers in Nyatike have suffered for a long time. What

plans does the Assistant Minister have to gazette Nyatike, Karungu and Mihuru as hardship areas?

Prof. Olweny: Mr. Speaker, Sir, the Ministry of Education does not gazette various areas as hardship areas. However, at the moment, the relevant Ministry - that is the Ministry of State for Public Service - has appointed a task force to review the classification of various areas in this country as hardship areas. Nyatike is one of the areas being considered by that task force. Once the recommendations of that task force are adopted, Nyatike and other places will be considered for gazette.

Mr. Kioni: Mr. Speaker, Sir, I would like to know when that task force was appointed, and which other areas it is considering. In my constituency, we have a similar situation where half of the constituency falls under an arid area and teachers there are not receiving a hardship allowance.

Prof. Olweny: The task force was appointed this year. It is considering various areas in this country, and not only Nyatike. It just happens that the MP for Nyatike has raised this Question this year, when the task force has been formed. So, your constituency, just like any other part of the country, is under consideration. Where areas do not fall as ASALs, they will not be considered for hardship allowance because there is a criteria that is being used by the Government for that classification.

Mr. Speaker: Last question, Mr. Anyanga!

Mr. Anyanga: Mr. Speaker, Sir, my last question is: When will the task force finalise its work?

Prof. Olweny: Mr. Speaker, Sir, that matter belongs to another Ministry. So, I cannot give an answer on behalf of another Ministry. But once the recommendations come to us, then we shall consider it for the benefit of our teachers.

Question No. 369

RESTORATION OF SECURITY
IN KISAUNI

Mr. Joho asked the Minister of State for Provincial Administration and Internal Security, following the recent reports of several cases of crime reported in Kisauni area of Mombasa District, what immediate and urgent measures he is taking to ensure security is restored to avoid further loss of lives and looting of property.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker, Sir, I beg to reply. The upsurge of crime in the recent past is attributed to the post election violence which saw many youths who were either employed in beaches and tourist hotels lose their jobs due to the closure of those beach hotels, thus making them idle and, as a result, they turned to criminal activities.

The following measures have been put in place to ensure that security is restored:-

Police beats and patrols have been intensified during day and night by both foot and mobile policemen. Police dogs have also been incorporated in the patrols. Security surveillance has been enhanced on those who are suspected to be perpetrators of unlawful acts.

Mr. Speaker, Sir, community policing has also been enhanced. Raids and ambushes have been enhanced. Collection of intelligence has been enhanced. Investigations with regard to reported cases have been instituted and where culprits have been arrested, they have appeared before courts, accordingly.

Mr. Joho: Mr. Speaker, Sir, I do not know whether the Assistant Minister is aware that in Mombasa District, we have three police stations, two of which are across the bridge, a highly

populated area. Those two police stations have no vehicles to conduct day to day patrols. The Assistant Minister has said that they do day to day patrols, but they do not have vehicles. I do not know whether he is aware of that problem and what he will do about it.

Mr. Lesrima: Mr. Speaker, Sir, I am aware that we have a shortage of vehicles. But in this particular case, I am not aware about the specifics of non-availability of vehicles in the stations mentioned by the hon. Member. But, indeed, I could find out and make an appropriate recommendation.

Mr. Joho: Mr. Speaker, Sir, I do not know whether the Ministry is planning to add more police stations, given that the area is highly populated.

Mr. Lesrima: Mr. Speaker, Sir, I undertake to review the situation and take appropriate action.

Mr. Speaker: Question No.566 will be deferred until Tuesday, next week. That is because the hon. Member for Laisamis has had to go to his Constituency on an urgent insecurity situation that has arisen.

Question No.566

NUMBER OF COMMISSIONS OF INQUIRY
APPOINTED IN LAST SEVEN YEARS

(Question deferred)

Question No.384

RAID ON KTN PREMISES

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

(a) whether he could give the names of persons who raided the premises of the Kenya Television Network (KTN) in March, 2006, and explain the motives of the raid;

(b) how many persons have so far been arrested and prosecuted in connection with the raid; and,

(c) whether he could explain why the media group has not been compensated to date and indicate when that will be done.

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

(a) I am not aware of the identity of the people who raided the premises of KTN, nor am I aware of the motive of the raid.

(b) Nobody has been arrested in connection with the raid.

(c) The aggrieved parties; KTN and the Standard Newspapers Group proceeded to court and filed a civil suit which has not been determined. The issue of compensation, if any, will be determined by the court.

Mr. Were: Mr. Speaker, Sir, I am a bit surprised by the answer that has been given. Immediately after the raid, the previous Minister of State for Provincial Administration and Internal Security alluded to the fact that it was the Government that had raided the Standard Newspapers Group and KTN.

In part "c", the Assistant Minister has said that KTN and Standard have gone to court. I

really wonder whom they have gone to court against if, at all, at this particular time, the Government does not know who attacked KTN.

Mr. Lesrima: Mr. Speaker, Sir, I am not in a position to provide that information. I am sure the hon. Member is aware that some of these matters are in the public domain. I do not think it is really for the Government to determine what civil suit cases are before the court. I am not very sure whether---

Mr. Speaker: Mr. Assistant Minister, the Standing Orders provide, among other things, that you are responsible for the accuracy of any statement you make in this House. You have made a statement to the effect that the Standard Group has gone to court. That is a statement that is assertive. Is it not? So, do you have the information that you are now being interrogated to provide or do you require time to find that information? That is because you have made a positive statement.

Mr. Lesrima: Mr. Speaker, Sir, I need more time to confirm these matters.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. This Assistant Minister is not new to this House. He was in this House when a Committee of this House was appointed to investigate the circumstances of the raid. He was also present in the House when that document was tabled before the House by Mr. Muite.

Is it in order for you to direct that, that report be made available because it contains all the evidence, including the Ministers who raided the Standard newspapers.

Mr. Lesrima: Mr. Speaker, Sir, there was also the Kiruki Report, which was presented to the appointing authority and that has not been released.

An hon. Member: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, hon. Members! I think the Assistant Minister has responded to the concerns raised as best as he can, and you can notice that, as things stand now, although he has made an assertion in this House, he does not have the requisite information in his custody and is, therefore, unable to furnish the House with that information.

So, the concerns of hon. Members will be addressed a little later. I want to accord the Assistant Minister time. I will give him seven days from today; so, this Question is deferred to Wednesday next week at 9.00 a.m. Mr. Imanyara, I can see you are anxious. Among other things, the Assistant Minister will evaluate the information that has been supplied by Mr. Imanyara. That should rest the matter.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. The matter of the investigation by that Committee is within your control. The fact that the report was tabled in this House, is a matter that is within the knowledge of the Chair.

Mr. Speaker, Sir, am I in order to request that you order that, that report be communicated to the House Business Committee (HBC) for them to bring the report for debate in this House. That is not a matter within the knowledge of the Assistant Minister but is within your knowledge, because it was a Committee of the whole House.

Mr. Speaker: Order, Mr. Imanyara! That may very well be so. I was, indeed, a Member of the Parliamentary Committee that investigated that matter.

Mr. Speaker, Sir, I would like to tell you that, that report, and the Motion for adoption of the Report, were tabled and moved respectively, in the Ninth Parliament. As our Standing Orders stand today, that has lapsed. That is the position until we enact the new Standing Orders. So, we will have to live with that. This Question is deferred to Wednesday next week at 9.00 a.m.

(Question deferred)

Question No.151

NUMBER OF IDPs RESETTLED
COUNTRYWIDE

Mr. Kioni asked the Minister of State for Special Programmes:-

(a) how many people have so far been resettled from each of the Internally Displaced Persons (IDPs) camps countrywide;

(b) whether she could state how many IDPs, by name, location and amount, have received resettlement kits and/or money; and,

(c) what medium the Government is using to distribute the resettlement kits, money and foodstuffs to the IDPs.

The Minister of State for Special Programmes (Dr. Shaban): Mr. Speaker, Sir, I beg to reply.

(a) The following are the figures of the IDPs who have been resettled from each of the IDPs camps countrywide.

PROVINCE	TOTAL
Rift Valley	- 343,350
Western	- 3,897
Nyanza	- 1,900
Central Province	- 1,180

(b) The Government has not provided resettlement kits to IDPs, but in lieu of the kits, it has paid Kshs25,000 to a total of 18,764 households, amounting to Kshs469,100,000 to facilitate reconstruction of destroyed shelters. The Government also made payments of Kshs10,000 to some 88,698 households as start-off cash. That amounted to Kshs886,980,000.

Mr. Speaker, Sir, in Trans Nzoia East District, the Government issued iron sheets, timber and nails to 962 IDPs families to facilitate repairs of houses destroyed during the 2007 post-election violence. Information on names and locations of IDPs who have received payments can be checked in registers accompanying this response. I wish to lay the same registers on the table of the House.

*(Dr. Shaban laid the registers
on the Table)*

(c) The Government is currently using the following media to distribute resettlement kits, money and food stuffs to IDPs:-

(i) The IDPs committees in the camps and affected areas are utilised to identify genuine IDPs to be assisted.

(ii) Government officials on the ground, like the provincial administrators, Non-Governmental Organisations (NGOs) and faith-based organisations operating in the areas.

(iii) The Government had also entered into a memorandum of understanding with the Co-operative Bank of Kenya to assist in making payments to IDPs. This fast-tracked the payment exercise through utilisation of the banks' existing capacity in its branches countrywide.

Mr. Kioni: Mr. Speaker, Sir, I want to thank the Minister for the comprehensive answer. I will have time to look at the register and, perhaps, come back through another route. For now, could I ask the Minister to inform this House at what cost were the iron sheets, timber and nails

bought for the 962 IDPs within Trans Nzoia East District.

Dr. Shaban: Mr. Speaker, Sir, what was approved by the board to be utilised for that exercise was Kshs25 million.

Dr. Khalwale: Mr. Speaker, Sir, when the Minister was considering this case, she left out a group of IDPs comprising people who did not go to camps, but chose to join their relatives. When is she going to extend the same facilities to those IDPs?

Dr. Shaban: Mr. Speaker, Sir, in the process of *Operation Rudi Nyumbani*, there were quite a number of people who came in. Those were the integrated IDPs, who came to join the others as they were going back home. But I do agree with the hon. Member that there are members still living with families, and who have not been taken care of. We are now waiting for a further allocation of money from Treasury of about Kshs1.2 billion, then we shall move on and deal with the integrated IDPs.

Mr. Gaichuhie: Mr. Speaker, Sir, could the Minister confirm to this House that she will continue to feed the integrated IDPs before they are resettled?

Dr. Shaban: Mr. Speaker, Sir, we entered into a memorandum of understanding with our partners, the World Food Programme (WFP), who put in 70 per cent and we put in 30 per cent for feeding 230,000 IDPs. On top of that, the Government has undertaken to actually feed the other IDPs, who are not covered in the IMOP programme. We shall continue feeding them until March when we think that they will actually be on their feet and can feed themselves.

Mr. Chanzu: Mr. Speaker, Sir, I would like to ask the Minister what the Government has done about those IDPs or those who were involved in the skirmishes and they got injured but did not get compensation. Are they being considered under this programme?

Dr. Shaban: Mr. Speaker, Sir, for the IDPs who got injured during the post-election violence, we made an announcement that they were supposed to go to hospital and the Government was taking care of those costs. We have been paying for the cost of treatment of the people who were injured. Up to today, we are still paying for the patients who were in Kijabe Mission Hospital. Recently, some three months ago, we paid a bill of Kshs1.06 million for patients who were at Kijabe Mission Hospital; there are others who were in other private hospitals, and who were also covered. Those who went to Government hospitals, the Ministry of Medical Services was taking care of their bills.

Mr. Imanyara: Mr. Speaker, Sir, I want to thank the Minister for her diligence in answering Questions. Just two weeks ago, through you, we donated Kshs50 million for the Internally Displaced Persons (IDPs). I noticed from the Press, just the other day, that the Deputy Prime Minister and Minister for Trade added his entire salary to this contribution. How does the Minister intend to distribute this money?

Mr. Speaker: Madam Minister, proceed, but note that the figure is just over Kshs11 million and not Kshs50 million!

Dr. Shaban: Thank you, Mr. Speaker, Sir. The figure is actually Kshs11.1 million which was contributed as Kshs50,000 from each Member of Parliament.

Mr. Speaker, Sir, there was a sub-committee which was mandated to come and sit with us and agree on how the Kshs11.1 million is going to be utilized. We are in the process of waiting for the Speaker to send this sub-committee to come over. We can then discuss how the money will be spent. However, any Member is free to give an input on how this money should be spent. We shall give you full value for the money given.

Thank you very much for the kind donation.

(Mr. Olago stood up in his place)

Mr. Speaker: Yes, Mr. Olago!

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

Mr. Speaker: What is your point of order, Dr. Khalwale?

Dr. Khalwale: Mr. Speaker, Sir, if I recollect well, the money Members of Parliament gave plus the salary Mr. Kenyatta has given was meant for Christmas. Could the Minister tell us exactly how she is going to give the Christmas gift, in what form and how will she distribute it?

Dr. Shaban: Mr. Speaker, Sir, if the money was meant to be for Christmas, would I be in order to suggest that all the money should be used to buy iron sheets for IDPs?

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

Mr. Speaker: Mr. Letimalo, Mr. Olago had caught the eye of the Speaker ahead of you! Mr. Olago, please, proceed!

Mr. Olago: Mr. Speaker, Sir, there are two categories of Kenyans who have been totally ignored by the Ministry. This is particularly in Kisumu District.

One of the groups are those who left their places of residence and businesses and came back to Kisumu but were not registered at that time because of the confusion.

Secondly, there are others whose properties were destroyed. What is the Ministry doing about those whose properties were destroyed but were not evicted?

Dr. Shaban: Mr. Speaker, Sir, the budgetary allocation I have cannot cover the losses met. The losses were in the tune of billions of shillings. However, the amount of money we were given is not enough. It falls far short of the amount we anticipated and the board had calculated for the action plan.

Mr. Speaker, Sir, considering all that, it is not easy for us, as a Ministry or Government, to compensate everybody who lost property worth billions of shillings. We are giving a flat rate across the board. This is very little amount of money. It is meant to, at least, provide for some kind of temporary shelter for the people to be on their feet for us to go on with the development of this country.

Mr. Njuguna: Mr. Speaker, Sir, we recently saw some IDPs buying land with the money they were given. In Naivasha, there is a very big camp near the main highway. What is the Minister doing to assist these people to access water, health care and education for their children?

Dr. Shaban: Mr. Speaker, Sir, I would invite all the Members to go and visit the transitional camps we have or where the IDPs have been able to pool money together to buy land. The Ministry of State for Special Programmes has provided water and sanitation for the IDPs. We are also providing other facilities like making sure that we support the schools neighbouring those areas so that our children who left the IDP camps should be able to access education.

Mr. Letimalo: Mr. Speaker, Sir, if the money contributed by Members of Parliament is meant to be a Christmas gift for the IDPs, what assurance is the Minister giving us that IDPs who are staying with their relatives will also benefit from the same?

Dr. Shaban: Mr. Speaker, Sir, whereas that contribution from Members of Parliament was very generous, I just want to say that Kshs11.1 million is actually a drop in the ocean. For budgetary support, what we required is in the tune of billions of shillings.

So, if I am going to say that Kshs11.1 million is going to solve all our problems, it would be very wrong and I would be misleading the House. Those funds, which the Members contributed generously, are going to be utilised properly and efficiently. We will make sure that we work it out with you, as Members of Parliament.

Mr. Speaker: Last question, Mr. Kioni!

Mr. Kioni: Mr. Speaker, Sir, let me go back to the answer that I was given. The Government entered into a Memorandum of Understanding with the Cooperative Bank. Given that the Government has administrators in every corner in this country, at what cost did she find it necessary to engage a financial institution to do this work that could have been done fairly well by the administrators?

Dr. Shaban: Mr. Speaker, Sir, the cost was a negotiated percentage. There are some places where they went to pay the people in the villages using mobile banking services. So, the IDPs were not going to the banks. It was paid at 4 per cent of the amount paid out. However, that cost was carried by the Ministry of State for Special Programmes.

Mr. Speaker: We will now go back to Question No.2 by Private Notice!

QUESTION BY PRIVATE NOTICE

VIOLATION OF WORKERS' RIGHTS BY WILDERNESS LODGES LIMITED

Mr. Letimalo: Mr. Speaker, Sir, I beg to ask the Minister for Labour the following Question by Private Notice.

(a) What reasons do M/s Wilderness Lodges Limited have to require their employees' spouses to visit them for no longer than two weeks, and only after a two weeks' written notice to the management, and to disallow children from visiting their parents who are employed at Samburu Lodge?

(b) What steps is the Minister taking against the firm, in view of this gross violation of the workers' rights, to ensure the same is stopped forthwith?

Mr. Speaker: Is the Minister for Labour here? He is not in!

Leader of Government Business, that is a lot of indulgence extended to the Minister!

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Yes, indeed, Mr. Speaker, Sir. I tried to find out where the Minister for Labour could be. Indeed, our records indicate that Mr. Sospeter Ojaamong was scheduled to answer this Question. Now, we are told that he is out of town. Perhaps then, could this Question be deferred to tomorrow?

Mr. Speaker: Very well! This is a Question by Private Notice. It is, therefore, urgent and we defer it to tomorrow afternoon!

(Question deferred)

Next Question!

ORAL ANSWERS TO QUESTIONS

Question No.307

AMOUNT REALISED FROM PETROLEUM LEVY SINCE 2003

Dr. Khalwale asked the Minister for Energy:-

(a) how much money has been realised from collection of the Petroleum Development Levy since 2003; and,

(b) whether he could explain how this money has been appropriated.

The Assistant Minister for Energy (Mr. Keter): Mr. Speaker, Sir, I seek your indulgence that I answer this Question on Tuesday next week. There is some information which we have not verified. I have already discussed this with the hon. Member.

Mr. Speaker: Dr. Khalwale, do you confirm that?

Dr. Khalwale: I have no objection, Mr. Speaker, Sir.

Mr. Speaker: Very well! The Question is deferred to Tuesday next week!

(Question deferred)

Next Question by Mr. Franklin Bett!

Question No.230

LIST/STAFFING OF ECD
SCHOOLS IN BURETI

Mr. Bett asked the Minister for Education:-

(a) whether he could list the operational nursery schools under Early Childhood Development (ECD) in Bureti District;

(b) whether he could also indicate the staffing levels in these nursery schools, and state how many of them are on the Government payroll; and,

(c) when the Government will settle the total wage bill for nursery school teachers.

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

(a) The Early Childhood Development Education (ECD) statistics in Bureti District are as follows:-

There are 299 public and 84 private ECD centres. This makes a total of 383.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, we have an enrolment of 8,282 boys and 9,458 girls, making a total of 17,740. We have 316 trained teachers and 168 untrained teachers. This makes a total of 529 teachers.

(b) The staffing levels are indicated in the above Bureti District statistics. There are 361 trained teachers and 168 untrained teachers, thus making a total of 529 teachers. None of the teachers is in the Government payroll, since the teachers are hired by parents and local communities.

(c) Early Childhood Development (ECD) is provided through a partnership policy whereby the Government collaborates with parents, communities, private sector and development partners.

Mr. Temporary Deputy Speaker, Sir, the role of the Government has been to support teachers training and quality assurance. As the Government gears towards integrating four to five-year old children into primary education by 2010, the Ministry is developing modalities to hire ECD teachers and develop a scheme of service for them.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Bett: Mr. Temporary Deputy Speaker, Sir, the stability of a building depends on the foundation of that building. Similarly, the stability of an adult depends on how we handle the early stage of that adult as a child. That is at four or five years old.

Mr. Temporary Deputy Speaker, Sir, I find the attention given by the Ministry to the children of Bureti and other places in this country so minimal! There are no teachers and buildings. Could the Assistant Minister tell this House what his Ministry plans to do until all the nursery schools have got teachers under the Teachers Service Commission (TSC), so that there is structured attention to our children in nursery schools?

Mr. Mwatela: Mr. Temporary Deputy Speaker, Sir, I fully concur with the hon. Member that the stability of a building is determined by its foundation. It is, indeed, true with education. If we give adequate foundation to our young children, we are going to have very well educated adults in the long run.

Mr. Temporary Deputy Speaker, Sir, however, I have already mentioned that, that is one of the priorities of the Ministry. The Ministry is planning to integrate ECD of our four or five years old in primary schools, so that the facilities accorded to primary schools at the moment, are extended to nursery schools for purposes of ECD. They will become part and parcel of the school system so that they enjoy the free education in this country.

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, listening to the Assistant Minister giving an answer to this Question, it pains to note that we have over 168 untrained teachers in Bureti Constituency, dealing with ECD and yet, the Ministry has confirmed that its main role is to ensure quality.

Mr. Temporary Deputy Speaker, Sir, before the intervention by 2010, how many inspectors do you have and how do you ensure that there is quality education being given? What is the minimum qualifications of an ECD teacher?

Mr. Mwatela: Mr. Temporary Deputy Speaker, Sir, whereas I concur that, indeed, I may be expected to have the statistics at my finger tips, I am not able, at the moment, to state exactly how many inspectors we have. But if I am given time, I should be able to give that answer in due course. However, I want to re-emphasize the point that it is the policy of the Ministry to, slowly but surely, integrate---

Mr. Koech: On a point of order, Mr. Temporary Deputy Speaker, Sir. I was not asking for specifics. What is happening in this country is that we have inspectors and quality assurance officers in our districts. But they are not, at the moment, dealing directly with ECD. Could you confirm that? Does he have one that has been directed to do so?

Mr. Mwatela: I am sorry, Mr. Temporary Deputy Speaker, Sir. I did not quite understand that question, initially. Definitely, it is not right for inspectors not to deal directly with ECD centres. So, it is my instruction - and I am going to make sure that it is given - that inspectors deal directly with ECDs, both private and public.

Dr. Kones: Mr. Temporary Deputy Speaker, Sir, early this year, the Ministry allocated some funds to ECD centres based on their enrolment. But to date, the funds have not been released. Could the Assistant Minister tell us when those funds will be released to those ECD centres?

Mr. Mwatela: Mr. Temporary Deputy Speaker, Sir, I did not quite get the question. Could the hon. Member repeat it?

Dr. Kones: Mr. Temporary Deputy Speaker, Sir, I said that early this year, the Government allocated some funds to ECD centres based on their enrolment. But to date, the funds have not been released. Could the Assistant Minister tell us when the funds will be released to those ECD centres?

Mr. Mwatela: Yes, Mr. Temporary Deputy Speaker, Sir. I will definitely follow up and ensure that the funds are availed.

The Temporary Deputy Speaker (Mr. Imanyara): Last question, Mr. Bett!

Mr. Bett: Thank you, Mr. Temporary Deputy Speaker, Sir. I am guided by the current state of the economy affecting the farmers and the people of Bureti. The measure of buying maize, *goro goro*, is today selling at Kshs100, and farmers are unable to buy that. I find it so intriguing and so difficult to ask the same farmer, who is unable to buy his own food, to pay salaries for nursery school teachers. I want the Assistant Minister to assure this House and the nation that, come next year, the Ministry of Education will be taking over all the teachers in our nursery schools.

(Applause)

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

[Mr. Speaker resumed the Chair]

Mr. Mwatela: Mr. Speaker, Sir, if I was to answer that question in another three weeks, I would say yes. That is because the Ministry's plan is that, by 2010, it will take---

An hon. Member: By 2010?

Mr. Mwatela: Yes! By 2010. It will take over ECD centres.

Mr. Speaker: Very well! Hon. Members, the last two Questions will be deferred to tomorrow afternoon at 2.30 p.m.

Question No.336

REHABILITATION OF LEMOK-
CHEPTERWAI ROAD

(Question deferred)

Question No.565

UNDERSTAFFING AT DISTRICT/
CONSTITUENCY ROADS OFFICES

(Question deferred)

There was a pending Ministerial Statement.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. I would like to bring to the attention of the Chair that this afternoon [**Mr. Ethuro**] six Questions have been deferred to tomorrow. Yesterday, you deferred another one. So, I am just wondering about tomorrow's Order Paper. Question Time may need to be extended.

Mr. Speaker: Order, Mr. Ethuro! The Chair has already ordered. Unless you want to challenge the Chair, the order shall remain as such!

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. This morning there was a Question that was deferred to this afternoon. The Minister for Agriculture was asked to bring two samples of flour to this House---

Mr. Speaker: Order, Mr. K. Kilonzo! That matter has been covered; I do not know where you were!

Proceed, Mr. Minister!

MINISTERIAL STATEMENT

IMPLEMENTATION OF DIRECTIVE ON SALE OF MAIZE MEAL

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Speaker, Sir, I would like to take this opportunity to table in this House the various *unga* products we have in the market, and the packaging differentiation; I wish to assure the House that the quality is the same; they are for the highest price to the lowest.

Mr. Ndambuki, please!

*(Mr. Ndambuki entered the
Chamber carrying unga packets)*

(Laughter)

The Ministry of Agriculture is a serious Ministry. The highest priced maize meal in the market is Hostess, which is currently reselling at Kshs113. It is well packaged in packets of two kilogrammes each. The next one is Jogoo at Kshs96; it is also well packaged and beautiful, and also two kilogramme packets. We also have Pembe which looks a bit dull, and is selling at Kshs98. We also have Jimbi, and it is selling at Kshs98, and Ndovu is selling at Kshs98. There is also Soko, well packaged in a white package selling at Kshs99. Now here comes the Government of Kenya *Unga* selling at Kshs130 for a five-kilogramme packet. It is labelled clearly with the price of Kshs130.

(Applause)

The quality is the same, and I want to give these specimen, so that hon. Members can go to the supermarkets, buy them and sample them. This is the product of the Government of Kenya, which we are subsidizing, so that we can reduce the prices for the consumer.

Mr. Speaker, Sir, I beg to lay my products on the Table of the House!

*(Mr. Mbiuki laid the products
on the Table)*

(Laughter)

Mr. K. Kilonzo: Mr. Speaker, Sir, I want to commend the Assistant Minister for being a bit practical. The question at hand is whether these different packages of flour meet the same specifications. I expected that for the different packages the Assistant Minister has brought he would show us the specifics of the packet for Kshs72 and those of the packet for Kshs52. In the absence of that, could we be given more time to go, cook the maize meal and confirm that it conforms to the specifications indicated?

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Speaker, Sir, I would like to give the opportunity to all hon. Members to go and taste and see that the quality is the same. But what we want to assure this House is that before the ten days are over, as the Government

promised, all the maize meal in two-kilogramme packs will be selling at Kshs72 and below, down from the current over Kshs95 or Kshs98. So, any time within next week, all the supermarkets and retail outlets must sell the maize meal at Kshs72 or less since the Government is going out of its way to subsidize the price of maize.

Mr. Wamalwa: Mr. Speaker, Sir, I must commend the Assistant Minister for the efforts they have made. They seem to have worked very well with the millers in consulting over the prices, even of the Kshs52 and Kshs72 packages. What about the farmers? You have not given them the same attention in terms of price. What are you doing to give the farmers the price of Kshs2,300 they have asked for?

(Applause)

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Speaker, Sir, the Government made deliberate efforts to increase the price of maize from Kshs1,750, and we are currently buying it at Kshs1,950 a bag, which is highly commendable. The market is free; if the farmers find a better alternative to the millers, they can go ahead and sell elsewhere. But as the Government, we are buying at Kshs1,950, cash on delivery.

Mr. Thuo: Mr. Speaker, Sir, first, I will commend the Assistant Minister, and will take his assurances as to quality at face value. Having said that, could he reassure us that, that particular low-cost flour would be available across the entire country - because the spread of the poor is countrywide - where those who choose to eat that particular flour can access it? I ask this because we know the NCPB does not have a retail network. How will he ensure that every Kenyan has access to it?

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Speaker, Sir, I would like to assure this House that the low-cost *unga* will be available across the country in all supermarkets, so that all consumers can benefit out of the subsidy we are giving. So, go to any supermarket and you will find this *unga* in five-kilogramme bags, and made in Kenya for Kenyans.

Mr. Langat: Mr. Speaker, Sir, I want to thank the Assistant Minister for trying to control the prices of *unga*. However, I want him to tell this House whether the price they have given us now is a stop-gap measure, and for how long those prices will remain controlled. For how long will the Government continue subsidizing *unga*?

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Speaker, Sir, we have made a commitment to ensure that in the course of next year, maize meal will be affordable by all Kenyans.

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

Hon. Members, I order that the flour packets, which have been tabled in this House, be added to the contribution of Kshs11.1 million by hon. Members to go to IDPs.

(Applause)

Order, hon. Members! Before we proceed to the next Order, I have the following Communication to make.

COMMUNICATION FROM THE CHAIR

DEFERMENT OF BUSINESS ON
THE ORDER PAPER

Mr. Speaker: Hon. Members, pursuant to Standing Order No.31(2), I wish to give direction as follows.

We shall defer Order Nos.7, 8 and 9 until such time that the Government will be ready to transact the business thereat. We shall then take Order No.10 and defer Order Nos.11 and 12. We will move to Order No.14, Consideration of the Report on the Standing Orders, Sessional Paper No.3 of

2008. Upon completion of that Order, we shall return to Order No.13, Committee of the whole House on the listed Bills, which are three in number.

BILL

First Reading

The Offices of Minister Bill

*(Order for First Reading read -
Read the First Time and ordered to be
referred to relevant Departmental Committee)*

COMMITTEE OF THE WHOLE HOUSE

IN THE COMMITTEE

[Mr. Deputy Chairman took the Chair]

ADOPTION OF SESSIONAL PAPER NO.3 OF
2008: REPORT ON THE NEW
STANDING ORDERS

*(Resumption of consideration interrupted
in Committee on 9.12.2008)*

Mr. Deputy Chairman: Order, hon. Members! As at the time we adjourned yesterday, we had been able to deal with Standing Orders beginning from the Prayers up to Standing Order No.8. So, we will now begin from Standing Order No.9.

*(Standing Orders Nos.9, 10, 11, 12,
13, 14, 15, 16, 17, 18, 19, 20, 21,
22, 23, 24, 25, 26, 27, 28,
29, 30, 31, 32 and 33 agreed to)*

Standing Order No.34 - Order of Proceedings

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Chairman, Sir, I beg to move:-

"THAT Standing Order No.34 be amended by deleting paragraph (5)."

Mr. Deputy Chairman, Sir, paragraph (4) of the proposed Standing Order No.34 reads:-

"The Leader of Government Business shall, every Thursday or the last sitting day of the week before commencement of business, for not more than 15 minutes, present and lay on the Table, a statement informing the House of the business coming before the House in the following week."

The purpose of this was to give the Leader of Government Business an opportunity to inform the House what business is coming the following week. I think that he does so in his capacity as Chairman of the House Business Committee.

Paragraph (5) of the proposed Standing Order states:-

"The statement of the Leader of Government Business under paragraph (4) shall not be subject to debate."

I am proposing that we delete this paragraph because, as you know, Members have always wanted to know reasons why certain business is not appearing on the Order Paper. This will be a very good opportunity for Members to question the Leader of Government Business and also the Chairman of the House Business Committee as to the conduct of the House Business Committee. Therefore, by limiting that it cannot be debated, it means that Members cannot ask any questions. Therefore, I propose that we delete this paragraph so that Members can ask for clarifications from the Leader of Government Business.

Mr. Imanyara: Mr. Deputy Chairman, Sir, I regret that I will have to oppose my good friend who chaired the Sub-committee that laid the foundation of the work that we are deleting today.

Mr. Deputy Chairman, Sir, as explained yesterday, the---

Mr. Deputy Chairman: Order! Before you proceed, the Standing Orders - on a matter of this nature - and our practice, indicate that the proposed amendment does not need seconding after the Mover has moved. So, I will propose the Question.

*(Question of the amendment
proposed)*

Mr. Imanyara: Mr. Deputy Chairman, Sir, I was just saying that I regret that I have to stand and oppose this proposed amendment for the following reasons.

First, we did discuss this in both the Sub-committee and in your Committee. What informed this recommendation is that the Leader of Government Business comes to the House as the Principal Assistant to the President. We wanted to extend the same privilege that the President enjoys when he is in the House.

Secondly, it was felt that it was only an improvement of the current practice where, every week, the Office of the Clerk does, in fact, circulate the business of the House for the following week. We did not want a situation where the business of the House is anticipated, because if you allowed these notices of the Government's forthcoming business, then you will be anticipating the debate that will be coming to the House the following week. That is not what we want to encourage.

Thirdly, we did not want to create a situation of competition of the two offices of the Leader of Government Business and the Prime Minister. The position is that the Prime Minister is, by the very provisions of the Constitution, given specific responsibilities and is accountable to this House. The Leader of Government Business is the Principal Assistant to the President. He does represent His Excellency the President in the House. In those circumstances, we did not want to create a situation, as it were, where there is competition between the Leader of Government Business in the House and the Office of the Prime Minister. Because both of them represent the same Government, the feeling of the Committee was that it is the Prime Minister who should be

subject to the process of questioning in Parliament.

In fact, as you notice today, the Presidential Circular issued at the beginning of this term does define the Office of the Prime Minister in very clear language, and specifically states that he is accountable to Parliament, whereas the role of the Principal Assistant to the President, who is the Leader of Government Business, is simply to act as the Principal Assistant to the President. We do not want the two offices to create confusion.

Mr. Thuo: Mr. Deputy Chairman, Sir, I rise to support the amendment.

It is very clear, from this particular statement, that the Leader of Government Business shall only issue a statement informing the House on the Business coming before it in the following week. There is such a difference between the expected questions that will arise at Prime Minister's Question Time and this particular business.

For instance, if it was today, the questions that the Prime Minister would be tackling would involve maize flour, maize itself, cattle rustling, *et cetera*. These are things that are topical to Kenyans on a daily basis and will want answers.

The distinction here is very clear. When the Vice-President, as Leader of Government Business, lays on the Table the necessary Papers for the following week, we, as Members of Parliament, would have an opportunity to interrogate a very narrow realm, which would be next week's business. For example, we would ask: "Why have you not prioritised Bill "X", which we have been anticipating? "Why would you prioritise Bill "Y" over the other?" We cannot go outside that particular narrow rail.

Secondly, the time is limited to 15 minutes. In laying the Papers itself, he will limit himself to certain minutes, and the gap is what we shall use to interrogate him on those particular documents. So, I find no conflict. In fact, it becomes more accountable to us, as Members of Parliament, who have an interest in what happens here and in what business is anticipated. This would not amount to anticipation of debate.

With those remarks, I beg to support.

Mr. Ethuro: Mr. Deputy Chairman, Sir, I wish to oppose the amendment. I had the fortune of being in the meetings that actually made sure that the Leader of Government Business had a slot of his time, just like the Prime Minister. However, we felt that since he would be coming to make a Statement by virtue of being the Leader of Government Business, it should suffice for the Leader of Government Business just to make that Statement. My understanding is that the way Ministerial Statements are brought to this House by Ministers, and hon. Members can seek clarifications, without necessarily debating the matter, that should suffice.

Thank you.

Mr. Affey: Mr. Deputy Chairman, Sir, I rise to support the amendment for the simple reason that we are doing this amendment for posterity. We are not doing for the current holders of the respective offices. For that matter, I think hon. Members have a responsibility to seek clarifications within the minutes given.

So, within the 15 minutes that the Leader of Government Business will have to lay Papers on the Table, hon. Members have every responsibility to seek clarifications within those 15 minutes. It is not an open-ended debate. It is limited by time. I just want to warn that we do this for posterity, and not under the circumstances we are currently in.

Mr. Deputy Chairman: I was looking for the Leader of Government Business, because he appeared interested.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Deputy Chairman, Sir, it is just that some of my colleagues think that, because I am the Leader of Government Business, I should not say something. However, this is something we are doing for posterity. Indeed, the Standing Orders indicate that it is not always the case that the Vice-President

will have to be the Leader of Government Business. In fact, they specifically say that a Minister could be Leader of Government Business.

Besides making reference my learned friend, Mr. Gitobu Imaranya's sense of decorum that, since the Leader of Government Business is the Vice-President and, therefore, restricting that office to the order of being Vice-President comes in as the Principal Assistant to the President, then he should be afforded that kind of decorum. However, the same Standing Orders indicate that when the President is not on the Chair of State, and he sits on the Front Bench, then he is subject to the normal rules and regulations of the House.

Mr. Deputy Chairman, Sir, it is important to point out the fact that it is not anticipated that there will be any manner of competition. First of all, when Mr. Speaker issues a Communication from the Chair, it is always the case that even though he does not have to allow ventilation, I have noticed on several occasions, Mr. Speaker allowing hon. Members to seek a few clarifications.

Therefore, it would be a very dry moment for the Leader of Government to just come in, read statements for 15 minutes; no questions, no debate. It is about time we democratised. As Mr. Imanyara said, this is the time to be transparent and democratise the institution of Parliament, so that everybody feels that they can relate to this august House.

With those remarks, I beg to support the amendment.

Mr. Midiwo: Mr. Deputy Chairman, Sir, I rise to oppose the amendment for a very simple reason. I thought the understanding was that we provided the amendment to have the Leader of Government Business to brief the House, so that he can communicate the resolutions of the House Business Committee. So, if the Leader of Government Business were to come here and be questioned, what would happen to the resolutions already made by the House Business Committee the day before? So, I see no sense in this amendment. This is just an attempt to have another form of Question Time, in which case, we could as well give him enough time, so that we can question him.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Deputy Chairman, Sir, I rise to support this amendment. I will give three reasons as to why I think this amendment is necessary.

Firstly, the Prime Minister's Time will be on Wednesdays, while that of the Leader of Government Business will be on Thursdays. So, clearly, there is no conflict.

Secondly, there is no competition between the two offices. I do not know where the impression that there will be competition is coming from. There is no competition. The two offices are working well. So, there is no competition at all.

Mr. Deputy Chairman, Sir, in fact, initially, we had allocated the Leader of Government Business 20 minutes, which was subsequently reduced to 15 minutes. The purpose was just for him to give to the House the programme of the House Business Committee for the next week. Really, that would not require 15 minutes. It would require one minute, if that was the intention. The intention was to allow hon. Members to interrogate the programme that he would give us and seek clarifications on the same.

Thirdly, Mr. Imanyara has misled this House, unless he is saying that the Leader of Government Business will be issuing his Statement from the Chair of State. That way, he cannot be asked questions. However, since that was not the intention, he will be sitting on the slot reserved for the Leader of Government Business on the Front Bench, then we must ask him questions. We must interrogate what he will tell us.

With those remarks, I beg to support the amendment.

Mr. Imanyara: On a point of order, Mr. Deputy Chairman, Sir.

Mr. Deputy Chairman: What is your point of order, Mr. Imanyara?

Mr. Imanyara: Mr. Deputy Chairman, Sir, I take very strong objection to the insinuation

that I had misled the House. I did indicate that the Committee had very serious discussions on this issue, and I gave the reasons. That is not misleading the House. So, I demand that the Assistant Minister withdraws his allegation that I am misleading the House, because I am not misleading the House. The Vice-President and Minister for Home Affairs has not suggested anything to that effect. I do not know where Mr. Githae got it from. I have indicated where it came from, and given the reasons informing the recommendations contained in these Draft Standing Orders.

Mr. Deputy Chairman: Mr. Githae, do you have any response to that one?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Deputy Chairman, Sir, I thought that was just a point of argument. I said that the information he gave us is not strictly correct.

Mr. Speaker: Very well! I will now restrict further interventions on this matter to just two hon. Members.

Mrs. Odhiambo-Mabona: Thank you, Mr. Deputy Chairman, Sir. I know that the arguments in support of this amendment are very attractive. However, I think that is sufficiently covered by making provision for Back Benchers to sit in the House Business Committee.

I, therefore, beg to oppose.

The Minister for Information and Communications (Mr. Poghiso): Mr. Deputy Chairman, Sir, I do not think it should look like there is a see-saw of oppose and propose. I would like to support this amendment on condition that if we give the Leader of Government Business, say, 15 minutes, then he should occupy that time. If he occupies that time by allowing Members to seek clarifications, deleting this particular amendment allows that to happen. Deleting does not change how the time will be utilised. The Leader of Government Business will still be able to do it, but allow the interaction of the House. So, for as long as he does not take more than 15 minutes, I do not understand the hullabaloo about it. I do not even understand why it is even in conflict. Give the Leader of Government Business 15 minutes and let there be interaction with the House. That is the only reason we are saying, "delete the restriction". There is really no need to restrict because the time provided for is 15 minutes only.

I beg to support.

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

(Standing Order No.34 as amended agreed to)

*(Standing Orders Nos.35, 36, 37, 38, 39,
40, 41, 42, 43, 44, 45, 46, 47, 48, 49,
50, 51, 52, 53, 54, 55, 56, 57, 58, 59,
60, 61, 62, 63, 64, 65, 66, 67, 68, 69,
70, 71, 72, 73, 74, 75, 76, 77, 78, 79,
80, 81, 82, 83, 84, 85, 86, 87, 88, 89,
90, 91, 92, 93, 94, 95, 96, 97, 98, 99,
100, 101, 102, 103, 104, 105, 106,
107, 108, and 109 agreed to)*

Standing Order No.110 - Second Reading

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Chairman, Sir, I circulated my proposal to amend the proposed Standing Order No.110. My

concern was that this House has been passing Bills without the necessary quorum. I was, therefore, going to suggest that we have a clause that makes it mandatory for a quorum to be there before a vote is taken on legislation at the Second Reading Stage.

However, Mr. Deputy Chairman, Sir, in order that I do not appear to be imposing the will of the former Sub-committee on Standing Orders, I want to withdraw.

(Applause)

Mr. Deputy Chairman: Mr. Musila, are you also withdrawing the next one because they are related?

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Yes, Mr. Deputy Chairman, Sir.

Mr. Deputy Chairman: Very well!

*(Mr. Musila withdrew his
proposed amendment)*

(Standing Order No.110 agreed to)

*(Standing Orders Nos.111, 112, 113, 114,
115, 116, 117, 118, 119, 120, 121, 122,
123, 124, 125, 126, 127, 128, 129,
130, 131, 132, 133, 134, 135, 136,
137, 138, 139, 140, 141, 142,
143, 144, 145, 146, 147, 148,
149, 150, 151, 152, 153, 154,
155, 156, 157, 158, 159,
160, 161, 162, 163, 164,
and 165 agreed to)*

*(Standing Orders 166, 167, 168,
169, 170, 171, 172, 173, 174,
175, 176, 177, 178, 179, 180,
181, 182, 183, 184, 185, 186,
187, 188, 189, 190, 191, 192,
193, 194, 195, 196, 197, 198,
199, 200, 201, 202, 203, 204,
205, 206, 207, 208, 209, 210,
211, 212, 213, 214, 215, 216,
217 and 218 agreed to)*

New Part IV

The Assistant Minister for Medical Services (Mr. Mungatana): Mr. Deputy Chairman, Sir, I beg to give notice to introduce a New Part IV to the proposed Standing Orders 2008. As I explained during the Second Reading of the Standing Orders, it is in order that Part I deal with the introduction while Parts II and III deals with the Speaker and the Deputy Speaker. We should institutionalise the Office of the Leader of Government Business, which will be dealt with in the

New Part IV. It is proposed that the New Part IV be amended as proposed in the Notice of Amendment.

Mr. Deputy Chairman, Sir, we need the Office of the Leader of Government Business to be institutionalised just like the Office of the Leader of the Official Opposition so that in the event that the Leader of Government Business is not in, the Deputy, one or two other Members can perform the same function. This follows the same order as the Speaker, the Deputy Speaker and the Chairmen's Panel.

I beg to move.

Mr. Deputy Chairman: Order, Mr. Mungatana! Could you read out your proposed New Part IV?

The Assistant Minister for Medical Services (Mr. Mungatana): Thank you, Mr. Deputy Chairman, Sir. The New Part IV entitled "The Leader of Government Business and appointment of Government Panel should read as follows:-

"(i) The Leader of the Government Business shall be appointed in accordance with the provisions of Standing Order No.2.

(ii) At the commencement of every session or from time to time as necessity may arise, the Leader of Government Business, with the approval of the Government, shall nominate two Members being Ministers who shall be known respectfully as the First and Second Deputy Leader of Government.

(iii) The Members nominated in accordance with Paragraph (2) shall constitute the Government Panel.

(iv) In nominating the Members of the Government Panel, the Leader of the Government Business shall have regard to gender in so far as shall be practicable."

Mr. Deputy Speaker, Sir, this closely follows what the Speaker's Chairmen Panel is like.

I beg to move.

(Question of New Part IV proposed)

Mr. Imanyara: Thank you, Mr. Deputy Chairman, Sir. We have done fairly informal discussions with the hon. Members of the Standing Orders Committee who are in the House, and there does not seem to be any objection to the New Part IV of the Standing Orders. Therefore, we support it.

(New Part IV agreed to)

New Part V

The Assistant Minister for Medical Services (Mr. Mungatana): Mr. Deputy Chairman, Sir, in the same manner, I propose to introduce a New Part V which shall be entitled "The Leader of the Official [**The Assistant Minister for Medical Services**

Opposition and Appointment of the Opposition Panel". The New Part V shall read as follows:

"12(i) The Leader of the Official Opposition shall be appointed in accordance with the provisions of Standing Order No.2.

(ii) At the Commencement of every session or from time to time as necessity may arise, the Leader of the Official Opposition party or coalition of parties or Official Opposition Caucus shall nominate two Members not being Ministers who shall be known respectively as the First and Second Leader of the Official Opposition.

(iii) The Members nominated in accordance with part (ii) above shall constitute the

Opposition Panel.

(iv) In nominating the Members of the Opposition Panel, the Leader of the Official Opposition shall have regard to gender in so far as shall be practicable."

Mr. Deputy Chairman, Sir, I beg to move.

(Question of New Part V proposed)

Mr. Imanyara: Mr. Deputy Chairman, Sir, once again, we have consulted with hon. Members of the Standing Orders Committee who are in the House and we have no objection. We support the amendments except with the addition of the new part.

There is need for consequential re-numbering of all the parts so that the new Standing Orders will now end with Part 27 instead of Part 24. This is if the amendments are passed.

Mr. Deputy Chairman: Very well, Mr. Imanyara! I believe that is an editorial matter. In case of any doubt, I order that it be so.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Thank you, Mr. Deputy Chairman, Sir. I also support the amendment.

It is important that we now start institutionalising the organs of this House. We have now institutionalised the Office of the Prime Minister and the Leader of Government Business. We should support the amendment so that we also institutionalise the Office of the Leader of Official Opposition. This is because we may be in circumstances which we cannot be able to predict at the moment.

(New Part V agreed to)

(First Schedule agreed to)

(Second Schedule agreed to)

(Third Schedule agreed to)

*(Sessional Paper No.3 adopted
with amendments)*

Mr. Imanyara: Mr. Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of Sessional Paper No.3 of 2008 on the Report of the Standing Orders Committee and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Speaker in the Chair]

REPORT

ADOPTION OF SESSIONAL PAPER NO.3 OF

2008: REPORT ON NEW STANDING ORDERS

Mr. Speaker: Hon. Members, I beg to report that the Committee of the whole House has considered Sessional Paper No.3 of 2008 on the Report of the Standing Orders Committee laid on the Table of the House on Tuesday, 2nd December, 2008 and recommends that they be adopted and further, that the new Standing Orders contained in the Second Schedule of the Sessional Paper come into operation in the manner provided in Part 25 of that Schedule.

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

Mr. Abdikadir seconded.

(Question proposed)

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Speaker, Sir, I just wanted to take this opportunity to thank hon. Gitobu Imanyara and his Committee for the good work they have done in revising our Standing Orders which was long overdue. Even more, I congratulate them in the sense that they bid on the work that the former Deputy Speaker, Mr. David Musila started. Some committees would have tried to do it afresh but they decided to look at what the previous committee had done, bid and improved on it. I think they have done a wonderful job. Congratulations, hon. Gitobu Imanyara for a job well done!

Mr. Imanyara: Mr. Speaker, Sir, as I said at the time I moved this Motion, this is a very momentous occasion. We have taken very bold steps towards the road of reform in this country. As I said, I wish to thank the Members of the Standing Orders Committee and the Sub-committee of the Ninth Parliament because they did most of the work that, in fact, we completed. So, we do come to a stage in history when this House can say that we have set the pace and we look forward to the Executive arm of the Government doing the same in relation to the constitutional reforms so that by the time we go for Christmas, we will have also got the road map for the new Constitution firmly in place.

Mr. Speaker, Sir, finally, I wish to congratulate and thank you because you set the pace as the leader of this House in the communication that you made on 15th January and in the following communication that you made. As we proceeded, you encouraged the Members and set deadlines that we met and that is why today we can boast of having a new set of Standing Orders.

Mr. Speaker, Sir, let me also point out that what we have done here is being borrowed by other countries. The Parliament of Zimbabwe has sought the assistance of this House. Due to the work that has gone towards the new Standing Orders and given the very special situation they face, they have requested that this House guides them in making new Standing Orders for them because they face a condition similar to what we faced at the beginning of this year.

Mr. Speaker, Sir, I wish to thank hon. Members for making their contributions by attending the retreats that we held towards making these new Standing Orders.

I want to assure them that if we follow up on the work that Parliament has done, even for the Constitution, we can have a new Constitution in the next few months and this country can be on a firm footing to a new constitutional order.

Mr. Speaker: Hon. Members, I confirm the words of hon. Gitobu Imanyara that, indeed, our Parliament has already received more than two invitations to export our expertise to other parliaments.

(Applause)

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Thank you, Mr. Speaker, Sir. Without boring my colleagues by appearing to be repeating, I also want to join my colleague, hon. Imanyara, in congratulating the Chair for having steered this process successfully. I need not remind hon. Members that the exercise of revising our Standing Orders has taken a very long time and surely for us, it is history in the making today that we have finalised this process which has taken so much time.

Obviously, the bold step taken by Mr. Speaker in this regard is highly commendable without of course failing to recognise the role that the former Speaker, Mr. Kaparo, played in steering the former Sub-committee of which I had the pleasure of chairing. I think this is a joint effort of two parliaments, the Ninth Parliament and the Tenth Parliament and the two should be commended.

Mr. Speaker, Sir, of course, you get the biggest praise for steering the process. I beg to support.

Mr. Midiwo: Mr. Speaker, Sir, I also want to take this opportunity to register my appreciation for your leadership and being open minded to reforms. I think it is the greatest gift that Kenyans have had this year, if you look at the history of what we have gone through in the last eight or so months. We are happy to have you. I also want to thank the Committee, without bragging, that sat silently and came up with the necessary amendments to our Standing Orders. Lastly, I also want to appeal to the Executive to emulate what is happening in Parliament and give Kenyans a gift in form of a road map to a new Constitution.

Ms. A. Abdalla: Thank you, Mr. Speaker, Sir, I wish to join my colleagues in congratulating the Standing Orders Committee, yourself and the Ninth Parliament. On behalf of the Kenya Women Parliamentarians Association and women who will eventually come to Parliament, I would like to thank the Committee for engendering our Standing Orders and also engendering and making sure that the House Business Committee has got enough Members from the Back Bench.

Mr. Njuguna: Mr. Speaker, Sir, I wish also to support my colleagues in the House for the contributions that they have made on this very important exercise. Firstly, I wish to thank you, Mr Speaker, Sir, for the way you have handled the whole process. Secondly, I extend my appreciation to Mr. Gitobu Imanyara who has been very steady in this exercise. I also want to thank the other Members who were very stable, decisive and co-operative in making the whole process a success. I also note with appreciation the roles that you have already spelt out in the Standing Orders, concerning the office of the Prime Minister, Deputy Prime Ministers and Leader of the Opposition. Those are milestones in our Standing Orders. The new Standing Orders will also enhance the democratic space in our country, and also our ideals. We also note with a lot of happiness, the timely invitation that has been extended by Zimbabwe, because of the credible Standing Orders that we have been able to produce for our country. This is a big credit to this House and to our nation.

With those few remarks, I beg to support.

(Question put and agreed to)

**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 FISCAL MANAGEMENT BILL

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, as you get ready, I just want to correct the order in which we are discussing the Bills. We will start with the Fiscal Management Bill, Bill No.20

(Clauses 2, 3, 4, 5 and 6 agreed to)

*(Clauses 7, 8, 9, 10, 11, 12,
13, 14 and 15 agreed to)*

*(Clauses 16, 17, 18 and
19 agreed to)*

Mr. Ogindo: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Fiscal Management Bill and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, I am told that the Clerks are not ready yet with the Anti-Counterfeit Bill. Obviously, they are not ready because I do not even have a copy of the Bill.

(The Temporary Deputy Chairman consulted with the Clerks-at-the Table)

THE ANTI-COUNTERFEIT BILL

I think we can move forward now. We are now ready to move forward.

Clause 2

The Minister for Industrialization (Mr. Kosgey): Mr. Temporary Deputy Chairman, Sir, let me explain something here. We have two sets of amendments here. I think that is where the confusion is coming from. The amendments which are appearing on the Order Paper are from me, but Dr. Monda also has amendments which are also the same.

The Temporary Deputy Chairman (Mr. Imanyara): It is all right. Hon. Members will look at them and decide. Just move your amendments, Mr. Minister.

The Minister for Industrialization (Mr. Kosgey): Mr. Temporary Deputy Chairman, Sir,

he is willing to withdraw his amendments.

Dr. Monda: Mr. Temporary Deputy Chairman, Sir, I wish to withdraw the amendment to Clause 2 in the light of those proposed by the Minister, which incorporate the objectives of my proposed amendments.

The Temporary Deputy Chairman (Mr. Imanyara): Your amendments to Clause 2 stand withdrawn, and I will allow the Minister to move the Clause because you say that your recommendations are incorporated in his amendments.

Dr. Monda: Mr. Temporary Deputy Chairman, Sir, I do not know whether it would be in order to mention other clauses, so that I withdraw them at once.

The Temporary Deputy Chairman (Mr. Imanyara): We are on Clause 2; when we reach the other ones, you can withdraw your amendments, but for now let us allow the Minister to move his.

The Minister for Industrialization (Mr. Kosgey): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 2 be amended-

(a) by inserting the words "institutions, Government agencies and State Corporations" immediately after the word "person" appearing in the definition of the term "complainant";

This is to expand the definition of the word "complainant", so that other institutions and Government agencies can make a complaint.

Mr. Temporary Deputy Chairman, Sir, I further beg to move that the Bill be amended:-

(b) in the definition of the term "counterfeiting"-

(i) by deleting the word "any" appearing in the second line;

(ii) by inserting the following new paragraph immediately after paragraph (c)

(d) in relation to medicine, the deliberate and fraudulent mislabelling of medicine with respect to identity or source, whether or not such products have correct ingredients, wrong ingredients have sufficient active ingredients or have fake packaging:

No. of 2001 Provided that nothing

in this paragraph shall derogate from the existing provisions under the Industrial Property Act.

(c) by deleting the words "trade and industry" appearing in the definition of the term "Minister" and inserting the word "Industrialization."

(Question of the amendment proposed)

The Assistant Minister for Medical Services (Mr. Mungatana): Mr. Temporary Deputy Chairman, Sir, I want to thank the Minister for taking into consideration the worries that have been there, including from my Ministry of Medical Services.

The definitions were going to make it very difficult and expensive for Anti-Retrovirals (ARVs) and other medicines to be available at a cheap price.

I thank the Minister and I support.

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

(Question, that the words to be inserted)

*in place thereof be inserted,
put and agreed to)*

(Clause 2 as amended agreed to)

(Clause 3, 4 and 5 agreed to)

Clause 6

Dr. Monda: Mr. Temporary Deputy Chairman, Sir, I wish to once again withdraw my amendments in the light of those proposed by the Minister, which incorporate the objectives of my proposed amendments.

The Temporary Deputy Chairman (Mr. Imanyara): I just want to give you an opportunity, if you have looked at them, to withdraw all of them to simplify the work ahead.

Dr. Monda: Mr. Temporary Deputy Chairman, Sir, that is the request I made earlier, so that I withdraw all the amendments that I had proposed.

So, may I take you to Clause 22 in respect of which I wish to withdraw my amendments since the amendments brought in by the Minister meet the objectives of my proposed amendments.

The Temporary Deputy Chairman (Mr. Imanyara): Those amendments are now withdrawn; so, we should proceed with only the amendments proposed by the Minister.

*(Dr. Monda withdrew his
proposed amendments)*

The Minister for Industrialization (Mr. Kosgey): Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 6 of the Bill be amended in subclause

(1)-

(a) by deleting the words "trade and industry" appearing in paragraph (b) and substituting therefor the word "industrialization";

(b) by inserting the following new paragraph immediately after paragraph (b)-

(c) the Permanent Secretary in the Ministry for the time being responsible for matters relating to trade;

(c) by deleting the words "and Excise" appearing in paragraph (f) and substituting therefor the word "Services";

(d) by deleting paragraphs (e), (k), (l) and (m);

(e) by deleting paragraph (p) and inserting the following new paragraphs-

(p) the Registrar, Pharmacy and Poisons Board;

(q) one person appointed by the Minister from the private sector with knowledge in intellectual property rights;

(r) one person appointed by the Minister from the private sector with knowledge in consumer protection.

(Question of the amendment proposed)

The Assistant Minister, Office of the Deputy Prime Minister and Minister for Local Government (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I would like to take this opportunity to thank the Minister for agreeing to the amendments proposed by the Committee. It shows that if Ministers could work jointly with Parliamentary Committees, it would make the work of this Parliament so much simpler, and we could achieve so many things and pass so many Acts of Parliament. I think the other Ministers should emulate the example of the Minister for Industrialization.

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

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

(Clause 6 as amended agreed to)

*(Clauses 7, 8, 9, 10, 11, 12, 13, 14
15, 16, 17, 18, 19, 20 and 21 agreed to)*

Clause 22

The Minister for Industrialization (Mr. Kosgey): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 22 of the Bill be amended in sub-clause (3) by inserting the words "the Pharmacy and Poisons Act" immediately after the words, "the Food, Drugs and Chemical Substances Act" appearing in the eighth line.

(Question of the amendment proposed)

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

(Clause 22 as amended agreed to)

(Clauses 23, 24, 25 and 26 agreed to)

Clause 27

The Minister for Industrialization (Mr. Kosgey): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 27 of the Bill be amended in sub-clause (1) by deleting the proviso to paragraph (a) and substituting therefor the following new proviso-
Provided that in the case of counterfeit goods, such goods shall be destroyed at the expense of the local manufacturer or importer, as the case may be, based on the environmental considerations and the capacity of the country to destroy the goods or be reshipped.

(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 would like to take this opportunity to thank the Departmental Committee on Health, Housing, Labour and Social Welfare for agreeing to work jointly with the Minister. You have seen what we have achieved because of them agreeing to work together. I would like to request the other Committees to work with the Ministers. It will make our work in Parliament much easier. Thank you.

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

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

(Clause 27 as amended agreed to)

Clause 28

The Minister for Industrialization (Mr. Kosgey): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 28 of the Bill be amended by inserting the following new sub-clause-

(4) Where a person charged with an offence under this Act absconds and does not appear in court or where counterfeit goods are seized but are not claimed, an inspector may apply to have the counterfeit goods counterfeited to the state for destruction.

(Question of the amendment proposed)

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

(Clause 28 as amended agreed to)

(Clauses 29, 30, 31, 32, 33, 34, 35, 36 and 37 agreed to)

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Industrialization (Mr. Kosgey): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Anti-Counterfeit Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, let us move to the Kenya Communications (Amendment) Bill.

THE KENYA COMMUNICATIONS
(AMENDMENT) BILL

(Clauses 2 and 3 agreed to)

Clause 4

Eng. Rege: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, clause 4 of the Bill be amended by deleting the definition of "major telecommunications service provider" and replacing it with the following-
"dominant telecommunications service provider" means a licensee who has been declared by the Commission to be a dormant telecommunications service provider pursuant to section 84W(4) of this Act.

The Temporary Deputy Chairman (Mr. Imanyara): Eng. Rege, I would like you to quickly state what is the import because this Bill has generated a lot of discussion. It is only fair that Members know what it is that you are proposing to amend.

Eng. Rege: Mr. Temporary Deputy Chairman, Sir, the contentious word here is "dominance". The interpretation of local content without definition of the Bill--- I am sorry.

Mr. Temporary Deputy Chairman, Sir, the definition is too generic. Market share alone does not necessarily result in dominance. Other factors such as control of interest structure, technology advance, economies of scale and others ought to be considered.

(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 4 as amended agreed to)

*(Clauses 5, 6, 7, 8, 9, 10,
11, 12, 13, 14 and
15 agreed to)*

Clause 16

Eng. Rege: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 16 of the Bill be amended -

(a) in the proposed section 46C by deleting paragraph (b) of subsection (3) and substituting therefor the following new paragraph -

(b) commit a minimum amount of time as may be prescribed in its programme schedule to locally produced programmes or in the alternative, pay such amount of money as may be prescribed, into a Fund to assist the development of the Kenyan production industry

(b) in the proposed new section 46H by deleting the words "manner, time and type of programmes" appearing in subsection (1) and substituting therefor the words "time and manner of programmes";

(c) in the proposed new section 46L -

(i) by deleting the words "in writing" appearing in subsection (4) and substituting therefor the words "made in writing within thirty days of the breach under subsection (1)";

(ii) by inserting the words "within thirty days after the decision" immediately after the word "Tribunal" appearing in subsection (5).

Mr. Temporary Deputy Chairman, Sir, my reasons for moving this amendment is because the provision is too restricting, oppressive and raises serious issues about ethics and professionalism. Pursuant to the Media Act of 2007, the Media Council was established with the aim of promoting self regulation for the media industry.

(Question of the amendment proposed)

The Minister for Information and Communications (Mr. Poghisio): Mr. Temporary Deputy Chairman, Sir, I support the amendment.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, again, I would like to emphasize the importance of the parliamentary Departmental Committees working jointly with the Ministers.

Mr. Temporary Deputy Chairman, Sir, the Departmental Committees are our eyes and ears! They are the ones that interrogate these Bills. It is important that they work together with the various Ministries. That makes our work much, much easier.

Thank you, Mr. Temporary Deputy Chairman, Sir.

The Assistant Minister for Medical Services (Mr. Mungatana): On a point of order, Mr. Temporary Deputy Chairman, Sir. Just for purposes of order, when the Mover proposes the amendments, it is when you propose the question that we should enter into debate. He has merely said something before the question was proposed. Everyone is speaking! It is not good order.

Mr. Temporary Deputy Chairman, Sir, I beg to point that one out.

The Temporary Deputy Chairman (Mr. Imanyara): Thank you, hon. Mungatana. Yes, hon. Ethuro?

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I agree with hon. Mungatana entirely because the proposal had not been made. When you look at Clause 16 - and I am a Member of that Committee and I must admit that, that was an oversight on our part - the original Bill which has already been read includes a minimum amount of local content. I mean there is a possibility of a real contention with what is "minimum time". I was wondering whether that could actually be defined; say like a quarter, one-third and so on.

The Minister for Information and Communications (Mr. Poghisio): Mr. Temporary Deputy Chairman, Sir, if the amendments came from the Chair of the Committee, I suppose that, that has been taken into consideration. I simply support the amendment as it is.

The Temporary Deputy Chairman (Mr. Imanyara): Chairman of the Committee? Yes, Mr. Ethuro?

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, just because it has come from the Chairman of the Committee does not deny hon. Members their rightful share to seek clarifications!

The Temporary Deputy Chairman (Mr. Imanyara): All he is pointing out is that this Bill was referred to the Departmental Committee, it was considered and proposals were made for amendment. I think it is only fair that the Chair tells us what is the import of this proposed amendment.

Eng. Rege: Mr. Temporary Deputy Chairman, Sir, the kind of programmes that we are talking about are actually not definitive. In other words, you cannot prescribe the actual time that they will occupy. That is why we said minimum and not maximum. I think that is left for the programming houses to ascertain for themselves.

Thank you, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Imanyara): Very well. I will put the Question that Clause 16 be amended as proposed--- I will propose the Question--- I think I have proposed it already. So, I will put the Question.

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

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

(Clause 16 as amended agreed to)

(Clauses 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 agreed to)

Clause 31

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

THAT, Clause 31 of the Bill be amended -

(a) in the proposed new section 83R by inserting the words "in consultation with the Commission" immediately after the word "Minister";

(b) in the proposed new section 83S by renumbering the existing paragraph (a) of the proposed subsection (1) as paragraph (b) and inserting a new paragraph (a) as follows -

(a) the effective delivery of public goods and services; improving quality of life for disadvantaged communities; strengthening good governance and public participation; creation of a better business environment; improving productivity and efficiency of government departments;

(c) in the proposed new section 83W by deleting the words "two hundred thousand shillings or to imprisonment for a term not exceeding two years" appearing in paragraph (a) of the proposed subsection (2) and substituting therefor the words "five hundred thousand shillings or to imprisonment for a term not exceeding three years";

(d) in the proposed new section 83X by deleting the words "two hundred thousand

shillings or to imprisonment for a term not exceeding two years" appearing in the proposed subsection (1) and substituting therefor the words "five hundred thousand shillings or to imprisonment for a term not exceeding three years";

(e) in the proposed new section 84B by deleting the word "two" and substituting therefor the word "three";

(f) in the proposed new section 84G by deleting the words "three hundred thousand shillings or to imprisonment for a term not exceeding three years" appearing in subsection (2) and substituting therefor the words "one million shillings and to imprisonment for a term not exceeding five years";

(g) in the proposed new section 84W by inserting the following new subsections -

(4) The Commission may, by notice in the Gazette, declare a person or institution to be 'a major telecommunication service provider' for the purposes of this Act.

(5) In making a declaration under subsection (4), the Commission shall consider-

(a) the market share of the telecommunications service provider being at least 25 five percent of the total revenue of the entire telecommunications market;

(b) the level of control over the communications infrastructure;

(c) the level of technological advancement of the telecommunications service provider;

(d) the scale of operations of the telecommunications service provider.

The Temporary Deputy Chairman (Mr. Imanyara): I think it is important that hon. Members of the Committee who are here support your Chair. That is because these are very significant amendments that are being proposed! It is only fair that hon. Members know what it is that is being proposed in the amendment and why the amendments are being proposed. So, any Member of the Committee may come to the aid of the Chair of the Committee!

Mr. Ethuro!

Eng. Rege: There is no problem, Mr. Temporary Deputy Chairman, Sir. The Clause is to be amended by inserting the words "in consultation with the Commission" immediately after the word "Minister".

(b) in the proposed new section 83S by renumbering the existing paragraph (a) of the proposed subsection (1) as paragraph (b) and inserting a new paragraph (a) as follows---

Mr. Temporary Deputy Chairman, Sir, I do not think we really need to waste a lot time on this. It is simply just a question of renumbering.

The Temporary Deputy Chairman (Mr. Imanyara): I think if I may just explain to you, all you have to do is just explain the rationale. Why did you propose this amendment? What is wrong with the Bill that you recommended some amendments?

Any hon. Member of the Committee may come to your aid, if you so wish, Mr. Chairman.

Eng. Rege: In section 83F, the rationale is that the provisions of the Clause are onerous, unpursuable and are contrary to international practice where one authority is licensed to register domain names. That is for section 83F. Actually this section says that the Clause makes it mandatory for licensing of every domain or sub-domain. An example is www.parliament.go.ke.

*(Messrs. Mungatana and Ethuro
stood up in their places)*

Mr. Ethuro: Mr. Assistant Minister, I have the Floor!

Mr. Temporary Deputy Chairman, Sir, I am assisting my Chairman; so, I think I should have the first chance.

The Temporary Deputy Chairman (Mr. Imanyara): He is rising on a point of order!

The Assistant Minister for Medical Services (Mr. Mungatana): On a point of order, Mr. Temporary Deputy Chairman, Sir. On the side of the Government, we have no real problems with most of the amendments that are being proposed.

Mr. Temporary Deputy Chairman, Sir, so, he should just give us quick and brief explanations so that we can finish. It will be nice, and we will not go through too much. Maybe, Mr. Ethuro can help us.

The Temporary Deputy Chairman (Mr. Imanyara): Yes, that is what I have said; any hon. Member of that Departmental Committee may come to the aid of the Chairman.

Mr. Ethuro, you may do so!

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, if you had allowed me to go ahead, his observation would have been very redundant. But having taken that into consideration---

The Temporary Deputy Chairman (Mr. Imanyara): Eng. Rege has authorised you to proceed with the moving of these clauses; so, you can go ahead.

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, do you want to indicate it publicly? The reason why we felt the need to add the words "commission" immediately after the word "Minister" is that we anticipated a situation where generally, we believe Ministers will act in good faith, but just to be absolutely sure that there is a commission that is established.

If you look at Clause 2, it is to facilitate the development of the information and communication sector: So, we wanted to ensure that commission itself--- The Minister refers to the commission specifically. We would expect that naturally, he would do it. But in the media industry, sometimes there might be occasions when the Minister may act without consultation. We wanted to ensure that, that really happens.

Secondly, the other amendment, as you can see, towards the end of it is where, arising from amendments to Clause 4, we were trying to substitute the dominant for the major, then we went ahead and made the necessary changes to reflect that amendment as per Clause 4.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Minister, is there anything else that you want to say?

The Minister for Information and Communications (Mr. Poghio): Mr. Temporary Deputy Chairman, Sir, I am agreeable to the amendments and the rationale given and, therefore, I support.

*(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 31 as amended agreed to)

(Clauses 32, 33 and 34 agreed to)

Clause 35

Eng. Rege: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT Clause 35 of the Bill be amended-

(a) in the proposed new Fifth Schedule by deleting the words "six months" appearing in the proviso to paragraph 2 and substituting therefor the words "one

year";

(b) in the proposed Sixth Schedule by inserting, in proper alphabetical sequence, the following new columns in the item relating to the Penal Code (Cap.63)-
s.267 Insert new subsection (9) as follows-

(9) Information is capable of being stolen

(Question of the amendment proposed)

The Minister for Information and Communications (Mr. Poghio): Mr. Temporary Deputy Chairman, Sir, the proposal is accepted, because it proposes to extend the time within which the commission shall respect and uphold vested rights and interests of parties holding broadcasting permits, so that nobody becomes a victim of time limits. It is useful for purposes of those already holding the permits.

Part (b) introduces an additional amendment to the Penal Code in an effort to accommodate electronic offences which hitherto have been not included. So, it is a new section because in this law we are also introducing the electronic transactions.

*(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 35 as amended agreed to)

(Clause 36 agreed to)

New Clause

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

THAT the Bill be amended by inserting a new clause immediately after clause 32 as follows-

32A. The principal Act is amended by deleting section 88.

(Question of the new clause proposed)

(New clause read the First Time)

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

Eng. Rege: Mr. Temporary Deputy Chairman, Sir, if you have the Bill, Clause 88---

Hon. Members: Why? Tell us!

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, that is the Clause that enables the Minister to raid media houses.

An hon. Member: What is the problem with that?

Eng. Rege: Mr. Temporary Deputy Chairman, Sir, the problem is that this is an

infringement of freedom of information.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Minister!

(Mr. Poghisio sat in his place)

(Eng. Rege stood at the Dispatch Box)

Mr. Minister!

The Minister for Information and Communications (Mr. Poghisio): Mr. Temporary Deputy Chairman, Sir, I cannot do it when the other hon. Member is on his feet; that is my problem. I had to wait for the hon. Member to sit down.

The Temporary Deputy Chairman (Mr. Imanyara): This is a new clause!

The Minister for Information and Communications (Mr. Poghisio): Mr. Temporary Deputy Chairman, Sir, this is a difficult one, because my understanding is that it is put there to take care of public emergencies. I know that it is interpreted that this is the one that the Minister uses but it is not the one that he uses if he wants to raid a station. We do not raid stations any more.

(Applause)

That is something that never happens any more. It is a criminal thing to do! But for purposes of managing public emergencies, I really would like to ask that we keep this Clause in the law, partly because the principal Act has to be amended in order to allow us to delete this part. However, I would like to hear what the Chairman has to say.

Eng. Rege: Mr. Temporary Deputy Chairman, Sir, I agree with him.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Temporary Deputy Chairman, Sir, I just wanted to make my contribution on this issue. I totally oppose the deletion of this section. I have actually read this very carefully. It only says, "in the event of declaration of a state of emergency," which is very rare.

Secondly, Mr. Temporary Deputy Chairman, Sir, it says, "or in the interest of public safety and tranquillity." This concerns national security. In any case, it is not an infringement because it provides for the Minister to put it in writing and it is only a temporary measure for security. Those who are aggrieved are allowed to appeal to the High Court within 14 days. So, I think that it is safe and we should not temper with it for the interest of national security.

*(Question, that the new clause be read
a Second Time, put and negatived)*

*(Question, that the new clause be added
to the Bill, put and negatived)*

(Title agreed to)

(Clause 1 agreed to)

The Minister for Information and Communications (Mr. Poghisio): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Kenya Communications (Amendment) Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS, CONSIDERATION OF REPORTS AND THIRD READINGS

THE ANTI-COUNTERFEIT BILL

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Anti-Counterfeit Bill and has approved the same with amendments.

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

The Minister for Information and Communications (Mr. Poghio) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Industrialisation (Mr. Kosgey): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Anti-Counterfeit Bill be now read the Third Time.

The Minister for Information and Communications (Mr. Poghio) seconded.

(Question proposed)

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I just wish to take this opportunity to thank the Minister for Industrialisation for having brought up this Bill which we have now passed into an Act of Parliament. I also want to congratulate him for the way he has worked very closely with the relevant Parliamentary Departmental Committee. It is through their effort that this Bill was able to sail so smoothly. I would like to request other Ministers and Departmental Committees to work closely, because the parliamentary Committees are the eyes and ears of other Members of Parliament. This is because they cannot go through all those papers. So, when the Committee and Ministry agree, it shows that they have worked closely and come up with a very good product.

The Assistant Minister for Medical Services (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, we have a big problem of counterfeit goods in this country.

Mr. Temporary Deputy Speaker, Sir, the Minister has not been having the powers, under the law, to deal with this problem. This Parliament has, today, given him the powers. Can we have action now? We beg the Minister to do something drastic, to send a very strong message to these people.

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Temporary Deputy Speaker, Sir, I

also want to add my voice and thank the Minister for bringing this Bill. This is because this country has been a dumping place for products that are rejected in other countries. Now that we have given the Minister the power and mandate to deal with fake commodities, please, go ahead and do it. I support you.

(Question put and agreed to)

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

THE FISCAL MANAGEMENT BILL

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Fiscal Management Bill and approved the same without amendments.

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

The Assistant for Lands (Mr. Bifwoli) seconded.

(Question proposed)

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I want to thank this House for having passed the Fiscal Management Bill. We know that for many years - over a decade - this country has tried to, at least, audit the Budget-making process, in a timely manner before it is presented to Parliament. This is the greatest Christmas gift to this House. When we come back, it will be law, and the people's representatives will know when to stop corruption before it happens.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Thank you, Mr. Temporary Deputy Speaker, Sir. I just want to put on record this House's appreciation of the efforts that were started by Mr. Oloo Aringo. He is the one who started this process. Unfortunately, he was not able to make it back to the Tenth Parliament.

His work was built upon by Messrs. Mbau and Ogindo. I also want to thank them for their efforts to make sure that this Bill has seen the light of the day. We, as Parliament, will now have the power to interrogate the Budget-making process and refuse to be ambushed. We, as Parliament, must use this power for the benefit of Kenyans.

Mr. Ngugi: Thank you, Mr. Temporary Deputy Speaker, Sir. I also want to add my voice in commending the Committee and this House in passing this Bill. The House has enhanced its oversight role in the Budget-making process.

Right now, the Budget-making process for the next financial year is already in high gear, but this House has no idea as to how this is being done. This House is not making any contribution in the process. We, as a House, are not exercising our oversight role. However, with the passage of this Bill, this House will play an active role. Right now, the estimated revenue and the expenditure of the current Budget cannot balance.

The Government is unlikely to finance its operations, because the revenue collections are not forthcoming.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Ngugi! Do not re-open debate.

Mr. Ngugi: Mr. Temporary Deputy Speaker, Sir, I want to commend this House for playing its role and engaging in what it ought to do in the Budget-making process.

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Temporary Deputy Speaker, Sir, I

thank you very much for giving me this opportunity.

I would like to take this opportunity to thank former Member of Parliament, Mr. Oloo Aringo. He tried to bring this Bill to reality, but it never worked. In the same way, I want to thank Mr. Mbau. Today is an important day in the history of Kenya. Days are now gone for those who are used to taking Kenyans' money to one area or the other, at the expense of the country. I am happy today that the resources of this country will be budgeted for to cater for the whole country, regardless of whether a given part of the country is represented by somebody in the Cabinet or not.

(Question put and agreed to)

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I beg to move that The Fiscal Management Bill be now read the Third Time.

The Minister for Public Health and Sanitation (Mrs. Mugo) seconded.

(Question proposed)

(Question put and agreed to)

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

THE KENYA COMMUNICATIONS
(AMENDMENT) BILL

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Kenya Communications (Amendment) Bill and approved the same with amendments.

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

The Assistant Minister for Medical Services (Mr. Mungatana) seconded.

(Question proposed)

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to, again, show how much this House can achieve if Ministers and the House Departmental Committees work together. I was one of the persons who were very uncomfortable with the current Section 88 of the Communications Act, because of the immense powers bestowed upon the Minister. The Minister is given powers to disable, dismantle and close printing presses and broadcasting equipment, but I have been assured that this will only happen during an emergency. Again, we have been assured that it is only the President who can declare an emergency, and not a Minister.

Our fears were that the Minister could declare an emergency today, disable and dismantle a printing press and then the following day, revoke the emergency. However, we have been assured that this is not going to happen. Therefore, I wish to commend the Minister for that assurance.

Eng. Rege: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity.

The only problem we have about the section providing for dismantling of equipment in a media house is two-fold: We cannot ascertain that an emergency exists at an instant of time, or digitally. If equipment is removed from a media house, do we know--- The Bill says that such an equipment will be removed for a short time.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Eng. Rege! This is not debate time! It is the Third Reading of the Bill! So, do not re-open the debate!

Eng. Rege: Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Midiwo: Thank you, Mr. Temporary Deputy Speaker, Sir. There is no country on earth where the media is not regulated. If you want structured development, you cannot have a very vital industry like the media being so rogue. I want to thank this House for enhancing the rules. I can assure you that if you sat in your living room and flipped through the television channels, you will not sit for 30 minutes before seeing a nude picture in front of your own children. So, this is one area where the Government has to take charge since the Government has a responsibility to protect its citizens.

We want the media to co-operate, because there is now a tendency where the media is moving one way and leaders in the country are moving another way. The media must co-operate with us, as much as we are willing to co-operate with them. You know of cases where the media has been inciting people.

Mr. Temporary Deputy Speaker, Sir, remember we have talked in this House and every where about Mr. Waweru Mburu who spends all his mornings telling Kenyans how MPs are bad people. How are we going to rule people if we are always the bad ones?

Mr. Temporary Deputy Speaker, Sir, I beg to support this move. I thank the House.

Mr. Ngugi: Mr. Temporary Deputy Speaker, Sir, I also want to commend the Minister for bringing forth this Bill and the House for passing it. I know that the contentious section will be put in effect responsibly. There is no country in the world where self-regulation works on its own. In the USA, we have seen how the economy has been destroyed because the Government did not take control. They left matters to self-regulation. For the Minister to bring this Bill before this House, he was just doing what the Government ought to do, that is, to prevent a disaster from happening tomorrow.

(Question proposed)

(Question put and agreed to)

The Minister for Information and Communications (Mr. Poghio): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Kenya Communications (Amendment) Bill be now read the Third Time.

(Question proposed)

The Assistant Minister for Medical Services (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, when we were considering this Bill, the whole focus shifted on the media. However, as we pass this law today, we are allowing electronic signatures. Big business is going to be transacted through our banks now. The ICT sector is a very big stakeholder. It is not just the media. So, we have opened the gates for very good business to take place in this country. I congratulate the Minister for that one big score.

Secondly, I would like to urge the media to understand that we are not fighting them. We are on the same side. In fact, all the proposed amendments were accepted by the Government with

the exception of one only. Let us work together because we are all in leadership. They are in the media and we are here. We have to work together for the good of this country.

When the Press writes the kind of stories that we see in the newspapers, our relatives read about them in the internet and so on, we look so bad! Some people think that by doing that, they are doing a favour to this country. We need to work together just as we have shown here.

The Assistant Minister Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I am one of the admirers of Press freedom. I admire Amendment VI in the USA Constitution which states that the Congress shall make no law abridging the freedom of the Press.

Mr. Temporary Deputy Speaker, Sir, a number of people in this House have fought for freedom of the Press. Some of us are a bit concerned whenever an attempt is made to limit the freedom of the Press.

I believe that Kenyans should have the freedom to say whatever they want. They should have the freedom to watch what they want to watch. This is one of the reasons we fought for the third liberation.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I thank the Minister for this very timely action of bringing forth this Bill. For one, it will remove anarchy in this country as far as communication is concerned. Not everybody is welcome in this industry. There are monarchs of this industry who control the frequencies and content. There are those who will even steal frequencies and the Minister is powerless. However, the Minister has muscle now and we are looking forward to seeing him on Monday functioning.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I also want to thank the Minister and assure the media that the House is well-meaning and well-intending. The House is in the business of making and amending laws. If anything goes bad, we are here and we will do our part. Thank you.

Eng. Rege: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to take this opportunity to thank the Departmental Committee on Energy, Communications and Public Works. It took a long time to check across the ICT industry and the media. We consulted almost every business sector with regard to this issue. The Bill is really a result of a researched proposal and resolution for all contentious issues that could have been there. We are looking forward to look at the Bill again in the future, probably, to fragment it, if necessary.

(Question put and agreed to)

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

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! That concludes the business on the Order Paper today. The House is, therefore, adjourned until tomorrow, Thursday, 11th December, 2008 at 2.30 p.m.

The House rose at 6.10 p.m.