

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 2nd August, 2007

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

### QUESTIONS BY PRIVATE NOTICE

#### PARKING OF UGANDA-BOUND TRAILERS ON BUSIA-KISUMU/BUNGOMA-MALABA ROADS

**Mr. Ojaamong:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that trailers ferrying goods to Uganda are being parked on the Busia-Kisumu and Bungoma-Malaba roads, thus blocking other motorists and pedestrians from using the roads for the last three months?

(b) What urgent step is the Minister taking to construct a trailer park to pave way for easy flow of traffic in the towns of Busia and Malaba?

**Mr. Deputy Speaker:** Is the Minister for Local Government not here? We will come back to the Question.

Next Question by the Member for Rongo!

#### ROLE OF DEBS IN RECRUITMENT OF PRIMARY SCHOOL TEACHERS

**Mr. Ochilo-Ayacko:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Could the Minister confirm that the Ministry has issued instructions to the effect that the ongoing recruitment of primary school teachers should not give preference to applicants residing in the respective districts?

(b) What is the role of the District Education Boards (DEBs) in the ongoing exercise?

**The Assistant Minister for Education** (Mrs. Mugo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I wish to confirm that the Ministry has not issued instructions to the effect that the ongoing recruitment of primary school teachers should or should not give preference to applicants residing in the respective districts. District Education Officers (DEOs) are required to strictly adhere to the recruitment guidelines, which stipulate that all applicants should be given equal opportunity. The Teachers Service Commission (TSC) advertisement in the print media requires the candidates to submit their applications to the DEOs in the districts of their choice, where vacancies exist.

(b) The role of the DEBs in the recruitment exercise is the ratification of the merit list for

onward transmission to the TSC on 13th August, 2007.

**Mr. Ochilo-Ayacko:** Mr. Deputy Speaker, Sir, the recruitment of primary school teachers by the DEBs is an exercise that was done last year, the year before last year and the other year. Are there new rules that are different from the rules that applied last year, the year before last year and the year 2003? Are the rules the same as those in the recruitment exercised held in the past?

**Mrs. Mugo:** Mr. Deputy Speaker, Sir, there are no new rules.

**Mr. Bifwoli:** Mr. Deputy Speaker, Sir, the TSC decentralised hiring of teachers from Nairobi and instead took the whole exercise to the DEBs, because DEB members can identify teachers who can teach in the respective districts. The purpose is to ensure that people do not seek employment in other districts and then get transferred to their home districts. Now that the DEBs employ, they are not supposed to be rubber stamps. Why is the TSC now giving new regulations and conflicting authority to the DEBs? Now, who is supposed to employ? Is it the TSC or the DEBs? If it is the TSC, why not in Nairobi?

*(Applause)*

**Mrs. Mugo:** Mr. Deputy Speaker, Sir, people have always talked about decentralisation and taking the decision-making responsibility to the people. That is what the Ministry did. However, it is still the responsibility of the TSC to employ. The DEBs ratify that the applicants have been short-listed and interviewed and forward the list to the TSC for employment.

**Mr. Cheboi:** Mr. Deputy Speaker, Sir, last year, I asked a Question about teachers being employed in my constituency and immediately moving out of the constituency under the pretext of insecurity, because they come from as far as Nyeri and other places. What specific measures is the Ministry putting in place to employ teachers from particular constituencies, who are willing to serve under the specific prevailing circumstances in those constituencies, so that they do not have to run away under the pretext of insecurity, or going back to their home districts to get married?

**Mrs. Mugo:** Mr. Deputy Speaker, Sir, to begin with, teachers are not employed until the DEBs ratify their applications. Members of Parliament are members of the DEBs. So, at that point, if one has any queries, one can raise them. On the issue of people being employed and leaving because of insecurity, only one teacher was involved in that particular case. Therefore, it is not quite right to generalise.

**Mr. Ogur:** Mr. Deputy Speaker, Sir, you can see very clearly that there is an anomaly, so that the locals are not given preference. Something is hanging there to give room for the DEO from elsewhere to be employed, so that the people of Nyatike do not get employed. There is room for him to employ people from outside. When will my people be employed because there is a room to employ people from outside?

Could the Assistant Minister categorically agree to the fact that she has given room for corruption?

**Mrs. Mugo:** Mr. Deputy Speaker, Sir, I have not given any room for corruption.

**Mr. Sirma:** On a point of order, Mr. Deputy Speaker, Sir. I am surprised at the hon. Members of this House. I am the most disadvantaged hon. Member in this House in terms of teachers' recruitment. The Government has denied my people employment. How will we recruit from the districts which the Government has decided to close down, despite the fact that we lose teachers through natural attrition and retirement?

**Mr. Deputy Speaker:** I thought you stood on a point of order!

**Mr. Sirma:** Mr. Deputy Speaker, Sir, is it in order for the Assistant Minister to be partisan and tribal?

**Mr. Deputy Speaker:** Mr. Sirma, you have asked a question and I will allow it to be

answered.

**Mrs. Mugo:** Mr. Deputy Speaker, Sir, the Ministry carried out a balanced exercise. We checked in all districts and found out that some districts were over-staffed. Some districts had too many teachers while areas had absolutely no teachers. We are now balancing out in all the areas. For the information of the House, Dagoretti Constituency has the least number of teachers in this country. You can go and check.

**Mr. K. Kilonzo:** Mr. Deputy Speaker, Sir, last year, Kitui District was given 186 slots. The applicants were interviewed and the DEB ratified. They were brought to the TSC and the TSC replaced 16 names. The allegation is that the 16 teachers who replaced the applicants were paying Kshs50,000 each.

Could the Assistant Minister ensure that the lists which come from the DEBs are not changed, to avert corruption at the TSC?

**Mrs. Mugo:** Mr. Deputy Speaker, Sir, there can never be any changes unless there are anomalies. If there are anomalies, the complaints come right from the ground where the recruitment happened. If the complaints come to the TSC, the TSC looks at the case. However, I do not believe that any list is changed when it comes to the TSC, unless there are complaints right from the grassroots. As for the payment, I do not know about that because there is no evidence.

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

**Mr. Deputy Speaker:** Order, Mr. K. Kilonzo! No, no! You had your chance.

The hon. Member who initially brought this Question, because it was approved by the Chair, intended to get an assurance from the Ministry that the recruitment of teachers will be done locally. I thought that, that is the gist of Mr. Ochilo-Ayacko's Question. Mr. Ochilo-Ayacko, ask your last question!

**Mr. Ochilo-Ayacko:** Mr. Deputy Speaker, Sir, we know very well that recruitment is being done all over the country, and every person resides only in one district. The gist of the Question is that we want to have an assurance that DEBs, and the hon. Members who sit in DEBs, are not just going to sit there and rubber-stamp names that come from areas that they do not approve. Every applicant has an entitlement and a place from which to apply for the job.

I wanted to get an assurance from the Assistant Minister that the DEBs have the absolute power to make decisions and they will not get instructions from the headquarters that may conflict with the interests of the particular districts.

**Mrs. Mugo:** Mr. Deputy Speaker, Sir, I can give that assurance. The TSC must receive a ratified list from the DEBs. The DEBs are local entities. Nothing comes from outside a particular district. They have the final say.

#### PARKING OF UGANDA-BOUND TRAILERS ON BUSIA-KISUMU-MALABA ROADS

**Mr. Ojaamong:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that trailers ferrying goods to Uganda are being parked on the Busia-Kisumu and Bungoma-Malaba roads, thus blocking other motorists and pedestrians from using the roads for the last three months?

(b) What urgent step is the Minister taking to construct a trailer park to pave way for easy flow of traffic in the towns of Busia and Malaba?

**The Minister for Local Government (Mr. Kombo):** Mr. Deputy Speaker, Sir, I beg to apologise for coming late.

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

(a) I am not aware that this is happening. I am aware that this used to happen in the past. However, both Busia Municipal Council and Malaba Town Council have set aside pieces of land and demarcated areas where these trucks are now being parked. As such, there is no congestion on the roads.

(b) As to what we are going to do in the future, both local authorities have set aside funds. The Busia Municipal Council has set aside Kshs3.9 million in the current Budget to start upgrading the area where the trucks are now being parked. The Malaba Town Council has set aside Kshs400,000 for the same purpose.

**Mr. Ojaamong:** Mr. Deputy Speaker, Sir, the Minister has said that he is not aware, but the fact is that this is happening up to now. As I speak, we have trailers stretching right from the border to almost six kilometres inside Kenya.

The Minister has said that he has set aside funds for the construction of the parks. When will the construction of these parks start and when will they be completed?

**Mr. Kombo:** Mr. Deputy Speaker, Sir, I said that we have set aside funds within this year's Budget. We have just started discussing the Votes. We will make sure that we upgrade the areas where the trucks are already being parked.

**Mr. Ojaamong:** Mr. Deputy Speaker, Sir, in the answer that I have, the Minister has said that they have already factored some money into the Budget for this purpose. I wonder why he is denying that. However, the truth of the matter is that these trailers are blocking other motorists. It is very difficult to drive towards both Malaba and Busia towns.

I would like to appeal to the Minister to order his officers on the ground to ensure that in Busia, the trailers are either parked at the stadium or at the Busia Airstrip, which is not in use. In Malaba, the trailers can be parked elsewhere in the villages. In Busia Town, this month alone, over seven people have died because of the trailers blocking the road to the town.

**Mr. Kombo:** Mr. Deputy Speaker, Sir, the Government appreciates the fact that trade is important. We are going to ensure that there is a quicker flow of the trucks. As they are cleared across the border, this congestion will be reduced.

### ORAL ANSWERS TO QUESTIONS

**Mr. Deputy Speaker:** Hon. Members, the next Question is by hon. Weya and there is a ruling coming on that in a few minutes. We will, therefore, skip it and go to the next Question by hon. Khaniri.

#### *Question No.357*

AMOUNT OF FUEL CONCESSION  
RECEIVED FROM NIGERIAN GOVERNMENT

#### *Question No.422*

SUPPLY OF ELECTRICITY TO  
KAPTIENI PRIMARY SCHOOL

**Mr. Khaniri** asked the Minister for Energy:-

(a) whether he is aware that Kaptieni Primary School in Serem Sub-location applied for electricity supply and paid a deposit of Kshs800,000 on 24th February, 2006, having received a quotation of Kshs1,208,000 from the Kenya Power and Lighting

Company Limited;

(b) why the quotation has been varied by the Kenya Power and Lighting Company to Kshs2,522,500; and,

(c) whether he could direct the Kenya Power and Lighting Company to revert to the initial figure of Kshs1,208,000, given that the electricity supply will benefit a public institution and the community.

**The Assistant Minister for Energy** (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I have looked at the answer that was given to me this afternoon, and considering carefully the concerns of the hon. Member, it is only fair that I seek the indulgence of the House to give me some time, so that I can come with a well investigated answer on Tuesday, next week.

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, indeed, it is true that we have consulted and we have agreed that the Question can be answered on Tuesday next week.

**Mr. Deputy Speaker:** Very well! The Assistant Minister's request is granted. The Question is deferred until Tuesday next week.

*(Question deferred)*

*Question No.358*

CONFIRMATION OF GOVERNMENT'S WAIVER  
OF SECONDARY SCHOOL TUITION FEES

**Mr. Oduyo** asked the Minister for Education:-

(a) whether he could confirm that the Government is planning to waive secondary school tuition fees with effect from January, 2008, at a cost of Kshs4.5 billion;

(b) whether he could further confirm that this program will not affect or interfere with the current bursary scheme for secondary school students; and,

(c) what specific measures he is taking to prepare the 38 secondary schools in Nyakach and in other constituencies for the expected increase in student enrolment when the program begins.

**The Assistant Minister for Education** (Dr. Mwiria): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Government has waived secondary school tuition fees with effect from January, 2008, to the tune of Kshs4.3 billion in the whole country. The tuition fees waiver will target all students attending public secondary schools with each student receiving Kshs3,600 per annum.

(b) The tuition fees waiver will not interfere with the secondary school bursary scheme. In essence, the tuition fee waiver is a complementary effort to the bursary scheme, so as to realise an affordable secondary education.

(c) In recognition of the expected increase in students enrolment due to this waiver, the Ministry of Education has put in place the following recommendations: The expansion of the existing one-stream secondary schools to three-streams with time; given that these secondary schools are cheaper, opening of day streams in selected boarding secondary schools; enhanced teacher recruitment, for example, the 4,000 increase for this year; continued and enhanced financial support to secondary schools with regard to infrastructural development, laboratory equipment support, bursaries to the needy, special grants to Arid and Semi-Arid areas and ICT support in two schools in every district.

**Mr. Odoyo:** Mr. Deputy Speaker, Sir, the Assistant Minister has given us an answer that is inadequate. In part "c", he has said that they have made recommendations, yet in part "a", he confirms that the program will be in effect from January, 2008.

In my constituency, there are no school buildings, no new teacher recruitment and no expansion of the existing facilities. The Assistant Minister has told us that in January, 2008, the Ministry will be able to cater for the higher student enrolment.

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, we anticipated the expansion even before the declaration of the free secondary school education. During the last one year, we have been talking a great deal about how we are encouraging the expansion of the existing streams. That has already been taking place in most parts of the country.

There are many day secondary schools which have also come up. I am surprised that no new schools have been built in Nyakach, while the hon. Member is a great believer in education. That has been recommended, but it is with the support of the various persons who have an interest in education that we can realise it. These recommendations were made more than two years ago. This is a follow-up. It just happens that there is a coincidence.

**Mr. J.M. Mutiso:** Mr. Deputy Speaker, Sir, there are so many school leaving certificates pending in schools for past students, amounting to Kshs6 billion on account of unpaid tuition fees in secondary schools. Could the Government also consider paying fees arrears for those students who have uncollected certificates because of want of tuition fees?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, there was a report in the newspapers today by the Permanent Secretary saying that those certificates will be released. Whether or not the Ministry will pay all the money is another issue. The spirit is there in terms of releasing those certificates.

**Mr. Omondi:** Mr. Deputy Speaker, Sir, in many areas in the country, the number of public schools is not adequate enough to cater for the needy students. Therefore, this problem is complemented by schools which are not public schools. Could the Assistant Minister consider waiving tuition fees in these other schools as well?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, the question is not clear. Did the hon. Member mean that we should waive school fees in private schools?

**Mr. Omondi:** Mr. Deputy Speaker, Sir, schools which are not public schools.

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, we shall not consider waiving fees for private schools because some of them are profit-making institutions.

**Mr. Maore:** Mr. Deputy Speaker, Sir, the answer to part "b" of the Question is a bit contradictory. Could we have clarity on it? If the Government intends to have free secondary school education as per tuition, what is the motivation in not enhancing the volume of allocations per student and waive the whole fees altogether instead of bringing in the issue of bursary which is creating problems in disbursement?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, there is still need to have the bursary system because the benefit to students is only Kshs3,600 per annum. There are many other costs to education, especially if you have students in boarding schools. So, they will still need to benefit from bursaries until such a time that the Ministry can offer more support than just Kshs3,600

**Mr. Karaba:** Mr. Deputy Speaker, Sir, recently we have had a contradiction in terms of who should get the waiver next year. I heard the President say that it is only students in Form I and Form II who will get the tuition fee waiver. Could the Assistant Minister clarify this matter for the benefit of the public? Is the waiver meant for Form I and Form II students only or for Form I up to Form IV?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, what would you prefer, Mr. Karaba? I think the tuition waiver is for the whole secondary education.

**Mr. Kimeto:** Mr. Deputy Speaker, Sir, could the Assistant Minister tell us the Government's view on orphans in secondary schools because the bursary is not enough? The school-going orphans and children of the disabled have difficulty in paying school fees and also some able-bodied people cannot sustain themselves. Why can the Ministry not waive completely fees for children whose parents are disabled and those who are orphans?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, if the hon. Member checks the [Dr. Mwiria] guidelines for bursary disbursements, he will note that preference is given to orphans and other children from families such as the ones that he is describing.

**Mr. Odoyo:** Mr. Deputy Speaker, Sir, there is a serious teacher shortage, especially in secondary schools. Could the Assistant Minister consider hiring over 500 retired secondary school teachers who are in my constituency, so as to address the serious problem of shortage of teachers in secondary schools?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, it is unlikely that we shall consider hiring retired teachers when there are many young ones who have not been employed even after training.

**Mr. Deputy Speaker:** Next Question.

*Question No.371*

EQUIPMENT/MEDICAL PERSONNEL FOR  
CDF-SPONSORED DISPENSARIES  
IN KAJIADO CENTRAL

**Maj. Madoka,** on behalf of **Maj-Gen. Nkaiserry,** asked the Minister for Health when she will equip and provide medical personnel to dispensaries funded by the CDF in Kajiado Central Constituency.

**Mr. Deputy Speaker:** Is there anyone here from the Ministry of Health?

**The Assistant Minister for Health (Dr. Machage):** Mr. Deputy Speaker, Sir, my colleague was here with the answer. I beg that the House allows him a few minutes so that he may come and answer this Question.

**Mr. Deputy Speaker:** Mr. Assistant Minister, could you now address the Chair so that I get what you are saying?

**The Assistant Minister for Health (Dr. Machage):** Mr. Deputy Speaker, Sir, Dr. Kibunguchy has the answer and he is within the precincts of Parliament. I am surprised he is not here. If you have a copy I can still answer the Question.

**Mr. Deputy Speaker:** The Chair cannot give a Minister an answer. It is the Minister who answers the Question.

**The Assistant Minister for Health (Dr. Machage):** Mr. Deputy Speaker, Sir, I beg for the indulgence of the House that we give him a few more minutes. He has the answer and he is within Parliament.

**CONSIDERED RULING**

ASSISTANT MINISTER SHOULD  
WITHDRAW STATEMENT HE MADE  
AGAINST HON. MEMBERS WHILE  
ANSWERING QUESTION No.357

**Mr. Deputy Speaker:** Very well. Let me refer to the Question by Mr. Weya on the Ministry of Energy.

Hon. Members will recall on 11th July, this year the Member for Alego Usonga, Mr. Weya, asked Question No.357, which is on the Order Paper today, concerning the amount of fuel concession received from the Nigerian Government. The Question was answered by the Assistant Minister for Energy, Mr. Kiunjuri. The Member for Langata, Mr. Raila, declared his interest in the Question by stating that he was involved in the negotiations of the deal. The Chair deferred the Question until 19th July, 2007. On that day, Mr. Kiunjuri informed the House that:

"The concession was signed in 1999 by the then Minister for Energy, Mr. Raila Odinga."

The Question was, again, deferred and returned to the House on 26th July, 2007. The hon. Assistant Minister stated:

"The genesis of this Question must now be allowed to be followed. There are no records that are available on the premiums paid, revenue received and the contracts lifted by the Vital (SA) Geneva between 1999 and 2000. The hon. Raila Odinga who served as the Minister for Energy in 2001 and 2002 is in a better position to comment on why the records are not available."

The hon. Assistant Minister further proceeded and said as follows:

"In 2004 when a lifting contract was awarded to Acadia, the tender premium was US\$10 per barrel. However, for no apparent reason, and in contravention of the Public Procurement Procedure, the premium was raised to US\$70 per barrel without the knowledge of the Accounting Officer. The hon. Ochilo-Ayacko who was the Minister for Energy may wish to comment on this issue."

The Question was again deferred to Tuesday, 31st of July, 2007 during which time the Member for Rongo, Mr. Ochilo-Ayacko informed the House that Mr. Kiunjuri had dragged his name and that of Mr. Raila to the effect that some documents are missing in that Ministry. He continued:

"Was the Assistant Minister in order to allege that those documents might have left their custody when Mr. Raila or I, was the Minister for Energy?"

Mr. Raila Odinga also stood up to assure the House that not a single document was removed from the Ministry when he was a Minister. Then, Mr. Kiunjuri, stated as follows:

"The only person who can give the correct version of what occurred is the Assistant Minister or the Minister. I am telling this House that documents are missing and the only person who can tell us where the documents are, especially for 2001 and 2002 is Mr. Raila Odinga. Therefore, it is not an allegation. The documents are missing and he is in a position to tell us where they are."

The Chair informed the Assistant Minister that he was imputing improper motive against the hon. Member and wondered whether he had evidence that Mr. Raila had the custody of those documents which were missing. Mr. Kiunjuri stated as follows:

"If the documents are missing, we can call other arms of Government to investigate what happened to those documents, including investigating the then Minister for Energy and the person who was in charge of the National Oil Corporation at that time. I am telling the House the whole truth. The only way this House can establish whether I am telling the truth or not is to allow other organs of law in this country to investigate this issue."

At this point, the Leader of the Official Opposition, Mr. Uhuru Kenyatta demanded that Mr. Kiunjuri be made to substantiate his allegations against Mr. Raila Odinga or withdraw. The



Chair also reminded Mr. Kiunjuri that for him to allege that documents in the Ministry went missing during Mr. Odinga's tenure in the Ministry is tantamount to passing the responsibility for the loss of those documents to Mr. Odinga, to which Mr. Kiunjuri again said:

"That between 1999 and 2000, no records are available on the premiums paid and revenue received and fuel lifted. Mr. Raila Odinga who served as the Minister for Energy in 2001 and 2002 is better placed to comment on why records were not kept."

Mr. Raila Odinga reminded Mr. Kiunjuri that he was the Minister in 2001 and 2002. Mr. Kiunjuri insisted:

"I have been very clear. I said Mr. Raila Odinga is better placed to comment. That is exactly what I said. I never said that he is in custody of those documents. It is very clear that he is in a better position to comment on why the records were missing which he has done."

Hon. Members, from the HANSARD records, it is evident that the Assistant Minister was categorical that certain documents relating to this Question are missing. The issue that needs to be answered is where and who has the documents. In my opinion, the Assistant Minister is responsible to this House on all matters; past and present, relating to the operations of the Ministry. This responsibility cannot be shared, at least, not in this House, with any other hon. Member other than a fellow Minister. Under the circumstances, it is out of order for the Assistant Minister to infer that the documents are either with the former Ministers in that Ministry or that the former Ministers are in a better position to inform the House as to their whereabouts.

Of course, the Assistant Minister, in the course of his duties is at liberty to institute investigations to establish the whereabouts of the documents, but he is definitely out of order to insinuate that Mr. Raila or Mr. Ochilo-Ayacko have information as to who has the documents and where the documents are.

Hon. Members, I, therefore, rule that the Assistant Minister withdraws that statement inferring improper motive against a Member of this House without moving a substantive Motion in accordance with our rules of procedure. He may wish to carry out investigations as to where the documents are. As far as this House is concerned, only the issue of our rules of procedure of imputing improper motive made the Assistant Minister be out of order. He may, therefore, withdraw and then we proceed.

Mr. Kiunjuri.

**The Assistant Minister for Energy** (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I agree with your decision that where issues of the documents are concerned, I should be in a better position to tell the House. Therefore, now that I have said, and I repeat it once again, that we do not know where the documents are, the only last route that I have is to institute investigations. Therefore, we shall call upon the relevant arms of the Government, either Criminal Investigations Department or Kenya Anti-Corruption Commission to pursue that matter, so that we know where the documents are. Otherwise, on the issue of the former Minister being in custody of those documents--- Now that they have categorically also denied that they do not know where the documents are, I withdraw. I will go ahead and institute investigations.

**Hon. Members:** Apologise! Apologise!

**The Assistant Minister for Energy** (Mr. Kiunjuri): There is nothing to apologise about. I am just withdrawing!

**Mr. Deputy Speaker:** The Assistant Minister has done what is honourable. He has withdrawn. If you look at your Standing Orders, the Chair may, if he finds it fit, order the Assistant Minister to apologise. The Chair has not done so. The Chair has ordered the Assistant Minister to withdraw and he has withdrawn. The matter ends there.

Now, let me say the following, as far as this Question is concerned. When I was reading my ruling, hon. Members were very attentive. You have realised that this Question has taken a lot of the time of this House. I think it has come to the Floor of this House four times. This is the fifth time. The meaning of a Question is not to take so much time of the House. Those of you who have attended other Parliaments know that Questions do not take more than five minutes. This one has taken, in fact, nearly an hour, when we calculate the number of times that it has come up. Therefore, the Chair wishes to advise as follows:-

We will not pursue this Question any further. I know Mr. Weya wanted to raise further supplementary questions on the matter. What I would want to advise him to do, if he so wishes, is--  
- If he feels that the Question was not answered satisfactorily, he will have to make an application to the Chair in accordance with Standing Order No.18. It deals with Questions that are not satisfactorily answered. Then, the Chair will consider. I believe I will consider it favourably if he makes an application. That way, this matter will be removed from the Order Paper as a Question. It has taken a lot of time of this House. But then, I have not closed the doors. You may so wish to pursue the Question further using Standing Order No.18.

Yes, Mr. Weya.

**Mr. Weya:** Mr. Deputy Speaker, Sir, before you made this ruling--- Last week, I wanted to critically address an issue. You had ruled that some documents should be tabled in the House. When those documents were tabled, they were tabled half-heartedly. The contract between the Kenyan Government and Nigerian Government was supposed to be tabled here. But they only tabled a contract for the year 2006, whereas I had asked for the contracts for the last three years. The documents that were signed between National Oil Corporation of Kenya (NOCK) and the company that was interacting in this transaction were not given to me. You had ruled that those documents be tabled in this House. So, I think the Assistant Minister was trying to hide behind some pretence. That is why I stood on a point of order last week so that, by the time this Question comes today, the documents would be in the House. Those are public documents and Parliament has a responsibility to account to the people of this country.

**Mr. Deputy Speaker:** In deed, I agree. That is why I have opened another window for you. If you wish to pursue the issue of the documents, you will be allocated time to specifically debate the matter. If you wish, please, follow Standing Order No.18. If you wish, you can pursue the matter further under that Standing Order.

Now, I think I should move on to the next Question.

The next Question is directed to the Minister for Health. The Assistant Minister had said that we should give him a few minutes. I think we have given him that time. Mr. Assistant Minister, it is now your turn.

*(Resumption of Oral  
Answers to Questions)*

*Question No.371*

EQUIPMENT/MEDICAL PERSONNEL  
FOR CDF-SPONSORED DISPENSARIES  
IN KAJIADO CENTRAL

**Maj. Madoka**, on behalf of **Maj-Gen Nkaisserry**, asked the Minister for Health when she will equip and provide medical personnel to dispensaries funded in

Kajiado Central Constituency.

**The Assistant Minister for Health** (Dr. Machage): Thank you, Mr. Deputy

Speaker, Sir, for giving me that time. But Dr. Kibunguchy has not appeared. I promise that on Tuesday, I will answer this Question myself, if he is not here again. It is his docket. But I take the responsibility to make sure that on Tuesday, this Question will be answered.

**Mr. Deputy Speaker:** Very well. Maj. Madoka is the one who asked the Question. Let us hear his comments.

**Maj. Madoka:** Mr. Deputy Speaker, Sir, we know that the Assistant Minister is somewhere in the Lobby. Surely, he should have gone down to get him. He is just in the Lobby.

**Mr. Deputy Speaker:** But, Maj. Madoka, I do not think you are in order to ask the Assistant Minister to go and look for another Assistant Minister. I think the issue here is that the Member has sought the indulgence of the House to answer this Question on Tuesday. I want you to tell me whether you concur, so that I can defer the Question.

**Maj. Madoka:** Mr. Deputy Speaker, Sir, really, I am saying that they have the responsibility. The other Assistant Minister is just outside here. If he was responsible, he should have gone to get that Assistant Minister to come and answer the Question. The Assistant Minister is around.

**Mr. Deputy Speaker:** But I do not concur. You know Maj. Madoka, you are putting the Chair in an awkward position. Am I going to adjourn the House to allow the Assistant Minister to go and look for another Assistant Minister? No! I am not going to do that. Therefore, I defer this Question to Tuesday afternoon.

*(Question deferred)*

That is the end of Question Time.

**An hon. Member:** There is another Question.

**Mr. Deputy Speaker:** I am sorry. The Chair has lost some documents. Now, I have found them!

Let us move on to the next Question by Mr. Karaba!

*Question No.397*

TARMACKING OF KAGIO-  
BARICHO-KERUGOYA ROAD

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

(a) whether he is aware that on 25th November, 2005, the Minister for Roads and Public Works promised the House that Road D424, D425 (Kagio-Baricho-Kerugoya) would be tarmacked in the 2004/2005 Financial Year;

(b) whether he is further aware that the said road remains untarmacked to date; and,

(c) whether he has plans to tarmac the road during the 2007/2008 Financial Year.

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

(a) Yes, I am aware that Kagio-Baricho-Kerugoya Road was to be tarmacked in the 2004/2005 Financial Year.

(b) I am also aware that the said road remains untarmacked to date. However, it is currently

under redesigning to bitumen standards and the tender documentation process is ongoing.

(c) My Ministry has plans to tarmac the road. An amount of Kshs4 million was allocated in the last financial year. An amount of Kshs70 million has been allocated in this 2007/2008 Financial Year for commencement of construction to bitumen standards.

**Mr. Karaba:** Mr. Deputy Speaker, Sir, the construction of that road stalled way back in 1987! That is 20 years back! The Assistant Minister has said that Kshs70 million has been set aside for that. That is something that can be put to doubt. If the then Minister had said that he was going to tarmac that road in 2004/2005 and nothing happened - nothing happened even in the following year - what surety do we have that it is going to happen this time round?

**Mr. Deputy Speaker:** Mr. Karaba, you are right. This Question came sometime last year. So, the Assistant Minister may have a go at it.

**Eng. Toro:** Yes, Mr. Deputy Speaker, Sir. But we did not have a provision in the last financial year for tarmacking the road. As I said, in the last financial year, we had only Kshs4 million. We set that amount aside for the review of the design. In this financial year, there is a commitment of Kshs70 million. That means that we will be able to tender. Once we start construction, we will continue to allocate it more funds.

**Mr. Gachagua:** Mr. Deputy Speaker, Sir, I think the Assistant Minister must do better than that. Providing money in the Budget does not mean that, that road is going to be built. The Assistant Minister should tell the hon. Member when tenders will be opened. What is the time between evaluation and award? When will the construction of that road start? By merely saying that the money is in the Budget is not an answer to that particular Question. Could the Assistant Minister tell this House when that road will be constructed?

**Eng. Toro:** Mr. Deputy Speaker, Sir, this is the beginning of the second month of the financial year. This is the time we are preparing to do the advertisements for consultancy services and construction. So, I would request the hon. Member to wait and see that we are going to do the advertisement for construction.

**Mr. Manoti:** Mr. Deputy Speaker, Sir, this same road was allocated money in the 2005/2006 financial year. Why was it difficult for the design of the road to be done at that time? Why did they have to wait until this year when they have been given money to tarmac the road if they are not looking for excuses of not doing that road?

**Eng. Toro:** Mr. Deputy Speaker, Sir, I thought my answer was quite clear that during the last financial year, we had only allocated Kshs4 million and we could not commence with advertisement for construction. This financial year, we have allocated enough money to commence construction and we are going to do exactly that.

**Mr. Deputy Speaker:** Last question, Mr. Karaba!

**Mr. Karaba:** Much as we can hold the Ministry responsible for not telling the truth in 2004, I would request the Assistant Minister to assure the residents of Kerugoya-Kutus that tarmacking of this road will start from Baricho to Kerugoya and not from Baricho to Kibirigwi because that section of the road from Baricho to Kerugoya is in Kerugoya-Kutus. The other one is in another constituency. It is only this constituency which has not, so far, received money for the construction of the road. Could the Assistant Minister assure this House that the tarmacking of the road will start from Baricho to Kerugoya and not Baricho to Kibirigwi, which is not in Kerugoya Constituency?

**Eng. Toro:** Mr. Deputy Speaker, Sir, that will be one project. Whether it is in his constituency or the other one, it will be under one project, but not two projects. So, once we advertise and we award the contract, it will be up to the contractor to decide what will be the best mode of construction that he will undertake. We do not dictate to the contractor where he should start and where he should end. We leave it to them to use their discretion so that they do not say that any delay caused was because the Ministry insisted that they should start road construction

where it is not convenient for them.

**Mr. Deputy Speaker:** Thank you, Mr. Assistant Minister. Hon. Members, before we move to the next order, I promised the hon. Capt. Nakitare that there will be a Ministerial Statement from the Minister of State for Administration and National Security. The Assistant Minister, Office of the President, Mr. Munya has the Statement. So, we will listen to it.

## MINISTERIAL STATEMENT

### RISING INSECURITY IN SABOTI CONSTITUENCY

**The Assistant Minister, Office of the President (Mr. Munya):** Mr. Deputy Speaker, Sir, on 17th July, 2007, hon. Capt. Davis Nakitare, the Member of Parliament for Saboti Constituency, stood on a point of order and demanded a Ministerial Statement from the Minister of State for Administration and National Security regarding the state of insecurity caused by armed criminals operating in his constituency.

Mr. Deputy Speaker, Sir, I wish to state as follows: Trans Nzoia District is among the North Rift districts, which are under Dumisha Amani Disarmament Programme that began in May, 2005, and is ending in November, 2007. This Programme has resulted in the recovery of 25 assorted illegal firearms and 639 pieces of assorted ammunition in Trans Nzoia District alone. The Government has, therefore, not failed to disarm the communities which are in possession of illicit small arms and weapons as alleged by the hon. Member.

Mr. Deputy Speaker, Sir, incidents of insecurity which have taken place in Trans Nzoia District are a spill-over from Mt. Elgon District where there have been conflicts over land. To address the unfortunate situation, the District Security and Intelligence Committees from Trans Nzoia, Mt. Elgon, West Pokot and Bungoma districts, have put in place strategic measures to carry out major joint operations within the affected areas. They have already undertaken the following:-

1. Collection of security intelligence within the affected areas.
2. Posted added security personnel to patrol the affected areas on a 24-hour basis.
3. Introduced suggestion boxes for collection of information.
4. Formed a special police unit to monitor the movement and activities of organised criminal gangs.

Mr. Deputy Speaker, Sir, as a result of these measures, there has been notable progress in the war against crime. This progress includes the following:

One, on 24th April, 2007, a group of organised criminals attacked King'ero Trading Centre and killed six people in cold blood. Police launched investigations that led to the arrest of four suspects, namely, Messrs. Zakayo Kipsang Temo, Moses Kirui Chebyuk, Simon Kabunye Geoffrey and Moses Sigoi Kwalia. The suspects were arraigned in court vide murder case File No.811 of 2007 and court file Case No.1714 of 2007. The hearing date is fixed for 26th, July, 2007.

Mr. Deputy Speaker, Sir, on 3rd May, 2007, a group of gangsters raided Matisi Trading Centre and killed nine people. Police launched investigations and identified suspected criminals, who are yet to be arrested. These are Bernard Lawi alias Shifta, Boniface Kiterie, James Kipnusu alias Auckland and Rashid Zakana Chebyuk. A warrant of arrest has been obtained and police have intensified the search for the suspects.

Third, Mr. Deputy Speaker, Sir, on 19th May, 2007, reliable information was received from an informer that there was an intention to attack Manor House within Kitale area by armed gangsters. Police organised ambushes from that date until 26th May, 2007, when the raiders entered into the ambush. An exchange of fire ensued between the police and the raiders, and as a result, three of the raiders were killed. These were identified as Messrs. Bernard Cheroben

Makwere, Joseph Nandi and Samuel Chemboi Cheptut. Police also recovered one AK-47 rifle and two live ammunitions of 7.62 mm and special honcho cap or jacket believed to belong to Uganda's People Defence Force (UPDF). An inquest file No.1 of 2007 has been opened.

Fourth, on 15th July, 2007, a group of armed thugs raided the home of Councillor Stephen Wasike in Saboti and killed his wife, Mrs. Elizabeth Nafula. At the time of her death, she was the Deputy Headmistress of Kapkoetwa Primary School. The gang also set ablaze the house using an inflammable chemical. Property of unknown value was reduced to ashes. Police launched investigations immediately to establish the perpetrators of this crime. The police have very crucial information in connection with the murder of the Deputy Headmistress. Already, three suspects are in custody.

Mr. Deputy Speaker, Sir, therefore, the claim by the hon. Member for Saboti that police and the area District Commissioner (DC) arrived at the scene nine hours after the incident is not correct. The police actually arrived at the scene within 30 minutes despite the poor state of the road following heavy rains in the area after receiving the report through a mobile phone at 10.00 p.m.

Finally, Mr. Deputy Speaker, Sir, I wish to assure hon. Members that the Government is fully committed to ensure security and tranquillity is restored in Saboti and all other parts of the country.

**Mr. Deputy Speaker:** Clarification, Capt. Nakitare!

**Capt. Nakitare:** Thank you, Mr. Deputy Speaker, Sir. I may say that, that is not an elaborate Statement, but an illustration of events that shows the magnitude of insecurity in Trans Nzoia.

Mr. Deputy Speaker, Sir, the latest victim is not even Mrs. Wasike, but a child aged six years old, whose throat was slashed last Saturday in Lessos. The child was murdered after the parents had gone to church. There is a problem of insecurity in Trans Nzoia. In this case, I would say that our people demand a total redeployment of security personnel at the divisional headquarters, which include the district's Criminal Investigations Department (CID) officer and the National Security Intelligence Services officer. These people have information. The Assistant Minister has agreed that they have vital information. Of what help is the information to the deceased? We demanded to have a total disarmament in Trans Nzoia District as far back as two years ago.

Mr. Deputy Speaker, Sir, there is a problem in Harambee House. They do not take cases seriously. We demand total disarmament in Trans Nzoia District to save people's lives.

**Mr. Deputy Speaker:** Okay, you have finished! You should ask for clarification.

**The Assistant Minister, Office of the President (Mr. Munya):** Mr. Deputy Speaker, Sir, the gist of the Statement demanded was whether the Government was doing anything to disarm people in that region. I have already explained what the disarmament programme has, so far, recovered.

Mr. Deputy Speaker, Sir, I acknowledge that there is a problem of insecurity in Trans Nzoia District. I have explained that it is connected with the criminals who have been flushed out of Mt. Elgon who have now moved to Trans Nzoia District. Already, there is a serious programme to make sure that most of them are arrested. I have given incidents of those who have been killed and those arrested. The police are not doing nothing. However, one of the difficulties we are facing there is that the public is not ready to provide any information that may help the police nab the criminals. These criminals attack at night and disappear into the forests during the day. It has not been easy, but the police are doing everything they can to apprehend all the criminals. The public should come out and assist with the information that is required to get the remaining criminals.

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

**Mr. Deputy Speaker:** Clarifications? You know we want to move on! Okay, I will give one minute to each hon. Member for clarification!

Mr. Bifwoli, please, proceed!

**Mr. Bifwoli:** Mr. Deputy Speaker, Sir, you realise that the Government is aware that there is insecurity in Trans Nzoia and Mt. Elgon region. Why is the Government not using the armed forces to stamp out this insecurity?

**Mr. Mwanicha:** Mr. Deputy Speaker, Sir, as a member of the Amani Forum, we visited some of the areas in Trans Nzoia, Kwana and Pokot districts. We realised that the number of police stations in the areas are inadequate. Secondly, they do not have any communication equipment. It is, in fact, embarrassing because these raiders can raid police stations and go away with arms and ammunition. The Government would be paralysed in a way and made to swallow their own words. What is the Government doing? We have lost many lives of our people in virtually all communities in this country. What is the Government doing to ensure that there is affirmative action in police stations to get communication equipment, so that they can call in for reinforcements as and when necessary?

**Mr. Rotino:** Mr. Deputy Speaker, Sir, you have heard the Assistant Minister confess that *wananchi* do not volunteer information to the police in those areas. One of the reasons for this is that the police take a long time to arrest suspects. In a district like Trans Nzoia, how long does it take the police to arrest suspects, arraign them in court and be charged? This discourages people from giving information.

**Mr. Deputy Speaker:** Mr. Assistant Minister, you can respond to the three requests for clarifications or questions.

**The Assistant Minister, Office of the President (Mr. Munya):** Mr. Deputy Speaker, Sir, I have already outlined the measures that the District Security Committees in that area have taken to make sure that the situation is brought under control. I have also explained that, if you go to Mt. Elgon now, there is a lot of calm. The police there have taken over and are in charge. Therefore, the effect we are getting in Trans Nzoia District is a spill-over from Mt. Elgon District. We are already sending more police officers there, to make sure that those criminals are also apprehended.

Mr. Deputy Speaker, Sir, the challenge is that these criminals do not commit crimes and stay there; to wait for the police to come and arrest them. They attack at night and hide in the forest during the day. The trouble is that; if the public were ready to help with the information--- This is because they know them. These are not strangers who come and attack. They know these people. If they were to cooperate with the police, it would be very easy to get these people.

However, the issue of using the armed forces is---

**Capt. Nakitare:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Please, Capt. Nakitare, hold your peace until the Assistant Minister finishes!

Mr. Assistant Minister, please, proceed!

**The Assistant Minister, Office of the President (Mr. Munya):** Mr. Deputy Speaker, Sir, we have taken enough forces there. We have over 600 police officers operating in that area. However, because of this guerilla-tactic attack by the criminals, it is not easy. I have already given the number of criminals killed, those facing criminal charges in court and those being looked for.

Mr. Deputy Speaker, Sir, as for the use of armed forces, there is no special skill that they have that the police do not have. In fact, the armed forces are trained specifically to defend the country against external attack. In this particular instance, there is no external attack. So, we do not see any need to deploy the armed forces in matters that can be dealt with by the police. They are actually trained to deal these particular matters. We are doing our best to equip the police within the available budgetary allocations given. We have sent the best trained police officers to that area.

They are well equipped, but it is the nature of the activities of these criminals. We are sure that with time, we will deal with this problem once and for all. Just the same way we have managed the Mt. Elgon District problem.

**Capt. Nakitare:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to say that the local people in Trans Nzoia District know the killers yet he has accepted that these criminals are foreigners from a different district or Uganda?

**The Assistant Minister, Office of the President (Mr. Munya):** Mr. Deputy Speaker, Sir, Trans Nzoia and Mt. Elgon are neighbouring districts. If you look at where I come from Tigania, I know people across the district in Imenti. Therefore, it is possible for people in the district that neighbours another to know each other. It is not out of the blue. It is possible. In any case, when criminals attack, by the time they disappear and go to hide, some people must have seen them. If we get the corporation we need, we will be able to deal with this menace. Even if we do not get the cooperation from the local people, I know we will manage.

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

**Mr. Deputy Speaker:** Order, Mr. Bifwoli! This is not Question Time! It was a Ministerial Statement. The Chair was very generous and allowed many hon. Members to ask questions. I even allowed you to do the same but, now you are standing again! I am sorry!

*(Maj. Madoka stood up in his place)*

What is it, Maj. Madoka?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, yesterday our Shadow Minister asked for a Ministerial Statement on the issue of a Cabinet Minister storming a police station. He further demanded that the Minister be arrested and charged promptly because that is what would have happened to an ordinary citizen. Could we get the latest information on that?

**Mr. Deputy Speaker:** What the Chair can remember is that Mr. Moses Akaranga was in the House and he said that he was going to convey the request by Maj-Gen. Nkaisserry to his colleague. Perhaps, the Minister can update the hon. Member as to when the Statement requested is coming.

**The Assistant Minister, Office of the President (Mr. Munya):** Mr. Deputy Speaker, Sir, the information was conveyed to the Ministry, and that Statement is being prepared. It will be given on Tuesday, as promised.

**Mr. Deputy Speaker:** Very well. Next Order!

## MOTION

### ADOPTION OF REPORT ON NOMINATION OF KNHCR COMMISSIONERS

**Ms. Abdalla:** Mr. Deputy Speaker, Sir, I beg to move the following Motion:-  
THAT, this House adopts the Report of the Departmental Committee on Administration of Justice and Legal Affairs on the nomination of Commissioners to the Kenya National Commission on Human Rights, laid on the Table on Tuesday 19th June, 2007.

Mr. Deputy Speaker, Sir, pursuant to the provisions of Section 6 of the Kenya National Commission on Human Rights Act, 2002, the Kenya National Assembly advertised the positions of four Commissioners who are retiring on 29th July, 2007, in the daily newspapers on 4th April,



2007. They then forwarded those applicants to the Departmental Committee on Administration of Justice and Legal Affairs; to be considered for the four positions of Commissioners that had fell vacant.

A total of 158 applicants applied and a Sub-committee comprising of the hon. Amina Abdalla, hon. Njoki Ndung'u and hon. Zadok Syongo was constituted to go through the applicants.

Mr. Deputy Speaker, Sir, the Sub-committee held several meetings and shortlisted 12 applicants; three for each of the four vacant Commission seats. The 12 shortlisted persons were then interviewed on 31st May, 2007, based on five laid-down criteria. Those included academic qualifications, knowledge on international human rights instruments, advocacy work on human rights and working with marginalised and deprived communities.

Mr. Deputy Speaker, Sir, the interviews were then held and each Member of the Committee present was able to score against the laid-down criteria. The Committee wishes to recommend to the House, in conformity with Section 6(8) of the Act, the following four nominees for consideration and onward transmission to His Excellency the President to fill the four vacancies:-

1. Ms. Fatum Adan Dullo - Eastern Province
2. Dr. Ekuro Okuot - Rift Valley Province
3. Dr. S.K. Tororei - Disability
4. Ms. Fatuma Ibrahim Ali- North Eastern Province

Pursuant to Section 11(6) of the Act, the Committee also recommends the following two extra nominees to the House for consideration and onward transmission to His Excellency the President:-

1. Mr. Lawrence Mute - Disability/Eastern Province
2. Mr. Bashir Sheikh Ali - North Eastern Province/senior citizen

Mr. Deputy Speaker, Sir, each of the first four were the best in their particular categories. The extra two were chosen on consideration of one of them being a former Commissioner and the other one on issues of being a senior citizen.

With those few remarks, I beg to move and ask hon. Bifwoli to second.

**Mr. Bifwoli:** Mr. Deputy Speaker, Sir, I beg to second the Motion on the Report of the Departmental Committee on Administration of Justice and Legal Affairs on the nomination of Commissioners to the Kenya National Commission on Human Rights.

Hon. Abdalla has elaborately explained what transpired in our Committee; how we interviewed the applicants and came up with the names of the nominees. The whole exercise was done very well and it is now up to the House to adopt this Report for onward transmission to His Excellency the President to appoint four Commissioners out of the six nominees.

I beg to second.

*(Question proposed)*

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Deputy Speaker, Sir, I rise in support of the Motion that is before the House.

I believe that the Committee did its best. But I want to, once again, remark that the fact of giving Parliament the role to appoint the Commissioners, takes away its role as a watchdog. The Committee is requiring Parliament to do something that it is ill-equipped to do. This institution is not a human resources institution that can do selection or appointment. I think that this is a piece of legislation, whose mode of appointment of Commissioners we need to revisit.

Parliament should have the role to vet, but appointments should go the arm of Government that ought to do these thing; that is, the Executive. But within the law, as it is, I do believe that Parliament has discharged its duty, and this Report should be adopted.

I beg to support.

*(Applause)*

**Mr. Weya:** Could the Mover be now called upon to reply?

**Mr. Deputy Speaker:** Order! Mr. Weya, you are completely out of order! You must respect this House! You cannot just stand and--- I do not know whether you were addressing the Chair or you were trying to say some---

**Mr. Weya:** I apologise, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Thank you, Mr. Weya! Are there hon. Members who wish to contribute to this Motion?

Yes, Mr. Ethuro!

**The Assistant Minister for Planning and National Development** (Mr. Ethuro): Mr. Deputy Speaker, Sir, thank you for giving me this opportunity to contribute to this Motion. I will not take long.

Mr. Deputy Speaker, Sir, I just want to support the Motion that is before the House, especially, the desire by this Committee to look into the geographical diversity of this nation, taking into account pastoralist and advocacy in

human rights issues and make appropriate recommendations. I believe that the Head of State will be able to endorse these recommendations.

With those few remarks, I beg to support.

**Mr. Deputy Speaker:** Well, it looks to me that there are no more hon. Members who wish to contribute to this Motion.

Therefore, I will put the Question.

*(Question put and agreed to)*

## QUORUM

**Mr. Weya:** On a point of order, Mr. Deputy Speaker, Sir. There is no quorum!

**Mr. Deputy Speaker:** Order, hon. Members! The attention of the Chair has been drawn to the fact that there is no quorum.

Is that true, Madam Clerk-at-the- Table?

**An hon. Member:** We are more!

**Mr. Deputy Speaker:** We have more than 30 hon. Members in the Chamber, Mr. Weya!

**An hon. Member:** No!

**Mr. Deputy Speaker:** Order! Could I ask the Clerk-at-the-Table to do a head count? The hon. Member has raised the issue and there are still other hon. Members also who are insisting that there is no quorum.

*(The Clerk-at-the Table counted  
the hon. Members in the Chamber  
and consulted with the Chair)*

I am informed that we have a quorum. I want to caution hon. Members that, before they raise such matters, they should, first of all, count the hon. Members in the Chamber.

Next Order!

**COMMITTEE OF THE WHOLE HOUSE**

*(Order for Committee read)*

*[Mr. Deputy Speaker left the Chair]*

IN THE COMMITTEE

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

THE MEDIA BILL

**The Temporary Deputy Chairman** (Mr. Muturi): Order, hon. Members! We are now in the Committee of the whole House.

Yes, Mr. Minister!

*Clause 2*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, clause 2 be amended—

(a) by deleting the definition of the term "Board";

(b) in the definition of the term "Code of Conduct", by deleting the word "Third" appearing immediately before the word "Schedule" and substituting therefor the word Second;

(c) in the definition of the term "journalist", by inserting the words "holds a diploma or a degree in mass communication from a recognized institution of higher learning and is recognized as such by the Council, or any other person who was practising as a journalist immediately before the commencement of this Act, or who holds such other qualifications as are recognized by the Council, and" immediately after the word "who" appearing in the first line;

(d) in the definition of the term "nominating authority", by deleting the expression "sections 7 (1) (b) and 20" and substituting therefor the expression "section 7 (1)";

(e) by inserting the following new definitions in their proper alphabetical sequence—

"journalism" means the collecting, writing, editing and presenting of news or news articles in newspapers and magazines, radio and television broadcasts, and in the internet;

"media enterprise" means an organization whose business involves the collection, processing and dissemination of news or news articles, or in entertainment and education through the media;

"publication" means the dissemination to the public of any written, audio or video material, and includes materials disseminated through the internet.

*(Question of the amendment proposed)*

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

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

*(Clause 2 as amended agreed to)*

*(Clause 3 agreed to)*

*Clause 4*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4 be deleted.

*(Question of the amendment proposed)*

**Mr. Syongo:** Mr. Temporary Deputy Chairman, Sir, I think the right expression would be that the clause be deleted. It is not being amended at all.

**The Temporary Deputy Chairman** (Mr. Muturi): Mr. Syongo, for your information, "deletion" is also an amendment.

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

*(Clause 4 deleted)*

*Clause 5*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, clause 5 be amended—

- (a) by deleting paragraph (c);
- (b) by renumbering paragraphs (d), (e), (f), (g), (h), (i), (j) and (k) as paragraphs (c), d), (e), (f), (g), (h), (i) and (j), respectively;
- (c) in the renumbered paragraph (c), by deleting the words "media practitioners" appearing immediately after the word "amongst" in the second line and substituting therefor the word "journalists";
- (d) in the renumbered paragraph (i), by deleting the words "media practitioners" appearing immediately after the words "discipline of" in the second line and substituting therefor the word "journalists";
- (e) by inserting the following new paragraphs immediately after the renumbered paragraph (j)
  - (k) compile and maintain a register of journalists, media enterprises and such other related registers as it may deem fit;
  - (m) conduct an annual review of the performance and the general public opinion of the media, and publish the results thereof in at least two local newspapers.

*(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 5 as amended agreed to)*

*(Clause 6 agreed to)*

*Clause 7*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 7 be deleted and replaced with the following new clause—

- Council. 7. (1) The Council shall comprise of thirteen members, appointed as follows in accordance with subsection (4)
- (a) two persons nominated by the Kenya Union of Journalists, one of whom shall be of opposite gender;
  - (b) three persons nominated by the Media Owners Association, at least one of whom shall be of opposite gender;
  - (c) one person nominated by the Law Society of Kenya;
  - (d) one person nominated by the Editor's Guild of Kenya;
  - (e) two persons nominated by schools of journalism of recognized universities, one representing public universities and the other representing private universities;
  - (f) one person nominated by the Kenya Correspondents Association;
  - (g) one person nominated by the Public Relations Society of Kenya;
  - (h) one person nominated by the Kenya Institute of Mass Communications;
  - (i) one person nominated by the Kenya News Agency.
- (2) A person shall not qualify to be appointed to the Council if such person is—
- (a) not a Kenyan citizen and ordinarily resident in Kenya;
  - (b) at the relevant time, an office bearer or employee of a political party or any body of a political nature;
  - (c) an undischarged bankrupt.
- (3) Members of the Council nominated in accordance with subsection (1) shall appoint a member or members to represent the interests of a nominating body if the nominating body fails to present its nominee within a period of thirty days from the date of commencement of this Act, or from the date of notification of a vacancy.
- (4) Within fourteen days from the date of commencement of this Act, each of the bodies listed in subsection (1) shall forward the names of their nominees to the Director of Information for invitation to the first meeting of the Council.
- (5) Appointment to the Council shall be by notice in the Gazette.

*(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 7 as amended agreed to)*

*(Clause 8 agreed to)*

*Clause 9*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 9 be amended by deleting the word "seven" appearing immediately before the word "members" appearing in the first line of paragraph (b) of the proviso, and substituting therefor the word "six".

*(Question of the amendment proposed)*

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

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

*(Clause 9 as amended agreed to)*

*Clause 10*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 10 be amended by deleting Subclause (1) and substituting therefor the following new subclause—

(1) The Director of Information shall, after twenty-one days but not later than thirty days from the date of commencement of this Act, convene through a public notice the first meeting of the Council at which members of the Council shall elect from amongst themselves, a chairperson and vice-chairperson, who shall at all times be of opposite gender.

*(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 10 as amended agreed to)*

*Clause 11*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 11 be amended—

(a) in Subclause (1)—

(i) by deleting the words "permission of the Chairperson" appearing immediately after the word "without" in paragraph (a) and substituting therefor the words "good cause";

(ii) by deleting paragraph (d) and substituting therefor the following new paragraph—

(d) is convicted of a felony, fraud,

No. 3 of 2003 forgery uttering a forged document, or for any offence under the Anti-Corruption and Economic Crimes Act, 2003;

(iii) by deleting paragraphs (e) and (g);

(iv) by renumbering paragraphs (f) and (h) as paragraphs (e) and (f), respectively;

(b) in subclause (2), by deleting the entire subclause and substituting

therefor the following:-

"Every vacancy in the Council shall be notified at once to the appointing authority and the appointing authority shall as soon as is reasonably practical appoint and deliver to the Council the name of the person appointed to fill the vacancy for the unexpired term of office of the departed member.

*(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 11 as amended agreed to)*

*Clause 12*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 12 be deleted and replaced with the following new clause—

Remuneration of members of

the Council 12. The members of the Council shall be paid reasonable allowances and disbursements for expenses.

*(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 12 as amended agreed to)*

*(Clause 13 agreed to)*

#### *Clause 14*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 14 be amended in Subclause (2), by deleting the words "compile and maintain a register of journalists" appearing in paragraph (c), and substituting therefor the words "keep registers of journalists, media enterprises".

*(Question of the amendment proposed)*

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

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

*(Clause 14 as amended agreed to)*

*(Clauses 15, 16, 17 and 18 agreed to)*

#### **QUORUM**

**Mr. Kimeto:** On a point of order, Mr. Temporary Deputy Chairman, Sir. We do not have a quorum!

**The Temporary Deputy Chairman** (Mr. Muturi): What did you say, Mr. Kimeto? I only saw your hairstyle!

**Mr. Kimeto:** Mr. Temporary Deputy Chairman, Sir, we do not have a quorum!

**The Temporary Deputy Chairman** (Mr. Muturi): Are you saying that we do not have a quorum, Mr. Kimeto?

**Mr. Kimeto:** Of course, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Mr. Muturi): Initially, I just noticed your unique hairstyle. I did not hear what you said. However, the procedure you have adopted is wrong. During the Committee Stage, you must move a Motion. We, therefore, cannot deal with the matter in the manner that you had proposed.



Therefore, let us proceed!

**Mr. Kimeto:** Mr. Temporary Deputy Chairman, Sir, could you read out the Standing Order that we are supposed to follow?

**An hon. Member:** Mr. Kimeto, stop challenging the Chair!

**The Temporary Deputy Chairman** (Mr. Muturi): Order, Mr. Kimeto! I request you to familiarise yourself with the Standing Orders!

**Mr. Maore:** Mr. Temporary Deputy Chairman, Sir, I can help him!

**The Temporary Deputy Chairman** (Mr. Muturi): Mr. Maore is being gratuitous to you! But just familiarise yourself with the Standing Orders! You will see that you are required to move an appropriate Motion.

**Mr. Kimeto:** Mr. Temporary Deputy Chairman, Sir, which Standing Order are you referring to?

**The Temporary Deputy Chairman** (Mr. Muturi) : Mr. Kimeto, do not engage the Chair with questions of that nature!

*(The Temporary Deputy Chairman  
(Mr. Muturi) consulted the  
Clerk-at-the-Table)*

Order, hon. Members! Well, the Clerk-at-the-Table has considered the appropriate Standing Order. The Chair is now fully apprised of the appropriate Standing Order. Standing Order No.25!

Therefore, I direct that the Division Bell be rung!

*(The Division Bell was rung)*

*(The House resumed)*

*[Mr. Deputy Speaker in the Chair]*

**Mr. Deputy Speaker:** Order, hon. Members! Could you take your seats? Could I get confirmation that there is quorum? There is quorum!

*(Applause)*

Hon. Members, we, therefore, resume the work of the Committee of the whole House.

*[Mr. Deputy Speaker left the Chair]*

*(Resumption of the Committee of  
the whole House)*

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

**The Temporary Deputy Chairman** (Mr. Muturi): Hon. Members, we had gone up to Clause 18.

*Clauses 19-24*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clauses 19, 20, 21, 22, 23 and 24 be deleted.

*(Question of the amendment proposed)*

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

*(Clauses 19, 20, 21, 22, 23 and 24 deleted)*

*Clause 25*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Deputy Temporary Chairman, Sir, I beg to move:-

THAT, Clause 25 be amended—

- (a) by deleting paragraph (c) and substituting therefor the following new paragraph—
- (c) such levies and fees as may be imposed by the Council in accordance with Section 25A;
- (b) in paragraph (d), by inserting the words "which shall not be from foreign governments or foreign entities" immediately after the word "sources";
- (c) in paragraph (f), by inserting the words "which shall not be from foreign governments or foreign entities" immediately after the word "grants".

*(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 25 as amended agreed to)*

*(Clause 26 agreed to)*

*Clause 27*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 27 be amended—

- (a) in Subclause (2), by deleting the words "and the members of the Board"

appearing immediately after the word "Council" in paragraph (e);  
(b) by deleting Subclauses (3) and (4).

*(Question of the amendment proposed)*

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

*(Clause 27 as amended agreed to)*

*Clause 28*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 28 be amended—

(a) in Subclause (2), by deleting the words "Controller and Auditor-General" and substituting therefor the words "independent firm of auditors appointed annually by the

**[The Minister for Information and Communications]**  
Council";

(b) by deleting Subclause (3) and substituting therefor the following new subclause—

(3) The audited accounts of the Council shall be published in at least two daily newspapers having countrywide circulation.

*(Question of the amendment proposed)*

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

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

*(Clause 28 as amended agreed to)*

*Clause 29*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 29 be

deleted and replaced with the following new Clause—

Complaints

Commission 29. There shall be established a Complaints Commission which shall consist of five persons appointed by the Council, who shall not be members of the Council, as follows—

(a) a chairperson, who shall be a person who holds or has held a judicial office in

- Kenya or who is an advocate of the High Court of Kenya of not less than ten years standing; and
- (b) four other persons possessing experience and expertise in any one of the following areas, that is, journalism, media policy and law, media regulation, business practice and finance, entertainment, education, advertising or related social issues.

*(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 29 as amended agreed to)*

*Clause 30*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 30 be amended—

(a) in Subclause (1)—

(i) by deleting the words "Chairperson of the Complaints Committee" appearing in the first line and substituting therefor the words "Complaints Commission";

(ii) by deleting the word "Committee" appearing respectively in the fourth and fifth lines immediately after the word "Complaints", and substituting therefor, in the respective cases, the word "Commission";

(b) in Subclause (2), by deleting the word "Committee" appearing immediately after the word "Complaints" in the third line and substituting therefor the word "Commission";

(c) in Subclause (3), by deleting the word "Committee" appearing immediately after the word "Complaints" in the second line and substituting therefor the word "Commission".

*(Question of the amendment proposed)*

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

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

*(Clause 30 as amended agreed to)*

*Clause 31*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 31 be amended—

(a) in Subclause (1)—

(i) by inserting the words "or the Council" immediately after the word "enterprise" appearing in the second line of paragraph (a);

(ii) by inserting the word "enterprise" immediately after the word "media" appearing in the fourth line of paragraph (b);

(b) in Subclause (2), by deleting the word "Committee" appearing immediately after the word "Complaints" in the third line and substituting therefor the word "Commission".

*(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 31 as amended agreed to)*

#### *Clause 32*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 32 be amended—

(a) in Subclause (1), by deleting the word "Committee" wherever it appears and substituting therefor the word "Commission";

(b) in Subclause (2)—

(i) by deleting the word "Committee" appearing immediately after the word "Complaints" in the first line and substituting therefor the word "Commission";

(ii) by deleting the word "may" appearing immediately before the word "publish" in the fourth line and substituting therefor the word "shall";

(c) in Subclause (3), by deleting the word "Committee" appearing immediately after the word "Complaints" in the first line and substituting therefor the word "Commission";

(d) in Subclause (4)—

(i) by deleting the word "Committee" appearing immediately after the word "Complaints" in the second line and substituting therefor the word "Commission";

(ii) by deleting the word "private" appearing in the third line and substituting therefor the word "public".

*(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 32 as amended agreed to)*

*Clause 33*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 33 be amended—

(a) in Subclause (1)—

(i) by deleting the word "Committee" appearing immediately after the word "Complaints" in the second line and substituting therefor the word "Commission";

(ii) by deleting paragraph (d);

(b) in Subclause (2), by deleting the word "Committee" appearing immediately after the word "Complaints" in the first line and substituting therefor the word "Commission".

*(Question of the amendment proposed)*

**The Assistant Minister for Trade and Industry** (Mr. Miriti): On a point of order, Mr. Temporary Deputy Chairman, Sir. I think we are reading from two different Order Papers because I cannot see the amendments to Clause 33 on my Order Paper!

**The Minister for Information and Communications** (Mr. Kagwe): Check on page 417 of your Order Paper! Maybe you got the wrong one!

**The Temporary Deputy Chairman** (Mr. Muturi): It has been confirmed that the Assistant Minister had the wrong Order Paper.

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

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

*(Clause 33 as amended agreed to)*

*Clause 34*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 34 be amended by deleting the word "Committee" appearing immediately after the word "Complaints" and substituting therefor the word "Commission".

*(Question of the amendment proposed)*

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

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

*(Clause 34 as amended agreed to)*

*Clause 35*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman Sir, I beg to move:-

THAT, Clause 35 be amended by deleting the word "Committee" appearing immediately after the word "Complaints" and substituting therefor the word "Commission".

I do not know whether I should mention that Clauses 35, 36 and 37 are basically the same thing because it is the change of name from a "committee" to a "commission". They can all be amended together.

**The Temporary Deputy Chairman** (Mr. Muturi): I agree with the Minister. Nevertheless, I must propose the Question. Mr. Minister, you have not moved the three clauses together. You merely pointed that out.

*(Question of the amendment proposed)*

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

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

*(Clause 35 as amended agreed to)*

*Clause 36*

**The Minister for Information and Communications** (Mr. Kagwe): Mr Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 36 be amended by deleting the word "Committee" appearing immediately after the word "Complaints" in subclause (1) and substituting therefor the word "Commission".

*(Question of the amendment proposed)*

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

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

*(Clause 36 as amended agreed to)*

*Clause 37*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to [**The Minister for Information and Communications**] move:-

THAT, Clause 37 be amended by deleting the word Committee appearing immediately after the word "Complaints" and substituting therefor the word "Commission".

*(Question of the amendment proposed)*

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

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

*(Clause 37 as amended agreed to)*

*Clause 38*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 38 be amended in Subclause (2) by deleting the word "Third" appearing immediately before the word "Schedule" and substituting therefor the word "Second".

**The Temporary Deputy Chairman** (Mr. Muturi): I would like to draw the attention of hon. Members to procedure. I know that in the Order Paper there is a proposed new clause. The new clause in our procedures will be dealt with at the tail end of all these. Therefore, the Minister is right.

*(Question of the amendment proposed)*

**Eng. Muriuki:** Mr. Temporary Deputy Chairman, Sir, I filed an amendment further to the amendment. Can I move it?

**The Temporary Deputy Chairman** (Mr. Muturi): I think Eng. Karue intends to add a new subclause (4). Is that not right?

**Eng. Muriuki:** Yes, Mr. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Mr. Muturi): But let us, first of all, finish with the Minister's proposed amendment.



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

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

*(Clause 38 as amended agreed to)*

**The Temporary Deputy Chairman** (Mr. Muturi): Since it is on the same clause, I now invite hon. Karue to move his intended amendment to that same clause.

**Eng. Muriuki:** Thank you, Mr. Temporary Deputy Chairman, Sir. I wish to move the following amendment: That immediately after Clause 38(3) add Subclause 38(4), which reads as follows:-

"When a story includes unnamed parties who are not disclosed and the same becomes the subject of a legal tussle as to who is meant, then the editor shall be obligated to disclose the identity of the party or parties referred to".

Mr. Temporary Deputy Chairman, Sir, if you give me a moment to enlighten the gist of this amendment, it is that very often the media, and particularly the newspapers, will write a story and for all intents and purposes, you can say they mean the hon. Member for Mukurweini, for example. They will describe him fully. They will even write some very derogatory things about something he did over the weekend and so on, but they do not name him. So, if this matter ends up in court, the media normally gets away with it very easily just because they say that "we never named him in person". So, the gist of this proposed further amendment is that, if that happens, then the media house, in this case the editor, will be obligated to state or disclose who they meant in this story.

*(Applause)*

*(Question of the further amendment, that the words to be inserted be inserted, proposed)*

**Ms. Ndung'u:** Mr. Temporary Deputy Chairman, Sir, if you can guide me, is this the time when we can oppose the proposed amendment?

**The Temporary Deputy Chairman** (Mr. Muturi): Yes, when a question has been proposed, that is the appropriate time to contribute.

**Ms. Ndung'u:** Mr. Temporary Deputy Chairman, Sir, I would like to oppose the proposed amendment. I think that in the Fourth Estate, one of the most important things that they hold dear is their ability to protect their sources. Often, journalists are whistle blowers. If we then introduce a law that forces the identity of whistle blowers to be identified, I think this will not be correct. In fact, it will be clearly unconstitutional and against the provisions of the Witness Protection Act that we passed in the recent past. So, I beg to oppose this amendment.

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, the amendment does not refer to the sources at all. It is seeking a clarification. When a person is described and not named and it becomes subject of a legal battle, then the editor should disclose whom it is that they meant. I do not think that is difficult. It has nothing to do with the source; it has something to do with taking responsibility.

I beg to support.

**Mr. Kajwang:** Mr. Temporary Deputy Speaker, Sir, I want to support the proposed

amendment on the basis that if the Press would want to name a person, then they should go ahead and name him instead of naming him by reference and going round him until everybody in the country knows him, but they do not want to pay for the damage when the guy takes them to court. This has happened to us here. Some of us have gone to court and they say that they did not name us, but everybody knows that it was so-and-so referred to. So, I think the Press should come out clean and name the person or they simply do not write the story if they do not have information.

**Mr. Syongo:** Mr. Temporary Deputy Chairman, Sir, I beg to support that amendment. I think it is only fair that we have a responsible media. The only way we can have a responsible media is to ensure that they take responsibility for what they write. They should not hide, therefore, behind the requirements that they do not have to write your name and yet, you become an object of ridicule and you are actually damaged by insinuation and inference. I beg to support.

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

*(Clause 38 as further amended agreed to)*  
*Clause 39*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 39 be amended in Subclause (2)

**[The Minister for Justice and Constitutional Affairs]**

by deleting the word "shall" appearing immediately after the word "and" in the second line and substituting therefor the word "may."

*(Question of the amendment proposed)*

**Mr. Syongo:** Mr. Temporary Deputy Chairman, Sir, I would like to oppose that amendment. I think the word "shall" should be retained. We are talking about foreign journalists or those who might be masquerading as foreign journalists. I think it is only fair, for the sake of national security and interests, that the Council has mandatory responsibility to do what they have to do rather than making it kind of discretionary and optional.

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

*(Clause 39 agreed to)*

*Clause 40*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 40 be deleted and replaced with the following new clause—

Rules 40. Subject to the provisions of this Act, the Council may, by notice in the Gazette, make rules—

- (a) governing its own procedure;
- (b) amending the Second Schedule.

*(Question of the amendment proposed)*

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

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

*(Clause 40 as amended agreed to)*

*New Clause*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the following new clause be inserted immediately after Clause 25

Levy and

registration fees

- 25A. (1) The Council may, by notice in the Gazette, impose a levy in respect of all media enterprises operating in Kenya, and an annual registration fee in respect of all journalists whose names appear in the registers kept by the Council
- (2) The levy and the annual registration fee payable shall be determined by the Council from time to time and in such manner as the Council may specify in the Gazette.
  - (3) The levy and annual registration fee imposed in accordance with subsection (1) shall be payable at the commencement of each calendar year.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

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

*(The new clause was read a Second Time)*

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

*New Clause*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the following new clause be inserted immediately after clause 30—

Renumeration of  
members of the  
complaints Commission

30A. Members of the Complaints Commission shall be paid reasonable allowances and disbursements for expenses.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

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

*(The new clause was read a Second Time)*

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

*New Clause*

**The Temporary Deputy Chairman** (Mr. Muturi): There is a rumour that Mr. Moi is---

**An hon. Member:** A rumour!

**The Temporary Deputy Chairman** (Mr. Muturi): Yes. It is not confirmed because the Order Paper I have does not have that.

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, the amendments by Mr. Moi are actually on page 422 where we have not reached yet.

**The Temporary Deputy Chairman** (Mr. Muturi): It is New Clause 32A by Mr. Moi, on page 428.

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the following new clause be inserted immediately after Clause 32 as follows:-

Powers of  
Complaints Committee

32A. (1) The Complaints Committee may, by notice in writing, require person to-

(c) give to the Complaints Committee reasonable assistance in the investigation of a complaint made under section 31;

(d) appear before the Complaints Committee for examination concerning matters relevant to the investigation of any complaint made under Section 31.

(2) The Complaints Committee shall not be bound by the rules of evidence as set out in the Evidence Act.

(3) Except as expressly provided in this Act or any regulations made thereunder,

the

Complaints Committee shall regulate its own procedure.

**The Temporary Deputy Chairman** (Mr. Muturi): The Order Paper shows that from page 422 to page 428 there are the amendments proposed by Mr. Moi. Is that not so? If he is disowning them, then the Minister can adopt them. You have heard the story of baby oryx and the lion?

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, if I may explain, in discussions between the Chairman of the Committee, Mr. Moi, and I, we agreed to bring these amendments together. That is why you see them coming together.

**Mr. Sungu:** On a point of order, Mr. Temporary Deputy Chairman, Sir. According to the Standing Orders of this august House, only the Minister is allowed to bring amendments without writing. Otherwise, the Chairman of the Committee must bring the amendments in writing.

**The Temporary Deputy Chairman** (Mr. Muturi): The amendments are there on page 428 on the Order Paper. They have been adopted by the Minister and he does not have to give notice anyway.

**Eng. Muriuki:** Mr. Temporary Deputy Chairman, Sir, I am not objecting to that inclusion of the new Clause 32A but I could be enlightened on Subsection 2 which says:-

"The Complaints Committee shall not be bound by the rules of evidence as set out in the Evidence Act." If it is going to get evidence why should it be outside the Evidence Act? Could the Minister clarify?

**The Temporary Deputy Chairman** (Mr. Muturi): You have posed a question and I do not know whether the Chair should clarify but I just imagine that the Complaints Commission should be able to make its own rules to regulate its own procedures. That is the intention so that it does not become like the High Court or any other court. But this explanation should have been done by either the Minister or the Chairman of the Committee.

**Mr. Syongo:** Mr. Temporary Deputy Chairman, Sir, if I read Eng. Muriuki correctly, I would like to agree with him. I think the use of the word "shall" in that particular Clause is a worry. It should have been quite in order if the word "may" was used. But to say that the Complaints Committee shall not be bound by the rules of the Evidence Act, precludes the Evidence Act for use by this Committee. I think it should be open to them. If they want to draw on the provisions, they should do so. I would like to suggest that the Minister does agree to change the word "shall" and put there "may".

**The Temporary Deputy Chairman** (Mr. Muturi): Mr. Minister, are you so minded?

**The Minister for Information and Communications** (Mr. Kagwe): I am obliged to Mr. Syongo and I so amend.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

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

*(The new clause was read a Second Time)*

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

*New Clause*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the following new clause be inserted immediately after Clause 37 as follows:-

Rules of the  
Complaints

Commission 37A. Subject to the provisions of this Act, the Complaints Commission may, in consultation with Council, make rules governing its own procedure.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

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

*(The new clause was read a Second Time)*

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

*New Clause*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the following new clause be inserted immediately after Clause 39 as follows:-

Offences 39A (1) A person who:-

- (a) refuses or fails to comply with the requirement of the Complaints Committee which is applicable to him, to the extent to which he is able to comply with it; or
  - (b) obstructs or hinders the Complaints Committee in the exercise of its powers under this Act;
  - (c) furnishes information or makes a statement to the Complaints Committee which he knows to be false or misleading in any material particular; or
  - (d) when appearing before the Complaints Committee for examination, makes a statement which he knows to be false or misleading in any material particular, commits an offence.
- (2) A person convicted of an offence under this section shall be liable to a fine not

exceeding fifty thousand shillings, or to imprisonment for a term not exceeding three months, or both.

- (3) Where an offence under this section is a continuing offence, the person convicted shall, in addition to the penalty prescribed in subsection (2), be liable to a fine of one thousand shillings for each day during which the offence continues, or to imprisonment for a term not exceeding three months, or both.

*(Question of the new clause proposed)*  
*(New clause read the First Time)*

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

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

*(The new clause was read a Second Time)*

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

#### *New Clause*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the following new clause be inserted immediately after Clause 39A as follows:-

Penalty 39B. A person who contravenes any provision of this Act or regulations made thereunder for which no penalty is specifically provided for shall be liable, upon conviction, to a fine not exceeding two hundred thousand shillings, or imprisonment for a term not exceeding six months, or both.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

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

*(The new clause was read a Second Time)*

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

*First Schedule*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the First Schedule be amended in paragraph 1(5), by deleting the word "seven" appearing immediately before the word "members" and substituting therefor the word "five".

*(Question of the amendment proposed)*

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

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

*(First Schedule as amended agreed to)*

*Second Schedule*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Second Schedule be deleted.

*(Question of the amendment proposed)*

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

*(Second Schedule deleted)*

*Third Schedule*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Third Schedule be amended by numbering the titles to the paragraphs numerically, as follows—

1. Accuracy and Fairness.
2. Independence.
3. Integrity.
4. Accountability.
5. Opportunity to Reply.
6. Unnamed Sources.
7. Confidentiality.
8. Misrepresentation.
9. Obscenity, Taste and Tone in Reporting.
10. Paying for News and Articles.



11. Covering Ethnic, Religious and Sectarian Conflict.
12. Recording Interviews and Telephone Conversations.
13. Privacy.
14. Intrusion into Grief and Shock.
15. Sex Discrimination.
16. Financial Journalism.

*(Question of the amendment proposed)*

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

*(Third Schedule as amended agreed to)*

#### *New Paragraphs*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the following new paragraphs be inserted immediately after paragraph 16 (Financial Journalism)—

#### **17. Letters to the Editor**

An editor who decides to open a column on a controversial subject is not obliged to publish all the letters received in regard to that subject. The editor may select and publish only some of them either in their entirety or the gist thereof. However, in exercising this right, the editor should make an honest attempt to ensure that what is published is not one-sided but presents a fair balance between the pros and the cons of the principal issue. The editor shall have the discretion to decide at which point to end the debate in the event of a rejoinder upon rejoinder by two or more parties on a controversial subject.

#### **18. Protection of Children**

Children should not be identified in cases concerning sexual offences, whether as victims, witnesses or defendants. Except in matters of public interest, for example, cases of child abuse or abandonment, journalists should not normally interview or photograph children on subjects involving their personal welfare in the absence, or without the consent, of a parent or other adult who is responsible for the children. Children should not be approached or photographed while at school and other formal institutions without the permission of school authorities. In adhering to this principle, a journalist should always take into account specific cases of children in difficult circumstances.

#### **19. Victims of Sexual Offences**

The media should not identify victims of sexual assault or publish material likely to contribute to such identification. Such publications does not serve any legitimate

journalistic or public need and may bring social opprobrium to the victims and social embarrassment to their relations, family, friends, community, religious order and to the institutions to which they belong.

## **20. Use of Pictures and Names**

As a general rule, the media should apply caution in the use of pictures and names and should avoid publication when there is a possibility of harming the persons concerned. Manipulation of pictures in a manner that distorts reality should be avoided. Pictures of grief, disaster and those that embarrass and promote sexism should be discouraged.

## **21. Innocent Relatives and Friends**

The media should generally avoid identifying relatives or friends of persons convicted or accused of crime unless the reference to them is necessary for the full, fair and accurate reporting of the crime or legal proceedings.

## **22. Acts of Violence**

The media should avoid presenting acts of violence, armed robberies, banditry and terrorist activities in a manner that glorifies such anti-social conduct. Also, newspapers should not allow their columns to be used for writings which tend to encourage or glorify social evils, warlike activities, ethnic, racial or religious hostilities.

## **23. Editor's Responsibilities**

The editor shall assume the responsibility for all content, including advertisements, published in a newspaper. If responsibility is disclaimed, this shall be explicitly stated before hand.

## **24. Advertisements**

The editor should not allow any advertisement which is contrary to any aspect of this Code of Conduct. In this regard, and to the extent applicable, the editor should be guided by the Advertiser's Code of Conduct.

## **25. Hate Speech**

Quoting persons making derogatory remarks based on ethnicity, race, creed, colour and sex shall be avoided. Racist or negative ethnic terms should be avoided. Careful account should be taken of the possible effect upon the ethnic or racial group concerned, and on the population as a whole, and of the changes in public attitudes as to what is and what is not acceptable when using such terms.

*(Question of the amendment proposed)*

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

*(New paragraphs agreed to)*

*Title*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the title to the Bill be amended by deleting the word "Media" appearing immediately before the word "Bill" and substituting therefor the words "Media Council of Kenya".

*(Question of the amendment proposed)*

**Eng. Muriuki:** Thank you, Mr. Temporary Deputy Chairman, Sir. I beg to oppose this amendment. The Bill we are talking about is not just about the Council. The Council is a provision among very many other provisions in this Bill and, therefore, when you just narrow it down to the "Media Council of Kenya", it misses the point. So, I think it should remain as the "Media Bill", so that it could encompass everything as it was intended.

Thank you, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Mr. Muturi): Well, I believe that everybody has heard what--

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

Yes, hon. Kajwang?

**Mr. Kajwang:** Mr. Temporary Deputy Chairman, Sir, I beg to oppose the amendment like Eng. Karue because, really, this Bill carries many other things like the Media Advisory Board--- I am sure it talks about so many other things outside the Council. The Council is just a small part as an enforcement agent. Otherwise, the Bill carries so many other things. So, I thought the "Media Bill" was all encompassing and we should have retained it that way. I do not know why the Minister thought this amendment would be appropriate.

**Mr. Moi:** The "Advisory Board" has been removed! This Bill actually pertains to the Council and not the Advisory Board.

Thank you.

**The Temporary Deputy Chairman** (Mr. Muturi): I do not know whether hon. Moi was informing hon. Kajwang or the House!

Proceed, Mr. Minister!

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, we do not have a serious objection to the proposal. [**The Minister for Information and Communications**]

However, it is good to note, indeed, as hon. Moi has said, that the original title of this Bill is actually the "Media and Advisory---" We have removed "Advisory" from it. So, it is called the "Media Council of Kenya" and the "Media Advisory Board". We do not have a Media Advisory Board.

**The Temporary Deputy Chairman** (Mr. Muturi): What are you saying, Mr. Minister?

Are you saying that the title of the Bill should be the "Media Bill" or the "Media Council and Advisory" and all those things? I think we need something which is a bit tidier than the "Media Council of Kenya".

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

Hon. Moi wants to explain further.

**Mr. Moi:** There is another Bill on the tail of this Bill. So, this one absolutely deals with the Council and not the media *per se*. The next Bill which is coming, which is another "deadly" one--- All right? That is the one that I am worried about.

**The Temporary Deputy Chairman** (Mr. Muturi): I suppose the House may not want to deal with "deadly" Bills!

*(Laughter)*

**Eng. Muriuki:** I think both the Chairman of the Committee and *Waziri* are agreeing. If there is another Bill which is coming, I think we shall deal with it when it comes. For now, we are looking for a tidy title to a tidy Bill, which is doing a lot of things and not just the Council. We should call it the "Media Bill" and, in due course, other things will come later on!

**Mr. Syongo:** Mr. Temporary Deputy Chairman, Sir, I would like to support Eng. Karue. I would like to appeal to both the Chairman of the Committee and the Minister to change the title to read: "The Media Practitioners Bill", so that it is really---

**The Temporary Deputy Chairman** (Mr. Muturi): Hon. Syongo, your proposal is out of order because it is not even supporting or opposing! You want to propose an amendment? Let me put the Question!

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

*(Title agreed to)*

*(Loud consultations)*

Order! Order, hon. Members! There is no debate after that. The matter is over!

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

Mr. Syongo, unless you want to explain yourself for a gratuity, I think it is really---

*(Laughter)*

**Ms. Ndung'u:** Mr. Temporary Deputy Chairman, Sir, I beg to support hon. Syongo's proposal---

**The Temporary Deputy Chairman** (Mr. Muturi): Hon. Ndung'u, amendments are not just proposed by way of any hon. Member standing in his or her place and expressing themselves one way or the other. They have to communicate in writing. It is only the Minister who is permitted to do that as the Mover of the Bill. So, let us go to the Long Title.

Proceed, Mr. Minister!

**Ms. Abdalla:** *Hapana*, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Mr. Muturi): Is it on this? Those of you who would have some tutorials, you will actually be advised to wait until the end of the parliamentary term.

*(Laughter)*

**The Minister for Information and Communications** (Mr. Kagwe): Let me explain to---

**The Temporary Deputy Chairman** (Mr. Muturi): Please, I do not think there is any need to explain, hon. Minister! We have already taken a vote on this matter and the Question was put, which was that the title of the Bill be amended as per the Order Paper. That was the proposal by the Minister, and it has been negatived. So, the title remains as "The Media Bill" or whatever name it has. That is what it is! Please, try to familiarize yourselves with some of these procedures!

*Long Title*

**The Minister for Information and Communications** (Mr. Kagwe): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the long title to the Bill be amended by deleting the words "and the Media Advisory Board" appearing immediately after the words "Media Council of Kenya".

Mr. Temporary Deputy Chairman, Sir, just to explain this, the amendment that was rejected right now basically means that we will keep the Bill as it is. In other words, the "Media Bill 2007". That is the rejection that has just been made. Now, the amendment to the new title basically means that the new title will remain as the "Media Bill" because it will not have the Advisory Board, which, in effect, we have already removed. So, we are proposing that the Long Title be amended as per the Order Paper.

*(Question of the amendment proposed)*

**Mr. Sungu:** Mr. Temporary Deputy Chairman, Sir, I would like to support the Minister because the Standing Orders indicate that, once we have voted on an amendment, we cannot go back and re-do it.

So, I beg to support.

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

*(Long Title as amended agreed to)*

*Clause 1*

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

THAT, Clause 1 be amended by inserting the words "Council of Kenya" immediately after the word "Media".

*(Question of the amendment proposed)*

**Mr. Sungu:** Mr. Temporary Deputy Chairman, Sir, this is one of the heftiest Order Papers we have had! So, it is very difficult to follow!

**The Temporary Deputy Chairman** (Mr. Muturi): Have you been appropriately guided now?

**Mr. Sungu:** Yes, Mr. Temporary Deputy Chairman, Sir.

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, it looks like this amendment has been overtaken by events. We have already agreed that the Short Title be "The Media Bill". The proposed amendment to Clause 1 is seeking that the Title be again amended to read "Media Council". So, since we are agreed that it is "The Media Bill", then it should remain so. The amendment has been overtaken by events and, therefore, it should be rejected or withdrawn.

**Mr. Moi:** Mr. Temporary Deputy Chairman, Sir, I withdraw the proposed amendment to Clause 1.

**The Temporary Deputy Chairman** (Mr. Muturi): Very well. The proposed amendment is withdrawn!

*(Proposed amendment to  
Clause 1 withdrawn)*

We are now through with this Bill, and we will report on it.

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

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## **REPORT, CONSIDERATION OF REPORT AND THIRD READING**

### **THE MEDIA BILL**

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

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

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

*(Question proposed)*

*(Question put and agreed to)*

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

**The Assistant Minister for Education** (Mrs. Mugo) seconded.

*(Question proposed)*

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, I want to congratulate the Minister and the House for passing a most progressive Bill, which will enable the media to regulate itself, just like all other professions, and encourage responsible journalism.

I beg to support.

**Mr. Kajembe:** Mr. Temporary Deputy Speaker, Sir, since there is now going to be legislation governing the operations of the media, the Minister should come out strongly, and deal with the gutter press, or people who publish statements in newspapers to destroy personalities who have not committed any offences.

I beg to support.

**Mr. Ochilo-Ayacko:** Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to congratulate the Minister on the passage of this Bill. I also want to congratulate hon. Members of this House for the bi-partisan approach they have given to this Bill. I want to appeal to the media to lift the standards of journalism in this country, so that the quality of reportage of news can improve. I also want to encourage the media to be responsible and less injurious to members of the public and institutions in this country.

I beg to support.

**The Assistant Minister for Education** (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I also want to congratulate the Minister and his team, and also this House for passing this very timely Bill. Many parents out there have been crying because of the dirt we sometimes see in the Press and the electronic media. I hope [**The Assistant Minister for Education**] that, now that we have this Bill becoming law, the media will regulate itself, and the Minister will liaise with his officials to see

that implementation of this law takes place, so that our skins can be cleaned as pornographic materials disappear from our streets.

I beg to support.

**The Temporary Deputy Speaker** (Mr. Sungu): Hon. Members, I advise that we make it short, so that we can proceed into Committee of the whole House again and look at the other Bill.

Mr. Mutiso!

**Mr. J.M. Mutiso:** Thank you, Mr. Temporary Deputy Speaker, Sir. I would also like to congratulate the Minister on the passage of this Bill. This is a Bill which generated a lot of interest but, at long last, we have a framework within which we shall have responsible journalism. Time and again, this country has witnessed the proliferation of yellow journalism. I hope that the passage of this Bill marks the end of yellow journalism in this country.

I congratulate the Minister and thank the House for passing the Bill.

Thank you.

**Capt. Nakitare:** Mr. Temporary Deputy Speaker, Sir, this is a very wonderful time because of the passage of The Media Bill. I would also urge media houses to seriously consider remunerating journalists properly, so that they can also improve their welfare and circumstances and become professional journalists. Kenya has come to the point where one step will result in a thousand miles in media houses. I congratulate the Minister for having been bold enough to bring here this Bill, which was controversial out there. The House has overwhelmingly supported this Bill to make media houses recognise the fact that professionalism is very important.

I beg to support.

*(Question put and agreed to)*

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

**COMMITTEE OF THE  
WHOLE HOUSE**

*(Order for the Committee read)*

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

**IN THE COMMITTEE**

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

**THE TOBACCO CONTROL BILL**

**The Temporary Deputy Chairman** (Mr. Sungu): Hon. Members, we are now considering the Tobacco Control Bill.

*Clause 2*

**The Assistant Minister for Health** (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, we have re-considered our position on Clause 2. We would like to withdraw the amendment as it appears on the Order Paper.

*(Proposed amendment to  
Clause 2 withdrawn)*

**QUORUM**

**Mr. Bifwoli:** On a point of order, Mr. Temporary Deputy Chairman, Sir. Tobacco growing is a very important activity in some parts of this country---

**The Temporary Deputy Chairman** (Mr. Sungu): Order, Order! Order, Mr. Bifwoli! You have not been recognised yet?

**Mr. Bifwoli:** Mr. Temporary Deputy Chairman, Sir, we are debating a very important matter, but there is no quorum!

**The Temporary Deputy Chairman** (Mr. Sungu): Well, I think the hon. Member is right. There is no quorum. I therefore order that the Division Bell be rung.

*(The Division Bell was rung)*

*(The House resumed)*



*[Mr. Deputy Speaker in the Chair]*

**Mr. Sungu:** Mr. Deputy Speaker, Sir, I beg to report that the Committee of the whole work was unable to complete its work because of lack of quorum.

#### **ADJOURNMENT**

**Mr. Deputy Speaker:** Hon. Members, in accordance with Standing Order Nos.25(1)(b)(2), and given that the Chair of the Committee of the whole House has reported that the Committee could not proceed because there was no quorum, I hereby order that the House adjourns because of lack of quorum until Tuesday, 7th August, 2007, at 2.30 p.m.

The House rose at 5.10 p.m.