

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 6th December, 2012

The House met at 2.30 p.m.

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

PRAYERS

PETITIONS

PAYMENT OF EXTRANEOUS ALLOWANCES/ABSORPTION OF PUBLIC HEALTH EMPLOYEES

Mr. Mututho: Thank you, Mr. Temporary Deputy Speaker, Sir. I present a petition to seek payment of the withdrawn extraneous allowances and absorption of employees engaged by the Economic Stimulus Programme (ESP) in the Ministry of Public Health and Sanitation under permanent and pensionable terms.

We, the undersigned being the employees of the Ministry of Public Health and Sanitation under the ESP on contractual terms recently affected by the withdrawal of unspecified allowances without communication seek to bring to the attention of the Government through Parliament that we have been working for the Ministry of Public Health and Sanitation having been recruited in two phases, that is, May, 2010 and June, 2011, and that we are stationed in different health centres in Kenya.

The staff recruited by ESP in the said Ministry have been the backbone of the vital health care provision facilities prompting opening of dispensaries and health centres across the country that were hitherto not operational and further that the permanent and pensionable employees are less busy as the ESP staff take on mandate as they have no unions that can represent them.

Mr. Temporary Deputy Speaker, Sir, the essence of this petition is that your humble petitioners pray that the Government of Kenya, through Parliament:-

1. Facilitate the payment of the withdrawn extraneous allowances in harmony with other cadres in the Ministry and the same be backdated to January, 2012, when the Ministry of Medical Services and that of Public Health and Sanitation implemented the same.

2. Highlights our scheme of service and communication done properly downwards for clarity in our job places.

3. Give designations to Community Health Extension workers according to their level of academic qualification.

4. Absorb all staff engaged under the ESP I and ESP II under the Ministry of Public Health and Sanitation with effect from 1st July, 2012 on permanent and pensionable basis.

5. Improve our working conditions, especially in terms of staff housing and ambulance referral services.

Mr. Temporary Deputy Speaker, Sir, this petition has been fully signed by 32 petitioners and I present the same.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, this is a very serious petition coming from crying petitioners who are currently serving our Government. It is important that these petitioners be accorded justice and fairness. This country should not tolerate any degree or atom of any form of discrimination in the service of our people.

I fully support the petition, Mr. Temporary Deputy Speaker, Sir.

The Minister for Finance (Mr. Githae): Thank you, Mr. Temporary Deputy Speaker, Sir. I undertake to bring this to the attention of the Minister of State for Public Service in order for him to take action.

PAYMENT OF PENSION TO RETIRED PUBLIC SERVANTS

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I rise to present a petition from Amkeni Retirees CBO on behalf of Government pensioners. They are drawing Parliament to the attention of the following grievances for redress. They want an amendment through a review of the amendment to the Pensions Act of 1996 which does not allow increment of pension when general salaries have been revised.

They are also drawing attention to Paragraph 70 of Sessional Paper No.3 of 1987 which they are asking should be implemented accordingly. They are also asking for a minimum monthly pension of Kshs10,000 and also a 10 per cent annual pension rise. They are drawing attention to the lack of health services and calling for a medical scheme to mitigate poverty and the suffering of many pensioners.

Their specific prayer, therefore, is for the Government to establish a revolving fund for retirees in order to alleviate poverty. In particular, they are calling upon the Government to immediately pay the unfulfilled payment of pension arrears for teachers who retired before 2003 before benefitting fully from the salary increment negotiated by KNUT. This was before 1997. They are asking for the delayed benefits to the retrenched of 2000 by the Government.

They are also asking for the delayed payment of gratuities and pensions to civil servants, including teachers. They humbly ask Parliament to look into these issues. It is very similar to the petition that has just been presented by Mr. Mututho. I would like to urge the Government to take these issues very seriously and pay any arrears that are pending. I am glad that the Minister for Finance is here. He had promised to pay pensioners – the retiree teachers – by December last year and yet we are in another December. This matter needs to be attended to.

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, the petition by hon. Martha Karua is actually very timely. Kenya is one of the few countries in the world where senior citizens are not treated with the respect that they deserve. In many places, those who have spent all their life time working for the Government are accorded a lot of respect, for example, in banks and bus stages. They do not queue in public places. However, here in Kenya, they are made to beg for their pension.

The Pensions Department in the Ministry of Finance needs to be overhauled from top to bottom. In that department, letters are not responded to and they only act on a few cases which have been brought to the attention of Parliament. Why is it that the Pensions Department cannot act quickly on pensioners? There are cases of retirees from the Judiciary, the teaching profession and so on who have been waiting for their pension up to now. Many times, we have raised these matters on the Floor and yet nothing happens. While this petition by hon. Karua and the one by

hon. Mututho are being addressed, I think time has come for the Minister for Finance to look at how the Pensions Department can be overhauled so that the system works smoothly.

(Applause)

Mrs. Odhiambo-Mabona: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to congratulate hon. Karua and the organization that has brought this petition. Indeed, almost every week, I get a request to raise the issue on the petition of retirees, especially teachers of 1997. Therefore, I would like to encourage the Minister for Finance to move expeditiously and in any event before Parliament---

Ms. Karua: Before Christmas!

Mrs. Odhiambo-Mabona: Before Christmas as Martha say. This is because those teachers have rights and should also have Christmas. Many of them are also preparing to take their children to school.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Millie, this is not for debate. You have had more than enough time.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, the major investment in Kenya today is on manpower. We are spending all our savings in the universities so that our children can be taught. Ultimately, they work and they do so for the Government. They are underpaid, but they do not complain. They have held this country together and, in fact, solidified it to the extent that we are the strongest in this particular belt.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Mututho, this is not debating time.

Yes, Dr. Machage. You only need a minute or a maximum of two minutes!

The Assistant Minister for Roads (Dr. Machage): Mr. Temporary Deputy Speaker, Sir, I support this petition knowing very well that for the senior retirees who will happen to be there from Parliament and, indeed, the Government next year, their payment will be prompt. It is a big question why we ignore teachers and other civil servants. We want our President's legacy to be completely good even to the extent of considering retirees. The Minister for Finance should look into this matter.

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, I also want to join my colleagues in thanking the hon. Member for this petition. I also want to say that the Pensions Department needs to be decentralized in all the 47 counties. At the moment, it is very difficult to operate. Kenyans come here and spend a lot of money. It is the teachers who suffer most coming to Nairobi when they retire. I propose that this department should be decentralized.

Dr. Otichilo: Mr. Temporary Deputy Speaker, Sir, I rise to thank hon. Martha Karua and hon. Mututho for bringing this very important petition for Kenyans who cannot come to this House to air their grievances.

Many civil servants end up living in abject poverty when they retire. Whatever little money they are given as pension is never increased until they die.

I wish to support.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I confirm that in accordance with the Standing Orders, we will look into this matter. Even as I undertake to take the necessary action, I want to assure Kenyans, all teachers, all retirees and all pensioners---

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Githae, when you say that you undertake to take the necessary action, are you telling hon. Members that it is action to enforce

what they are seeking or it is an undertaking to refer it to your colleague, the Minister of State for Public Service?

The Minister for Finance (Mr. Githae): Indeed, Mr. Temporary Deputy Speaker, Sir, that is what I am saying. We will refer the issue, review it and see what needs to be done. However, I am saying that this is an important petition. The Treasury remains committed to paying teachers their pension. The Treasury also remains committed to paying all the pensioners their entire pension and to do so as quickly as possible. I have heard the views of hon. Members and we will take the necessary action to ensure that pensioners are paid their pension on due day without wasting a lot of time in Nairobi. They will not even have to come to Nairobi.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Minister, you will realize that even on the previous petition, I did not refer it to the relevant Departmental Committee because there is no time left. So, I direct that it goes to the relevant Ministry for the action within the time stipulated in the Standing Orders dispensing with the reference to the relevant Departmental Committee.

Next Order!

PAPERS LAID

The following Papers were laid on the Table:-

Sessional Paper No.12 of 2012 on Write off of Excess Government of Kenya Debt owed by the public sector owned sugar companies.

(By the Minister for Finance (Mr. Githae))

EXTENSION OF TIMELINESS FOR JOINT COMMITTEE ON KDF OPERATION IN GARISSA

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, I rise to seek permission from the Chair to seek an extension of the mandate of the Joint Committee of the Departmental Committee on Defence and Foreign Relations; Departmental Committee on Administration and National Security; Departmental Committee on Justice and Legal Affairs; and the Departmental Committee on Equal Opportunity.

These Committees were tasked with inquiring into the violence and attacks in Baragoi, Eastleigh and Garissa. The Committees have made significant progress in carrying out investigations into the violence that escalated in the mentioned areas. The Joint Committee has so far visited the said areas and met with the district and provincial security intelligence teams as well as local leaders.

The Joint Committee has also interviewed Members of Parliament from the affected areas. Further, it has held discussions with the Ministry of State for Provincial Administration and Internal Security and the Ministry of Defence over the recent violent attacks in the three areas. The Joint Committee also met with the security and non-other State actors such as the Commission on National Cohesion and Integration (NCIC) and the Red Cross Society of Kenya over their role and experience in trying to restore peace, rescue victims and bring normalcy in the affected areas.

Mr. Temporary Deputy Speaker, Sir, the Committee is yet to meet with an actor such as the Ministry of State for Immigration and the Registration of Persons to seek clarification on the registration and vetting of persons since the exercise seems to have loopholes that aliens take advantage to register as Kenyan nationals.

The Joint Committee plans to meet the Ministry of Finance or the Treasury over the lack of adequate funding to the security sector which tends to undermine security in general. The Committee is scheduled to meet with the Media Council of Kenya over concerns on sensational and skewed reporting on security matters.

It is for this reason that the Joint Committee seeks a further extension of two more weeks in order to meet with the said actors and also put together a comprehensive report whose recommendations shall help restore and maintain peace in this country.

Thank you, Mr. Speaker Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Having heard your request, the Chair directs that you get the extra two weeks that you require and you table your report within that time.

PAPER LAID

Report of the Departmental Committee on Labour and Social Welfare on the Petition by hon. John Mututho, Member of Parliament for Naivasha Constituency on the ongoing redundancy exercise at the Kenya Airways Limited Company laid on the Table on 13 September, 2012 - Volume One and Volume Two.

(By Mrs. Noor)

NOTICE OF MOTION

WRITE OFF OF EXCESS GOVERNMENT DEBT OWED BY SUGAR COMPANIES

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to give Notice of the following Motion.

THAT this House adopts the Sessional Paper No.12 of 2012 on write off of excess Government of Kenya debt owed by the public sector owned sugar companies laid on the Table of the House today Thursday 6th December, 2012.

The Temporary Deputy Speaker (Mr. Imanyara): Before I call the next Order, I will call upon Mr. Keynan.

PAPER LAID

The Report of the Parliamentary Service Commission on the recruitment of external auditors for the office of the Auditor-General.

(By Mr. Keynan)

NOTICE OF MOTION

APPROVAL OF APPOINTMENT OF M/S BAKER TILLY MERALI
TO AUDIT ACCOUNTS OF The Auditor-General

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, I wish to give notice of the following Motion on behalf of the Parliamentary Service Commission:-

THAT pursuant to the provisions of Article 226(4) of the Constitution, this House approves the appointment of the audit firm of M/s Baker Tilly Merali's to audit and report on the accounts of the Auditor-General for the years 2012/1213, 2013/2014, 2015, 2015/2016 and 2016/2017.

The Temporary Deputy Speaker (Mr. Imanyara): Hon.Members, I will rearrange the order of Questions because the Minister for Finance has an urgent function to attend to, which may very well concern you, hon. Members. So, I am allowing the hon. Member for Kisumu Town West to ask Question No.1817 so that we can allow the Minister for Finance to go and attend some other official duties.

ORAL ANSWERS TO QUESTIONS

Question No.1817

REJECTION OF REQUEST FOR TAX EXEMPTION
FROM TELKOM RETRENCHES BY KRA

Mr. Olago asked the Minister for Finance:-

(a) under what circumstances the Kenya Revenue Authority (KRA) granted tax exemption to the first batch of retrenchees of Telkom Kenya vide Legal Notice No. 72 of 2010 and rejected a similar request for exemption based on the same grounds to the second batch in 2011; and,

(b) whether he could confirm that the Kenya Revenue Authority will reconsider its decision to the rejected application for tax exemption and grant an exemption to the second batch of retrenchees.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that Kenya Revenue Authority (KRA) granted tax remission to the first batch of the retrenchees of Telkom Kenya Limited *vide* legal notice No.72 of 2010 as alleged by the hon. Member. This was done by the Minister himself.

(b) In view of the response to part (a) above, part (b), therefore, does not arise.

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, I have just noticed that there must have been an error. The legal notice referred to in the Question should be No.73 and not No.72. Legal notice No.72 relates to Jomo Kenyatta Foundation and legal notice No.73 relates to Telkom Kenya Limited.

The Temporary Deputy Speaker (Mr. Imanyara): But the Minister understands the substance of your Question, anyway. Is that so, Mr. Minister?

Mr. Githae: Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): You can take it that the Question was amended to reflect the right legal notice, so that the Minister can handle it. He says he understands the substance of it.

Mr. Githae: Mr. Temporary Deputy Speaker, Sir, we realized that there was an error and we have actually proceeded to answer the Question on the basis that it refers to Telkom. So, he can ask his supplementary question.

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, I was just wondering how best to go about this because this is clearly an error on the face of the record.

The Temporary Deputy Speaker (Mr. Imanyara): He says that he realized that it was an error and prepared the answer on the basis of the right legal notice. That is what the Minister is telling you. So, you may ask your supplementary question.

Mr. Olago: In that case, I have already asked the question.

The Temporary Deputy Speaker (Mr. Imanyara): You have already asked the question and he has answered it.

Mr. Olago: In that case, could he then answer the question in relation to legal notice No.73 and not No.72?

Mr. Githae: Mr. Temporary Deputy Speaker, Sir, that is what I am saying. We realized that it was an error and, therefore, the Question is on Telkom Kenya. The other error is that he referred to the KRA. The KRA does not give exemptions. It is the Minister who gives exemptions and the KRA only implements the Minister's decisions. The reason why the second batch was not given remission is that by this time Telkom Kenya had become a private company. We only exempt public institutions or government institutions. That is basically the reason why the second batch of Telkom Kenya employees was not given exemptions on their take home pay.

Mr. Balala: Mr. Temporary Deputy Speaker, Sir, he says Telkom Kenya is no longer a parastatal, but I believe the Government owns shares in it. Could you tell us what percentage the Government has in Telkom Kenya, especially after the recent agreement that has been sealed with it?

Mr. Githae: Mr. Temporary Deputy Speaker Sir, as of the moment, we own 49 per cent of Telkom Kenya. If the shareholders do agree that they will inject more capital into the company, we are going to inject Kshs5 billion. If we do not inject another Kshs2.5 billion, then the shareholding of the Government will go down to 40 per cent. So, even if you take the current position at 49 per cent, it does not make Telkom Kenya a parastatal. It is a private company and the management is even appointed by Telkom France. Therefore, the Government has no control over the management of Telkom Kenya. That is why when they applied for the exemption of the second batch, the Government rejected it on the basis that Telkom was not a Government parastatal.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, you have heard the Minister's answer that Telkom Kenya is a private company and at the same time, he is saying that the Government is injecting Kshs5 billion. Why would the taxpayers inject Kshs5 billion in a company where they have no control over how it is managed, and who has led the Government to that sort of arrangement?

Mr. Githae: Mr. Temporary Deputy Speaker, Sir, the Government is a shareholder in very many companies---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Minister! I can see there is a point of order from the hon. Member for Kisumu Town West.

Mr. Olago: On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard the Minister say that the reason why his Ministry refused to grant exemption is because Telkom Kenya is a private company as at now, but I have a letter here, which I want to table, dated 29th August, 2011.

The Temporary Deputy Speaker (Mr. Imanyara): What is the point of order?

Mr. Olago: Is it in order for the Minister to state that the reason for refusing to grant exemption is that Telkom Kenya is a private company when in actual fact, KRA put it in writing that they did not grant exemption because fairness and equity have to be put in place?

Mr. Githae: That is the exactly the reason I am saying that the Government policy, as of now, is that we only give exemptions to Government bodies or parastatals for fairness. We have rejected very many applications from private companies, including Kenya Airways. Therefore, I have just said what KRA said, namely reasons of fairness and equity; we do not give exemptions to private companies. If he had given Telkom Kenya, which is a private company, then that would have been discriminatory. This is against the Constitution and the Government has no intention of discriminating against any company.

Mr. Njuguna: Thank you, Mr. Temporary Deputy Speaker, Sir. The Minister has just pointed out that Telkom Kenya has become a private company and the Government had decided to invest Kshs5 billion. If it will invest Kshs5 billion in a private company, why can it not extend the same service to the retrenchees who have served this company up to the present time?

Mr. Githae: Mr. Temporary Deputy Speaker, Sir, I think it is hon. Martha Karua who had raised this issue. The Government invests in very many companies and that does not make those companies parastatals. I will give you an example of Kenya Airways. The Government is now the largest shareholder with more than 28 per cent. We do not micromanage Kenya Airways. In fact, we denied them when they applied for exemption to retrench their employees. I can give you many cases where we have done this. The Government has shares in the Kenya Commercial Bank (KCB) but we do not micromanage the KCB which is not a parastatal. I can go on and on because they are very many. This is purely investment. The question is, after we have injected capital in Telkom Kenya, the company will make profit and we will get dividends.

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, I want to be understood clearly in the next question. When the Government wanted to divest its shares from Telkom Kenya, they wanted to make it attractive to the buyers. The staff were encouraged to offer to retire and they were called “retrenchees”. The first batch were those who were working under Telkom Kenya as the public utility company. The first batch was exempted but the second batch under similar circumstances and same facts applied to be exempted but they were denied. So, where is equity and fairness?

Mr. Githae: Mr. Temporary Deputy Speaker, Sir that is the reason we are saying that for the sake of equity and fairness, the second batch could not have been given exemption because by this time facts had changed. Telkom Kenya was now a private company. We have said that we do not give exemptions to private companies. We have never. So, it is unfortunate that the second batch had to suffer but there is nothing we can do because we do not give exemptions to private companies. That is the Government policy.

QUESTIONS BY PRIVATE NOTICE

REGISTRATION OF VOTERS IN MBEERE NORTH CONSTITUENCY

Mr. Kivuti: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Justice, National Cohesion and Constitutional Affairs the following Question by Private Notice.

(a) Could the Minister confirm that registration of voters is supposed to take 30 days for each registration centre and, if so, how many centres have been equipped to register voters in Mbeere North Constituency since the commencement of the voter registration exercise?

(b) Could the Minister also confirm that each registration centre in the country shall have the constitutional right to register voters for 30 days before the closure of the exercise?

(c) Considering travel constraints for voters, could the Minister further confirm that a person eligible to register as a voter may register in any registration centre in Kenya to vote in their preferred polling centre in the next general elections?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

On 4th December, 2012, this Question was deferred to today to enable me consult the Independent Electoral Boundaries Commission (IEBC) with a view to addressing pertinent issues.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! The Assistant Minister is addressing a very pertinent issue.

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Temporary Deputy Speaker, Sir, we have duly consulted with the IEBC and now I wish to respond as follows.

(a) I confirm that Kenyans are supposed to register as voters within 30 days in every registration centre within a ward. Mbeere North Constituency has 97 registration centres under three wards with 34 BVR equipment.

(b) Each registration centre has a constitutional responsibility to register voters on the days when the BVR equipment is sent to those centres. Since each centre is not provided with an equipment, efforts have been made by the Commission to deploy enough equipment to each ward in every constituency. In average, one BVR equipment serves three registration centres.

(c) No, the BVR equipment is configured to register voters within a ward hence all Kenyans are required to register in their respective wards. Kenyans can, therefore, register as voters in any registration centre within a ward.

On 4th December, 2012, hon. Members raised very specific issues which, in their view, affect the voter registration process. These issues are summarized as follows:

(1) Members observed that since each registration centre is not provided with a BVR equipment, it follows that Kenyans are denied the opportunity to utilize the 30 days to register as voters.

(2) The equipment is moved from one centre to another in some constituencies.

(3) The distance between registration centres in a ward could be as far as 10 to 20 kilometers. Hon. Members wanted to know how the Commission is addressing this challenge.

Having consulted the IEBC, I wish to respond that the Commission has addressed these issues. It has deployed additional Kshs1,500 equipment meant for the registration of the diaspora voters to the constituencies with such challenges.

The second issue raised by Members was that the BVR equipment is configured such that Kenyans can only register in wards. All Kenyans, therefore, have to travel to their respective wards to register as voters.

It is not possible for, say, students in colleges or other Kenyans in towns to register as voters wherever they are. Hon. Members also wanted to know whether it is possible to reconfigure the equipment to enable all Kenyans to register wherever they are and proceed to vote in their respective wards.

Having consulted the IEBC on this issue, which I said was a very serious challenge last time, it would appear that Kenyans in areas far from their wards will be denied a chance to register. The challenge we have here is that the equipment is configured to register voters in wards to restrict importation of voters. It is, therefore, not possible to reconfigure the equipment at this stage.

The third item raised by hon. Members here was that some registration centres also lost the first two to three days when the equipment was being installed. Some equipment were sometimes not functional for some days. In both cases, Kenyans in these centres lose their right to register. After consulting with the IEBC, the only available remedy in that case is to extend the period for voter registration. It will not, at this point in time, be possible to extend it to 30 days for two reasons. After registration of voters, we need two weeks to compile the register and subsequently, thereafter, we need another two weeks again for Kenyans to inspect the register and be ready to participate in the elections.

Due to those two reasons, it will not be possible to extend the timeframe of the exercise of registration. A piece of information I was given by the IEBC is that there is low turnout of Kenyans in some centres to register. It is only in urban centres like Nairobi, Mombasa, Thika, Nakuru and Kisumu where we have, at least, 100 members registering per equipment per day. However, the report we have from the rural areas is that the response is quite low. My appeal to Kenyans and even us, as Members of this House because we are leaders in this country, is that we should appeal to Kenyans to come out and register as voters. This is because there is fear that sometimes we wait until the last minute and then we rush to register.

Mr. Temporary Deputy Speaker, Sir, the other issue raised by hon. Odhiambo-Mabona was, since we do not have enough equipment per registration centre, what was going to happen during the time of voting. Does it mean we will also combine the polling centres to use the same equipment?

Mr. Temporary Deputy Speaker, Sir, the position is that after the registration of voters' exercise, the Commission will come up with polling centres. It is good for us, as leaders, to know the distinction between registration centres, which are being used now, and polling centres, which will be designed by the Commission after this exercise. Each polling centre will have a poll book. A poll book is an electronic version of a voter's register, which can actually disclose, or show, a voter at the time of voting; it will be used to identify voters during the polling day.

Mr. Temporary Deputy Speaker, Sir, the poll books are already procured and each polling centre will have a polling book for purposes of identifying voters during the election day.

Mr. Kivuti: Mr. Temporary Deputy Speaker, Sir---

(Dr. Nuh sought an intervention)

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Nuh, please, let the Member ask his supplementary question. I am seeing your request.

Continue Member for Siakago.

Mr. Kivuti: Mr. Temporary Deputy Speaker, Sir, it seems the Assistant Minister is taking this House for granted. This Question was deferred, so that he could consult with the

Government. Apparently, it seems that he just threw the Question back to the Independent Electoral and Boundaries Commission and what you are receiving now is IEBC trying to justify why Kenyans cannot have 30 days of registration, why Kenyans cannot have BVR equipment in the centres and why we are going to have anomalies in the coming elections.

Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is not addressing himself to the question of--- If he says Kenyans are supposed to have 30 days and he goes further to say, Mbeere North Constituency has only 34 BVR machines, it means we will have only ten days per polling station. This is the more reason why people are going to line up at polling centres; each BVR machine takes six minutes to register one voter. If there was a queue of 100 people, it means they will need ten hours. Could the Assistant Minister tell us, if this is true or not because we have seen it? If people will line up, they will not wait for ten hours. They go away. When you come the next day, the BVR machine will have been moved to another polling station. Is this the kind of election we want to hold in this country?

Mr. Temporary Deputy Speaker, Sir, several questions were raised, including an issue that was ruled should be combined--- I think it was a question from Dr. Nuh. It is every important that the Assistant Minister brings here a decision of Government to address this issue more fully. Maybe, the Assistant Minister can tell us whether he undertook to reconfigure the equipment two days ago. Now that seems to have changed and we have that in the HANSARD. I would rather have other people----

The Temporary Deputy Speaker (Mr. Imanyara): This Question has elicited very many requests. So, Mr. Assistant Minister, I propose that you take notes and then I will give you an opportunity to respond to all the points. I am going to start with Dr. Nuh. Your point of order, Dr. Nuh?

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, mine is not a question but a concern. I had a Question regarding eligibility and qualifications of candidates vying for various positions. I am informed of a ruling by the Chair that the two Questions would be combined and that it appears today for the Assistant Minister to answer them in totality. I just wanted to---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Assistant Minister, maybe you can address that specific issue before responding to the supplementary questions. Do you want to respond immediately? Respond to the point of concern by Dr. Nuh and then I will allow Members to ask supplementary questions.

Mr. Cheptumo: Mr. Temporary Deputy Speaker, Sir, the HANSARD is very clear. Dr. Nuh's Question was No.3 on the Order Paper on Tuesday. When it was called out, the Chair then directed that since Dr. Nuh was present in the House the Question was to be deferred to today. But it is not on the Order Paper. Then, thereafter the Question by my other colleague came up. I think it was No.4 on the Order Paper and it was also deferred to today. They were dealt with separately. They were not combined. It is so clear even in the HANSARD.

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Nuh, what this means is that your Question will be answered on a day other than today.

Hon. David Njuguna, because we have very many requests, I am allowing you exactly 30 seconds.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, from the answer given by the Assistant Minister, there is general apathy in voter registration in the entire country. What is the IEBC and the Ministry doing to address this serious matter; even the President has been forced to talk about it.

Mr. M.M. Ali: Mr. Temporary Deputy Speaker, Sir, this is, indeed, very serious. I was in the House when we requested the Assistant Minister to really get to the bottom of this matter and give us convincing answers. It is below expectation.

Mr. Temporary Deputy Speaker, Sir, the point I asked that time, and that I still raise, and I beg for a convincing answer, is that some parts of this country, as we all know, are really very far from the epicentre of the nation. These are places such as Moyale, Loyangalani and Mandera. The roads in some of these areas are not even passable because of the rains which are ongoing at the moment.

Mr. Temporary Deputy Speaker, Sir, we have so many students who cannot afford exorbitant fares to go and register. What is the Assistant Minister and the Commission doing to ensure that Kenyans will exercise their very important right to vote? They should not miss out in this registration exercise; they should have an opportunity to register here in Nairobi just like the people who are in Ugandan, and who are going to vote in Kenya, yet they are outside this country. It is easier for them to reach here than it is for people in Moyale.

The Temporary Deputy Speaker (Mr. Imanyara): Order! You have been heard.

Yes, hon. Mohamed Hussein Ali.

Mr. M.H. Ali: Mr. Temporary Deputy Speaker, Sir, my question is very short. The Assistant Minister has said that the days for registration will not be extended but the hours of registration will be extended. Could he tell us when the time of registration starts and ends?

Mr. Gitari: Mr. Temporary Deputy Speaker, Sir, my question to the Assistant Minister is that we are aware that the IEBC intends to register 18 million voters. In the last three weeks, they have done about a third of that, that is six million voters. What measures are they putting in place to make sure that we achieve at least three quarters of the number they expect to register?

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, in his answer the Assistant Minister has indicated that the 1000 BVR machines that were supposed to be used in the diaspora have now been dispatched to various polling stations. We are told that Kenyans in East Africa are going to vote in the coming election. When are they going to start registration and when will it end? What are they going to use?

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister tell us if we are going to vote using what he is calling “polling books”? If we are going to use “books”, then there is no difference with manual registration of voters. He needs to explain to Kenyans why the Government has used close to Kshs10 billion on BVR kits. We were all routing for Biometric Voter Registration (BVR) kits because we knew that the identification process is going to be foolproof, so that nobody can vote in place of Martha Karua except Martha Karua; because I am going to be identified by my biometrics. If voters are not going to be identified by their biometrics, it means that we are going backwards. Could he explain exactly what is happening and why they cannot import more BVR kits to ensure that each polling station, come the 4th of January, 2013, can identify voters biometrically?

The Temporary Deputy Speaker (Mr. Imanyara): Yes, hon. Sirat.

Mr. Sirat: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has not come clear on the issue that hon. Karua has just spoken about. On the voting day, shall we be using Black Books or shall we be using BVR kits? In my area, the voting time will not be extended after 5.00 p.m. due to insecurity and lack of lighting. Could he come up with another suggestion, so that my people can have more time to register?

The Temporary Deputy Speaker (Mr. Imanyara): Yes, Mrs. Noor.

Mrs. Noor: Mr. Temporary Deputy Speaker, Sir, this is a very important issue. It is a very sad scenario. I have personally been on the ground, in the constituency, for the first four days when the BVR kits arrived there. However, I did not register because the machines were not working. I want to confirm that I went to more than ten registration centres to register but the BVR kits did not function for the first four days. How do we compensate for those four days?

Secondly, the election body has not put into consideration the distances. The registration teams travel for between four and seven hours to reach the next polling station. So, they lose more than a half of the 30 allotted days. Where does the Assistant Minister put those days? Could he extend the registration period? Every Kenyan is missing that opportunity.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mrs. Noor! I have allowed you to ask more than two questions but it seems that you intend to raise another five questions, which is totally out of order.

Yes, hon. Sheikh Dor.

Mr. Yakubu: Mr. Temporary Deputy Speaker, Sir, mine is an issue relating to passports. We have been told that Kenyans who are above the age of 18 years can only register using either their identity cards (ID) or passports. It is very unfortunate that passports are not being accepted by the voter registration clerks. Many Kenyans possess the Kenyan passport but they are not allowed to register. They have been sent back with their passports because the documents have expired. I believe that the issue of expiry of passport is only relevant when one intends to use it to travel abroad. The fact that one is in possession of a Kenyan passport, it means that he is Kenyan. Could the Assistant Minister allow those in possession of expired Kenyan passports to be allowed to register as voters?

The Temporary Deputy Speaker: Yes, Dr. Nuh.

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister ought to know that the time lost during registration is not only on the few days during which the machines malfunctioned. There were also days when passwords which were known by the co-ordinators, and not the registration clerks, expired and had to be re-installed. So, we lose days or hours. There are hours which were lost because the kits have to be transported to police stations. In the areas we come from, police stations are far from the polling stations.

Apart from the days lost, my concern and questions comes down to the voting day. The Assistant Minister has talked of small computers with identification of fingerprinting method. How are agents going to identify the persons? Are they going to clog around the computer or will we have screens placed on a wall at every polling station for the polls agents to satisfy themselves that the clerks handling the computer are not thugs, and they are not going to allow people who have not been cleared by the computer to vote?

The Temporary Deputy Speaker (Mr. Imanyara): Yes, hon. John Olago Aluoch.

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, the first week of the BVR exercise was bogged down with teething problems, which is understood. The exercise was carried out fairly fast in the second week in most of the constituencies. What is he going to do to ensure that the clerks who are assigned to the various stations report promptly and that they do not leave too early?

The Temporary Deputy Speaker (Mr. Imanyara): Yes, Dr. Kones.

Dr. Kones: Mr. Temporary Deputy Speaker, Sir, when I looked at the system being by the Independent Electoral and Boundaries Commission (IEBC), I realised that it should be possible for anyone to register in any place and vote at his or her place of choice. Why has the

IEBC not allowed people to register anywhere and have their names transferred, particularly students who are in different colleges and who would want to vote in the areas they come from?

The Temporary Deputy Speaker (Mr. Imanyara): Yes, hon. Najib Balala.

Mr. Balala: Mr. Temporary Deputy Speaker, Sir, I can confirm that even in urban areas like Mombasa, registration teams had teething problems initially. I went to a polling station on the first day of the exercise, but there were no registration clerks at all. They had no security. In some areas, the BVR kits or the batteries were not working. If we have a problem handling Kenyans living in Kenya, why would we have to go and register people in Uganda? Let us sort out the problem in Kenya first. We have 15,000 BVR kits, instead of 25,000 BVR kits. Why do we go to Uganda and carry out manual registration? That is the beginning of rigging. We will not be conducting the election in the right way if we start manual registration of voters.

The Temporary Deputy Speaker (Mr. Imanyara): Yes, hon. Jakoyo Midiwo.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I just want the Assistant Minister to clarify that something is being done at the voter registration centres where clerks show up at 11.00 a.m. and leave at 2.00 p.m. because they are under only one supervisor. How is this process supposed to be carried out? What is the IEBC doing to make sure that the people have a reporting structure through which they can report an errant registration clerk?

The Temporary Deputy Speaker (Mr. Imanyara): Yes, hon. Jeremiah Kioni.

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, yesterday, I was called from my constituency by those people who had gone to register as voters. The complaint was that they had been requested to go back to the registration centre after three days to collect their voters' cards. Could the Assistant Minister assure this House that materials will be available at each of the registration centres? Lack of materials will delay the registration process.

The Temporary Deputy Speaker (Mr. Imanyara): Yes, Dr. Wilbur Otichilo.

Dr. Otichilo: Mr. Temporary Deputy Speaker, Sir, I want to hear from the Assistant Minister what percentage of the BVR kits have malfunctioned and what action the Ministry, through the IEBC, has taken.

The Temporary Deputy Speaker (Mr. Imanyara): Yes, hon. Kathuri.

Mr. Kathuri: MR. Temporary Deputy Speaker, Sir, I would also like the Assistant Minister to confirm to this House whether those who have applied for IDs and have original receipts issued by the Government will also be registered as voters.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, I have two points of orders. Hon. Isaac Ruto, what is your point of order, followed by hon. Martha Karua?

Mr. Ruto: Mr. Temporary Deputy Speaker, Sir, my request is not for a point of order. I want to ask a question. It is a matter of pressing the wrong button.

The Temporary Deputy Speaker (Mr. Imanyara): Go ahead.

Mr. Ruto: Mr. Temporary Deputy Speaker, Sir, voting and being voted for are similar events. Currently, the IEBC seems to be giving conflicting directions, including that on clearance. I do not know whether the Assistant Minister can take this opportunity to clarify on this aspect. Some people are being told to go and get clearance from some credit bureaus, the police and many other institutions. I do not know where all this has come from. Maybe, they can also tell us where this confusion is coming from. There are people all over town, looking for a variety of clearances we are not aware of.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Karua, are you still on a point of order or you have abandoned it?

The Temporary Deputy Speaker (Mr. Imanyara): Assistant Minister, in view of the importance of this Question, I will give you a maximum of ten minutes to respond to all those issues that have been raised by the hon. Members.

Mr. Cheptumo: Mr. Temporary Deputy Speaker, Sir, there are indeed a number of issues. I will combine some because they are related.

Mr. Njuguna spoke about the apathy of our Kenyan people not being prepared to go and register. That is an issue we need to address all of us. As a Ministry, we have called people to register. The Independent Electoral and Boundaries Commission (IEBC) has also done the same. Even the Head of State has called upon all Kenyans to come forward and register. We just want to say that as a Ministry, we will continue to call upon Kenyans to come forward and register. It is for all of us, as leaders, to do so.

Mr. Temporary Deputy Speaker, Sir, Mr. Mohammed spoke about the fact that there are areas which are not passable now and that centres are quite apart and it is difficult for them to use the equipment. He was proposing that we reconfigure this equipment so that then it can be used even when you are in Nairobi or Mombasa and you still register. I had answered that question. I said that the reason the equipment was configured to restrict the registration within a particular area was to avoid importation of voters. We want Kenyans---

Mr. M.M. Ali: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the Assistant Minister is misleading the House by saying what I did not actually mean. I meant that centres like Moyale, Lodwar and Mandera are very many kilometers away from Nairobi. There are many workers here in the city who would like to travel there but the roads are impassable. I did not ask him to configure but why can he not make an effort to provide two or three BVR machines for those affected areas so that the people within the city can have an opportunity to register here?

Mr. Cheptumo: Mr. Temporary Deputy Speaker, Sir, that is exactly what I was responding to. I said that it is not possible for us to reconfigure the equipment for the reasons I have said. We are avoiding importation of voters.

Secondly, I talked about the additional 1,500 equipment which have been deployed to certain areas where we have the challenge of distance. That is why I am here to answer you.

Mr. Temporary Deputy Speaker, Sir, I am very sure that Moyale must be one of those constituencies. I would like to undertake to the House that I will consult the IEBC and table the names of the constituencies which were given the additional 1,500 equipment. It was given to the areas with serious problems of---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Assistant Minister! It is quite clear to the Chair that the concerns the Members are addressing are not being responded to. You take advantage of the HANSARD; look at all those issues that have been raised and particularly the provision of facilities in the capital configured to enable civil servants who cannot travel because of various reasons to far flung districts or places of registration where that can be done within the City of Nairobi to facilitate those civil servants and other workers who are not able to reach the registration centres on account of their responsibilities and duties in Nairobi. They are asking whether that is possible.

Please, look at the HANSARD, look at all the concerns that have been raised and come back on Tuesday afternoon to issue a Ministerial Statement that will address all those issues.

I direct that you go back to the various departments; Government and IEBC, after you have looked at the HANSARD and then address all those issues in a comprehensive Ministerial Statement on Tuesday.

Mr. Kivuti, you have understood that you still have your opportunity when the comprehensive Statement is issued. You will still have the last bite. You will be able to respond as the person who asked the Question.

Next Question by the Member for Mathioya.

Capt. Wambugu, are you in the House?

REPATRIATION OF MS. LILIAN NYAMBURA FROM SAUDI ARABIA

(Capt. Wambugu) to ask the Minister for Foreign Affairs the following Question by Private Notice.

(a) Is the Minister aware that the remains of Ms. Esther Muthoni Ngarega (Passport No. A1746327) who died in Saudi Arabia, three (3) months ago have not been transported back to the country for burial?

(b) Is the Minister also aware that Ms. Lilian Nyambura, a sister to the deceased and working in Saudi Arabia is not allowed to communicate with her parents by her employer?

(c) What urgent measures is the Minister taking to ensure that Ms. Lilian is repatriated to the country and postmortem on the deceased is carried out and her remains brought back to the country?

(Question dropped)

Next Question by the Member for Emuhaya!

EFFECTS OF BAN OF GMO FOODS IN KENYA

Dr. Otichilo: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Higher Education, Science and Technology the following Question by Private Notice.

(a) Could the Minister state the criteria, credible scientific facts and evidence that informed the decision by the Government to ban the importation and use of the Genetically Modified Organisms (GMO) foods and products in the country?

(b) Is the Minister aware that the ban on GMOs will adversely stifle the ongoing biotechnology research in the country and consequently compromise future food security?

(c) Was the National Biosafety Authority (NBA) involved in the decision to ban the importation and use of the GMO foods and could the Government consider lifting the same?

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Mr. Temporary Deputy Speaker, Sir, I just want to inform the House that we have redirected this Question to the Ministry in charge of public health and sanitation. This is the Ministry that is better placed to address this matter.

Dr. Otichilo: Mr. Temporary Deputy Speaker, Sir, the issue of GMO or biotechnology rotates around the Ministry of Higher Education, Science and Technology and not the Ministry of Public Health and Sanitation. Therefore, this Question squarely rests on the Ministry of Higher Education, Science and Technology and not the Ministry of Public Health and Sanitation.

The Temporary Deputy Speaker (Mr. Imanyara): What he is telling you is that exercising their doctrine of collective responsibility, they have agreed within Government that that Question is best addressed by the other Minister. It is their prerogative. If the Government

determines that a particular Question be answered by a particular Minister, then you should be happy that you are getting an answer. However, you cannot insist on who should answer your Question. What you do and can insist on is getting an answer.

Dr. Otichilo: Mr. Temporary Deputy Speaker, Sir, then I would like to know when this answer is coming to this House. This is because by the ban that has been given by the Government, the National Bio-Safety Authority cannot work.

The Temporary Deputy Speaker (Mr. Imanyara): I understand you. That is a matter for the Leader of Government Business.

Mr. Kimunya, can you address that issue on when this Question can be answered? You are also in the House Business Committee (HBC).

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I would want to ask that the Ministers will consult within the framework of the next one week and then we can get the answer on Thursday next week.

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Otichilo, Thursday next week.

Dr. Otichilo: Thank you.

ORAL ANSWERS TO QUESTIONS

The Temporary Deputy Speaker (Mr. Imanyara): Next Question by the Member for Chepalungu!

I thought I saw Mr. Isaac Ruto somewhere in the House!

Question No.1690

DISBURSEMENT OF YOUTH ENTERPRISE DEVELOPMENT FUND IN BOMET

Mr. Ruto: Mr. Temporary Deputy Speaker, Sir, I must apologize. I was doing some consultation on the same business.

Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Youth Affairs and Sports:-

(a)---

The Temporary Deputy Speaker (Mr. Imanyara): Member for Chepalungu, I have given you complete latitude to roam about and when you come to ask the Question, you insist on reading? No! You will ask the Question.

Mr. Ruto asked the Minister for Youth Affairs and Sports:-

(a) how much money the Youth Enterprise Development Fund (YEDF) has disbursed in Bomet County since it was established;

(b) why it takes too long to disburse funds to the county and why there has been no significant impact on youth empowerment; and,

(c) what the procedure of borrowing money from the Fund by individual youths is.

Mr. Temporary Deputy Speaker, Sir, the Question belongs to the owners at home.

The Temporary Deputy Speaker (Mr. Imanyara): All Questions belong to owners at home!

Minister, please, proceed.

The Minister for Youth Affairs and Sports (Mr. Namwamba): Mr. Temporary Deputy Speaker, Sir, the Governor of Bomet County wants to make sure that the stakeholders in Bomet see him in action in a big way.

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

(a) Since the establishment of the Youth Enterprise Development Fund (YEDF) in June, 2006, a total of Kshs36,104,448 has been disbursed to 1,188 youth enterprises in Bomet County as at November, 2012. Out of this amount, Kshs20,005,000 has been disbursed to 430 youth groups through the Constituency Youth Enterprise Scheme (C-YES) arrangement and a total of Kshs2,745,500 has been disbursed to 108 individual youths within groups through the Easy Youth Enterprise Scheme (E-YES) while Kshs13,353,948 has been loaned to 650 enterprises through financial intermediaries.

(b) The Fund has been taking long to disburse funds to Bomet County and other counties throughout the country due to reliance on community committees to vet loan applications.

These committees have been sitting quarterly due to budgetary constraints resulting to quarterly appraisal of loan applications. Ordinarily, it takes three months to disburse funds to applicants.

The committee's lack of requisite expertise to determine viability of business ideas presented has also been a challenge.

The arrangement has also been that the clearing of all these processes has to come all the way to the head office in Nairobi which causes further delays. To ensure that applications are processed faster, the Fund is in the process of opening regional offices and posting constituency officers at the constituencies to ensure that applications will now be processed at regional offices on a weekly basis thus reducing the turnaround time to less than a month.

Further, there is a plan, and I have personally given instructions to the Youth Enterprise Development Fund to swiftly devolve this Fund in line with the devolution framework within the Constitution. This is because it does not make sense at all for an application from Bomet County to come for clearance in Nairobi when Bomet will be properly constituted as a county with all requisite systems necessary for the county government. So, that is one part of the processes that are going on in terms of restructuring the Fund to bring it in line with the devolution structure.

I wish to add that the Fund has had a fair impact on the more than 180 youth enterprises it has financed. However, it can and has had impact only on the successful applicants. The Fund does not have adequate resources to finance all the youth. In addition, the Fund only finances youth who are in business or who wish to start businesses and whose ideas are viable.

Let me admit that I personally do believe that the Fund could actually do better and it should be able to do better. Among the things that we are doing as part of the restructuring of the Fund is to diversify products, increase levels of lending to the youth and relaxing requirements. All this is part of a process of restructuring this Fund considerably to make it responsive to the needs of young people in the country.

(c) There are three procedures of borrowing money from the Fund by individual youth.

(i) By applying from any of the 37 financial intermediaries in partnership with the Fund where the youth may borrow up to Kshs1 million.

(ii) Youth who have completed repaying a group loan qualify to borrow as individuals. The group guarantees the individual who may borrow up to Kshs100,000.

(iii) The Fund has introduced a new loan product targeting the youth who are already in business and can provide security. Through this product applicants may borrow up to Kshs2

million. This loan is currently at piloting stage before formal launch. Youth will be expected to apply through the Fund's constituency officers.

Mr. Ruto: Mr. Temporary Deputy Speaker, Sir, maybe if the Minister had a little more time, unfortunately his time is running out; he has to hand over and go and fight for his seat. Probably he had some good ideas but so far---

The Temporary Deputy Speaker (Mr. Imanyara): Ask your question.

Mr. Ruto: Mr. Temporary Deputy Speaker, Sir, my question is: If indeed you have the funds to give to the youths and you can come to Parliament and tell us that the committees that are supposed to disburse the funds cannot meet because of lack of budgetary allocations, is it impossible for you to ensure there is some allowances for these committees to meet even if it is six times a year so that they are able to disburse these funds?

The Minister is also telling us that there is a technical problem and knowledge among the groups that disburse the funds. For over 10 years since they started disbursing these funds, how comes they cannot resolve this problem and yet it is over seven years since they started this? Since 2006 up to now, they have not developed the capacity.

When the Minister says it has been successful in some stages, which enterprise can I visit in Bomet that has actually taken off into a viable medium enterprise that can then be seen to be taking off and moving and therefore, providing employment to the youth? How have these youth benefitted or do they use the funds only to buy chicken which they also slaughter in December during Christmas time? What exactly is happening with regard to this youth fund?

Mr. Namwamba: Mr. Temporary Deputy Speaker, Sir, if this was not a serious matter, it would have actually sounded hilarious what the Member for Chepalungu has said.

I want to assure the hon. Member that I do share his sentiments. I have already said this on record that this Fund can and should do a lot better. There have been a lot of teething challenges that the Fund has faced since it started disbursing funds in 2007. These challenges are being confronted and attended to.

Among the structuring which I have already mentioned we actually will be launching a revamped fund next year. Among the things that we look forward to achieve is diversifying the product and increasing the level of funding. For instance, giving Kshs50,000 to a group of 10 young people is a level of funding that may not make much of a difference. Among the things that we are already discussing with the Fund is how to raise the level of funding and also diversifying the products beyond the chicken farming and small projects that have been undertaken recently.

With regard to Bomet County, I have had occasion to personally visit a number of projects supported by the Fund in Bomet County. Among the projects the hon. Member may want to take note of is a very vibrant commercial enterprise dealing in textiles and other products right in the centre of Bomet Town. I think the shop is called Riziki run by a group of young people.

I was very impressed by the speed at which that enterprise has grown and the big plans that group has in terms of expanding the business that has been supported by the Fund over the last two years. It is a project that I would be glad to visit with the hon. Member for Chepalungu to assess the progress it is making. I have also visited a number of groups that are engaged in agricultural activities that go beyond merely rearing chicken for Christmas and New Year. Those are projects I would gladly accompany you, hon. Member, to visit. But I do agree with the hon. Member that the Fund should do better and it is a challenge that the Ministry is aware of. It is a

challenge that we have brought to the attention of the Youth Enterprise Development Fund. It is a challenge that we are addressing.

Mr. Ruto: Mr. Temporary Deputy Speaker, Sir, I would like to remind this youthful and competent Minister that a lot of his agemates are still languishing---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ruto, please, ask him the question that you want to ask.

Mr. Ruto: Mr. Temporary Deputy Speaker, Sir, I would like to know what percentage increase or how much he expects in terms of budgetary allocation in the coming financial year, because I know that he is already starting the budgeting process. What can he suggest would be a fair figure to be allocated to each county, to assist a number of his agemates who are still languishing in turning spanners and sitting under vehicles?

Mr. Temporary Deputy Speaker (Mr. Imanyara): Mr. Ruto, I am giving you a lot of latitude, but you are taking me for granted now.

Mr. Minister, please, respond in two minutes, because we are running out of time.

Mr. Namwamba: Mr. Temporary Deputy Speaker, Sir, the hon. Member, who is also one of my eminent clients, has a good sense of humour. I will take his sense of humour. But on a serious note, this Fund needs to be actually doubled if it is to reach out to the massive demand out there. So, we will be seeking this Fund to be doubled, so that we can have a lot more resources. But for me, and I believe for the Fund too, it is not just about increasing the basket available to the Fund. It is also restructuring the Fund, so that it is more accessible and responsive to the very specific needs of our young people. Our young people are the engine and power that will drive us to Vision 2030 and if we do not empower them, we could as well revise Vision 2030 to become Vision 3020, which I think is not a prospect that we want to entertain.

Question No.1692

OWNERSHIP OF LAND PARCEL LR.No.13815

Mr. Temporary Deputy Speaker (Mr. Imanyara): The Member for Cherangany not here?

(Question dropped)

Question No.1851

DISCLOSURE ON SEIZURE OF COCAINE IN
EMBAKASI/MALINDI TO US GOVERNMENT

Mr. Mwau asked the Attorney General whether he could clarify whether by a letter Ref: AG/CR/2053/905 dated 25/3/2009, the United States Government was informed of the facts pertaining to the 1,141.5 kilograms of cocaine seized in Embakasi, Nairobi and Malindi in 2004 and, if so, provide a copy of the said letter.

The Temporary Deputy Speaker (Mr. Imanyara): Is the Attorney General not here? Mr. Kajwang, where is the Attorney General? Mr. M. Kilonzo, where is the Attorney-General?

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, I have no doubt that the Attorney-General is engaged somewhere. I am reliably informed that he is doing some consultations in the Prime Minister's Office. So, kindly, bear with him. I am sure that he can come and do this another time.

The Temporary Deputy Speaker (Mr. Imanyara): Indeed, I have been informed that he and the Minister for Finance are attending an important meeting at the Office of the Prime Minister.

Hon. Mwau, the Minister is actually attending an official function at the Office of the Prime Minister. Would you like to give him another day to come and answer this Question?

Mr. Mwau: Mr. Temporary Deputy Speaker, Sir, the Question is very important and only relates to a letter in a Government file.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order, hon. Members! Hon. Shebesh and the company that surrounds you, please, consult in low tones.

Mr. Mwau: Mr. Temporary Deputy Speaker, Sir, the Question is very simple because it relates actually to a letter that is supposed to be in a Government file. So, it is only a question of producing it. The Question was deferred this week on Tuesday to today. So, let us give him a chance to Tuesday to respond, and the Question be given first priority.

The Temporary Deputy Speaker (Mr. Imanyara): The Question is deferred to Tuesday next week.

(Question deferred)

Question No.1604

IRREGULAR ALLOCATION OF KMC
LAND TO PRIVATE DEVELOPERS

The Temporary Deputy Speaker (Mr. Imanyara): The Member for Dujis not here?

(Question dropped)

Question No.1505

FAST TRACKING ISSUANCE OF IDS
FOR REGISTRATION OF VOTERS

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

(a) how many citizens have been issued with national identity cards in the last one year providing a breakdown of the districts or counties they come from; and,

(b) what measures the Minister has put in place to ensure that all deserving citizens are issued with national identity cards in time to enable them register and participate in the forthcoming elections.

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Mr. Temporary Deputy Speaker, Sir, I have shown the Member for Keiyo South the answer that I have and he was of the view that I should break down the constituencies into counties to give a clearer picture. We have just put them in terms of constituencies. I told him that that is something we can do. So, I can come back on Tuesday afternoon and give a proper answer.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Kiptanui, is that the position?

Mr. Kiptanui: Mr. Temporary Deputy Speaker, Sir, indeed, that is the position, although the answer that the Minister has does not indicate constituencies. It indicates the centres where these identity cards were issued.

The Temporary Deputy Speaker (Mr. Imanyara): Very well. I now defer this Question to Tuesday afternoon.

(Question deferred)

Next Order!

STATEMENTS

The Temporary Deputy Speaker (Mr. Imanyara): Are there any Statements that are due for delivery this afternoon from any Government Ministry?

POINTS OF ORDER

NON-GAZETTEMET OF LAND COMMISSION

Ms. Karua: On a point of order, Mr. Temporary Deputy Speaker, Sir, I was expecting a Statement from the Minister for Lands as to why the Government has not gazetted the Land Commission. The Statement was due this time and I have just seen the Assistant Minister for Lands walking towards that side. I do not know why the Statement is not here and the Chair ordered that it be given today.

The Temporary Deputy Speaker (Mr. Imanyara): I saw the Assistant Minister for Lands here just a moment ago. Mr. Muthama, you are the Chief Whip. Where is the Assistant Minister? He was walking around a few minutes ago.

Mr. Muthama: Mr. Temporary Deputy Speaker, Sir, it is true that he was around, but I do not know where he has gone.

The Temporary Deputy Speaker (Mr. Imanyara): Could you, please, go to the office behind here and check if he is there? Hon. Karua, we will come back to it when the Minister comes. I understand that he is within the House and in a few moments, I will revisit it.

Yes, Mr. Mureithi, what is your point of order?

GRABBING OF NYANDARUA INSTITUTE LAND BY PRIVATE DEVELOPERS

Mr. Mureithi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am also in the same predicament and need your guidance. I had requested for a Ministerial Statement before we

went on recess from the Minister for Lands, regarding the grabbing of land belonging to Nyandarua Institute. I was expecting it from last week.

The Temporary Deputy Speaker (Mr. Imanyara): We will revisit that because I understand that the Minister is within the Chambers.

PENDING BILLS FOR CONSTRUCTION WORKS OF ENNDA

Mr. Sirat: Mr. Temporary Deputy Speaker, Sir, I rise to request for a Ministerial Statement from the Minister for Regional Development Authorities, with regard to the pending bills for constructions works undertaken by various contractors in desilting and construction of water pans for Ewaso Ng'iro North Development Authority (ENNDA) during the financial year 2010/2011 and 2011/2012.

Mr. Temporary Deputy Speaker, Sir, in the Statement, the Minister should provide details on the pending bills owed to each of the contractors, indicating the constituency in which the water pans were constructed.

Mr. Temporary Deputy Speaker, Sir, the Minister should also confirm when the outstanding bills will be offset.

The Temporary Deputy Speaker (Mr. Imanyara): Is the Minister for Regional Development Authorities not here? Attorney General, could you, please, tell us when the Statement may be given?

The Attorney General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, would a week be in order?

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Sirat, is Thursday next week okay?

Mr. Sirat: Mr. Temporary Deputy Speaker, Sir, the Minister was just seated there. I have discussed with him but he shrugged off and said: "I will answer next year." I, therefore, want my answer next Tuesday.

(Laughter)

The Temporary Deputy Speaker (Mr. Imanyara): Okay. I direct the Attorney-General to give the Minister the Chair's ruling that this Ministerial Statement be issued on Tuesday next week.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I will do so.

The Temporary Deputy Speaker (Mr. Imanyara): The next one is from Mrs. Sophia Abdi Noor.

CIRCUMSTANCES SURROUNDING APPOINTMENT OF NITA DIRECTOR

Mrs. Noor: On a point of order, Mr. Temporary Deputy Speaker, Sir. Thank you. I rise to request for a Ministerial Statement from the Minister for Labour regarding the circumstances surrounding the appointment of the new Director of National Industrial Training Authority (NITA). In the Ministerial Statement, the Minister should provide the following information:

- (i) When was the position advertised and if so in which papers?
- (ii) How many persons applied for the positions?

- (iii) When were the interviews conducted and how many candidates were shortlisted?
- (iv) What was the score sheet for the person shortlisted?
- (v) When did the Minister for Labour receive the report on the appointments from the board?
- (vi) When was the appointment made, the appointee gazetted and when did the new Director assume office?
- (vii) What are the qualifications of the new Director?
- (viii) Was the right procedure followed in the appointment?
- (ix) Was due diligence carried out on the new Director prior to his appointment?
- (x) How much money was in the bank accounts for the authority at the time the new Director assumed office?
- (xi) What were the balances as at 6th December 2012?

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Attorney-General, once again please direct the Minister for Labour to be here on Tuesday next week and respond to her request.

The Attorney-General (Prof. Muigai): I will do so Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Adan Keynan. Is he not here? Any more requests? Minister for Lands, where are you now? Hon. Martha Karua, you did indicate to the Chair that you will be given a Ministerial Statement on Tuesday next week and that is the two of them. Yes, hon. Karua.

Ms. Karua: Yes, it will be on Tuesday since Wednesday will be a public holiday. It is okay. I have been corrected.

The Temporary Deputy Speaker (Mr. Imanyara): The same for you, hon. Mureithi. The two will be given on Tuesday next week. Next Order and I will give the Leader of Government Business the first bite.

BUSINESS FOR THE WEEK COMMENCING 11TH TO 13TH DECEMBER, 2012

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir. I wish to take this opportunity to make the following Ministerial Statement with regard to business of the House for next week.

Mr. Temporary Deputy Speaker, Sir, the House will consider the Second Reading of The Kenya Institute of Curriculum Development Bill, Bill No.63 of 2012. The House will also consider at the Committee of the whole House, The Kenya Plant Health Inspectorate Service Bill, Bill No.64 of 2011, The Seeds and Plant Varieties (Amendment) Bill, Bill No.65 of 2011 and the Climate Change Authority Bill, Bill No.27 of 2012. Moreover, the House will then give priority to any business which will not have been concluded on today's Order Paper and what was carried forward from yesterday's Order Paper.

Mr. Temporary Deputy Speaker, Sir, finally, the House Business Committee will meet on Tuesday, 11th of December to consider business for the rest of the week. Thank you.

The Temporary Deputy Speaker (Mr. Imanyara): Any reactions to that? Hon. Ogindo.

POINTS OF ORDER

OIL EXPLORATION IN BLOCK 12B

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I want to beg your indulgence. I want to seek a Ministerial Statement from the Minister for Energy about exploration of oil in Block---

Mrs. Odhiambo-Mabona: On a point of order, Mr. Temporary Deputy Speaker, Sir. I wanted to react to the Ministerial Statement by the Leader of Government Business.

The Temporary Deputy Speaker (Mr. Imanyara): That is what I thought the hon. Member was doing but let him complete. That was the basis upon which he caught my attention but continue hon. Ogindo.

Mr. Ogindo: Thank you, Mr. Temporary Deputy Speaker, Sir, for your indulgence. In the Ministerial Statement, I would like the Minister for Energy to explain the following in as far as oil exploration in Block 12B is concerned: Firstly, whether the environmental assessment was done and if he could table the result of the environmental assessment report.

Secondly, in the Ministerial Statement, I would like him to explain to the House the procedure of sharing any possible revenue that will arise from the oil and with that, I would expect him to table any agreement that has already been reached.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Attorney-General, once again please let the Minister for Energy know that that Statement should be given next Tuesday in the afternoon.

The Attorney-General (Prof. Muigai): I shall, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Yes, hon. Millie. You wanted to react to the Leader of Government Business. You may do so now.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Temporary Deputy Speaker, Sir. Thank you. Given that we have a very short time and very heavy business, I would request that the Leader of Government Business brings to us next week not just what he has read because usually he will read what is indicated but come next week, you will find about 20 other Bills that are scheduled and then we do not have much time. Like right now we have so many amendments and it is not in order really for us to be passing Bills without participating and being involved because later we will be accused of having participated in wrong things, especially now that we are having a transition from one system of Government to another. So, we want to have a proper notice of those Bills so that even when we are shortening the time, we already have information and we look at it in good time. However, if he could be so kind, he could also give us a list of the Bills and a breakdown of what this Parliament has done to date.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, before I give you an opportunity to respond to that, I see a point of order from hon. Isaac Ruto.

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. I also want to know from the Leader of Government Business when and why he did not really come up with a list as to what is essential for the purposes of these elections and transition. For example, there are several amendments we expect from the Miscellaneous (Amendment) Bill from the Attorney-General. To date, we have not seen them and the Minister did not say anything about it. Where are the supplementary budgets, for example, for the operationalisation of the counties? When is it coming? Where are other facilitative laws to ensure that devolution actually comes into effect early next week or do we intend to completely ignore the process of devolution? What exactly is going on in Government?

Also, I would like to ask the Leader of Government Business to actually bring Parliament together to understand what it is that is critical for these remaining five sittings only. So, if we

only have five sittings before we go home, what must we pass? We have seen a lot of mundane Bills here which can wait for next year. Why must you rush on things that even require public participation?

The Temporary Deputy Speaker (Mr. Imanyara): Concerning these amendments, I will ask the Attorney-General to respond then I will let the Leader of Government Business to respond to the other issue.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I am happy to confirm to the Member and the House that I published this afternoon The Statutes Law (Miscellaneous Amendments) No.2 of 2012, an advance copy of which I have brought to the House, so that I could share it with Mr. Abdikadir and Mr. Baiya for onward transmission to the Members of their Committee in the hope that we can scrutinize this in good time.

The Temporary Deputy Speaker (Mr. Imanyara): While you are on your feet, I would like you to look at the amendments that are being brought by hon. Muthama and hon. Midiwo on the Elections Bill and the procedure under which they are coming and advise whether you have considered the constitutional implications on those proposals before I come to that Order.

CLARIFICATION ON ELECTIONS ACT RULING BY HIGH COURT

Mr. Muthama: Mr. Temporary Deputy Speaker, Sir, I stand for the sixth time to remind the Chair that I requested---

The Temporary Deputy Speaker (Mr. Imanyara): Not to remind the Chair. You should remind whoever you directed your request to. It was not directed to the Chair.

Mr. Muthama: Mr. Temporary Deputy Speaker, Sir, I directed it to the Speaker. I sought a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs and this is the sixth time. I have been waiting for this Statement to be issued.

The Temporary Deputy Speaker (Mr. Imanyara): In regard to what?

Mr. Muthama: Mr. Temporary Deputy Speaker, Sir, this was in connection to almost the same amendments that are being proposed by Mr. Midiwo. It is to do with The Elections Act, Section 221(a) and 241(b). A ruling was given by the High Court and I supplied a copy of the same to the Minister. I asked the Minister to state the position between this ruling and his position because he has never obeyed the ruling of the court.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Muthama! I would urge you to sit with the Attorney-General. He is very close to you. The amendments that you are seeking in the next Order plus what you are stating and the amendments being proposed by Mr. Midiwo, all relate to very important constitutional matters. I would like you to have a little consultation before I come to that Order and when the Attorney-General rises to make his position on those Bills clear to the House, he can address the issue that you are bringing up now. I would urge the two Whips and the Attorney-General to consult before we get to that Order and then he can give us a substantive Statement on behalf of the Government regarding the constitutional issues, namely, the implications which, I am certain, he is aware of, so that we do not waste time debating Bills that do meet the constitutional threshold.

Mr. Muthama: Mr. Temporary Deputy Speaker, Sir, most obliged.

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. I want to urge the Leader of Government Business to tell us the whereabouts of The Division of Revenue Bill. It is supposed to be passed in February when no one is around.

The Temporary Deputy Speaker (Mr. Imanyara): I would advise you to quickly go across and join the team that is consulting because those are issues that I am asking them to consult about.

Mr. Ruto: Mr. Temporary Deputy Speaker, Sir, since he will be making a Statement as the Leader of Government Business in charge of our agenda---

The Temporary Deputy Speaker (Mr. Imanyara): I am referring you to the Attorney-General. Those are issues that are squarely within his jurisdiction. Deputy Leader of Government Business, could you respond to the issues raised by the Members regarding your programme for next week?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, indeed, I want to start by saying that this Parliament has done very well in terms of legislation. We have passed, perhaps, the most number of Bills than any other Parliament has ever done. But we also know that there is challenge. We still have a whole list of Bills that are required to be done before Parliament is dissolved on 14th or 15th January, 2013. This is something we are alive to, as the House Business Committee, and we have scheduled and we are looking through the whole list. Between now and 20th December when we get a break - it is necessary because of the Christmas and the New Year holidays - we only have five working days, but we will have to figure out on Tuesday when we meet what can be contained within those days.

When we come back in the New Year, with the party primaries taking place, we are unlikely to have time in this House for serious consideration of debates. So, we only have five days. We will be working on that on Tuesday to itemize what it is and we will be reporting to this House to say that this is what we consider the most urgent. We will ask the Members to stay extra time. We might have to sit on Thursday morning and Friday next week. I do not want to anticipate what will come out in the debate on Tuesday, but it is just preparing the Members that we need to prepare to expand the five days to perhaps eight days through extra sittings and extra time to clear what would be mandatory.

Without anticipating debate, we have a Motion today, for example, to extend time by two hours, so that we can clear what we have today and bank that. Then we come on Tuesday and start on a fresh page. I am sure that the manner in which we have done this in the past, in terms of clearing workloads, because matters have already gone through the Committees and have been discussed in various fora, everything that is not controversial that we need to do before the next elections should come. That includes, for example, the Office of the Attorney-General and the Office of the Director of Public Prosecutions, which we expect to come on the Order Paper on Tuesday. The Division of Revenue and County Allocation Bills are coming next week. The Supplementary Estimates will then tie all that together. All that will be business for next week and I am sure this House will rise to the occasion and finish these matters within next week before we go for the Christmas holidays. If we manage our time properly within the House by reducing any contribution that will not necessarily enrich the debate, so that we can sort out most of that within the Committee, then it will help in speeding up the matter. At the end of it all, we have total faith that this House will finish the work that it has assigned itself. All these Bills are within the House and have been brought to the House because you want them to be passed before you go home.

(Mr. Koech stood up in his place)

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Koech, what is it that is pressing you so hard?

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, I seek your guidance on this matter. When Bills come to this House and we are at a very crucial point, I note that there are some amendments which are being circulated at this particular moment. As a House and as a Committee, some of these issues can end up disorganizing us as we move to the Committee Stage. What is the position of Parliament in procedures, so that we are able to get these amendments early enough, so that we can address them and at the end of it, we do not pass Bills that contradict each other?

The Temporary Deputy Speaker (Mr. Imanyara): Order! You are actually anticipating the Chair's direction to the three gentlemen sitting right across you to consult. I had noticed the late circulation of the amendments and the constitutional significance of those amendments. So, it is a matter that has come to the Chair's attention particularly with regard to provisions of the Standing Orders not allowing any Bills that may, on the face of the record, be unconstitutional, to come to the House for debate. However, the Attorney-General will be addressing that issue in a moment.

Hon. Ogindo, what are you raising? Is it similar?

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, this is a rider to what the Deputy Leader of Government Business has just said. I congratulate the House Business Committee for having done a good job so far. However, we are in injury time and it is imperative that we get our priority right. Something like The Revenue Allocation Bill is more of a priority than The National Coordination Bill. The Deputy Leader of Government Business has enumerated so many Bills that he wants to bring in the next one week. I would like him, working together with the House Business Committee, to prioritize what must be done particularly in so far as the operationalization of the devolved governments is concerned. This is most critical. Some of these Bills have a timeline of five years; so we can wait until the 11th Parliament. I would appreciate a more reasoned priority for these Bills.

The Temporary Deputy Speaker (Mr. Imanyara): The Leader of Government Business, before I call upon you, are you still consulting with the Whips or do you wish to brief the House?

Mr. Midiwo: We need two minutes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): The three gentlemen require another two minutes but you can address the issues that the hon. Members have raised.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, on the issue raised by Mr. Ogindo, I totally agree that we need to prioritize the Bills, especially those that have an implication on what will happen between the time we go on a break, or when this House adjourns for good, and the time when the new House will sit. The Bill you have just cited is just one such Bill on how the Government will be co-ordinated. Although it is a five-year period, you might end up with two parallel systems. Unless we are able to talk about it ourselves in this House, we will end up with some purgatory kind of situation, where you will have two different systems in operation. The House that is coming after this one may not have the institutional memory that we have in terms of what we want done. That is why some of these Bills are coming; without anticipating debate that will be discussed when the Bill finds itself on the Floor of the House. We are very careful and selective in what comes; without necessarily saying that any of the Bill is unimportant, there are some that are crucial for purposes of moving forward and then the transition dove-tailing into the two systems. There is what is happening now and what will happen under the new dispensation. We especially need to ensure

that devolution will take root. If that does not happen, then we shall all have lost the time we have invested in getting in place the new system which will be of benefit to the Kenyan people.

In terms of the revenue Bills, I assured you that Parliament has already passed the Motion; it is just printing of those Bills and getting them over here. I am sure we will be able to pass all those and process them within the course of next week. I want to seek your indulgence because I know there have been challenges in getting most of these things here. We will do our best, as the House Business Committee, to process whatever is before us.

COMMUNICATION FROM THE CHAIR

KEPSA CONFERENCE FOR MPS

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, I do have a communication to make; maybe it has some relevance to what you are discussing because it relates to a meeting that was adjourned.

Hon. Members, you will recall that the Kenya National Assembly in partnership with the Kenya Private Sector Alliance (KEPSA), and as part of the Speaker's Round Table, were supposed to hold a two-day conference at the Leisure Lodge Resort, Mombasa, on Friday, 23rd November to 25th November, 2012 for all Members of Parliament and representatives from both public and private sector. You will also recall that the hon. Speaker delivered a communication from the Chair on Wednesday 21st November, 2012 to the effect that due to other international and regional commitments, which the Chief Guest had to attend to within a set period, it had become necessary to reschedule the said conference to Monday 17th and Tuesday 18th December, 2012. This is, therefore, to remind you that the said conference is on as earlier communicated and hon. Members are expected to depart from Nairobi on Sunday 16th December, 2012 and return on Tuesday 18th December, 2012.

Hon. Members who wish to attend are kindly requested to confirm their participation by registering at the main reception, main Parliament Building, latest by Tuesday 11th December, 2012 for onward transmission to KEPSA and for travel and other logistical arrangements.

The Attorney-General, would you please let the House know of the consequences of your consultation with the joint chief whips?

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, my attention has been drawn to the proposed amendments to the Elections Act by Mr. Midiwo, and I have had a discussion with the gentleman and also with Mr. Muthama. I have assured them that I am familiar with the decision of the High Court of Kenya at Nairobi, Milimani Law Court Case No.198 of 2011. The parties were Mr. Muthama against the Minister for Justice, National Cohesion and Constitutional Affairs and the Attorney-General. In this case the learned Judge, Hon. Lady Justice Mumbi Ngugi, among other findings found that Sections 22(1)(b) and 24(1)(b) of the Elections Act, 2011, which bar persons not holding a post-secondary school qualification from being nominated as a candidate for an elective office or for nomination to Parliament to be unconstitutional and in violation of the petitioners' rights under the Constitution. I believe that I have persuaded both gentlemen to leave the amendment that they desire to move before this House until we are ready to debate the Statute Law (Miscellaneous Amendments) Bill, which seeks among other things to amend the Elections Act in some fairly broad manner.

I have also assured both gentlemen that as neither the Attorney-General nor the Minister for Justice, National Cohesion and Constitutional Affairs has challenged, or appealed the judgement of the court in petition No.198 of 2011, this remains the law. These sections stand repealed by order of the court, unless otherwise amended or varied by this House. Therefore, I see no urgency for these particular amendments to be moved. I have also undertaken to the two distinguished hon. Members that I will communicate this position to the Independent Electoral and Boundaries Commission in those terms, unless they themselves have otherwise obtained a different order, which is not within my knowledge.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Muthama, your reaction to that.

Mr. Muthama: Mr. Temporary Deputy Speaker, Sir, I have listened to the Attorney-General. When he says that there is no urgency this matter, I tend to differ with him; the nomination of political parties will be closed in the next two weeks. The political parties are reading from the IEBC nomination rules; this is one of them. They are not ready to accept any nomination papers without those qualifications. So, to say that there is no urgency is not correct, because by the time the Attorney-General decides to come to the Floor of this House and bring the amendment---

The Temporary Deputy Speaker (Mr. Imanyara): Sorry to interrupt you, Mr. Muthama; are you suggesting that the Attorney-General misled the House when he said he had succeeded in persuading you?

Mr. Muthama: Mr. Temporary Deputy Speaker, Sir, he misled the House because what he said is that he will issue a statement and direct IEBC not to ask for those qualifications. I did not agree with him on that position. My stand is unless the Act is amended, there is no way the IEBC is going to implement the court orders through a statement made by the Attorney-General. So, amendments have been drafted, and we can move them in this same Bill; they can be accommodated.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I agree with the submissions of the Attorney-General, but I also want to take the position being taken by co-whip, that what we are trying to address here are the timelines. As you know political parties are now accepting nomination applications from candidates; most hon. Members, including yourself, are getting phone calls from people who are interested in running, particularly, for the county representative position. They need clarification on the required academic qualifications. It is true that the court pronounced itself but it is not known. We have asked the Minister for Justice, National Cohesion and Constitutional Affairs to come and clarify this matter and talk to the nation. I agree with the Attorney-General that with that ruling, it goes without saying that, that part of the law has been negated; but parties, including my own party, ODM, are still asking candidates for those qualifications. We thought that by putting this issue into law, it would be better because the same ruling tells the Attorney-General to delete it from law, which deletion has not occurred. The Attorney-General proposes to bring the Statute Law (Miscellaneous Amendments) Bill next week. That means that those amendments and the deletion will come after nominations. In fact, I think by not doing what I am trying to do, it would be violating the rights of many Kenyans.

Mr. Temporary Deputy Speaker, Sir, I want to plead with you that the Attorney-General can go ahead with this process but for purpose of clarity, we need to let the process go on so that we end all the unnecessary anxiety.

As I end, let me say that it is incumbent upon Members of this House to make sure that all citizens of Kenya approach the electioneering period with utmost calm so that people do not

have unnecessary anxieties. This will ensure that we are not threatened with thoughts of what happened in this country in the last elections.

Mr. Mwau: On a point of order, Mr. Temporary Deputy Speaker, Sir. Article 99(1)(b) of the Constitution requires that a person should have certain educational requirements. The postgraduate is not something that you can define. That is what the Act provides for. There is no certificate issued on postgraduate by any institution. So, we should have been very specific on what we wanted. For the President, you said one requires a degree. For others, you should have said something but this was not said. If I heard the Attorney-General correctly, he clearly said that the courts have found that Article to be unconstitutional. If it is, then we, as the National Assembly, are obligated, therefore, to correct that position now so that we do not wait until there is confusion. The election process is what brings confusion, clashes and chaos. So, let us remove this so that we go into elections in harmony.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Temporary Deputy Speaker, Sir. If I heard the Attorney-General correctly, he did not say that the Bill is unconstitutional but that the Bill is not expedient. He used the court ruling which basically gives us the mandate to remove the provision. As much as I may not necessarily agree with the court, it is a decision of the court. I would like to say that for purposes of expediency, if already there is a Bill, I do not know what is more expedient than dealing with what is before us. If it is not unconstitutional, it is in order for us to proceed and deal with the Bill before us.

Mr. Ruto: Thank you, Mr. Temporary Deputy Speaker, Sir. I also think that the Attorney-General's in-tray is too full. He has not processed a lot of it. I do not know why he wants to bring another one on top of his desk. Indeed, his communication with the IEBC could just be another letter that can be ignored by the IEBC; that it is a directive by an outsider because they believe that they are independent and they do not need to take directions from him. However, I think everybody understands the supremacy of Parliament with regard to legislation. We are the ones who would like to correct it. Indeed, we had corrected it but it was thrown out by the Executive. The Attorney-General, on that day, did not advise His Excellency the President that he did not have to return this Bill. He could have simply assented to it. In this situation, I would like to go along with what Mr. Midiwo has drafted as his amendments so that those who want to vie understand that they have to be literate.

They should be leaders who are accepted by the voters at home. It is not our business to decide for voters the most educated candidate they should elect. Let them make the decision. They know all these people. I suggest that the Attorney-General allows us to proceed so that we deliberate on the amendments as provided by hon. Midiwo.

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, I would like the Attorney-General to come out clean and clear here. Courts have ruled. Previously, courts have ruled and the Government has lost some properties including schools. The Attorney-General or the Government is not about to appeal. What is the clear position of Government on this matter and what is it that the Attorney-General wants to put in the Statute Law (Miscellaneous Amendments) Bill? Is it that he wants to be the one to bring it to the House because, clearly, what he is telling us is that he will do exactly what hon. Midiwo is proposing, only that he wants to do it himself. If it is true that he wants to amend, then why can he not allow it now? That should be the clear position of the Government.

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Thank you, Mr. Temporary Deputy Speaker, Sir. When I heard you telling the Attorney-General to make certain clarifications on the constitutionality of this amendment, I understood that if it

was not unconstitutional, then it would proceed and if it was unconstitutional, then it would be dropped. But, after listening to the Attorney-General, I think he is of the view that it is constitutional. Therefore, because the House is seized of it, I think the Chair should allow us to dispose it of.

Mr. Njuguna: Thank you, Mr. Temporary Deputy Speaker, Sir. Respecting the position that has been taken by the Attorney-General, it is important that we realize that there is serious anxiety among some leaders in this country, particularly, the councilors and even some Members of this House. Therefore, it is important, upon this anxiety that the bottleneck that is impeding the careers of our leaders in this country is removed immediately. Aware that we have no time - time is limited, it is important to go with the proposal already presented by the Chief Whip, Mr. Midiwo.

I support.

The Assistant Minister, Office of the Prime Minister (Mr. Mbadi): Mr. Temporary Deputy Speaker, Sir, mine is simple. When you asked the Attorney-General to give his opinion, he did so but his opinion was not very helpful to us. We wanted to know the constitutionality of this amendment. This amendment, therefore, is, in my view, properly before us and we request that you rule that it be deliberated appropriately when the time comes.

Mr. Muthama: Mr. Temporary Deputy Speaker, Sir, I just wanted to mention that this ruling was given on 29th June, this year. The Attorney-General and the Minister for Justice, National Cohesion and Constitutional Affairs have had this ruling with them and up to now they have never taken any action. As the Attorney-General reads the rulings, I should say that these clauses are unconstitutional. So, it is up to the Attorney-General to allow the amendments to be brought and we dispose of this matter immediately.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Attorney-General, final word.

The Attorney General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I think there is consensus in this House, that this amendment ought to be effected for abundant caution; the sections do not cease to be constitutional because we have amended them. They are already unconstitutional because the court has said so and there has been no appeal.

Mr. Temporary Deputy Speaker, Sir, the position I took earlier was informed by the desire on my part to have a well ordered manner of amending the Elections Act. I was not aware, as I have now been made aware, of the urgency on the part of political parties to hold their nominations and to remove any uncertainty within the next seven days or so. Having now heard the views of those who run political parties, regrettably, I am not one of them, I would have no objection, if this was prioritized for the purposes of clarifying the law.

(Applause)

The Temporary Deputy Speaker (Mr. Imanyara): If that is the case then we will follow the order of business as provided on the Order Paper.

Next Order.

PROCEDURAL MOTIONS

EXTENSION OF SITTING TIME

The Minister for Transport (Mr. Kimunuya): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, notwithstanding the provisions of Standing Order 20(2), this House orders that today's sitting be extended until 8.30 p.m.

Mr. Temporary Deputy Speaker, Sir, the rationale for this request to the House is based on the fact we all realize that we have a lot of business to do. This was really subject matter of discussion earlier this afternoon. There was a request from hon. Members that we prioritize Bills that need to be cleared before this House can adjourn.

When we looked at the total time that may be required, it became clear that we should have asked for more time. But being a Thursday, Members may want to also go and do other business. But we believe by 8.30 p.m. we should have completed, if not everything, most of this.

Just for guidance of the House, although the Order Paper may look very crowded, if you look at half of the items on the Order Paper they are Sessional Papers. The tradition of this House is that for Sessional Papers, unless Members have fundamental issues, they are usually passed and adopted by the House after the Mover and the Seconder have talked. They do not really call for a lot of debate; they are for guiding the House and the Government into the future. They contain the basis of what is discussed in the Committee.

So, we might be able to finish, if we expedite the amendments to the Basic Education Bill and others in the Committee. Perhaps, by or at 8.30 p.m. we will have finished everything. If we will need to extend sitting time then we will be at liberty, if Members request, to come back for another Motion.

I wish to move and ask the Attorney-General to second.

The Attorney General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I beg to second.

(Question proposed)

(Question put and agreed to)

REDUCTION OF PUBLICATION PERIOD
FOR NATIONAL GOVERNMENT CO-ORDINATION BILL

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, pursuant to the provisions of Standing Order 107, this House orders that the publication period for the National Government Co-ordination Bill (Bill No. 74 of 2012) be reduced from 14 to 6 days.

Mr. Temporary Deputy Speaker, Sir, again this is one of the Bills that will define some of the issues that were left hanging in our Constitution, in terms of how the national Government will be co-ordinated, the functions of the Cabinet in the new dispensation; they were in the former Constitution but were left out of the new Constitution. There are issues relating to the interplay between the National Government and the county governments. Much as we have a situation where the Provincial Administration system is supposed to be reformed within the next five years--- Come election time and immediately after we will have three years running; between then and the next Parliament--- We will have a system that is already in place and a new system brought in by the new Constitution without a law that defines what the Governor will be

doing, what the Provincial Commissioner will be doing, what the District Commissioner will be doing; the two could end up bringing confusion. It is important that this matter is addressed by this House, which has had singular responsibility of ushering in the new Constitution for this country, and doing the ground work in terms of the county Bills and all the other Bills. With that institutional memory still intact in this House, it will be important that this House gets the opportunity to discuss these matters; if they are completed, so be it. If they are not completed, let them be given to the next House; we have input of what needs to be done. We may leave this to a new House that will have absolutely no idea of what we are talking about.

Hon. Ruto could be a Governor somewhere. Hon. Githae could be a Governor somewhere. Somebody else will be a Senator somewhere and this House will have lost the minds that have been at the centre of setting up this new system. It is very important that we tap that knowledge and experience before break. That is why we are asking, as the House Business Committee, that this matter be allowed to undergo First Reading. We can start formally discussing this matter between now and the time we go home. It is obligatory for the House to make a decision as to what amendments will be necessary to make sure that this law is in line with the new Constitution.

With those new words, I really wish to persuade Members to understand the importance of this Bill in terms of the harmony between the National Government and the county governments, between the functions of the new Cabinet and the new President, who will not be coming here. Ministers will not be coming here to lobby for these things. It is for us to think on their behalf and anticipate how this new Government will operate.

So, I wish not to belabour the point any further. I want to beg that we support this reduction; it will mean that we start on the Bill today instead of Thursday next week. It will save us two sitting days during which time the relevant Committee will be seized of the matter and will be discussing it. Next Tuesday, at an appropriate moment, we will then look for suitable time to bring it to Members for the Second Reading. At this point, we want this Bill to be committed to the Committee. That is why we are shortening the publication time; we do not want to wait until next Thursday; we can have it committed to a committee today; this will give us two more days of premium time. We do not have much time to play around with.

I beg to move and ask hon. ole Metito to second.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, this is a Procedural Motion. I will just appeal to my colleagues that they support the Bill when it comes up for Second Reading. I know there are some issues already raised; we are ready to sit down and build consensus at the appropriate time.

With those few remarks, I beg to second.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Mr. Imanyara): Next Order!

BILL

First Reading

THE NATIONAL GOVERNMENT CO-ORDINATION BILL

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

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, before we go to the next Order, and bearing in mind what the Leader of Government Business said with regard to Sessional Papers, which are merely formal publications of Government policy; and bearing in mind that the business under Order No.12 was placed on the Table of the House on 19th June, 2012, the business under Order No.13 was placed on the Table of the House on 14th August, 2012, the business under Order No. 14 was placed before the House on Wednesday, 21st November, 2012; the business under Order No.15 was placed before this House on 28th November, 2012, the business under Order No.16 was placed on the Table of the House on 28th November, 2012, the business under Order No.17 was placed on the Table of the House on 4th December, 2012; the business under Order No.18 was placed on the Table of the House on 5th December, 2012 and the business under Order No.19 was laid on the Table of the House on 5th December, 2012; this being very formal, if the House agrees, we will re-arrange the order of the business of the House and take ten minutes to go through those Motions because they require just under two minutes each, so that we can go into Committee and deal with the substantive issues before the House.

If that is agreeable, I order that we re-arrange the business of the House, so that we go straight to Order Nos.12 to 19, taking two minutes on each of them and then we return to Order No.11.

MOTIONS

ADOPTION OF SESSIONAL PAPER ON
NATIONAL FOOD AND NUTRITION SECURITY POLICY

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts Sessional Paper No. 1 of 2012 on National Food and Nutrition Security Policy, laid on the Table of the House on Tuesday 19th June, 2012.

I ask the Attorney-General to second the Motion.

The Attorney-General (Prof. Muigai) seconded.

(Question proposed)

(Question put and agreed to)

ADOPTION OF SESSIONAL PAPER
ON INTEGRATED NATIONAL TRANSPORT POLICY

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts Sessional Paper No. 2 of 2012 on Integrated National Transport Policy laid on the Table of the House on Tuesday 14th August, 2012.

Mr. Temporary Deputy Speaker, Sir, arising from this Sessional Paper, the House has already passed the Bills to operationalise the Act. So, the adoption of this Paper is just for record purposes.

I beg to move and ask the Minister for Finance to second the Motion.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, we have already amended the Bill that was intended for this policy.

I beg to support.

(Question proposed)

(Question put and agreed to)

ADOPTION OF SESSIONAL PAPER
ON NATIONAL PHARMACEUTICAL POLICY

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts Sessional Paper No. 4 of 2012 on National Pharmaceutical Policy laid on the Table of the House on Wednesday 21st November, 2012.

This basically explains some of the changes and reforms that are taking place within the medical services sector on the issue of the pharmaceuticals.

I beg to move and ask the Minister for Finance to second the Motion.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, this is a very important Motion.

I beg to second.

(Question proposed)

(Question put and agreed to)

ADOPTION OF SESSIONAL PAPER ON KENYA
HEALTH POLICY

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts Sessional Paper No. 6 of 2012 on Kenya Health Policy laid on the Table of the House on Wednesday 28th November, 2012.

This is again a straightforward matter. It is placed here for public record and for this House to refer to in the future.

I beg to move and ask the Attorney-General to second.

The Attorney-General (Prof. Muigai) seconded.

(Question proposed)

(Question put and agreed to)

ADOPTION OF SESSIONAL PAPER ON
UNIVERSAL HEALTH CARE COVERAGE IN KENYA

The Minister for Transport (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts Sessional Paper No. 7 of 2012 on the Policy on Universal Health Care Coverage in Kenya laid on the Table of the House on Wednesday 28th November, 2012.

This covers the broad issues of how the constitutional issues of universal health care will be achieved in a progressive manner and gives the basis for other laws to emanate from it in the future.

I beg to move and ask the Attorney-General to second.

The Attorney-General (Prof. Muigai) seconded.

(Question proposed)

(Question put and agreed to)

ADOPTION OF SESSIONAL PAPER ON
KENYA VISION 2030

The Minister for Transport (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts Sessional Paper No. 10 of 2012 on Kenya Vision 2030 laid on the Table of the House on Tuesday 4th December, 2012.

This aims at bringing the National Vision 2030 for formal adoption by the House. It has been guiding our development since 2008, and it is good for future direction and sharing within the framework of parliamentary practice.

I beg to move and ask the Attorney-General to second.

The Attorney-General (Prof. Muigai) seconded.

(Question proposed)

(Question put and agreed to)

ADOPTION OF SESSIONAL PAPER ON NATIONAL
POLICY FOR SUSTAINABLE DEVELOPMENT OF
NORTHERN KENYA AND OTHER ARID LANDS

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts Sessional Paper No.8 of 2012 on the National Policy for the Sustainable Development of Northern Kenya and other Arid Lands laid on the Table of the House on Wednesday, 5th December, 2012.

This sets out the policies of setting up of all those areas within the northern Kenya and a lot of the work that has been carried forward by that Ministry.

I beg to move and ask the Minister of State for Development of Northern Kenya and other Arid Lands to second.

The Minister of State for Development of Northern Kenya and other Arid Lands (Mr. I. E. Mohamed): Mr. Temporary Deputy Speaker, Sir, I second the policy. This policy will completely transform northern Kenya.

Thank you.

(Question proposed)

(Question put and agreed to)

ADOPTION OF SESSIONAL PAPER ON NATIONAL
INDUSTRIALIZATION POLICY FRAMEWORK FOR KENYA

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts Sessional Paper No. 9 of 2012 on the National Industrialization Policy Framework for Kenya 2012 - 2030 laid on the Table of the House on Wednesday 5th December, 2012.

Mr. Temporary Deputy Speaker, Sir, this policy framework sets the way our industrialization will take place as part of achieving our national Vision 2030.

I beg to move and ask the Minister for Finance to second.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, a country cannot develop without industrialization. That is why I support this policy paper.

Thank you.

(Question proposed)

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I was not aware that you had already passed that it will go by guillotine, so I wanted to talk.

The Temporary Deputy Speaker (Mr. Imanyara): There is no guillotine. Therefore, you are perfectly entitled to make a contribution.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I would like to support the Paper and say that I have actually gone through it. It has very good proposals; for value addition for agricultural products, for all other sectors, proposals on how to link things that will spur industrialization, how to link Ministries of Energy, infrastructure Ministries and many other things.

It is a very good paper, and I beg to support.

(Question put and agreed to)

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, we now go to Order No.11. At the request of Members, I am going to rearrange the business under that Order so that we begin with the Elections (Amendment) Bill (Bill No.72 of 2012).

Next Order!

Before we go to the next Order, what is your point of order, Mr. Githae?

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, first of all, I would really want to commend you for the way you have handled today's business. We have achieved so much in a very short period. May I request that the Leader of Government Business also brings to this House on Tuesday, Sessional Papers No.10, No.11 and No.12 so that we clear all Sessional Papers that have been laid on the Table of the House.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Githae, that is not a matter that you need to raise in the House. You are in the same Government.

As I said, in the business under Order No.11, we will begin with the Elections (Amendment) Bill.

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

*[The Temporary Deputy Chair
(Dr. Laboso) took the Chair]*

THE ELECTIONS (AMENDMENT) BILL

The Temporary Deputy Chair (Dr. Laboso): Hon. Members, we are now in the Committee of the whole House to consider the Elections (Amendment) Bill.

(Clause 2 agreed to)

(Clause 3 agreed to)

New Clause 2A

Mr. Midiwo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the following new clauses be inserted immediately after clause 2-
Amendment of Section 22
of No.24 of 2011.

2A. Section 22 of the principal Act is amended by inserting the following new subsection immediately after subsection (2)-

“(3) For purposes of the first elections under the Constitution, subsection (1)(b) shall not apply to the county assembly elections.”

Madam Temporary Deputy Chairlady, this is really just to give clarity to what is already in public domain as to the qualifications of people who will be contesting various elective posts; particularly to make public the ruling of the court and put it in law that post-secondary

requirement for these many Kenyans has been negated by court and that it should not be a requirement of any political party or the Electoral Commission.

(Question of the New Clause proposed)

(New Clause read the First Time)

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

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Madam Temporary Deputy Speaker, I want to support this amendment, given the amount of anxiety this has caused to many prospective ward assembly members, in particular, the areas which have been left behind in education. There are persons who have been councillors for more than 20 years. They have sat as chairmen of county councils. They can follow proceedings; they are literate and they have been left out from these positions.

The second reason for supporting this amendment is that in my county, which is Samburu County and the neighbouring counties, it will be very difficult to meet the constitutional threshold of one-third for women in ward assembly. In fact, very few will offer themselves for elections and for nomination to meet the one-third threshold. There will be no women aspirants literally and, therefore, we will have a crisis.

For those reasons, I support this amendment.

Mr. Ruto: Madam Temporary Deputy Chairlady, I also want to associate with this timely amendment. We have been expecting some clarifications from the Government but of course there is prevarication and confusion because the role of legislation belongs to Parliament. It is us in Parliament to clearly clarify as we are about to do, that leadership is sought from the citizens of Kenya.

Let the citizens decide who their leaders will be including in areas like county assemblies and even Parliament. The people will decide. But in this case, let us say county assemblies. Let the people decide. Let us not decide for them.

Ms. Karua: Madam Temporary Deputy Chairlady, I rise to support but I would like the Mover to clarify that we are supporting only as it relates to county assembly members in line with the ruling of the court and that we are exempting them for only this first election and thereafter, they are expected to upgrade their qualifications.

We are doing this in view of the onerous committee work that members of the county assembly are required to do. It would be a tragedy for us to abdicate the responsibility given to us by the Constitution to set qualifications, especially for Parliament.

Since the court only exempted county representatives, let us restrict ourselves---

An hon. Member: *(Inaudible)*

Ms. Karua: If it is to give effect to the ruling, I have no issue. As advised by the Attorney-General, let us give effect to the ruling.

Mr. Lessonet: Madam Temporary Deputy Chairlady, I stand to support this amendment and the sentiments of my colleagues that we really cannot use education, especially without notice to stop these aspirants from offering themselves for these elective posts. Some of these people have served very nicely in this House. We want to give them another chance. We want to give them five years to be in this House or in the county assemblies, if the electorate will allow

them, as they pursue education. This will ensure that in the next election, we can adequately implement the post-secondary or educational requirements as per this legislation.

Mr. Midiwo: Madam Temporary Deputy Chairlady, just for clarity the amendment which was submitted before the House is not quite clear. Since we have said we want to make it to be in conformity with the ruling of the court, I want to further amend the amendment to be in line with the court ruling. In so doing, I want the amendment to read as follows:-

THAT, for the purposes of the first elections under the new Constitution, Section 22(1)(b) and Section 24(1)(b) of the Elections Act, 2012, save for the position of the President, the Deputy President, the Governor and the Deputy Governor, shall not apply for the elections of the offices of Parliament and county assembly representatives.

That is what the ruling said.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we have got a long list of requests and we are really becoming repetitive. Do you really need to speak on this matter Mr. C. Kilonzo?

Mr. C. Kilonzo: Yes.

The Temporary Deputy Chairlady (Dr. Laboso): Let us hear what you have to say and I hope it is different.

Mr. C. Kilonzo: Madam Temporary Deputy Chairlady, what Mr. Midiwo has proposed is very different from his earlier amendment and that is the spirit. We are supporting it, but Parliament does not really say that we do not need to have qualifications. We are saying for the next elections after this, you must have the relevant qualifications. It gives opportunity to those who are disadvantaged so that they can prepare themselves five years from now to participate. But as it is now, I support.

*(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 2A be added to
the Bill, put and agreed to)*

New Clause 2B

Mr. Midiwo: Madam Temporary Deputy Chairlady, I wish to drop this particular amendment because Dr. Kones has a better one. So, I will support his.

(Proposed amendment by Mr. Midiwo withdrawn)

New Clause 2C

Dr. Kones: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the following new clause be inserted immediately after Clause 2-
**Amendment of Section 27
of No.24 of 2011.**

2A. Section 27 of the principal Act is amended by-

- (a) Renumbering the existing provision as subsection (1);
- (b) Inserting the following new subsection immediately after the renumbered subsection (1)-

“(2) A political party which has submitted its nomination rules to the Commission pursuant to subsection (1) may amend the rules and submit the rules as amended to the Commission, at least seven days before nomination of candidates for elections.

Madam Temporary Deputy Chairlady, the effect of this is that arising from what has been done ahead there in Section 29 of the Elections Act, in order for that to take effect we need also to allow political parties that have already submitted their regulation rules in the parent Act, which was to be done six months before nominations. We should be allowed to amend so that we take advantage of the amendment that has been proposed earlier by Mr. Midiwo.

(Question of the New Clause proposed)

(New Clause read the First Time)

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

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Midiwo, you said that you are happy with that amendment by Dr. Kones?

Mr. Midiwo: Yes, Madam Temporary Deputy Chairlady.

*(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 2C be
added to the Bill, put and agreed to)*

(Title agreed to)

(Clause 1 agreed to)

Mr. Midiwo: Madam Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of The Elections (Amendment) Bill and its approval thereof with amendments.

(Question proposed)

The Minister for Transport (Mr. Kimunya): On a point of order, Madam Temporary Deputy Chairlady. We had brought to the attention of the Mover of the Bill that within Clause 2, the new 3(A) intends to bring in the waiting cards, which are not provisional identity cards. It is actually an indication that you have applied for an identity card. You cannot then use that as a

voting document. So, we were to bring an amendment on that and that is why we need to recommit this. That amendment may not have come, but hon. Midiwo was supposed to move it, so that we limit what we are doing to allowing registration rather than voting.

The Temporary Deputy Chairlady (Dr. Laboso): Order, hon. Kimunya! We do not have in our records any amendment to what hon. Midiwo moved and was passed yesterday. You seem to be introducing something which is not in our records.

The Minister for Transport (Mr. Kimunya): That is why we are recommitting that clause to facilitate---

The Temporary Deputy Chairlady (Dr. Laboso): Are you moving that amendment?

The Minister for Transport (Mr. Kimunya): Yes, for a recommittal of Clause 2, Madam Temporary Chairlady. We should report to the House subject to a recommittal of Clause 2, and we had agreed with hon. Midiwo. He was going to ask for that.

The Temporary Deputy Chairlady (Dr. Laboso): But hon. Midiwo has not said anything and we are finishing with Clause 2.

Hon. Midiwo, could you, please, clarify?

Mr. Midiwo: Madam Temporary Deputy Chairlady, I did not because I was trying to debate with hon. Kimunya and quite frankly, I do not understand where the problem is and why we have to recommit. We said that we will recommit and consult, but generally, I am not for the idea.

The Temporary Deputy Chairlady (Dr. Laboso): In that case, we will continue to---

Hon. Attorney General!

The Attorney General (Prof. Muigai): Madam Temporary Deputy Chairlady, I would plead with you to allow us to reopen that matter in that limited sense, for the reasons that hon. Kimunya has given.

Madam Temporary Deputy Chairlady, the problem would be that if we were to take this amendment and it was returned to this House--- We have no time and do not wish that any technicality should arise. The argument being made is that if you have notified the Registrar that you wish to take an identity card and you have been issued with a waiting card--- That in itself is not an identity card. It may very well turn out that the Registrar may decline to register you for one of several reasons, including his having found out that you were, otherwise, not qualified to be a registered Kenyan, either because you are a refugee or otherwise. So, to make that document a basis of voting would open a possibility of fraud. What we are trying to avoid here is fraud. So, what I would recommend is that we reopen it to that small extent that says that you will use this to register, but not vote. We will give you the days between registration and voting to get your real identity card. I know that---

Hon. Members: Tasha!

The Attorney General (Prof. Muigai): *Haya tumekubaliana!*

The Temporary Deputy Chairlady (Dr. Laboso): Order, hon. Members! Allow us to continue with the programme as we are going on, but you will at the point of reporting indicate that you would want it to be recommitted. That is when we will be reporting on all the Bills that we have to clear today. We will only come back to recommit the clause on The Elections (Amendment) Bill, like we have always done. We are not reporting now. We will report once we have gone through the Committee of the whole House.

I will then put the Question, which is, that the Committee doth report to the House its consideration of The Elections (Amendment) Bill, 2012, and its approval thereof with amendments, subject to the recommittal of Clause 2.

(Question put and agreed to)

We will now move to the next Bill, which is The Basic Education Bill (Bill No.46 of 2012).

THE BASIC EDUCATION BILL

The Temporary Deputy Chairlady (Dr. Laboso): Okay, hon. Members. Again, just as a reminder, we in the Committee of the whole House to consider the Basic Education Bill, Bill No.46 of 2012.

Clause 2

The Minister for Education (Mr. M. Kilonzo) Madam Temporary Deputy Speaker, Sir, I beg to move:-

THAT, the Bill be amended by inserting a new interpretation to read as follows: “Parents Association” to mean an association as prescribed in the sub clause 53 (2) and,

THAT the Bill be amended by inserting a new interpretation of “Pastoral Programmes” to read as follows:

“Pastoral programmes of instruction means the curriculum designed by different Christian churches (Roman and Protestant) in collaboration with the Ministry of Education and approved by the Cabinet Secretary to teach learners knowledge and practices of their specific religious tradition.”

Madam Temporary Deputy Chairlady, by inserting the new definition of “Parents Association” it is pretty obvious. Then on “Pastoral Programmes”, allow me to amend my amendment by deleting all the words in the second line, that is the words in brackets (Roman and Protestant). That is as a result of consultations with the Education Committee itself and I want to thank the Chairman and stakeholders.

(Question of the amendment proposed)

Mr. Koech: Mr. Temporary Deputy Chairlady, I want to thank the Minister for that deletion but I wanted him to make it clearer that he is deleting from the words “Roman and Protestant” all the way up to the end. Make that clear because that is not what you said?

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, yes, indeed, I am deleting the words in brackets (Roman and Protestant) all the way from Clause 2 to the end.

Mr. Koech: Madam Temporary Deputy Chairlady, maybe for clarity, it should now read: “Pastoral programmes of instruction means the curriculum designed by different Christian churches.”

Mr. Balala: On a point of order, Mr. Temporary Deputy Chairlady. Why only Christian churches? I think we should open it to other religions. I will request the hon. Chairman of the Education Committee as well as the Minister to make it inclusive to accommodate Muslims so that we are an inclusive nation.

Mr. Koech: Madam Temporary Deputy Chairlady, let me make it clear to my good friend, hon. Balala that pastoral programmes again refer to Bible study and prayers in the Christian faith but we have also captured in the same Bill *Duksi* and *Madrassa* to take care of the other denominations.

Mr. Balala: Madam Temporary Deputy Chairlady, I appreciate what he has said but we also have pastoral programmes which are being developed now which include the Islamic religion and other religions. So, could you just open it wider instead of specifically saying a specific religion, just for harmonization?

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I just wanted to repeat what the Chairman of the Education, Research and Technology Committee has said. I want to assure the hon. Member whom we respect a great deal that as the Bill goes along, he will realize that we have incorporated everybody. There is also protection of Muslims, Hindus and whatever religion you belong to.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I just want to notify you that I also have an amendment on Clause 2.

The Temporary Deputy Chairlady (Dr. Laboso): We are coming to that. Let us dispose of the Minister's amendment.

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

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

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-
THAT clause 2 of the Bill be amended-

- (a) by inserting the following new definitions in proper alphabetical sequence-
“mobile school” means a formal flexible institution that allows for mobility of pupils and teachers and is specifically designed to suit the needs of migrant communities”
“programmes of pastoral instruction” means the curriculum designed by different christian churches in collaboration with the Ministry of Education and approved by the Cabinet Secretary to teach learner’s knowledge and practices of their specific faith traditions”
“private school” means a school established, owned or operated by private individuals, entrepreneurs and institutions”
- (b) by deleting the definition of the word “Director General” and substituting therefor the following new definition-
“Director General” means a person appointed under the Public Service Commission Act, and responsible to the Cabinet Secretary.
- (c) by deleting the definition of the word “Duksi” and substituting therefor the following new definition-
“Duksi” means Islamic elementary institution that offers Quranic education and other related subjects
- (d) by deleting the definition of the word “head teacher” and substituting therefor the following new definition-
“head teacher” has the meaning assigned to it under the Teachers Service Commission

Act;

(e) by deleting the definition of the word “madrassa” and substituting therefor the following new definition-

“madrassa” refers to structural Muslim educational institutions or schools that offer Islamic and other subjects and are laddered from primary to secondary.

(f) by deleting the definition of the word “teacher” and substituting therefor the following new definition-

“teacher” has the meaning assigned to it under the Teachers Service Commission Act;

(g) by deleting the definition of the word “untrained teacher”

(h) in the definition of the word “manager” by inserting the words “in consultation with the proprietor” immediately after the word “Cabinet Secretary”

(i) in the definition of the word “curriculum” by deleting the word “prescribed” and substituting therefor the word “approved”.

(j) in the definition of the word “school”-

(i) by deleting the words “ non-formal education” appearing immediately after the words “ adult and continuing education”

(ii) by deleting paragraph (a) and substituting therefor the following new paragraph-
“(a) any institution or assembly for which a Cabinet Secretary other than the Cabinet Secretary responsible for matters relating to basic education and training, is responsible”.

(k) by deleting the definition of the word “principal” and substituting therefor the following new definition-

“Principal” has the meaning assigned to it under the Teachers Service Commission Act”;

(l) by deleting the definition of the word “professional teacher”

I proposed that the definition of “programmes of pastoral instruction” be deleted because we have already taken care of it under the Minister’s amendment.

The Temporary Deputy Chairlady (Dr. Laboso): So, you have dropped your amendment?

Mr. Koech: Madam Temporary Deputy Chairlady, I am dropping only the amendment on the definition of “programmes of pastoral instruction” but the rest, I propose.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Dr. Laboso): There is a further amendment on Clause 2A by hon. Isaac Ruto. Is he not here?

Mr. Koech: Madam Temporary Deputy Chairlady, I do not know if being the Chairman of the Education, Research and Technology Committee, you could allow me to move his amendment. This is because having looked at hon. Ruto’s amendment, it is actually trying to remove the word “or” and “replace it with the word “and” and I want to support that amendment.

The Temporary Deputy Chairlady (Dr. Laboso): So, are you moving the amendment on his behalf?

Mr. Koech: Yes, Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 2 of the Bill be amended in the definition of the word “sponsor” by deleting the words “infrastructural or spiritual” and substituting therefor the words “infrastructural and spiritual” as proposed by hon. Isaac Ruto.

The Temporary Deputy Chairlady (Dr. Laboso): I think I will use my discretion to allow as you are the Chairman.

(Question of the amendment proposed)

Mr. Kiptanui: On a point of order, Madam Temporary Deputy Chairlady. Whereas I do not have an issue with the amendment by hon. Koech, is it procedural that in the absence of an hon. Member who was to move an amendment, anyone can move in this House?

The Temporary Deputy Chairlady (Dr. Laboso): It is not anyone. I think I clarified clearly that I am giving him that latitude because he is the Chairman of the Education, Research and Technology Committee and not any other hon. Member. So, either it is the Minister or the Chairman that I am willing to bend the rules. It is not really bending the rules if the amendment is acceptable both to the Minister as well as the Chairman of the Committee.

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

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

The Temporary Deputy Chairlady (Dr. Laboso): There is a further amendment by hon. Millie Odhiambo.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I beg to move:-

THAT Clause 2 of the Bill be amended in the definition of “National Council for Nomadic Education” by inserting the words “marginalized and” immediately after the word “Council”

What I seek to do is to widen the definition of “National Council for Nomadic Education” to include “marginalised” so that it will be “marginalised and nomadic.”

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): I can see the Minister nodding and I guess the Chairman too is happy with the amendment.

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

(Clause 2 as mended agreed to)

(Clause 3 agreed to)

Clause 4

The Temporary Deputy Chair (Dr. Laboso): We will start with Mr. Koech and then Mrs. Odhiambo-Mabona.

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 4 of the Bill be amended

(a) by inserting the words “in pre-primary and lower primary level of education” immediately after the words “every child” appearing in paragraph (f)

(b) in paragraph (q) by inserting the words “Teachers Service Commission” immediately after the words “Cabinet Secretary”.

(Question of the amendment proposed)

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

The Temporary Deputy Chairlady (Dr. Laboso): Mrs. Odhiambo-Mabona, we have been informed that your amendments came quite late and, therefore, they require a little explanation for the Members to understand their import.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, they came here late, but I had brought them earlier. I have several amendments in Clause 4. Maybe, I can deal with all of them at the same time.

I beg to move:-

THAT, Clause 4 of the Bill be amended-

(a) By deleting the word “unfair” appearing immediately after the words “child against” in paragraph (e).

(b) By inserting the following new paragraph immediately after paragraph (e)-

“(ea) protection of the right of every child in a public school to equal standards of education including the medium of instructions used in the schools for all children of the same educational level”

(c) By inserting the following new paragraph immediately after paragraph (n)-

“(na) promoting the respect for the right of the child’s opinion in matters that affect the child”

(d) By inserting the following new paragraph immediately after paragraph (p)-

(pa) promoting the protection of the right of the child to protection, participation, development and survival”.

In Clause 4(e), I am seeking to delete the word “unfair”, because it talks of unfair discrimination. If we leave the words “unfair discrimination”, it means that there are instances where we say discrimination is allowed. Unless we are saying very clearly affirmative action, people may misunderstand that. If I look at the Bill, it is not talking of affirmative action. That is why I am suggesting that we have discrimination and not unfair discrimination because two negatives in this instance do not make sense.

I am also seeking to insert a new sub-clause (ee), which basically seeks to equalize the standards of education for all children in the country. Currently, we have different standards, especially by the medium of instruction.

In Clause 4(f), I am basically saying without prejudice to the amendments I have brought ahead, any child can then chose to be instructed in a language they want, because that is also a right. We provide a very clear standard, but every child then has a right. I have shared the same with the Minister and he has seen them. The last one is a new clause (nn), which is promoting the respect for the right of the child's opinion in matters that affect the child. That is a constitutional provision. Again, Clause 4 is basically giving a summary of the new clause (pp) which is giving a summary of all children's rights. The children's parlance, when you talk about protection, participation, development and survival, it encompasses all rights. For instance, protection talks to issues of abuse, sexual abuse, slapping and all that. In summary, those are my amendments for all the sub-clauses.

The Temporary Deputy Chairlady (Dr. Laboso): Could you just help us to understand where they would come then? How would it read when you put your amendments? Where exactly do those words come in?

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, Clause 4(f) would read: "Without prejudice to sub-clause (e); advancement and protection of every child to be instructed in the language of his or her choice where this is reasonably practicable". So, without prejudice to the foregoing.

The Temporary Deputy Chairlady (Dr. Laboso): So, that will come at the beginning of (f). I want to see the Minister and the Chair of the Committee. The Minister is fine.

Mr. Koech: Madam Temporary Deputy Chairlady, I want to thank Mrs. Odhiambo-Mabona. I know she is a real protector of the child, but for clarity so that we are not confused, we are seeing (ee), (nn) and (pp). I do not know whether these were typing errors, so that it is very clear that it is referring to (e), (n) and (p). In Clause 4(f), I would rather have wanted to see her put the words "without prejudice to (e) above". The word "above" should help us, so that it is flowing.

The Temporary Deputy Chairlady (Dr. Laboso): I think those can be clarified by the secretariat. They can clean it up.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, perhaps, what I would clarify is what I have seen as a practice, that when you want to insert a clause in-between and there are already letters, then you double them. Then when the drafters will be looking at them, they will be put sequentially. However, I want to take on what the Chairman is saying and do a further amendment to Clause 4(f) and say "without prejudice to (ee) above."

The Temporary Deputy Chairlady (Dr. Laboso): I think that is clarified. The Clerks and the drafters can do the rest.

(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
be inserted, put and agreed to)*

(Clause 4 as amended agreed to)

Clause 5

Mr. Koech: Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 5 of the Bill be amended-

(a) in sub-clause (2) by inserting the words “Teachers Service Commission” immediately after the word “commission” appearing in paragraph (a);

(b) in paragraph (e) of sub-clause (2) by deleting the word “assigned” and substituting therefor the word “referred”

(c) by inserting the following new sub-clause immediately after sub-clause (2)-

“(3) The National Education Board shall generate and cause to be published an annual report on the state of education and service delivery in the country”

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Dr. Laboso): There is a further amendment by Mrs. Odhiambo-Mabona.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 5 of the Bill be amended in sub-clause (2) by inserting the following new paragraph immediately after paragraph (d)-

“(d) putting measures to ensure where applicable transition to the next level of education, especially for the vulnerable and marginalized children.”

I am seeking to put measures in place for transition. We have just talked about admission and retention without transition. For vulnerable communities and groups like girls, the issue of transition is usually a problem from one level of education to the other. So, I am seeking to give that mandate for ensuring that there is smooth transition for girls.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): I can see agreement from the Minister and the Chairman as well.

Mr. Koech: On a point of order, Madam Temporary Deputy Chairlady. Thank you for indulging me. As you rightly put it, these amendments came quite a bit late and I am trying to look at Clause 5(2)(d). It reads:- “Putting measures in place to ensure all children attend and remain in school to complete basic education requirements”. In this Bill, basic education goes up to the second level. So, I am wondering whether Mrs. Odhiambo-Mabona’s amendment is not repeating what Clause 5(2)(d) has taken care of.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, if you look at the amendment, the word that makes the difference here is “transition”. I am talking about transition

and it is not covered in (d). If we leave out the role of transition without situating it anywhere, then you will not have anybody having that responsibility for transition. It is either the Authority that deals with basic education or secondary education, but because it is a transitional thing, it should be the basic education that has a role. We have not situated it anywhere. So, it is very different from (d).

The Temporary Deputy Chairlady (Dr. Laboso): That is clear. They can remain in school, but remain in primary school or secondary school without moving from one level to the next.

(Mr. Ruto consulted Mr. Koech)

Order, Mr. Ruto and Mr. Koech! The Chair of the Committee is engaged with Mr. Ruto.

Order Mr. Ruto! The Committee Chair has made a proposal and then he is not listening. Have you heard Mrs. Odhiambo-Mabona's explanation? We are not going back; I will only explain to you about transition.

Mr. Koech: Madam Temporary Deputy Chairlady, that is why I was saying that Clause 5(2)(d) is actually referring to ensuring completion of basic education. I made it very clear that basic education here is from primary school all the way to secondary school as defined in this Bill. So, transition is from primary to secondary unless you are talking of transition from secondary to another level.

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, as a matter of fact, the most attractive phrase in this proposal by my student - obviously you can see I teach well - is "especially for the vulnerable and marginalized children". She is putting emphasis on a class of children that does not appear in (d) that I had drafted and that is why I accepted it.

Mr. Balala: On a point of order, Madam Temporary Deputy Chairlady. We wanted a clarification from the Minister on the definition of "basic education" and the "transition" that Mrs. Odhiambo-Mabona was talking about. Is it basic education in primary and secondary school, or is it the normal basic education as we understand it, that is up to Standard Eight?

The Minister for Education (Mr. M. Kilonzo): May I assure my brother and friend that basic education is an entitlement of a child under Article 53 and the Constitution defines a child as age zero to age 18 years. Therefore, the Chair is right that the existing (d) covers completion of that basic education, but this country should be aware that we now have more than one million children out of school in marginalized areas; there are those who are subject to vulnerability like the girl-child. That is why my student's proposal was so attractive to me. I really recommend it to the House.

The Temporary Deputy Chairlady (Dr. Laboso): Therefore, I put the Question, which is that Clause 5 be further amended as proposed by Mrs. Odhiambo-Mabona.

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

(Clause 5 as amended agreed to)

(Clause 6 agreed to)

The Temporary Deputy Chairlady (Dr. Laboso): The attention of the House should be drawn to the fact that Clause 7 is missing from the Bill. We will deal with New Clause 7 at the end of this exercise.

Clause 8

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 8 of the Bill be amended-

(a) by inserting the following new paragraph immediately after paragraph

(b)-

“(ba) has had a distinguished career in their respective fields”

(b) in subclause (2) by inserting the following new sub-paragraph immediately after sub-paragraph (2) (b) (iv)

“(iva) human rights;

(Question of the amendment proposed)

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

(Clause 8 as amended agreed to)

(Clause 9 agreed to)

Clause 10

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 10 of the Bill be amended in sub-clause (2) by-

(a) deleting paragraph (e) and substituting therefor the following new paragraph-

“(e) three persons nominated by the following bodies-

(i) a joint forum of the National Council of Churches of Kenya and the Evangelical fellowship of Kenya;

(ii) the Kenya Episcopal Conference: and

(iii) the Muslims Education Council.

(b) deleting paragraph (f) and substituting therefor the following new paragraph-

“(f) one person to represent the Kenya Private Sector Alliance”

(c) deleting paragraph (h) and substituting therefor the following new paragraph-

“(h) two persons to represent trade unions of teachers;”

(d) by inserting the following new paragraph immediately after paragraph

(h) –

“(i) one person to represent an association of parents;”

(e) by deleting sub-clause (3) that reads as follows-

“(3) The Selection Panel shall provide three names among the members to the Cabinet Secretary who shall appoint the Chairperson”

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Yakub, do you have an amendment?

Mr. Balala: Madam Temporary Deputy Chairlady---

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Balala, I will not allow you to take his place because you are not the Committee Chair. So, that amendment is dropped.

Mr. Balala: Madam Temporary Deputy Chairlady, we are in agreement with the Minister that this amendment be brought although Mr. Yakub had to fly back. I discussed it with the Minister and he is in agreement with his amendment.

The Temporary Deputy Chairlady (Dr. Laboso): Then the Minister can move the amendment. I had only allowed the Chair of the Committee or the Minister to do so.

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I wish to adopt the proposal to amend Clause 10 by Mr. Yakub, but not the whole of the amendment; I am talking about just the amendment that is on the table.

The Temporary Deputy Chairlady (Dr. Laboso): Could you just give a short explanation to the hon. Members on what that is all about.

The Minister for Finance (Mr. M. Kilonzo): Mr. Temporary Deputy Chairlady, on behalf of Mr. Yakbu, I beg to move:-

THAT, Clause 10 of the Bill be amended in sub-clause (10) by deleting the words “regional and ethnic balance” and substituting therefor the word “regional, ethnic and religious balance.”

(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)

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 10 of the Bill be amended –

(a) in sub-clause (2) by inserting the following new paragraph immediately after paragraph (h)-

“(i) one person to represent organizations dealing with children’s rights”

(b) by inserting the following new sub-clause immediately after sub-clause (8)-

“(8A) in rejecting a nominee or nominees, the Cabinet Secretary shall attach a memorandum indicating the reason for such rejection”

I have several amendments to Clause 10. In Clause 10(i) I am seeking to delete the word “convene”. It says that the Cabinet Secretary shall within 14 days of the occurrence of a vacancy, convene a selection panel. So, I am saying we delete the word “convene” and replace it with the word “appoint” a selection panel for the purposes of selecting; it is not just convening a panel because it is not transparent or open.

Then in Clause 10(ii) I wish to amend to include an organization dealing with children’s rights because education is about children. In Clause 10(8) by renumbering the clause as Clause 10(8)(i) and inserting a new sub-clause (2), that is where there is rejection of nominees, there should be given a reason for the rejection. Those are my amendments to Clause 10.

(Question of the amendment proposed)

Mr. Koech: Madam Temporary Deputy Chairlady, I have no problem with that. However, I wanted to seek further clarification. Now that we are adding one extra person, the board will be enlarged and we need to clarify that. We expect in any committee or panel to have an odd number. If we add one more person, we will have a challenge. I want that to be clarified.

The Temporary Deputy Chairlady (Dr. Laboso): Could the Minister say something regarding that matter; making it an even number and not an odd number?

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I am well aware of the size of the board. One person to represent organizations dealing with children’s rights is welcome for the purpose of this law because of the emphasis on children’s rights on education in Article 53. For balance, it is far much better if we include this person than merely leave him or her out due to fear of the numbers.

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

(Clause 10 as amended agreed to)

(Clauses 11, 12, 13, 14, 15 and 16 agreed to)

Clause 17

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 17 be deleted and replaced with the following new clause-
County
Education
Board.

17. (1) There is established a County Education Board for every county.

(2) The County Education Board established under sub-clause (1) shall be an agent of the National Education Board.

We are proposing that Clause 17 be deleted and replaced with the new clause, that there will be an established County Education Board for every county. The County Education Board established under that subclause shall be an agent of The National Education Board. The reason

behind this is that education has been placed under the national Government and we want to bring clarity that the County Education Board will be an agent of the National Education Board so that we do not contradict the Constitution.

(Question of the amendment proposed)

Mr. Njuguna: Madam Temporary Deputy Chairlady, I support the amendment.

Mr. Ruto: Madam Temporary Deputy Chairlady, I do not think that was very necessary. It is obvious that it is an agent of the national Government. However, too much legislation on it will make the outfit become an impediment to delivery of service. It will then be in a straight jacket, that it refuses further consultation around there by simply relying on that clause. That will be a national Government thing and the locals will have nothing to do with it. I do not think it was necessary for us to bring this. It will form a basis of unnecessary disputes, when it was not in any way challengeable.

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, allow me to assure the hon. Member that the original draft did not create the County Education Board. If you look at Schedule Four of the Constitution, which so ably helped us to craft this in Naivasha and other places, the National Education Policy is the function of the national Government. Therefore, the national Government, after establishing the National Education Board should have a County Education Board, if nothing else, to form a linkage. This provision that it is an agent is purely a matter of explaining that the function has been delegated by the National Education Board. This is because the county cannot establish an education board for purposes of educational policy. This is in Schedule Four, Article 186. I need to persuade my friend to accept this.

Mr. Koech: Madam Temporary Deputy Chairlady, I switched on before the Minister and I think he has explained what I wanted to explain.

The Temporary Deputy Chairlady (Dr. Laboso): Thank you. I believe that we are retaining it. However, we will know from hon. Members whether they want to retain the amendment or not.

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

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

(Clause 17 as amended agreed to)

Clause 18

Mr. Ruto: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended in Clause 18 by inserting the words “and the county government” at the end of paragraph (b) of sub-clause (1).

Madam Temporary Deputy Chairlady, the function of the County Education Board shall be to oversee, in consultation with the county governments, coordinate and monitor education and training in the county on behalf of the national Government.

You will remember that we have put in things like the ECD in this section and it is essential that the two work together. If you are bringing in the ECD, which is the function of the county governments, it is not necessary to have a separate county education board for ECDs and another one for primary schools.

(Question of the amendment proposed)

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

(Clause 18 as amended agreed to)

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 18 of the Bill be amended in sub-clause (1)-

(a) by deleting the word “village” appearing in paragraph (a) and substituting therefor the word “youth”

(b) by inserting the words “and school based audit report” immediately after the word “implementation” appearing in paragraph (k)”

(c) by inserting the following new sub clause (2) as follows-

“(2) The County Education Board may in consultation with the National Education Board and relevant stakeholders appoint a sub county education office with clear functions and powers”

We are running away from village polytechnics. They are now called “youth polytechnics”. I want to make that clear.

(Question of the amendment proposed)

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I just wanted to put it clear that the Chair and his Committee have been very kind to the Ministry. All the amendments proposed by the Chair have been expressly agreed to by me and, therefore, I will merely be nodding. I will not say anything else.

*(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)*

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I wish to propose further amendment to Clause 18(1a).

I beg to move:-

THAT, Clause 18 of the Bill be amended in sub-clause (1) by deleting the words “pre-primary education including early childhood care” appearing in paragraph (a)”

The essence is basically to remove pre-primary education, including early childhood care. The reason is that the Constitution is very clear that, that is a role of the county government and here we are giving it to the national Government. So, what we are doing is unconstitutional.

I am proposing that we actually do what is constitutional. I have spoken with the Chairman of the Committee and he said what informed them was the need to mainstream early childhood and force the Government to pay. But what we are forgetting is that we will not be dealing with the central Government come next year. We will be dealing with two levels of Government. So, county governments will themselves be governments. They will be able to pay, so long as you mainstream it, as a function of a county government, and not a function of a national Government.

So, I am proposing a deletion.

(Question of the amendment proposed)

Mr. Koech: Madam Temporary Deputy Chairlady, I have listened to hon. Odhiambo-Mabona. We are saying the function of the County Education Board will be to oversee, in consultation with the county government. I think that should come out very clearly.

Madam Temporary Deputy Chairlady, the composition of the County Education Board will include a representative of the Cabinet Secretary and a representative of the County Governor. So, we are actually talking of a management board that will have members from the county government. We are talking of “in consultation”. I think this is very key.

Mr. Ruto: Madam Temporary Deputy Chairlady, in fact, it will only be an agent of the national Government. That is why I was bringing in my amendment, that the county government will also be part of this. The function of this education board will include functions that are assigned to the county governments. That was why I was saying that the central Government and the county government--- For operational purposes, it may not make a lot of sense to have two education boards, one for early childhood development and another one for the other level of education. We are trying to mainstream these things. That was why you carried my amendment; we should also include the county government as one of the two principals to this. That will then really take care of the need for hon. Odhiambo-Mabona’s amendment. If we take hon. Odhiambo-Mabona’s amendment, then we have to revert to my amendment and delete county governments. In this case, I think hon. Odhiambo-Mabona’s amendment is not necessary.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, listening to hon. Ruto, sorry, I missed his amendment; if his amendment does that, then I will be comfortable. But I am not comfortable with the reasoning of the Chair of the Committee because that is how you water down devolution; you are saying that you are going to leave the national Government to do things with the county government “in consultation.” These are two distinct or separate entities as per the Constitution. So, one is not going to be taking another’s role through consultation. One will play its role, and the other will play its role. When you are playing your role then you can consult. But you cannot take somebody’s role and then consult them on their role. So, if hon. Ruto has included the county then I am okay. I can withdraw mine.

The Temporary Deputy Chairlady (Dr. Laboso): So, that is an amendment dropped.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 18 as amended agreed to)

(Clause 19 agreed to)

Clause 20

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT Clause 20 of the Bill be amended in sub-clause (1)-

(a) by deleting the word “eight” and substituting therefor the word “twelve”

(b) by deleting the words “ eminent educationist” appearing in paragraph (a) and substituting therefor the words “educationist of at least five years standing”

(c) by deleting the words “county governor” appearing in paragraph (c) and substituting therefor the words “County Executive in charge of education”.

(d) by deleting the word “a” appearing in paragraph (h) of sub-clause (1) and substituting therefor the word “two”

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

(e) where applicable, one person each representing;-

(i) jointly, the National Council of Churches of Kenya and the Evangelical fellowship of Kenya;

(ii) the Kenya Episcopal Conference;and

(iii) the Muslims Education Council .

(f) by deleting the words “a representative” appearing in paragraph (g) and substituting therefor the words “two representatives”

(g) by inserting the following new paragraph immediately after paragraph (i)-

(j) two members nominated by the following bodies—

(i) the Primary School Head Teachers’ Association; and

(ii) the Secondary School Principals’ Association.

The explanation is that we have actually expanded the board; we had a chairperson and eight members. We felt it was necessary to expand this board.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Dr. Laboso): There is a further amendment by hon. Yakub. Is the Minister taking that amendment or nodding.

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 20 of the Bill be amended in sub-clause (2) by deleting the words “regional and ethnic balance” and substituting therefor the words “regional, ethnic and religious balance”

Again, this is similar to the earlier amendment proposed by my good friend, hon. Yakub; I adopt it.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): Mrs. Odhiambo-Mabona, is it your amendment or this amendment? At least, be putting it at the right time, so that we do not get confused.

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

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

The Temporary Deputy Chairlady (Dr. Laboso): The hon. Odhiambo-Mabona, move your amendment.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 20 of the Bill be amended-

(a) in sub-clause (1) -

(i) by inserting the words “through an open and competitive process and shall include” immediately after the words “Cabinet Secretary”

(ii) by deleting the word “ as follows” appearing immediately after the word “ Cabinet Secretary”

(iii) by inserting the following new paragraph immediately after paragraph (i)-
“(j) a representative of a child rights organization”

(b) in sub-clause (3) by deleting the words “as may be determined by the Cabinet Secretary from time to time” appearing at the end of the sub-clause.

I am dropping 20(1)(e), which is No.14 in my order. The import of 20(1) is basically to make the process open and competitive, and then Clause 20(1) to include a representative of a child rights organization. I have given the reasons; 20(3) to delete the words “as maybe determined by the Cabinet Secretary from time to time”; I do not know how a Cabinet Secretary will be determining secondary education certificate from time to time. So, it does not make sense to me both grammatically and legally. I am proposing an amendment to 20(3).

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): The Minister accepts it.

(Mrs. Odhiambo-Mabona consulted Mr. Koech)

Chair, we do not have the opportunity to wait for you to comment; could we move? Yes, Koech.

Mr. Koech: Just for purposes of clarity, I am sorry you had to wait for me because I have actually not been able to consolidate this. I am wondering whether hon. Odhiambo-Mabona has looked at my proposed amendments that I have gone through because we have actually expanded

the board; we have taken care of some of the people. My concern here is that if she is adding to this, then she must also amend the number; that means the number will also go up. If we are agreeable that we add a person, then we must also amend what I have already amended.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I do not think his amendment takes into account--- I am concerned about an organization dealing with children's rights in one of the amendments.

Given that the Minister is not opposed to my amendment, he can bring an amendment to increase the number; even the Chair himself can do so. Since the one on number is his amendment, the Minister can do that, because he is the one with the mandate to that. But the rest, I think is very clear.

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Chairlady, yes, indeed, I beg to move an amendment to the composition to be increased sufficiently to accommodate the addition that hon. Odhiambo-Mabona, my very able student, has proposed.

Mr. Koech: Madam Temporary Deputy Chairlady, could I then move a further amendment to my amendment so that we capture it immediately here?

The Temporary Deputy Chairlady (Dr. Laboso): But it will still be captured as hon. Odhiambo-Mabona's amendment. I think it is fine whichever way. It is already on the Order Paper.

Mr. Koech: That is fine.

(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 20 as amended agreed to)

(Clauses 21 and 22 agreed to)

Clause 23

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT Clause 23 of the Bill be amended by-

(a) by deleting the word "remuneration" appearing immediately after the word "such" and,

(b) by deleting the word "fees" appearing immediately after the word "remuneration".

The way the Bill is crafted is such that it looks like it will be a very attractive position which will attract some allowances or other extra expenses. We thought that traditionally, this is a job for which people offer themselves and if there is anything to be paid, it should be some travel allowance. So, we wanted to remove that kind of perception.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Dr. Laboso): I can see that the Minister is nodding in agreement.

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

(Clause 23 as amended agreed to)

Clause 24

The Temporary Deputy Chairlady (Dr. Laboso): Yes, hon. Millie Odhiambo.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I have looked at the Bill and seen that there is room for co-option of certain specific skills. So, I wish to withdraw my amendment to Clause 24.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 24 agreed to)

Clause 25

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 25 of the Bill be amended in sub-clause (2)-

(a) by deleting the word “village” appearing in paragraph (e) and substituting therefor the word “youth”; and,

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

(g)-

“(h)” dispute resolution”.

Madam Temporary Deputy Chairlady, it is for the same purpose that we are replacing “village polytechnic” with “youth polytechnic”.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): Yes, hon. Isaac Ruto.

Mr. Ruto: Madam Temporary Deputy Chairlady, I want to propose that Clause 25(1) be amended. The roles of the county government shall include the provisions of funds required to---

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Isaac Ruto, are you bringing an amendment to Clause 25?

Mr. Ruto: Yes, Madam Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Ruto, that is a new amendment. You are not listed as one that had an amendment for this particular clause.

Mr. Ruto: Madam Temporary Deputy Chairlady, my amendment is listed as a new clause.

The Temporary Deputy Chairlady (Dr. Laboso): The new clauses will come at the end. So, hold your horses, hon. Isaac Ruto.

(Question, that the word to be left

out be left out, put and agreed to)

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

The Temporary Deputy Chairlady (Dr. Laboso): Yes, hon. Millie Odhiambo.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 25 of the Bill be amended in sub-clause (2) by inserting the following new paragraph immediately after paragraph (g)-
(h) human rights and gender”

Madam Temporary Deputy Chairlady, the amendment is meant to provide for a specialised committee on human rights and gender, which takes into account child rights issues.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): I can see that the Minister is nodding in agreement. I believe that the Chair of the Departmental Committee is also nodding.

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

(Clause 25 as amended agreed to)

Clause 26

The Temporary Deputy Chairlady (Dr. Laboso): What is your point of order, hon. Isaac Ruto?

Mr. Ruto: Madam Temporary Deputy Chairlady, I am not quite clear as to when you want me to move my further amendment to Clause 25. It is a new clause.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Ruto, all new clauses will come at the end.

Mr. Ruto: At midnight, Madam Temporary Deputy Chairlady?

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Ruto, your amendment is listed as New Clause 25A, at the end. So, just do as I had earlier ordered – that you hold your horses.

Proceed, hon. Koech.

Mr. Koech: Madam Temporary Deputy Chairlady, I am surprised that my good friend is doing his – is it first term? He is here to understand these things, which I crafted some five years ago.

Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 26 of the Bill be amended –

(a) by deleting paragraph (a);

(b) by deleting the words “recommendation of” appearing in paragraph (b) and substituting therefor the words “participate and make recommendations”;

(c) by deleting paragraph (d) and substituting therefor the following new paragraph-

“(d) to provide supervisory and advisory services in matters regarding spiritual development in schools including the appointment of chaplains at their own expense”

(d) by deleting the words “maintenance of religious traditions in the school” appearing in paragraph (e) and substituting therefor the words “maintenance of spiritual development while safeguarding the denomination or religious adherence of others”.

Madam Temporary Deputy Chairlady, if you look at the bill, you will see that it is actually trying to give powers to the sponsors to work with the Teachers Service Commission (TSC) on staffing. We felt that this role rests entirely with the TSC. So, it is intended to remove conflict.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): I can see that the Minister is nodding in agreement.

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

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

The Temporary Deputy Chairlady (Dr. Laboso): What is it, hon. Balala?

Mr. Balala: Madam Temporary Deputy Chairlady, I am sorry for taking you back. I can see that there is an error or there is no conformity in paragraph (2) of Clause 25(b) on village polytechnics. I think this should be edited before we approve it. I am referring to Clause 25(2)(e).

The Temporary Deputy Chairlady (Dr. Laboso): The amendment had already been moved, hon. Najib Balala.

(Clause 26 as amended agreed to)

Clause 27

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 27 of the Bill be amended in sub-clause (2) by deleting the words “non formal and” appearing in paragraph (a).

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Koech, it helps when you just say a word of what it is, because hon. Members will then be aware. Some hon. Members have not been able to look at the Bill.

Mr. Koech: Madam Temporary Deputy Chairlady, I want to make it clear that the issue of non formal schools in this country ceased to be in existence immediately we introduced the Free Primary Education (FPE) programme in our country. Therefore, we do not want to keep making reference to what should no longer be with us.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): I can see that the Minister is nodding in agreement.

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

The Temporary Deputy Chairlady (Dr. Laboso): There is a further amendment by hon. Millie Odhiambo.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, my amendment to this clause was taken care of by the amendment of hon. Isaac Ruto. So, I withdraw it.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 27 as amended agreed to)

Clause 28

Mr. Koeh: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 28 of the Bill be amended –

(a) by inserting the words “in consultation with the county education board provided that no child shall be refused to attend school because of failure to pay such charges” immediately after the word “Cabinet Secretary” appearing in paragraph.

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

“(c) no person shall collect levies without issuing an official receipt”

The reason behind this amendment is that there is a small window opened for small or any fee to be charged, but with approval of the Cabinet Secretary. We are now trying to remove the fear by ensuring that no child shall be refused to attend school because of failure to pay such fee.

Secondly, we are aware that there are certain institutions which charge monies that is never receipted and accounted for. So, we are saying that no parent or church should pay anything without getting an official receipt.

(Question of the amendment proposed)

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

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Millie Odhiambo, move your further amendment to this clause.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I erroneously put Clause 28 instead of Clause 27. There is an “and” that is hanging after Clause 27 (2)(d) which

should not be there. I think that can be corrected by the drafters from the office of the Attorney-General.

The Temporary Deputy Chair (Dr. Laboso): Okay, that is editorial and I think it has been noted.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chair, before you go to Clause 29, I had talked about one part of Clause 28 but missed the second part.

I beg to move:-

THAT, Clause 28 of the Bill be amended in sub-clause (2) by inserting the following new paragraph immediately after paragraph (b)-

“(c) without prejudice to the provisions of paragraph (b) the Cabinet Secretary shall make regulations exempting needy students from payment of any charges”

I had an amendment to Clause 28(2) which has a provision that certain charges be levied. I am, however, saying that regulation should be made to exempt needy students from paying any charges whatsoever.

(Question of the amendment proposed)

Mr. Koech: Madam Temporary Deputy Chair, what I proposed as an amendment and it has been taken, takes care of the fears of hon. Millie. I have said that, “Provided that no child shall be refused to attend school because of failure to pay such fees”

The Temporary Deputy Chair (Dr. Laboso): Did you say fees or charges?

Mr. Koech: Charges.

The Temporary Deputy Chair (Dr. Laboso): Yes, it is charges. Mrs. Odhiambo-Mabona, have you withdrawn?

Mrs. Odhiambo-Mabona: Officially, on record, if he is talking about charges and not fees, then it takes care of my concerns.

The Temporary Deputy Chair (Dr. Laboso): It does. If you look at the Order Paper, you will see it is charges.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 28 as amended agreed to)

Clause 29

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT Clause 29 of the Bill be amended-

(a) in sub clause (1) by deleting the words “born in Kenya” appearing in paragraph (a) and substituting therefor the word “Kenyan”

(b) in subclause (4) by deleting the word “Director-General” and substituting therefor the words “County Director of Education”

Madam Temporary Deputy Chairlady, the import of this is that if you read the Bill it says, “every child who is born in Kenya”. However, we can have children who are not Kenyans born in Kenya. We are deleting that and replacing thereof with the words, “every child who is a Kenyan”. This is because the Constitution defines a Kenyan or a child who is a Kenyan citizen.

(Question of the amendment proposed)

Mr. Bahari: Madam Temporary Deputy Chairlady, I oppose because a child is a child. Whether he is a Kenyan or not, he should be allowed that right.

Thank you.

Mr. Koech: Madam Temporary Deputy Chairlady, I understand where we are coming from but I want to clarify to my colleague here that we are insisting on the Kenyan child getting free and compulsory education as defined and prescribed in our Constitution. However, I would not imagine that the same Constitution would want the Government of the Republic of Kenya to enter into emphasis and ensure that the children of ambassadors and workers who come from outside Kenya attend school in Kenya. That will be a tall order for us.

The Temporary Deputy Chairlady (Dr. Laboso): Millie, do you have a comment on the same or on your amendment?

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, it is actually both. First, I think Mr. Bahari is talking about a different issue because what the amendment is seeking to do is to replace a child born in Kenya with a Kenyan child. When you say a child born in Kenya, you are limiting. There are many Kenyan children who are not born in Kenya by operation of the new Constitution. Therefore, I support what Mr. Koech is proposing and therefore withdraw my amendment because it is exactly the same.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

The Temporary Deputy Chairlady (Dr. Laboso): Okay. Wonderful! Then we are now left with Mr. Koech's amendment.

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

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

(Clause 29 as amended agreed to)

Clause 30

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 30 of the Bill be amended-

(a) in sub-clause (1) by deleting the word "admit" and substituting therefor the words "present for admission"

(b) in sub-clause (2) by deleting the word "five" and substituting therefor the word "two"

(c) by inserting the following new sub clause immediately after sub clause (2)

"(3) A parent or guardian shall have the right to participate in the character development of his or her child".

Madam Temporary Deputy Chairlady, this is dealing with the duty of the parents. The way it is indicated here is that the Bill seems to be contemplating that the parent will admit the child. That is not the role of the parent. The parent is to present the child for admission.

(Question of the amendment proposed)

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

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

(Clause 30 as amended agreed to)

Clause 31

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 31 of the Bill be amended by inserting the word “public” before the word “school”.

Madam Temporary Deputy Chairlady, we want to make it very clear that we are talking about public schools. Take note that this deals with non payment of fees for admission. We know we cannot commit private institutions not to charge any fee on admission. We just want to clarify that this is for public schools.

(Question of the amendment proposed)

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

(Clause 31 as amended agreed to)

Clause 32

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 32 of the Bill be amended in sub-clause (1) by inserting the words, “or at the attainment of the school going age of four years” immediately after the word, “Registration Act or”.

The import of this is to be very clear on the minimum age for a child to be admitted in school. If you do not make it clear, then a parent would say that a child of eight years is still too young to go to school.

(Question of the amendment proposed)

Mr. Balala: Madam Temporary Deputy Chairlady, I want clarity from the Chair of the Committee; if you put a minimum age and in today’s life of parents collectively working and they have a child of nine months and they want to put him in a day care which is referred to as a school, then what would be the minimum age you are talking about?

Mr. Koech: Madam Temporary Deputy Chairlady, I want to make it clear. I do not know whether my colleague has this Order Paper with the proposed amendments. We are giving penalties to any parent who does not take the child to school. So, we do not want a situation where a parent will say, “My child is still too young”. In fact, you are actually doing the opposite. We have no issue with the person who takes a child to school early. We have issues with a person who is not ready to take a child to school. That is what we are trying to take care of. We have said a school going age of four years.

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

(Clause 32 as amended agreed to)

Clause 33

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 33 of the Bill be amended-

(a) By inserting the following new sub clause immediately after sub clause (2)-

“(2A) The provisions of subsection 2 shall not only apply in matters relating to gender in cases where a school is registered for a particular gender”.

(b) In sub clause (3) by inserting the words “unless such a test is for purposes of placing the child at an appropriate level of education.” immediately after the word “test” appearing in the last line.

Madam Temporary Deputy Chairlady, this section refers to no denial of admission based on gender but we are aware that we have schools that are already proclaimed to be boys schools and some are girls schools. So, we are making sure that such schools are not rendered unconstitutional because there is such a declaration that has been made and will always be made every other time.

(Question of the amendment proposed)

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, with your permission, I had an earlier amendment of Clause 33(6). But I do not mind if we dispose of the one of the Chairman of the committee and then I do mine.

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

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 33(6) be amended by deleting the word “may” and replacing it with the word “shall”.

If you look at it, we are saying that the County Education Board may review the decision of a school that denies a child admission.

(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)*

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Yakub is not here to move his amendment. In his absence we will accept the Minister moving that amendment.

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I made it clear to Mr. Yakub that I will not move this amendment for the particular reason that he is asking that we add the words “religious attire”. I am uncomfortable because Kenya is a secular State and also if I put all religious attires in a class, the teacher will not know the difference between the students. So, I will not move that amendment.

Mr. Bahari: Madam Temporary Deputy Chairlady, I know in this country we use uniforms but in other countries school children do not even wear uniforms and they can put on their attire as they so wish. Why would this be very difficult? Could the Minister perhaps explain why it would be so difficult for him to allow this?

Mr. Balala: Madam Temporary Deputy Chairlady, I do not know why the Minister has a problem with that because this is an innocent child admitted to school. It would be discriminative on the religious and cultural aspect. It is very clear in that clause. I have seen the debate on mini-skirts that the Minister brought up and also the issue of nuns who we highly respect. So, we want this to be a very accomodative Bill and I beg the Minister to consider this amendment.

Mr. Ruto: Madam Temporary Deputy Chairlady, in fact, I think I may have been overtaken by events because I wanted to ask whether the Minister is in order to deny religious attire in schools when he has recently introduced “*Ka Mutula*” in secondary schools. I saw a sample in his office and he actually showed it to me himself. But I think Mr. Balala has already dealt with that. I actually meant the mini-skirts but they are popularly referred to as the “*Ka Mutula*”.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I think the Minister is opposed because he prefers mini-skirts but that is not my point of intervention. My point of intervention is that I do not know whether the Minister would be bringing some of the amendments I had given or whether he has reconsidered some of the amendments that came from the church.

Mr. Ochieng: Madam Temporary Deputy Chairlady, I want to support the Minister because the Kenyan child is the same, whether Christian or Muslim. So, we do not know why there is discrimination in terms of the way they wear their clothes. I want to support that we have uniform whether Christian or Muslim.

Mr. Langat: Madam Temporary Deputy Chairlady, I would like to join Mr. Ochieng in agreeing with the Minister that I think we should have our children in uniform so that we do not introduce religious issues in our schools. Let us have the children equal in terms of the uniform that they wear in the school.

The Assistant Minister for Labour (Mr. Ojaamong): Madam Temporary Deputy Chairlady, I want to support the Minister in this. In my constituency, I have had problems with our Muslim sisters and brothers.

The Temporary Deputy Chairlady (Dr. Laboso): There is actually a technicality here because the amendment has not been moved. So, I am only giving you a little time to ventilate but otherwise, there is no proposal before the House on an amendment to this particular Clause.

The Minister of State for Development of Northern Kenya and other Arid Lands (Mr. I.E. Mohamed): Madam Temporary Deputy Chairlady, I think it is good to know what Mr. Yakub was trying to cure. For Muslim girls specifically, when they reach the age of maturity, Islam demands that they cover their hair. I also know that if you are a Catholic nun you have to cover your hair. I have known of schools where they have refused to employ teachers who cover their hair, whether they are nuns or others. So, I think we need to look for a more suitable word, if the word “religious” is controversial. We have to find a solution. We know recently people have gone to the High Court and we cannot keep going to the courts. So, if you know the context where the Constitution is giving freedom of religion and religion demands that the girl covers her hair and her school then refuses, that is what Mr. Yakub is trying to cure. So, if you can find a solution, then I will be comfortable.

Mr. Balala: On a point of information, Madam Temporary Deputy Chairlady. The information that Mr. I.E. Mohamed has given is very clear. We are not saying that the girls should not wear school uniforms. For example, Mrs. Noor is wearing a dress like every lady but covering her head is compulsory in religion. The amendment is very clear because there has been a problem in schools. Girls have been chased away because of wearing the *Hijab* and that is fundamental to the religion.

Mr. Koech: Madam Temporary Deputy Chairlady, I am a man of procedure and I have been keeping quiet and wondering what we are debating because the amendment has not been moved.

The Temporary Deputy Chairlady (Dr. Laboso): Are you willing to move the amendment because I will only allow you or the Minister to move the amendment? If you are willing to move it, I will allow the Floor to make the decision.

Mr. Koech: Madam Temporary Deputy Chairlady, if Mr. Yakub had approached me, maybe I would be in a position to comment. But I am wondering why we are commenting and he is not in the House himself.

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I am very familiar with this debate. I have met with Muslims, hon. Yakub and many other people. I have not been given a definition of “religious attire” that I would recommend in a Kenyan law, and I am a Senior Counsel. Therefore, I cannot be forced to move an amendment and will not do so.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Member, I will, therefore, put the Question.

(Clause 33 as amended agreed to)

(Clauses 34, 35 and 36 agreed to)

Clause 37

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-
THAT Clause 37 of the Bill be amended-

(a) by deleting paragraph (d) and substituting therefor the following new paragraphs-

“(d) provide human resource including adequate teaching and non-teaching staff according to the prescribed staffing norms”

“(da) provide infrastructure including schools, learning and teaching equipment and appropriate financial resources”.

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

“(i) advise the national Government on financing of infrastructure development for basic education”

Madam Temporary Deputy Chairlady, this refers to the responsibility of the Government. It should include to provide human resource, adequate teaching and non-teaching staff according to the prescribed staffing norms and infrastructure in our schools. Those were missing as part of the responsibility of the Government.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, just note that what appears on your Order Paper is deleting paragraph (d). Therefore, the first paragraph is “d” and not “c.” The next one is (da).

(Question of the amendment proposed)

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I just want to say that I support the amendment by the Chair. The reason is that I am very keen on standards. I was actually going to propose a similar amendment, but when I saw the Chair’s amendment, I left it.

Madam Temporary Deputy Chairlady, I beg to support.

Mr. Langat: Madam Temporary Deputy Chairlady, I support the amendment because it is going to move us forward, given that previously, the Government did not have a way of financing infrastructure for our schools. It was relying on *harambees* which were not sustainable. So, I think that this is a big step ahead.

(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 37 as amended agreed to)

Clause 38

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT Clause 38 of the Bill be amended-

(a) in sub-clause (1) by deleting the word “investigate” and substituting therefor the words “cause investigation of”

(b) in sub-clause (2) by deleting the words “the school” appearing immediately after the words “attend school”

(c) by renumbering sub clause (2) as sub clause (3)

(d) in sub-clause (2)-

(i) by deleting the words “five million” and substituting therefor the words “five hundred thousand shillings”; and

(ii) by deleting the words “five years” and substituting therefor the words “two years”

Madam Temporary Deputy Chairlady, this refers to the duties of a principal or a headteacher. The headteacher cannot investigate, but we should cause for investigation.

(Question of the amendment proposed)

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

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

(Clause 38 as amended agreed to)

(Clause 39 agreed to)

Clause 40

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT Clause 40 of the Bill be amended by inserting the following new sub clauses immediately after sub clause (2)-

“(3) The Cabinet Secretary in consultation with National Education Board shall advise the government on the financing of technical, vocational and talent education”

“(4) The Cabinet Secretary shall upon advice of the National Education Board advise the government on the promotion of environmental protection education for sustainable development”

(Question of the amendment proposed)

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

(Clause 40 as amended agreed to)

Clause 41

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT Clause 41 of the Bill be amended-

(a) by deleting paragraph (a) and substituting therefor the following new paragraph as follows-

“(a) public schools, which are schools established , owned or operated by the Government and includes sponsored schools”

(b) by deleting paragraph (b).

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

(c)

“(d) A public basic education institution shall not be converted to a private basic education institution or to any other private status without consultation with the National Education Board and approval by the Cabinet Secretary”.

Madam Temporary Deputy Chairlady, this is actually to be very clear on the categories of schools.

(Question of the amendment proposed)

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

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

(Clause 41 as amended agreed to)

Clause 42

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT Clause 42 of the Bill be amended in sub-clause (1) by inserting the word “public” immediately after the word “maintain.”

Madam Temporary Deputy Chairlady, this is actually to make it very clear that we are referring to public schools and not private schools, so that the private schools are left out of this. That is on the establishment and management of special institutions.

(Question of the amendment proposed)

Mr. Kiptanui: On a point of procedure, Madam Temporary Deputy Chairlady. While moving Clause 41, I realized that the Chair just gave information on part “a” and we went ahead to pass it, yet there were amendments on part “b” and “c.”

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Member, we have been moving all amendments at the same time, so long as they are coming from one hon. Member.

Hon. Millie!

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I share the same concern, because we are dealing with a lot of amendments. If the Chair could borrow at leaf from what I was doing; that when I have even six amendments, I explain all of them. There was an earlier one that I was not comfortable with him reducing fines. But I was comfortable with the first portion. So, if he can just explain so that we do not look like we are sneaking in things.

The Temporary Deputy Chairlady (Dr. Laboso): I hope that the Chair is accordingly advised. So, in future explain the import of each amendment, so that they can decide whether

they want to agree with all, amend some or even delete. But, hon. Kiptanui, that one now is water under the bridge. We are now on Clause 42.

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

(Clause 42 as amended agreed to)

Clause 43

Mr. Koech: Madam Temporary Deputy Chairlady, first of all, I would like to remind by colleagues that the amendments that I am proposing and moving were after wide consultation with all the stakeholders, including the Ministry. That is why I am just requesting them to go through them and seek clarification where it is not understood.

Madam Temporary Deputy Chairlady, I beg to move:-

THAT Clause 43 of the Bill be amended in sub clause (2) by inserting the following new paragraph immediately after paragraph (g)-

“(h) establish a mechanism for monitoring and evaluation to advise the Government on the quality of infrastructure and learning facilities in regard to special needs education”

Madam Temporary Deputy Chairlady, this is referring to the regulations in special needs education. What we are proposing here is to give them a further role, that is, to establish a mechanism for monitoring and evaluation, to advise the Government on the quality of infrastructure and learning facilities in regard to special needs education.

The Temporary Deputy Chairlady (Dr. Laboso): Please, note that it is immediately after paragraph (g) and not (h) as indicated in the Order Paper.

(Question of the amendment proposed)

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

(Clause 43 as amended agreed to)

Clause 44

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 44 of the Bill be amended in sub clause (1) by deleting the word “EARCs” and substituting therefor the words “education assessment and research centers”

We noted that we did not define what EARC refers to. So, this is to put it in full so that there will be no doubt that it refers to Education Assessment and Research Centres.

(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 44 as amended agreed to)

(Clauses 45, 46 and 47 agreed to)

Clause 48

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, if you look at Page 2641 of the Bill, you will find Clause 48(2)(b) there which reads: “ No private school shall be registered if-

(b) The Cabinet Secretary is satisfied that the proprietor is not a suitable person to be a proprietor of any school.”

We would like to delete that partly because we want to allow investors to be able to decide who it is that wants to invest in a school. Therefore, my proposal is to get that sub-clause deleted in order to facilitate further investment in education so that it is not the Cabinet Secretary who is deciding who is a suitable proprietor. It is like the Cabinet Secretary will be vetting people who want to invest. The other conditions are suitable enough.

Madam Temporary Deputy Chairlady, I would also like you, now that I am on my feet, to allow me to delete Clause 48(2)(c) which reads: “The manager of the school is not a trained teacher.” We have had distinguished Kenyans operating schools and being managers of schools but they were not teachers. We want to assume that the investor who is establishing a school will be able to determine who is a manager and they really not be teachers. I am reminded of hon. Matiba and many other Kenyans who have been able to run schools although they are not teachers as such. So, I would like to delete Clause 48(2)(c) and also delete the words in 48(2)(b) that I have explained.

(Question of the amendment proposed)

Mr. Koech: Madam Temporary Deputy Chairlady, I think I have no problem with the deletion of Clause 48(2)(b) and (c) but I thought I heard (d) and I wanted that to be taken care of.

The Minister for Education (Mr. M. Klonzo): “(d)” was an error.

Mr. Koech: So, I again support that.

The Temporary Deputy Chairlady (Dr. Laboso): So, is “(d)” deleted?

The Minister for Education (Mr. M. Kilonzo): Hon. Madam Temporary Deputy Chairlady, allow me to be clear. I have deleted Clause 48(2)(b) and Clause 48(2)(c) primarily to allow investors to have confidence that they can invest in schools.

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

The Temporary Deputy Chairlady (Dr. Laboso): There is another amendment by the Education Committee.

Mr. Koech: Yes, Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 48 of the Bill be amended –

(a) in sub-clause (2) by deleting the word “trained” appearing in paragraph (c) and substituting therefor the word “registered”

(b) in sub-clause (2) by deleting the words “ a suitable person to be a teacher in any school” appearing in paragraph (d) and substituting therefor the words “registered by the Teachers Service Commission”

(c) in sub-clause (3) by inserting the words “for a term of one year renewable for one further term of one year” immediately after the word “provisional”

Since the Minister’s Clause 2(c) has carried the day, I am withdrawing that part of the amendment. This is in line with the Constitution that no person shall be allowed in this country to teach if he is not a registered teacher.

(Question of the amendment proposed)

Mr. Njuguna: Madam Temporary Deputy Chairlady, I am supporting the amendment brought by the Chairman because we want our teachers to be fully registered by the Teachers Service Commission.

Mr. Langat: Madam Temporary Deputy Chairlady, I think we need to be very cautious because in some of our private schools, some of these people who teach there are not even trained teachers. I do not think we have enough teachers in this country as yet and if we do that, I think we will have a serious shortage of teachers. I do not think we have reached there. It is only that we do not have money to employ teachers who are already trained but I think there will be a serious shortage of teachers even if the money was available. So, I think we need to relax it a bit for the time being and I oppose.

Mr. Kiptanui: Madam Temporary Deputy Chair, I stand to oppose the amendment. In many of our schools in the remote places in this country, you realize that students who have done KCPE and have scored A’s, in most cases, are employed by the parents and teachers to support and teach students in primary and even high schools. Therefore, if we pass this amendment, it will be very difficult for quite a number of schools in our areas to employ teachers who are trained.

I beg to oppose.

Mr. Koech: Madam Temporary Deputy Chair, I want to invite my colleagues to our Constitution. This Bill is going to be an Act of Parliament and the Constitution is very clear on who is supposed to teach in Kenya. The Constitution is very clear that, that person must be a registered teacher and any registered teacher must be trained. I want to invite my colleagues to one very simple thing that it is one thing to get an A, but another thing to be an all rounded person being taught by a teacher who has gone through pedagogy to move the child from one level to the other. That is what we want in this country. To have the real A,; an A of a child of Kenya who is more responsible because he was taught by a trained teacher.

The Temporary Deputy Chair (Dr. Laboso): Maybe, the Chairman of the Committee can clarify whether all teachers who have completed the training are registered even if not employed by the TSC.

Mr. Koech: Madam Temporary Deputy Chair, I am just quoting the Constitution that was promulgated the other day.

Hon. Members: Which section?

Mr. Koech: Madam Temporary Deputy Chair, you can open the Constitution. I am referring to a document which is live with us. I just want to make it very clear here that even when we passed the TSC Act, it was very clear that the TSC, from now, will only be registering trained teachers. We have told them that it is important for them to prepare the teachers who are teaching some specialized subjects and may not have undergone training to go back for a short period to learn pedagogy, so that they become trained teachers and, therefore, be fully registered under the new Constitution. It is not something that we are importing from somewhere else. It is in the Constitution unless we amend the Constitution. But I want to confirm that we have enough trained teachers in this country.

The Temporary Deputy Chair (Dr. Laboso): I think registered by the TSC is where we are having a problem.

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chair, Article 237 of the Constitution is quite clear. I would like to join the Chairman in cautioning the Members that even Mr. M. Kilonzo has a First Class Honors Degree, but if I go to a school, I will not be a teacher. I must go to a teacher training college, go through the course and get a teacher registration certificate. We are dealing with them. I want to assure the country, through this House, that all teachers who finish successively teacher training, whether they are employed or not, leave colleges with certificates of registration by the TSC.

Therefore, this amendment is so critical to protect the child. In this case, we are not just protecting the teacher although he is important, but we are protecting the child. Remember, this Clause 48 is dealing with private schools. As I speak, a teacher in Kilifi refused to register 37 students and disappeared. Those students have not even sat their examination. That is what we want to avoid. It is a private school and if they play around with me, I will deregister the school. I have demanded the arrest of the teacher and even the board members because the parents have paid money. So, please, remember we are not dealing with public schools in your area. We are dealing with private schools which are established and people sneak around, collect people from the streets and call them teachers.

The Temporary Deputy Chair (Dr. Laboso): Mr. Bahari, and please keep your comments brief because this is Third Reading.

Mr. Bahari: Madam Temporary Deputy Chair, I understand what the Minister is saying and I appreciate the provisions of the Constitution, but maybe he can clarify whether, for example, the kind of training that was given to some prospective candidates for election, like three months, will allow the teachers to be registered. I know very well that many of us after "A" Levels taught and we were very helpful in terms of impacting knowledge. Given the practicality of the gap between the number of trained teachers and the need in this country, we may be making a law that will be self-defeating.

Mr. Oyugi: Madam Temporary Deputy Chair, I would like to support this particular amendment for the simple reason that it, first of all, touches on private schools. The order and practice of some of these private schools is to employ quack teachers. If we are to allow a provision that does not provide for qualified teachers in the practice, then we will be misused. I would like to concur with the Chairman of the Committee that if you look at the provisions of the Constitution in Articles 237 (b) and (c) read together, someone must be qualified to be a teacher, so that they are employed by the TSC. I support.

Mr. Mututho: Madam Temporary Deputy Chair, the fact that one has a degree does not mean he is qualified to teach. You could be a very poor communicator. So, it is very important

that you are trained and tested on skills that will make you be able to teach and for the children to qualify. Any effort to have anybody to teach just because they have papers is not good.

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chair, I want to plead with the House to accept this amendment. As I said, it is relating to private schools, the employment of which the TSC does not directly get involved. All that we are saying is that if you establish a private school, you must ensure that the teachers that you employ have teacher registration certificate. That is all that we are saying and it has nothing to do with public schools.

*(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)*

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 48 be amended in sub-clause (2) by inserting the following new paragraph immediately after paragraph (e)-

“(f) the proprietor or manager has been convicted of any crime against children under the Sexual Offences Act and Counter Trafficking in Persons Act”.

I am introducing a new sub-clause (f) that stops anybody with a sexual offence record from working with children.

(Question of the further amendment proposed)

The Temporary Deputy Chair (Dr. Laboso): Hon. Minister, are you happy with the amendment? The Chairman is also happy, I believe.

Mr. Koech: Madam Temporary Deputy Chair, I cannot imagine her proposing what the Chair has already shown interest in. I support.

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

(Clause 48 as amended agreed to)

(Clause 49 agreed to)

Clause 50

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT clause 50 of the Bill be amended in sub-clause (1) by deleting the word “prescribed” appearing in paragraph (c) and substituting therefor the word “approved”

This is only to replace the word “prescribed” with the word “approved” so that they use an approved curriculum, because anybody can prescribed a curriculum.

(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 50 as amended agreed to)

Clause 51

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I withdraw based on earlier agreement with Mr. Ruto.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 51 agreed to)

Clause 52

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT clause 52 of the Bill be amended

(a) in sub-clause (5) by deleting the word “appointed” and substituting therefor the word “deployed”

(b) by inserting the following new subclause immediately after subclause (7)-“(8), The County Director of Education shall, in the performance of the functions under subclause (7), have due regard to the teacher management functions provided under Article 237 of the Constitution and the Teachers Service Commission Act”

This is talking about “there shall be a County Director of Education appointed by the Cabinet Secretary”. We feel that this should be a deployment position.

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Koech, I think nobody heard your last statement. I think you might be getting tired but let us forge ahead.

Mr. Koech: Madam Temporary Deputy Chairlady, I want to thank you for understanding my position at the moment. I am saying here that this section says that there be a County Director of Education appointed by the Cabinet Secretary. We are saying that this position should be a deployment position and not an appointment position.

The Temporary Deputy Chairlady (Dr. Laboso): So, deployed by the Teachers Service Commission?

Mr. Koech: These are people who can be moved from one county to another, so that one is not appointed to go and stay there forever. The appointment procedure is different. These are people who rise through the ranks and they will be deployed at some level to be county directors.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Dr. Laboso): There is a further amendment by the Minister.

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended in Clause 52(7)(k) by deleting the word “teachers” appearing in the fifth line.

The purpose of this is to make sure that these associations are parents associations; teachers may be *ex-officios* but they should be parents’ associations in line with Government policy and public policy for many years.

(Question of the amendment proposed)

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

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, the clarification I wanted before I move mine is whether the amendment by Mr. Koech is affecting my amendments. My amendments are to Clause 52 (3) and (5). What they seek to do is to ensure that the appointment is through an open and competitive process. He is telling me that it should be through the Public Service Commission. I propose my amendment that it should be through an open and competitive process, even if it is through the Public Service Commission. So, I move my amendment to Clause 52(3) and (5) that those appointments should be through an open and competitive process.

I beg to move:-

THAT, Clause 52 of the Bill be amended-

- (a) In sub-clause (3) by inserting the words “through a competitive process” immediately after the words “Director-General appointed;”
- (b) in sub-clause (5) by inserting the words “through a competitive process” immediately after the words “Cabinet Secretary”.

(Question of the amendment proposed)

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

(Clause 52 as amended agreed to)

Clause 53

Mr. Koech: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 53 of the Bill be amended-

- (a) in sub-clause (1) –

- (i) by deleting the words “and private”
- (ii) by inserting the following new paragraph immediately after paragraph (e)
 - “(f) middle level institutions of basic education”
- (b) in sub clause (2)-
 - (i) by deleting the word “secondary”.
 - (ii) by deleting the words “ Third schedule and substituting therefor the words “ Fourth Schedule”
- (c) by inserting the following **new** sub clause immediately after sub clause(2)
 - “(3) Every private school shall establish a parent’s teachers association”

Madam Temporary Deputy Chairlady, this one deals with the establishment of the boards of management. We are saying that this should refer to the boards of management of only public schools. So, we remove private schools from that.

(Question of the amendment proposed)

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

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

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended in Clause 53 (2) by deleting the word “teachers” in the second line.

Again, we are merely removing the word “teachers” so that this becomes a parents association.

(Question of the amendment proposed)

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

(Clause 53 as further amended agreed to)

*[The Temporary Deputy Chairlady
(Dr. Laboso) left the Chair]*

*[The Temporary Deputy Chairman
(Prof. Kaloki) took the Chair]*

Clause 54

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended in Clause 54 (1) by deleting all the words and replace with the words “where applicable, three person each representing

- i. Kenya Episcopal conference
- ii. The National Council of Churches of Kenya and the Evangelical Fellowship of Kenya
- iii. The Muslim Education Council”

Mr. Temporary Deputy Chairman, Sir, you will notice that we are putting three faith-based nominees in these boards, partly because the faith-based organizations have been the biggest partners of Kenya in education. Therefore, I propose that you accept my amendment so that these wonderful people can continue helping us.

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Minister, what exactly are you doing? Do you want to delete Clause 54(1)? Is that what you are moving?

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, indeed, it says that the Bill be amended in Clause 54(1) by deleting all the words and replacing with the words, “where applicable, three persons each representing the Kenya Episcopal Conference, the National Christian Council of Kenya and the Evangelical Fellowship and the Muslim Educational Council.” Those are some, if not the most, critical partners of Kenya’s education system.

I beg to move.

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Minister, please, approach the Chair so that we make sure that we capture this in the right way.

Just a minute, hon. Members. The Chair will be consulting the Minister.

(The Temporary Deputy Chairman (Prof. Kaloki) consulted with the Minister for Education (Mr. M. Kilonzo))

The Temporary Deputy Chairman (Prof. Kaloki): Okay, Minister.

Minister for Education (Mr. M. Kilonzo): I am very grateful. I stand to be corrected. It does not sit there. So, let me explain where it will come. I propose that Clause.54 be amended by inserting a new sub-clause (g) containing the words “where applicable three persons representing those three organizations, the Kenya Episcopal Conference, the Kenya National Council of Churches, the Evangelical Fellowship of Kenya and the Muslims Education Council.” I apologise and I thank you for your indulgence.

These will be three new persons on this Board.

Mr. Ruto: On a point of order, Mr. Temporary Deputy Chairman, Sir. Clause 54 specifically talks about committee members managing schools. This is not about the board that the Minister is envisaging. It must be a completely different area.

The Temporary Deputy Chairman (Prof. Kaloki): All right; hon. Ruto, let me propose the question and then we can talk about it.

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir, we are talking about a sponsor already in her, and raising it from one to two persons for the sponsor. You cannot start stipulating that it must then come from this or that body. The sponsor will just be one. The Minister is correct but that particular amendment cannot be to Clause 54.

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, as earlier on indicated, we were in a round table with all the stakeholders and we agreed on the many amendments. I think the proposal by the Minister is actually at the County Board level and not at the school level. I

wanted to request the Minister--- I still recall what we agreed on; the Minister was to move an amendment to Clause 54(1)(d) to delete the word “two” and replacing it with the word “three,” so that we will have three representatives of the sponsors of the school. That is what we agreed. I hope you are getting that. That is what we agreed with the sponsors in our meeting.

So, you only delete the word “two” and replace it with the word “three”.

The Temporary Deputy Chairman (Prof. Kaloki): Minister, in the procedure, do you want to deal with that.

The Minister for Education (Mr. M. Kilonzo): Yes, I can. I want to thank the Chair because he is quite right. What I am attempting to do is that for each board of management established under Clause 53 shall consist of the following members appointed by the County Education Board. The Chair is right; I should have said that the Bill be amended in Clause 54(1)(d) by deleting all the words and replacing them with the words “where applicable three persons”. That is okay; the Chair is right. I apologise for the errors of typing nature.

(Question of the amendment proposed)

Mr. Bahari: Mr. Temporary Deputy Chairman, Sir, although the intention of the Minister is good, he can probably explain why this is being changed to three from two. What was the reason advanced? We were not in their meeting.

The Temporary Deputy Chairman (Prof. Kaloki): Please, allow the Minister to make some clarification.

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, this is an effort to comply with Article 10 of the Constitution, which requires inclusiveness and consultation, because the faith-based organisations are so different. We have Muslims, Catholics and Protestants, which are also split in various groups. That is the reason. In our meetings in the Committee and in my office, they were unwilling to accept just one to represent them because they are of such different categories.

Therefore, I urge the House to accept.

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir, what the Minister is trying to propose is correct. The only problem is that it is definitely not in Clause 54. It is where we are coming up with the Education Boards. It is not in the primary school itself, where you are now telling us that there is need for Episcopal, Catholic and another faith-based organisation. There are three different faith-based organisations. I have seen it in the Act but it is definitely under Clause 54. I would suggest that his technical officers guide him. The amendment is being made on the wrong clause. We are talking here about a committee of a primary school or secondary school, which we are now calling it “Board”. You cannot have different faiths in this case. You can have only one sponsor, who will not even allow the other to come on board.

The Temporary Deputy Speaker (Prof. Kaloki): Order! Order! Hon. Members, let us do this. We have to make progress. So, the Chair will allow hon. Koech, hon. Ruto and the Minister one minute to consult. Please, we want to move together.

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, we do not need the minute. I can help.

The Temporary Deputy Chairman (Prof. Kaloki): Please, do that. Just consult the Minister. Just move to the back office and consult. You are the Chairman of the Departmental Committee. So, lead the way. I want to allow you one minute to consult so that we can be together. You are the Chairman of the Departmental Committee. Just approach the Minister.

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, hon. Koech is the one who was chairing us. In fact, this amendment ought to have come from the Committee. So, I will be happy with what the Chairman of the Departmental Committee says, because he is the one who was chairing the meetings.

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I want to make it very clear. I want to inform the House that as we speak, the sponsor in the current Act has four members representing them. In this Bill, we have reduced that number to two. In our consultations, we ended up agreeing on three members. So, what it should be is that it is Clause 54(1)(d) that the Minister is supposed to remove the word “two” and replace it with “three” members representing the sponsor of that institution.

The Temporary Deputy Chairman (Prof. Kaloki): Minister, is that what happened?

The Minister for Education (Mr. M. Kilonzo): That is correct, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Prof. Kaloki): Okay. So, in Clause 54(1)(d), you are deleting “two” and replacing it with “three”?

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

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

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, there is a further amendment to Clause 54 by hon. Koech.

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

THAT clause 54 of the Bill be amended-

(a) in sub clause (1)

(i) by deleting the words “representing” appearing in paragraph (a) and substituting thereof the words “elected to represent”

(ii) by inserting the words “elected by the teachers” immediately after the word “school” appearing in paragraph (c).

(iii) by deleting paragraph (e) and substituting therefor the following new paragraph as follows-

“(e) one person to represent special interest groups in the community”

(iv) by inserting the following new paragraph immediately after paragraph (f)

“(g) a representative of the student’s council who shall be an ex-official member”

(b) by inserting the following new sub-clause immediately after sub-clause (4)-

“(4A) For a public school, the chairperson of the Board of Management shall be elected by the members in their first meeting”.

(c) in sub-clause (6) by deleting the words “or private”.

Madam Temporary Deputy Chair, all that we are trying to bring is clarity. When you talk of people representing parents, we are saying that those people should be elected. Those representing the teachers should also be elected by the teachers so that we do not have a situation

whereby somebody is going to appoint one and say, "This one represents you". That is really for purposes of clarity.

(Question of the amendment proposed)

Mr. Bahari: Mr. Temporary Deputy Chairman, Sir, I beg that you keep on looking at the screen because even in the previous one, I wanted to make---

The Temporary Deputy Chairman (Prof. Kaloki): Proceed, Mr. Bahari!

Mr. Bahari: Mr. Temporary Deputy Chairman, Sir, I just want clarity from the chairman whether that election includes the chair of the board of management.

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, if Mr. Bahari could look at the entire proposed amendment by myself, there is (4A) where I am saying,

"(4A) For a public school, the chairperson of the Board of Management shall be elected by the members in their first meeting".

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

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

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Ruto, proceed. I think you have a further amendment.

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir, I have a further amendment and I will be seeking the indulgence of the Minister to listen keenly.

I beg to move:-

THAT, Clause 54 of the Bill be amended-

(a) in sub-clause (1)-

(i) by deleting the words "three persons" appearing in paragraph (a) and substituting therefor the words "six persons";

(ii) by deleting sub-paragraph (ii) of paragraph (b);

(iii) by deleting paragraph (e).

(b) by inserting the following new sub-clause immediately after sub-clause (2)-

(2A) The number of members of the Board of

Management co-opted under sub-clause (2) shall not exceed three at any particular time and such members do not have a right to vote at the meetings of the Board.

(c) by deleting sub-clause (3) and substituting therefor the following new clause-*

(3) The members of the Board of Management shall elect their chairperson from amongst themselves provided that the member to be so elected shall not be a person who was appointed under sub-section (1) (c).

(d) by inserting the following new sub-clause immediately after sub-clause

4-

(4A) Despite sub-clause (4), a faith based sponsor who does not make a significant contribution and impact to a school or institution as contemplated under section 2 of the Act shall not be consulted in the appointment of the chairperson of the board of management of that school or institution.

Mr. Temporary Deputy Chairman, Sir, the reason is that some of the persons mentioned here for representation include Non-Governmental Organizations (NGOs) which do not exist in our localities in primary schools and such places. We are also talking about business communities in those areas. Remember we are talking about the Management Committee. They do not therefore, exist.

I am proposing that in these situations where they do not generally exist, these be parents of the pupils and the number increases to six.

Mr. Temporary Deputy Chairman, Sir, I am proposing a further amendment to my amendment that we add the following at the end of Clause 54(A):-

“or local community in the case of county secondary schools”

In county secondary schools or former Harambee schools which we are building with CDF money, the local community is busy building it. The parents themselves may not actually be the ones building the schools because the children come from various places. So I am proposing that Clause 54(1) (A) be added

Mr. Temporary Deputy Chairman, Sir, there is a further modification because the chairman has moved an amendment which is similar to the one I have proposed at (c) where I am saying, “The members of the board of management shall elect their chairperson from amongst themselves provided that the member to be so elected shall not be a person who was appointed under sub-section 1(c)”. That is, you cannot elect a teacher to be the chairman of a school. I do not know whether the chairman then with his amendment will consider this to have been overtaken by events although he did not exclude a teacher from being elected.

Subsequently, also on (d) I am saying, “despite sub-clause (4), a faith-based sponsor who does not make significant contribution and impact to a school or an institution as contemplated under section 2 of the Act shall not be consulted in the appointment of the chairperson of the board of management of that school or institution”. We have got sponsors who do not contribute anything at all but they just want to be consulted now and they make our work impossible. I think we should do this---

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Ruto, we want to capture the record right. Could you be specific. What do you want to be amended?

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir, as in the Order Paper. The only further amendment as added is on Clause 54(a) at the end. After the amendments in the Order Paper a further amendment to Clause 54(1)(a) which says “three persons” which is then amended according to what I have proposed here that it will be six persons representing parents of the pupils or local community in the case of county secondary schools. That is how it would read.

Mr. Temporary Deputy Chairman, Sir, the amended proposal would read as follows:-

- (a) Six persons representing parents of the pupils or local community in the case of county secondary schools.

The local communities are the ones building the schools as of now. The parents could be as varied as the children could be. Some of these schools probably reach up to Form Two. The local community has to build Form Three. If you wish this problem away, the people who are building the schools will run away and they will leave it to the parents and there will be no schools. The Minister accepts and understands my logic.

When I say “and”, then you will have 12 because it will be six persons representing parents of the pupils. I want to say “or make sense” because in a primary school, it is enough for parents to elect committees. But in the case of a county secondary school, it is important that the community that is constructing it either or.

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, what I am getting from Mr. Isaac Ruto is that Clause 54(a)---

The Temporary Deputy Chairman (Prof. Kaloki): Order, Mr. Njuguna! Mr. Ruto, just write down that amendment the way you want it to be captured, sign it and then you bring it up here so that the clerks-at-the-table can be comfortable with what you are moving.

Mr. Njuguna: Mr. Temporary Deputy Chairman, I was supporting the amendment by Mr. Ruto because the first three parents are the parents with children in the school. But there are other parents who do not have children in the school but they are constructing the school that is being attended by children of other parents. Therefore, the amendment is new and welcome and very accomodating.

I support.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, the clarification I needed from Mr. Ruto is just on the word “or” because what he said is six persons respresenting parents of the pupils or local community in the case of county secondary schools. So, my understanding is that we are not saying we incorporate; it could be we do away with the parents and bring in the local communities. That is my understanding when you say “or”. Is that what his intention is?

Mr. Ruto: Madam Temporary Deputy Chairman, Sir, that is exactly my intention. The reason here is that in the case of county secondary schools, the parents are already represented through the Parents and Teachers’ Association (PTA). There is a PTA under Schedule III which is elected. Three of them will be members of the board in a secondary school. So, there is no need of having parents here and then parents again there under PTA. There will be confusion. These first ones will be the ones who are actually carrying the burden of constructing the school. It will include people who are just benevolent. They just want to build the school, but their children may not be there, like these Members of Parliament and others.

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

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

The Temporary Deputy Chairman (Prof. Kaloki): There is a further amendment by hon. Millie Odhiambo.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, first of all, I just want to correct that I am referring to Clause 54(1) (e) and not (c). That clause is talking about civil society organizations that hon. Isaac Ruto is talking about. But I just want to specify that they should not just be any civil society organization, because it could be a civil society organization dealing with marine engagement. But because this is about children, I want it to be a civil society dealing with children’s issues. That is the essence of my amendment.

Mr. Temporary Deputy Chairman, Sir, I can withdraw Clause 54(1) (ii), even though I am just worried that the numbers will be too unwieldy given the amendments---

The Temporary Deputy Chairman (Prof. Kaloki): So, are you withdrawing?

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I wanted to limit the persons that are co-opted, but I withdraw and retain, Clause 54(1)(e), which is on child rights, by adding the words “specializing on child rights” after the words “civil society organizations,” so that you do not open it up to every civil society organization.

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Millie, that Clause 54(1) (e) has already been deleted. Refer to page 4493.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, hon. Koech has indicated that he has provided for special interest groups. I can live with that because then if you do not have civil society, you can have people loosely who deal with special interests but my interest is children.

(Hon. Odhiambo-Mabona’s proposed amendment withdrawn)

(Clause 54 as amended agreed to)

Clause 55

The Temporary Deputy Chairman (Prof. Kaloki): There is an amendment by hon. Millie-Odhiambo, but before you do that, let us hear the Minister for Agriculture.

The Minister for Agriculture (Dr. Kosgey): On a point of order, Mr. Temporary Deputy Chairman. I rise on a point of order that we report progress because of time and that is asking for an extension beyond 8.30 p.m.

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Sally Kosgey, there was an agreement that the House will continue up to 8.30 p.m. So, for your proposal to seek leave, we can only do that at 8.15 p.m., tonight so that we can report progress at that particular time because we are supposed to sit until 8.30 p.m. So, yours can come at around 8.15 p.m., or so.

The Minister for Agriculture (Dr. Kosgey): Mr. Temporary Deputy Chairman, Sir, as far as I know, one needs to make that request 30 minutes before 8.30 p.m.

The Temporary Deputy Chairman (Prof. Kaloki): Actually, hon. Dr. Kosgey, there was a resolution that was passed. If it was just a normal sitting day, we normally end at 6.30 p.m., then you could be able to do it at that particular time but there was a resolution that was carried and now we are within that resolution. So, we will just continue.

Mr. Midiwo: Thank you, Mr. Temporary Deputy Chairman. You have made a ruling. I was just going to plead with you so that we are not technically barred because I am sure you understand.

The Temporary Deputy Chairman (Prof. Kaloki): Exactly, the Chief Whip. So, we proceed. There is a resolution here that we will be able to sit up to 8.30 p.m. and so on. Let us move to hon. Millie Odhiambo.

Mr. Ruto: On a point of order, Mr. Temporary Deputy Chairman, Sir. You had ordered us a few minutes ago that we could consult with the Minister. I want to bring to the attention of the Minister that actually his amendment that he was supposed to raise including division of representation is in the appointment of the County Education Board and I think we can report progress and subject to the committal of Clause 20 so that he can then increase the representation

of the faith-based organizations from a representative of religious organizations under 20(e) to make them to three.

The Minister for Education (Mr. M. Kilonzo): We have already done that.

Mr. Ruto: Then I think the one you were trying to do later was superfluous.

The Temporary Deputy Chairman (Prof. Kaloki): Then, hon. Ruto, I think you stand corrected. Hon. Millie on Clause No55, you are now moving it with that amendment that you have. Proceed.

Mrs. Odhiambo-Mabona: Thank you, Mr. Temporary Deputy Chairman, Sir. Again, it was the issue of co-option but I wish to withdraw.

(Hon. Odhiambo-Mabona's proposed amendment withdrawn)

(Clause 55 as amended agreed to)

Clause 56

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, again, I beg to move:-
THAT, Clause 56 of the Bill be amended by inserting the following new paragraph immediately after paragraph (g)-

“(h) protect human rights of and promote the best interest of the child”

This is to provide for the protection of the best interest of the child and to promote their human rights.

(Question of the amendment proposed)

Mr. Bahari: Mr. Temporary Deputy Chairman, Sir, I want the Minister to clarify Clause 56(e) where it reads: “Provide a secure physical and psychological setting for the children”. It states that the function of the management committee of a pre-primary institution shall be to provide a secure physical and psychological setting for the children. Is it to ensure provision or to provide? Are we not interchanging roles of the Government and the committee?

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I am satisfied that it is to provide partly because the capitation; the funds that leave the Government, go to the management committee. We are now here talking about providing secure physical and psychological setting for the children, for example, dormitories that end up burning children because they have metal bars. The word is “provide”. I do not want to use any other word.

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

(Clause 56 as amended agreed to)

Clause 57

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I have looked at this amendment and I think that it has some errors. So, I beg to withdraw it.

(Proposed amendment by Mr. Koech withdrawn)

(Clause 57 agreed to)

Clause 58

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

THAT, Clause 58 of the Bill be amended by inserting the words “public school or” immediately after the word “every” appearing at the beginning of the clause”.

This is basically to make sure that the annual report is submitted by public institutions. So I am inserting the word “public”.

(Question of the amendment proposed)

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

(Clause 58 as amended agreed to)

Clause 59

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

THAT, Clause 59 of the Bill be amended by inserting the following new paragraph immediately after paragraph (d)-

“(e) human rights and student welfare committee”.

This will provide that one of the committees that will be formed by the board of management is a human rights and student welfare committee.

(Question of the amendment proposed)

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

(Clause 59 as amended agreed to)

(Clause 60 agreed to)

Clause 61

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

THAT clause 61 of the Bill be deleted and replaced with the following new clause-

61. The members of the Board of Management shall be paid such allowances as the Cabinet Secretary may provide by Regulations upon the advice of the Salaries and Remunerations Commission.

I had earlier on explained the reasoning behind the need to remove the issue of remuneration from the committee.

(Question of the amendment proposed)

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

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

(Clause 61 as amended agreed to)

Mr. Midiwo: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee of the whole House doth report progress and seek leave to sit again today.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Dr. Laboso) in the Chair]*

PROGRESS REPORTED

THE BASIC EDUCATION BILL

Prof. Kaloki: Madam Temporary Deputy Speaker, I beg to report that the Committee of the whole House is considering the Basic Education Bill, Bill No.46 of 2012 and has instructed me to report progress and seek leave to sit again today.

The Minister for Education (Mr. M. Kilonzo) seconded.

(Question proposed)

(Question put and agreed to)

Mr. Midiwo: Madam Temporary Deputy Speaker, I beg to move:-

THAT, notwithstanding the earlier resolution of the House to extend today's sitting until 8.30 pm; this House resolves to sit until conclusion of business appearing under Order No.11 in today's Order Paper.

The Minister for Education (Mr. M. Kilonzo) seconded.

(Question proposed)

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, I hope that as you make that consideration, you are aware that we have dispensed with all the Sessional Papers. So, this is about the Committee of the Whole House.

Mrs. Odhiambo- Mabona: Madam Temporary Deputy Speaker, as much as I would really love to support the Motion, I am really not persuaded. If you look at what is in Order No.11, there is Basic Education Bill, Election (Amendment) Bill, Political Parties (Amendment) Bill, Agriculture, Livestock and Fisheries Bill, Crop Bill, Kenya Agricultural Research Bill and Memorandum from His Excellency the President on the Finance Bill.

Madam Temporary Deputy Speaker, if this first Bill is anything to go by, unless we are not being serious, really we are going to do any justice to these Bills. So, I am not persuaded to support the Motion.

Mr. Kioni: Madam Temporary Deputy Speaker, Sir, I was also going to say what hon. Midiwo wants us to deal with is a total of another six Bills. Honestly speaking, it will not be fair. It is not as if we do not want to raise issues. I think we will do something that will not be good, even to those who will want to know that we are doing something. There is urgency to pass them, yes, but I think we should look for better timing than the middle of the night. In the past, we have made those mistakes. It is not good to make the same mistakes again.

Mr. Ruto: Madam Temporary Deputy Speaker, I wish to agree to a certain extent with hon. Midiwo, that we really have to finish the Basic Education Bill and the Elections (Amendment) Bill. They can only be of use if we pass them now. We should also pass the Political Parties (Amendment) Bill. I am not so sure how many amendments there are to the Agriculture, Livestock and Fisheries Authority Bill, the Crops Bill and The Kenya Agricultural Research Bill. If there are not many amendments, I think I am persuaded to pass these ones, because they are very important. These are going to facilitate the transition to devolved governments and the management of the industry in the new dispensation. These are some of the things that make us sit late. They are the ones that we have to pass. These are facilitative Bills--- We really ought to pass them unless midnight catches up with us. So, I am persuaded.

Madam Temporary Deputy Speaker, even this Memorandum from His Excellency the President on the Finance Bill, there is nothing we can do about it; let us just pass it.

I beg to support hon. Midiwo.

Mr. Ogindo: Madam Temporary Deputy Speaker, I want to support the Motion.

Madam Temporary Deputy Speaker, as articulated by hon. Ruto, I think we must appreciate the timelines for the Bills that have been listed here.

Madam Temporary Deputy Speaker, I remember there was a ruling by the Chair on Order No.11 sub-item (vii), which is on the Presidential Memorandum. Today is the last day on that. The same thing applies to the Political Parties (Amendment) Bill. We need to amend them so that they can start taking effect and be acted upon.

With those reasons, I beg to support.

Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Speaker, kindly, allow me to support hon. Midiwo. I think it is clear to us that these are fundamental laws; if you look at some of them such as the one on agriculture and the rest--- What I notice is that we have done this before. We have sat until midnight and done work for this House. So, I would recommend that we accept this Motion.

I support.

(Question put and agreed to)

*[The Temporary Deputy Speaker
(Dr. Laboso) left the Chair]*

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Prof. Kaloki) took the Chair]*

THE BASIC EDUCATION BILL

Clause 62

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

THAT, Clause 62 of the Bill be amended-

(a) in the marginal note by deleting the word “Commission” and substituting therefor the word “Council”;

(b) in sub-clause (1) by deleting the word “Commission” and substituting therefor the word “Council”;

(c) in sub-clause (2) by deleting the word “Commission” and substituting therefor the word “Council”;

(d) in sub-clause (3) by deleting the word “Commission” and substituting therefor the word “Council”.

Mr. Temporary Deputy Chairman, Sir, traditionally, in the education sector, we do not refer to these committees as commissions. We have the Kenya National Education Council. Therefore, we are proposing the removal of the word “Commission” because we have so many commissioners in this country; and replace it with the word “Council”, so that we can have Education Standards and Quality Assurance Council.

(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 62 as amended agreed to)

Clause 63

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

THAT, Clause 63 of the Bill be amended-

(a) in sub-clause (1) by deleting the word “Commission” and substituting therefor the word “Council”;

(b) in sub-clause (2) –

(i) by deleting the word “Commission” appearing in paragraph (b) and substituting therefor the word “Council”;

(ii) by deleting the word “Commission” appearing in paragraph (c) and substituting therefor the word “Council”; and,

(iii) by deleting the word “Commission” appearing in paragraph (e) and substituting therefor the word “Council”.

Mr. Temporary Deputy Chairman, Sir, we are doing this for the same reason. We are removing “Commission” and replacing it with the word “Council”.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Prof. Kaloki): Yes, hon. Millie Odhiambo.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I support.

*(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 63 as amended agreed to)

Clause 64

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

THAT, Clause 64 of the Bill be amended in sub-clause (2) by deleting the word “Commission” and substituting therefor the word “Council”.

Mr. Temporary Deputy Chairman, Sir, this amendment is for the same reason advanced earlier.

(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)*

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, there is a further amendment to Clause 64 by hon. Bahari.

The Temporary Deputy Speaker (Prof. Kaloki): There is a further amendment by Mr. Bahari.

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

THAT, Clause 64 of the Bill be amended-

(a) by inserting the following new sub-clause (7)

(7) “Without prejudice to the generality of Section 62 and this section, the Quality Assurance functions relating to persons entering the teaching service assigned to the Teachers Service Commission under Article 237 of the Constitution and under the Teachers Service Commission Act, 2012”

The whole purpose is that the Teachers Service Commission (TSC) also plays a very significant role in the same function. Given that the Ministry also does the same function, it is good to have the coordination instead of the Ministry and the TSC working in conflict so that their roles are harmonized and they do that in liaison.

(Question of the amendment proposed)

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, allow me to persuade my very good friend that there is a bit of misunderstanding here. The word, “standard” used in Article 237 for the TSC relates to standards of training of teachers and their education. The word, “standards” used in Schedule Four with regard to policy on education relates to policy on education. You cannot mix the two. Both of them are stand-alone constitutional provisions. I would like to persuade my good friend that this amendment would, in fact, bring tremendous amount of confusion which we are already seeing on the ground where you find the directors appointed by the TSC thinking that it is for them to set standards for education. That is not the case.

Their work is under Article 237 – standards on teacher training, teacher education. The work of the County Director of Education is standards of policy of education. There is a tremendous amount of difference. I want to persuade my friend, kindly, I am your lawyer and when I give you advice, you normally accept.

Please, consider and drop the amendment.

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Bahari, what is your word there?

Mr. Bahari: Mr. Temporary Deputy Chairman, Sir, I would not under normal circumstances be reluctant to take the advice but the Minister needs to come out very clearly. When we talk about quality standards, I do not think it is necessarily about policy. So, probably in his explanation, he did not come out very clear. If, however, he comes out clearly, I will not object.

The Temporary Deputy Chairman (Prof. Kaloki): Minister, do you want to clarify that to Mr. Bahari?

The Minister for Education (Mr. M. Kilonzo): With your kind permission, I wish my friend could look at the Constitution, Schedule Four part I, Section 15 which uses set education policy, curricula standards and the rest. Then look at Article 237 which talks about the standards in teacher training and teacher education. If you look at the amendment that he has proposed, he says, “Without prejudice to the generality of Section 64, the quality assurance and standards officers shall have due regard to the quality assurance functions assigned to the TSC”. It will cause confusion and may lead to serious challenges if we collapse quality standards on policy on education. Policy on education involves for example, the curriculum that is being taught. It

involves the actual texts that are going to be used. It involves a lot of other things as opposed to the standards that you apply when training a teacher.

Collapsing these two which includes the following amendment of Mr. Mwaita and Mr. Bahari, please, kindly note that the use of standards are on different categories; one is on policy on education which includes, for example, the subjects to be taught, the manner in which they will be taught, the term calendar and so on. Whereas for the teachers themselves, the standard is different; it is whether the teacher training colleges are offering the sort of teaching---

As I said, please just imagine that the word “standard” although being the same word, it can have different meanings when you apply it to different professions or subjects. Therefore, I am satisfied that Schedule IV, Part I, Section 15, the word “standard” is not the same as “standard” as used in Article 237.

Mr. Bahari: Mr. Temporary Deputy Chairman, Sir, it is clear now and I beg to withdraw.

(Mr. Bahari withdrew his proposed amendment)

The Temporary Deputy Chairman (Prof. Kaloki): There is a further amendment by Mr. Mwaita.

Mr. Mwaita: Mr. Temporary Deputy Chairman, Sir, I think I am persuaded also and I withdraw that amendment.

(Mr. Mwaita withdrew his proposed amendment)

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

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

(Clause 64 as amended agreed to)

Clause 65

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

THAT, Clause 65 be amended

- (a) by deleting the word “Commission” and substituting therefor the word “Council”.
- (b) by inserting the words “Teachers Service Commission immediately after the word “Cabinet Secretary”; and

(Question of the amendment proposed)

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

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

(Clause 65 as amended agreed to)

(Clauses 66 and 67 agreed to)

Clause 68

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

THAT, Clause 68 of the Bill be amended by deleting the word “Commission” and substituting therefor the word “Council”.

(Question of the amendment proposed)

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

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

(Clause 68 as amended agreed to)

(Clauses 69, 70 and 71 agreed to)

Clause 72

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

THAT, Clause 72 of the Bill be amended –

- (a) in subclause (2)-
 - (i) by inserting the words “on the basis of approved criteria” at the end of the paragraph
 - (ii) by deleting the word “agency” appearing immediately after the word “development” and substituting therefor the word “agencies”.
- (b) By deleting sub-clause (3).

The import of this is that on 72(2) we are saying the Cabinet Secretary shall accredit curricular development agency and we are saying it should be “agencies for all levels and programmes. We are also adding a rider that it should be on the basis of approved criteria.

(Question of the amendment proposed)

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

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

(Clause 72 as amended agreed to)

(Clause 73 agreed to)

Clause 74

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

THAT clause 74 of the Bill be amended in sub-clause (4) by deleting the word “Commission” and substituting therefor the word “Council”.

Mr. Temporary Deputy Chairman, Sir, this is actually to replace the same “Commission” with the word “Council.”

(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 74 as amended agreed to)

(Clauses 75 and 76 agreed to)

Clause 77

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

THAT clause 77 of the Bill be amended in sub-clause (1) by inserting the following new paragraph immediately after paragraph (b)-
“(c) pupils and students”

Mr. Temporary Deputy Chairman, Sir, we want the county education board to have a databank which should include pupils and students.

(Question of the amendment proposed)

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

(Clause 77 as amended agreed to)

(Clause 78 agreed to)

Clause 79

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

THAT clause 79 of the Bill be amended by deleting the word “Commission” and substituting therefor the word “Council”.

(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 79 as amended agreed to)

Clause 80

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

THAT, Clause 80 be amended –

(a) in sub-clause (1) by deleting the word “Commission” and substituting therefor the word “Council”.

(b) in sub-clause (2) by deleting the words “competent and licensed” and substituting therefor the word “registered”

(c) in sub-clause (2) by inserting the words “as may be prescribed by Regulations” at the end of paragraph (e).

(Question of the amendment proposed)

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

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

(Clause 80 as amended agreed to)

Clause 81

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

THAT, Clause 81 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a)-

“(aa) in the case of a mobile school, the name of a general grazing area and the name of the family in which the school is situated”

I want to remove the word “grazing”. The import of this is because we have already inserted other areas other than--- It is no longer only the nomadic. We have included “other areas in the Republic”. So, I remove the word “area” so that it reads: “In the case of a mobile school, the name of a general area and the name of the family in which the school is situated. So, I just remove the word “grazing”.

(Question of the amendment proposed)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, I want to support that amendment together with the further amendment because we have moved from focusing because normally, there is a notion that when you talk about nomadic in this country, it only talks about pastoralists but we also come from nomadic areas where the nomadic tendencies is that of people moving from one island to the other. Therefore, so that we are not in any doubts removing “grazing” to take into account people who are not grazing but are moving after fish.

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, I am supporting the earlier amendment by the Chairman of the Education, Research and Technology Committee.

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

(Clause 81 as amended agreed to)

(Clause 82 agreed to)

Clause 83

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 83 be amended by deleting the number “90” in the last line and replace it with “91”

You will notice that we have a problem there with the number 90. We want to replace it with 91 and then followed it by a New Clause 92.

(Question of the amendment proposed)

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

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

(Clause 83 as amended agreed to)

(Clause 84 agreed to)

Clause 85

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

THAT, Clause 85 of the Bill be amended by deleting the words “period of twelve months ending on 30th June in each year” and substituting therefor the words “Government financial year”.

(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 85 as amended agreed to)

Clause 86

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

THAT, Clause 86 of the Bill be amended-

(a) in sub-clause (2) by inserting the following new paragraph-
“(f) the infrastructural development”

(b) in sub-clause (3) by deleting the words “the Cabinet Secretary” and substituting therefor the word “Parliament”.

(Question of the amendment proposed)

*(Question, that the words 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 86 as amended agreed to)

(Clause 87 agreed to)

Clause 88

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

THAT, Clause 88 of the Bill be amended-

(a) in sub clause (1) by deleting sub-clause (2) and substituting therefor the following new sub-clause-

“(2) The officers responsible for school-based auditing for public schools shall advise and work with the respective head teachers, principals, school administrators and governing bodies to ensure the proper maintenance of accounts and assets of the institution”.

(b) in sub clause (3) by inserting the words “ for public schools” at the end of the sub-clause.

*(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 88 as amended agreed to)

(Clauses 89 and 90)

Clause 91

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

THAT clause 91 of the Bill be amended-

(a) by renumbering the existing sub clauses as (1), (2) and (3).

(b) by inserting the following new sub-clause immediately after the renumbered subclause (3)-

“(4) The Education Appeals Tribunal shall comprise of -

(a) the chairperson of the National Education Board;

(b) the Director-General;

(c) the Secretary to the Teachers Service Commission;

(d) a representative of the Education Standards and Quality Assurance Council;

(e) a representative of the Kenya Private Sector Alliance;

(f) a representative of the Attorney-General; and

(g) the Chief Executive Officer of the National Council for Nomadic Education in Kenya”.

(Question of the amendment proposed)

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, this is a very important amendment and I, therefore, support the Chair.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I just wish to draw the attention of the Chair that under (g), he needs to move a further amendment about marginalized and nomadic education. This is because we had already passed such an amendment.

The Temporary Deputy Chairman (Prof. Kaloki): Order, Mrs. Odhiambo-Mabona! Who are you proposing should do that?

Mrs. Odhiambo-Mabona: The Chair of the Committee because he is the one who can bring the amendment.

The Temporary Deputy Chairman (Prof. Kaloki): Does he have the amendment with him? Is it on the Order Paper?

Mrs. Odhiambo-Mabona: It is not on the Order Paper, but because we have already moved an amendment that changes the name, it should be changed throughout, unless we want to have an omnibus clause that will occur throughout the Bill.

The Temporary Deputy Chairman (Prof. Kaloki): Mrs. Odhiambo-Mabona, you are suggesting that Mr. Koech should do it, yet it is not contained in the Order Paper or in any document.

Mrs. Odhiambo-Mabona: Yes, I want to explain to you. While we were sitting here, I brought an amendment; it could not have been on the Order Paper.

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Member, do you have an amendment yourself?

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I brought an amendment and it was based on the Bill and not on the Chair's amendments. That amendment has changed the terminology. Therefore, it means that the terminology--- He did not know that I was going to bring an amendment for changes. He could not have foreseen that I would bring an amendment which would pass. He has been doing amendments as we move to conform to the amendment that we have already passed. So, I am just requesting if he could do a further amendment to his amendment under part (g).

The Temporary Deputy Chairman (Prof. Kaloki): That is an interesting request to the Chair. Mr. Koech, could you clarify all this to the House.

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I do understand what Mrs. Odhiambo-Mabona wants to bring in, but we are talking of the Chief Executive Officer (CEO) of the National Council for Nomadic Education in Kenya, who actually exists. I am not sure whether there is a CEO for the marginalized as we speak now. That is the technicality in this.

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

(Clause 91 as amended agreed to)

Clause 92

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

THAT, clause 92 of the Bill be amended-

(a) in sub-clause (1) by deleting the words " School Management Committees appearing in paragraph (c) and substituting therefor the words " Boards of Management"

(b) sub-clause (2)-

(i) by deleting the words " providing for a religious education and religious instruction having regard to the national values and principals under Article 10 and chapter 6 if the Constitution" appearing immediately after paragraph (d).

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

"(e) integration of the madrassa, duksi and pastoral programmes of instructions into the formal education system as appropriate to improve access and retention"

(c) by deleting paragraph (f) ;

(d) in sub-clause (3)-

(i) by inserting the words "in accordance with international best practices" at the end of paragraph (a) (ii) by deleting paragraph (l) and substituting therefor the following new paragraph-

"(l) provide for religious instruction and religious education in basic education having regard to the national values and principles under Article 10 and Chapter Six if the Constitution"

(Question of the amendment proposed)

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Minister, do you have any comment to make on Clause 92?

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I was waiting to move my own. I have no problem with the amendment moved by the Chairman.

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

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

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended in Clause 92 (g) by deleting the word “UNESCO” and replace with the words “United Nations Educational, Scientific and Cultural Organization”

Mr. Temporary Deputy Chairman, Sir, this will be putting UNESCO in the actual description of its name.

(Question of the further amendment proposed)

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, the amendment by the Minister seeks to clean up or straighten the amendment.

Therefore, I support.

*(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)*

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

THAT, clause 92 of the Bill be amended-

- (a) by inserting the words “of Marginalized and” immediately after the words “the National Council” appearing in paragraph (f).
- (b) in sub-clause (3) by inserting the words “and child rights” immediately after the words “instruments on education” appearing in paragraph (n).

This explains what I was saying before, that we have already changed the council. This is because it was amended earlier on.

(Question of the further amendment proposed)

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

(Clause 92 as amended agreed to)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, before you propose clause 93, I have an amendment to clause 93(n); it also includes instruments--- The Minister has indicated there are instruments on education. I am also touching on instruments on children.

The Temporary Deputy Chairman (Prof. Kaloki): Order, hon. Odhiambo-Mabona. We dealt with your amendments at clause 92(3)(n); we dealt those particular amendments.

*(Clauses 93, 94, 95, 96, 97
and 98 agreed to)*

New Clause 7

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

THAT, the Bill be amended by inserting the following new clause immediately after clause 6-

Composition of
the Board

7. (1) The Board shall consist of a chairperson and eight other members appointed by the Cabinet Secretary in accordance with the provisions of this Act.

(2) The chairperson shall serve for a term of four years and shall be eligible for re-appointment for one further term of four years.

(3) The members shall serve for a term of three years and shall be eligible for re-appointment for one further term of three years.

Mr. Temporary Deputy Chairman, Sir, there was no clause 7; this is to put clarity on the composition of the Board and term of the Board.

(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)*

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

New Clause 25A

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

THAT the Bill be amended by inserting the following new Clause immediately after Clause

25-

-

Roles of county
Government

25A. (1) The roles of the county government shall include the provision of funds required for the development of the necessary infrastructure for institutions of basic education and training used for conducting pre-primary education, childcare facilities, homecraft centres and village polytechnics.

(2) Pursuant to Article 187 of the Constitution, the national government may, upon request and with agreement between both governments, transfer its functions relating to infrastructure development of primary schools and secondary schools to a county government.

(3) Where the national government transfers its functions to a county government under sub-section (2), it may also allocate conditional grants to that county government to cater for the additional responsibilities arising from the transfer.

This is on page 4505 of the Order Paper. The gist of this amendment is to clearly specify the role of the County Government in providing funding for the areas of its concern as allocated by the Constitution. That is the area of basic education. That is pre-primary, childcare facilities, homecraft centres and youth polytechnics. It was indicated village polytechnics, because there was an amendment read by the Chairman it should be youth polytechnics. That should be the way it is.

Clause 25A(2) is pursuant to Article 187 of the Constitution. We are just providing a framework in which the two levels of Government can consult. I want to bring the attention of Members that secondary schools, especially day schools and other schools, have actually been constructed by parents, County Councils and CDF. It will be ridiculous if the County Government, a huge organization, will not do anything to help. If the Constitution provides that there can be an agreement between a County Government and the National Government; the National Government can allow them to give some funding to these schools. This will be subject to discussion at a later stage between the two Governments as per the Constitution. This is provided for by Article 187 of the Constitution.

Lastly, it provides that where such functions are done, the national government can still give certain funding conditionally for the development of the same infrastructure. Hon. Members will recall that certain primary schools do exist all the way, for example in Chapalungu, and the Minister may not know whether the funding he has sent actually arrived there. He can make use of the county government at his own discretion. It is basically facilitating.

Mr. Temporary Deputy Chairman, Sir, I have the concurrence of the Minister.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be

read a Second Time, proposed)

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, this is a very healthy amendment brought by hon. Isaac Ruto. We realise that some of the counties will be very rich. They will be collecting funds, and those funds must be invested in improving infrastructure in those areas. I beg to support.

*(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 35A

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, there is proposal for introduction of New Clause 35A, and the amendment will be moved by hon. Koech.

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

THAT, the Bill be amended by inserting the following new clause immediately after clause 35-
Holiday tuition.

35A. (1) No pupil shall be subjected to holiday tuition.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding one year or to both.

Mr. Temporary Deputy Chairman, Sir, the Minister has been trying to stop holiday tuition without using any law. In most cases, teachers in the rural areas obey the directives given by the Minister but the majority of wealthy parents continue with tuition. So, we want to provide for a mechanism to ensure that all children are treated equally.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Agostino Neto, please, proceed.

Mr. Oyugi: Mr. Temporary Deputy Speaker, Sir, I beg to oppose, my reason being that whereas it is good to make sure that the children have enough time to rest, I think it disadvantages children from poor families. Whereas we agree that holiday tuition does not take place, you find that people from rich families still end up having holiday tuition for their various children. This disadvantages children from poor families.

I really think that whereas it is important that pupils have enough time to rest, there are pupils from poor families who need remedial teaching. I have close reference to a variety of principals who think that there are people who have need for remedial teaching. This remedial teaching is not able to be accessed when they go to the various villages that they come from. So whereas I think it is possible, it should not be engraved on marble that private tuition should not be made compulsory.

Mr. Midiwo: Thank you, Mr. Temporary Deputy Chairman, Sir. I rise to support the amendment. I think it is important that we understand what the Committee or the chairman is trying to do. I am aware that the Chair of the Committee is speaking from experience, having been a long serving teacher. The most important thing is that we must understand why the Minister sought to outlaw the so called tuition. In the rural areas that my brother Neto is trying to put in a good word for, our parents cannot even afford the tuition. In fact, the biggest argument for this is that during the regular teaching days, teachers do not go to school. They wait to collect money when our kids should be at home.

Mr. Temporary Deputy Chairman, Sir, I went to school in the rural areas and I do not remember ever having gone for holiday tuition. It is not fair to young people that they have to be in school even when they should be in church. These people are actually breaking families as opposed to developing good young people.

I support.

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir, I think it is important that for purposes of wholesome growth, a child should be allowed to be a child. If you do not give children time to be children, when will they become children? Over the holidays, they should even visit their grandmothers so that they can understand the past as well. They should be able to understand the history of communities and a variety of things with their aunties.

I support the position taken by the Minister and the Chair of the Committee. Let our children be children during holidays. Full stop!

The Temporary Deputy Chairman (Prof. Kaloki): Before we go to the Minister, let us have Dr. Sally Kosgei.

The Minister for Agriculture (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, I want to support, as a former trained teacher and also as a mother. It is extremely important to have children have holiday. As they say, all work and no play makes Jack a dull boy. There was a reason, and everybody in the world takes holiday.

It is very important especially if the people in rural areas are the ones going to be suffering. Parents cannot pay more than they are paying. Why are the teachers refusing to teach during teaching time? There is enough time to teach during teaching time.

I support.

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, what I wanted to say has been said. The fact of the matter is that I know the hon. Member himself did not do holiday tuition yet he is here, a very distinguished Member of Parliament. Holiday tuition is a violation of the child's right and should not be confused with remedial tuition.

Mr. Temporary Deputy Chairman, Sir, knowing that you were also a distinguished teacher yourself, you know that when you do remedial tuition, you select those children who are challenged and they are normally the ones either at the bottom of the class or those who have some kind of learning disabilities.

Mrs. Odhiambo-Mabona: Point of information, Mr. Temporary Deputy Chairman, Sir.

The Minister for Education (Mr. M. Kilonzo): I do not need information from my student.

The fact of the matter is that when you do remedial tuition, you select those students who are not at the same pace with the rest. When you call all of us if we are 40 pupils in a classroom and give us the so called remedial tuition, I will still remain number 40.

Mr. Temporary Deputy Chairman, Sir, the principal beneficiary of the ban of the holiday tuition is the poor. This is because, why are you asking a parent during holidays to pay for holiday tuition when the teacher is still earning a salary from Mutula? The teachers are paid during school holidays. So, why do you want them to be paid on top of a payment that is already made?

Mr. Temporary Deputy Chairman, Sir, please let me persuade my good friend that this is something whose time has come. In fact, in some schools and counties in Germany right now, the counties have now abolished homework at home because they are saying when the children go back home like in Kenya carrying books in a wheelbarrow they cannot even concentrate on the life that they should lead. You are only a child from age zero to 18 years. The greater part of your life is when you are an adult. As my good friend Mr. Ruto has put it very correctly, allow our children to be children.

(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 57A

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Koech, are you with us on New Clause 57A?

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I had actually deleted that amendment. So, I withdraw that amendment.

(New Clause 57A by Mr. Koech withdrawn)

New Clause 91A

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

THAT, the following new clause be inserted immediately after Clause

91-

**Establishment of the
National Council for
Nomadic Education**

91A. (1) There is established a National Council for Nomadic Education in Kenya.

(2) Notwithstanding sub-clause (1) the National Council for Nomadic Education in Kenya shall be constituted in a manner set out in the Sixth Schedule.

Further to that I would like to make further amendment aware that we have now introduced the word “marginalized” so that it will read as follows:-

“(1) There is established a National Council for marginalized and nomadic education in Kenya.

(2) Notwithstanding sub-clause (1) the National Council for Marginalized and Nomadic Education in Kenya shall be constituted in a manner set out in the Sixth Schedule.”

The import of this is that we would like a specific council to deal with mobile education in this country.

(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 agreed to)

(Second Schedule agreed to)

Third Schedule

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

That the schedule be amended by deleting the word “**teachers**” on the title.

That the schedule be amended in **clause 1** by deleting the word “**teachers**” in the first line.

That the schedule be amended in **Clause 1 (b)** by deleting all the words and replacing with the following words: “**A representative of the teachers in the school**”

Clause 1 (b) delete the who **sub clause 1 (b)** and insert

That the schedule be amended in **clause 2(2)** by deleting the word “**teachers**” in the second line.

That the schedule be amended in **clause (2)(3)** by deleting the word “**teachers**” in the first line.

That the schedule be amended in **clause (2) (6)** by deleting the word “**teacher**” in the first line.

That the schedule be amended in **clause (2) (6) (f)** by deleting the word “**teachers**” in the second line.

That the schedule be amended in **clause 3** by deleting the word “**teachers**” in the first line.

That the schedule be amended in **clause 4** by deleting the word “**teachers**” in the second line.

That the schedule be amended by inserting a new **clause 5** to read as follows.

“There shall be established National Parents Associations, County parents Associations and Sub-County Parents Association elected by Parents Association from Schools through a delegate system”.

Mr. Temporary Deputy Chairman, Sir, as you can see, I am merely deleting the word “teachers” so that these associations fully become legalized parents associations. Therefore, it is pretty straightforward. In Clause 5 of the said Schedule, I am for the first time establishing a national parents association, county parents associations and sub-county parents associations, elected by parents associations from schools through a delegate system. It is a dramatic departure that will create a sense of belonging by parents, so that they participate in the development and welfare of their children.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairman (Prof. Kaloki): There is a further amendment by hon. Koech.

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, mine was actually for cleaning up. I would wish to withdraw my amendment.

(Mr. Koech’s proposed amendment withdrawn)

(Third Schedule as amended agreed to)

Fourth Schedule

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

THAT the Fourth Schedule of the Bill be amended-

(a) by inserting the following new paragraph immediately after paragraph

(1)-

(1A) There shall be an executive Board of Management for each Board of Management consisting of-

- (a) the chairperson of the Board;
- (b) the secretary of the Board;
- (c) the chairperson of a Parents Teachers Association; and
- (d) two other board members.

(b) in paragraph (11) by deleting the word “remuneration”

(c) in paragraph (20) by deleting the words “period of twelve months ending on the thirtieth day of June of each year” and substituting therefor the words “financial year of the government”

(d) in paragraph (22) by inserting the words “ of the government” immediately after the word “year” appearing in sub paragraph (2).

PART II

THAT part II of the Fourth Schedule of the Bill be amended in paragraph (2) -

(i) by deleting the words “renowned educationist” appearing in paragraph and substituting therefor the words “educationist of at least five years standing”

(ii) by deleting the words “a representative” appearing in sub-paragraph (b) and substituting therefor the words “two representatives”

(iii) deleting sub-paragraph (d) and substituting therefor the following new subparagraph-

“(d) where applicable, one person each representing -

(i) jointly, the National Council for Churches of Kenya and the Evangelical Fellowship of Kenya;

(ii) the Kenya Episcopal Conference; and

(iii) the Muslims Education Council.

(iv) by deleting the words “a representative” appearing in sub-paragraph (f) and substituting therefor the words “two representatives”.

(v) by inserting the following new subparagraphs immediately after subparagraph (h)

“(i) one representative of the Primary school Head Teachers’ Association.

(j) one representative of the Secondary School Principals’ Association

Mr. Temporary Deputy Chairman, Sir, this is just to provide for a clear Executive Board.

(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)*

(Fourth Schedule as amended agreed to)

Fifth Schedule

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

That the Bill be amended by inserting a new sub- clause 1(f) to read as follows:

“To advise the National Education Board on matters of Adult and Continuing Education”

That the Schedule be amended in sub clause 2(c) by deleting all the words and replacing with the following-

“five persons appointed by the cabinet secretary to represent local and international agencies involved in Adult and Continuing Education”

That the Schedule be amended in sub-clause 2(2) by deleting all the words and replacing with the words:-

“the board may co-opt other members as may be deemed necessary”

That the Schedule be amended in sub clause 8(2) by deleting all the words and replacing with the words:-

“the functions of the County Education Committee shall be to advise the County Education Board on the activities on Adult and Continuing Education’

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairman (Prof. Kaloki): There is a further amendment by hon. Koech or the Minister has captured it?

Mr. Koech: Mr. Temporary Deputy Chairman, if it is same then I withdraw mine.

The Temporary Deputy Chairman (Prof. Kaloki): Are you sure?

Mr. Koech: Let me check first, Mr. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Prof. Kaloki): Could you put it on the record that you are withdrawing?

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I withdraw that.

(Hon. Koech withdrew his proposed amendment)

(The Fifth Schedule as amended agreed to)

New Sixth Schedule

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

THAT, the following new Schedule be inserted immediately after the Fifth Schedule to the Bill.-

SIXTH SCHEDULE

ESTABLISHMENT AND FUNCTIONS OF NATIONAL COUNCIL FOR NOMADIC EDUCATION IN KENYA

Functions of the Council.

1. The functions of the Council shall be to-

- (a) initiate the development of policies on all matters relating to nomadic education in Kenya;
- (b) mobilize funds from various sources for the development of nomadic education in order to support relevant activities of the council;
- (c) institutionalize mechanisms for effective coordination, monitoring and evaluation of the activities of agencies involved in the provision of nomadic education;
- (d) implement guidelines and ensure geographical spread of nomadic education activities and targets for the nomadic people;
- (e) establish appropriate linkages and partnerships with other participating departments and agencies.
- (f) determine standards and skills to be attained in schools, and institutions within nomadic communities and review such standards from time to time;
- (g) prepare reliable statistics of nomads and their school-aged children and establish a data bank; and
- (h) coordinate research activities on nomadic education in Kenya.

Membership of the Council

2. The Council shall consist of the following members-

- (a) a chairperson appointed by the Cabinet Secretary;
- (b) the Principal Secretary in the department responsible for Education;
- (c) the Principal Secretary in the department responsible for finance;
- (d) the Principal Secretary in the department responsible for the development of Arid and Semi Arid Lands;
- (e) three representatives of Faith Based Organizations;
- (f) a representative of disabled persons;
- (g) a women representative;
- (h) a youth representative;
- (i) two representatives of teachers trade unions; and
- (j) a representative of parents

Vice chairperson

3. The Council shall, at its first meeting, elect a vice chairperson from amongst the persons appointed under this schedule

Meetings of the Council

4. The Council shall meet at least three times in each year

Special meetings

5. The Chairperson may at any time convene a special meeting of the Council and shall do so within fifteen days of a written requisition for the meeting signed by at least three members.

Chairperson to preside

6. (1) The Chairperson shall preside at all meetings of the Council, in which the Chairperson is present and in the case of his or her absence, the Vice Chairperson shall preside.

(2) At a meeting of the Council at which neither the Chairperson or Vice Chairperson is present, the members of the Council present shall elect one of their members to preside, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereof.

Quorum.

7. The quorum for the conduct of the business of the Council shall be seven members.

Voting procedure

8. The decisions of the Council shall be by a majority of votes, and the Chairperson of the meeting shall have an original and a casting vote.

Validity of proceedings

9. The validity of any proceedings of the Council shall not be affected by any vacancy among the membership thereof, or by reason of a defect in the appointment of a member.

Minutes of the meeting.

10. Minutes of the proceedings at meetings of the Council shall be kept in such a manner as the Council directs, and, on the written request of the Cabinet Secretary, shall be made available to him or her or any person nominated by him or her.

Committees of the Council

11. The council may establish such committees as may be necessary for the performance of the functions of the Council and may, subject to the provisions of this Act, delegate powers conferred on it to any such committee.

Power of the Council to regulate own procedure

12. Subject to the provisions of this Schedule, the Council shall regulate its own procedure.

Disclosure of interest.

13. If a member of the Council is directly or indirectly interested in any contract, proposed contract or other matter before the Council and is present at a meeting of the Council at which the contract, proposed contract or other matter is the subject of consideration, he or she shall at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

Tenure

14. (1) The Chairperson shall serve for a term of four years renewable once.

(2) The members shall serve for a renewable term of three years.

Qualifications

15. (1) A person shall be qualified for appointment as the Chairperson of the Council if such person –

- (a) holds a degree in education from a university recognized in Kenya;
- (b) has knowledge and at least ten years experience in matters relating to education; and
- (c) meets the requirements of Chapter Six of the Constitution.

(2) A person shall be qualified for appointment as a member of the Council if such person –

- (a) holds a degree from a recognized university;
- (b) has knowledge and at least five years experience in matters relating to any of the following fields —
 - (i) education;
 - (ii) management;
 - (iii) finance;
 - (iv) governance and human rights
 - (v) public administration;
 - (vi) law;
 - (vii) economics; and
- (c) has had a distinguished career in their respective fields; and
- (d) meets the requirements of Chapter Six of the Constitution.

Disqualifications

16. A person shall not be qualified for appointment as the chairperson or a member of the Council if such person—

- (a) is a member of Parliament or a county assembly;
- (b) is a member of a local authority;
- (c) is an undischarged bankrupt; or
- (d) has been removed from office for contravening the provisions of the Constitution or any other written law.

vacancy

17. (1) The office of the chairperson or a member of the Council shall become vacant if the holder—

- (a) dies;
- (b) resigns from office, by a notice in writing addressed to the Cabinet Secretary;
- (c) is absent from three consecutive meetings of the Council without good cause; or
- (d) is removed from office in accordance with subsection (2).

(2) The Chairperson or a member of a Council may be removed from office for-

- (a) contravention of Chapter Six of the Constitution or
- (b) serious violation of this Act or any other law;
- (c) gross misconduct;
- (d) physical or mental incapacity to perform the functions of office;
- (e) incompetence; or
- (f) if adjudged bankrupt.

Secondment

18. The Cabinet Secretary may in consultation with the Council and upon such terms and conditions as may be prescribed, second such officers, agents and other staff as may be necessary for the efficient discharge of the functions of the Council under this Schedule.

Experts and Consultants

19. The Council may engage consultants and experts, as it considers appropriate, to assist in the discharge of its functions under this schedule.

Remuneration

20. The Chairperson and members of the Council shall be paid such remuneration, fees, allowances and disbursements for expenses as may be approved by the Cabinet Secretary.

Reporting

21. (1) The National Council for Nomadic Education in Kenya shall submit an annual report to the Cabinet Secretary.

(2) Notwithstanding subsection (1), Cabinet Secretary may, at any Secretary to the Council time, require a report from the National Council for Nomadic Education in Kenya on a particular matter.

Secretary to the Council

22. (1) The Council shall, through an open, transparent and competitive recruitment process, recommend for appointment by the Cabinet Secretary a qualified person to be the Secretary to the Council.

(2) A person shall be qualified for appointment as the Secretary if the person—

- (a) holds a minimum of a first degree in education or related discipline;
- (b) has had at least ten years proven experience in leadership at senior management level;
- (c) has experience in finance, management and public administration; and
- (d) satisfies the requirements of Chapter Six of the Constitution.

(3) The Secretary shall—

- (a) be appointed by the Cabinet Secretary;
- (b) be an *ex officio* member of the Council with no right to vote;
- (c) be the secretary to the Council;
- (d) subject to the directions of the Council, be responsible for the day to day management of the affairs of the Council; and
- (e) perform such other functions as the Council may from time to time, determine.

(4) The Secretary shall serve on such terms and conditions as the Cabinet Secretary may determine.

Mr. Temporary Deputy Chairman, Sir, the import of this is that we have just recognized this very important council and we wanted to put their functions. Allow me because of what we have already discussed before to also move a further amendment to create 1(a) after 1. That 1(a) should read that; “Every reference to nomadic education shall be construed to also refer to

education for the marginalized and any phrase with the word “nomad” shall be interpreted accordingly.” This is really to take care of the marginalized as we have just mentioned earlier on.

The Temporary Deputy Chairman (Prof. Kaloki): You were proposing a further amendment and the Clerks are trying to capture that one. That was 1 what?

Mr. Koech: 1(A)

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Koech, write it down and sign it the way you want it to read. Then we can move it and then it will be captured in the records so that we can move it in the right manner and procedure.

(Hon. Koech signed the document)

(Question of the new Schedule proposed)

(New Schedule read the First Time)

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

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I stand to support this as firmly as one can do. I want to salute the committee and the Chairman for accepting this very fundamental departure from the 1968 Education Act. It is well that I go on record to say that more than one million Kenyan children who are entitled to basic education do not go to school partly because of the challenges that nomadic and other marginalised areas face. Therefore, I wish to plead with the House to accept this Council. It is pretty straightforward. It is very well laid out.

I beg to support.

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

(The new Schedule was read a Second Time)

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

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, we have come to the end of the amendments on The Basic Education Bill.

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Committee doth report to the House its consideration of The Basic Education Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, we are still in the Committee of the whole House. We will now consider The Political Parties (Amendment) Bill, Bill No.73 of 2012.

THE POLITICAL PARTIES (AMENDMENT) BILL

(Clause 2 agreed to)

(Prof Kaloki consulted Mr. Midiwo)

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, we are consulting on an issue here with Mr. Midiwo.

We are trying to capture an amendment here by Mr. Midiwo and we want to make sure that we do it right.

(Clauses 3 and 4 agreed to)

(Title agreed to)

(Clause 1 agreed to)

Mr. Midiwo: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Political Parties (Amendment) Bill of 2012 and its approval thereof without amendment subject to recommittal of clause 2.

(Question proposed)

(Question put and agreed to)

THE AGRICULTURE, LIVESTOCK, FISHERIES AND
FOOD AUTHORITY BILL

Clause 2

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

THAT, Clause 2 of the Bill be amended-

(a) in the definition of the word "agriculture" by-

(i) deleting paragraph (b);

(ii) deleting paragraph (c);

(iii) deleting the words "as grazing or" appearing in paragraph (e);

(b) in the definition of the word "Authority" by deleting the word "Livestock"

Since I believe that time is of essence I will not belabour or discuss the details of it. There will be further amendments by hon. Odhiambo-Mabona. We have had discussions with the hon. Member. She is right to the extent that the definition of the word “agriculture” does not include aquaculture. So, adding the word “aquaculture” cures all her amendments in respect to the proposed amendments. That makes it very easy.

Therefore, we will only need to add, after the word “agriculture”, the word “aquaculture.”

The other amendments which have been proposed by hon. Millie have been discussed and I will move all of them on her behalf so that we can move smoothly and without any hitch.

I propose to move that clause 2 becomes part of the Bill. I wish to move a further amendment---

Mr. Temporary Deputy Chairman (Prof. Kaloki): Order, hon. Mututho! Where is your amendment?

Hon. Mututho, stick to your amendment as per the Order Paper. If you have a different amendment, then you need to read it out and make sure that the Chair has a copy so that we can capture it. However, stick to your amendment as it appears on the Order Paper.

*(Mrs. Odhiambo-Mabona stood up
in her place)*

The Temporary Deputy Chairman (Prof. Kaloki): Order, hon. Odhiambo-Mabona; let us deal with this first.

Hon. Mututho are we together? Are these the amendments that you want to move to clause 2? have you already given notice of those amendments?

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, I need to be guided. What I am proposing is a further amendment to my amendment; we need to make progress by adding only the word “aquaculture”.

The Temporary Deputy Chairman (Prof. Kaloki): All right. Which one are you moving? Clause 2(a), delete paragraph (b)---

Mr. Mututho: I am on 2(a), the definition of the word “agriculture”.

The Temporary Deputy Chairman (Prof. Kaloki): Delete paragraph (b)---

Mr. Mututho: Before I come to that, we just add the word “aquaculture”. To the definition of the word “agriculture” we are adding the word “aquaculture”

The Temporary Deputy Chairman (Prof. Kaloki): Where, hon. Mututho?

Mr. Mututho: In the definition of the word “agriculture” as appearing at clause 2(a)---

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Mututho, do you want to write it out. Just approach the Chair. The Clerks are here to assist you, so that we can capture it the right way.

*(Mr. Mututho consulted
the Clerks-at-the table)*

The Temporary Deputy Chairman (Prof. Kaloki): All right, hon. Mututho?

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, what I was trying to do was to expound the meaning of agriculture to include aquaculture; that will cure the area that we left. As you go on with the Bill, you will find that we are talking about fish farming. That fish farming

ideally should be fish harvesting. So, the whole meaning now gets distorted and we dilute the Bill itself. So, we either do it at (e) “aquaculture” or after the definition stage. That is all. That is what we wanted to do.

The advice from my side is that we stick to exactly what I have put in here. But when I go to 2(e) I can amend to read “aquaculture” instead of “fish farming”.

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Mututho, you are taking a lot of time. You have consulted with the clerks. We must now make some progress. What is the problem?

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, there is no problem *per se*. I just want to move my amendment. As it is in today’s Order Paper, we introduce an additional amendment, which is “agriculture” along that side. That is all we are trying to do, and everybody agrees.

The Temporary Deputy Chairman (Prof. Kaloki): So, you just move it as per the Order Paper, so that it can be captured clearly.

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, that is okay. We will move the first one and then we can do my further amendment. Is that okay?

The Temporary Deputy Chairman (Prof. Kaloki): Yes, as long as you provide a copy of the further amendment, so that we can make sure that is captured.

Mr. Mututho: Sure! I will give you the further amendment.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, could I, please, get a copy of the amendment. In a way, it will help us move forward. Can I just intervene in a way that will help us move forward?

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Mututho, maybe, the Minister can help, if you can convince her.

*(Mr. Mututho tried to cross the Floor
without bowing to the Chair)*

The Temporary Deputy Chairman (Prof. Kaloki): Order, hon. Mututho! You have to go all the way to the Bar.

*(Mr. Mututho proceeded to the Bar, bowed
to the Chair and crossed the Floor)*

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, hon. Mututho is consulting with the Minister, so that some of the amendments that he intends to move can be moved by her.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, can I intervene in the meantime?

The Temporary Deputy Chairman (Prof. Kaloki): Order, hon. Millie Odhiambo. Let us just have matters clarified and then we can move on.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, my suggestion will actually help us move on.

*(Mr. Mututho consulted with
the Minister for Agriculture)*

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, my apology for taking that long. However, I now seek to proceed.

The Temporary Deputy Chairman (Prof. Kaloki): Proceed, Mr. Mututho, I know you have consulted and now you are ready to move.

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

THAT Clause 2 of the Bill be amended-

(a) in the definition of the word “agriculture” by-

(i) deleting paragraph (b);

(ii) deleting paragraph (c);

(iii) deleting the words “as grazing or” appearing in paragraph (e);

(b) in the definition of the word “Authority” by deleting the word “Livestock”

(Question of the amendment proposed)

The Minister for Agriculture (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, while accepting that amendment, I would like to propose a further amendment to that clause by adding the words, “aquaculture and food production” in the definition of agriculture after the word, “husbandry”.

The Temporary Deputy Chairman (Prof. Kaloki): Order, Minister! Let me deal with Mr. Mututho first then we come to you.

Mr. Mututho: I concur with the Minister.

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

The Temporary Deputy Chairman (Prof. Kaloki): Minister, go ahead and move yours now.

The Minister for Agriculture (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, I would like move a further amendment on that clause by adding the words, “aquaculture and food production” in the definition of agriculture after the words, “husbandry” and before the words, “and includes”.

(Question of the further amendment proposed)

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

Mr. Ruto: On a point of order, Mr. Temporary Deputy Chairman, Sir. I do not know whether I am late to ask the Minister to clarify this but I am finding a serious contradiction in this Act itself even with the Constitution because we are coming up with an Authority to do what is not--

The Temporary Deputy Chairman (Prof. Kaloki): Which Clause?

Mr. Ruto: I am talking about Clause 4 and the rest.

The Temporary Deputy Chairman (Prof. Kaloki): We are not yet there.

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir, I am just asking about the constitutionality of all these things. When you check---

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Ruto, when we get to Clause 4 then we can talk about it. You are just ahead of us. Actually we have just finished dealing with Clause 2. We are moving to Clause 3 now. Could you be patient until we get to Clause 4?

Clause 3

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 3 of the Bill be amended-

- (a) in sub-clause (1) by deleting the word "Livestock";
- (b) by inserting the following new sub-clause immediately after sub-clause (3)-
- (c) (3A) Despite sub-section (3), the Authority shall not be the successor of livestock based institutions existing immediately before this Act was enacted into law.

(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
be inserted, put and agreed to)*

(Clause 3 as amended agreed to)

Clause 4

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

THAT, the Bill be amended by deleting Clause 4 and substituting therefor the following new Clause-

Functions of
the Authority

- 4. the functions of the Authority shall be to-
 - (a) administer the Crops Act and the Fisheries Act in accordance with the provisions of those Acts;
 - (b) promote best practices in, and regulate the production, processing, marketing, grading, storage, collection, transportation and warehousing of agricultural products excluding livestock products as may be provided for under the Crops Act and the Fisheries Act;
 - (c) collect and collate data, maintain a database on agricultural products excluding livestock products, document and monitor agriculture through registration of players as provided for in the Crops Act and the Fisheries Act;
 - (d) be responsible for determining the research priorities in agriculture and to advise generally on research in agriculture;

(e) advise the county governments on the agricultural levies for purposes of enhancing harmony and equity in the sector;

(f) carry out such other functions as may be assigned to it by this Act, the Crops Act, the Fisheries Act and any other written law.

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir, this Bill proposes in fact even in Clause 4 to give unto this Authority the functions it does not have according to the Constitution. If I read the Fourth Schedule on the functions of the national Government when it reaches agriculture policy, what we are discussing here is that the functions of the Authority shall be to promote best practices in and regulate the production, processing, marketing, grading, storage, collection. This is a function of the county governments and this is not a county government legislation. The county government should be allowed to come and legislate on its own roles. Take for instance; the functions and powers of the counties are:

(a) Agriculture including crop and animal husbandry, livestock, county abattoirs, plant and animal disease control and fisheries.

Here, what are we trying to do as far as this Authority is concerned? Are we trying to take over the functions of the county governments and give them to the national governments? What are we attempting to do in this particular instance? I am opposing that these are not functions of a national Government. Is this a shared Authority? If it is shared, then is this the right stage to create this?

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Mututho, you are the Mover of this amendment. Actually, it has nothing to do with the Minister.

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, first of all, I would like to ask the hon. Member to relax and read his Constitution. How do you administer policy in the whole exercise that you are going through here? If you go, again, to the Fourth Schedule and even look at the functionalities out there, these county governments, and I am glad that you will be a Governor--- You will face a situation like the case of Nyandarua where they are going to have only one flower farm. They may put in such things as levies, which will supersede---

The Temporary Deputy Chairman (Prof. Kaloki): Order, hon. Mututho! Hon. Ruto was reading part of the Constitution.

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, I can withdraw my amendment.

An hon. Member: What are you opposing?

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir, in fact, I am opposed to anything that bequeaths unto the national Government or national Government agency functions of the county governments; whether it is here now or you had even done it originally on the Bill. It is still a nullity because the National Government cannot purport to do the work that belongs to the county. The ordinary reading that I can see is the Constitution. I have just read in the Constitution the functions of the national Government and county governments. You are now saying that this Authority will do exactly what the county government will do.

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Ruto, you have made your point.

Hon. Mututho, are you withdrawing?

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, let me get it clear. Is he opposed to the amendment or the entire clause?

The Temporary Deputy Chairman (Prof. Kaloki): It is the amendment.

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, if it is the amendment, then I withdraw my amendment and we make progress.

(Mr. Mututho's amendment withdrawn)

The Temporary Deputy Chairman (Prof. Kaloki): There is a further amendment by hon. Neto.

Mr. Oyugi: Mr. Temporary Deputy Chairman, Sir, what hon. Ruto has raised is fundamental. I had a further amendment on Clause 4, but he raised the fact that creating an authority then does take powers away from the devolved government, which I think is key, unless I got that wrong.

The Temporary Deputy Chairman (Prof. Kaloki): What are you doing?

Mr. Oyugi: Mr. Temporary Deputy Chairman, Sir, I ought to have made an amendment to Clause 4, which has been deleted. The amendment has been overtaken by events.

The Temporary Deputy Chairman (Prof. Kaloki): So, you are withdrawing.

Mr. Oyugi: Mr. Temporary Deputy Chairman, Sir, I withdraw my amendment.

(Mr. Oyugi's amendment withdrawn)

(Clause 4 agreed to)

Clause 5

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

THAT, Clause 5 of the Bill be amended in paragraph (a) of sub-clause (1) by inserting the words "with the approval of the National Assembly" at the end of the paragraph.

(Question, of the amendment proposed)

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

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Oyugi, your amendments now will be disregarded because they are similar to hon. Mututho's and I think you can see there in the Order Paper. Hon. Oyugi, I think you had more amendments. So, you can move the rest except (i)

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

THAT, Clause 5 be amended-

(ii) by deleting paragraphs (i) and substituting therefor the following paragraph—

(i) eight persons, being farmers' representatives, elected by the farmers to represent the major crop subsectors in Kenya;

(b) by inserting the following new sub-clauses immediately after sub-clause (1)—

(1A) The Cabinet Secretary shall make rules for election of the members of the Board under paragraph (i).

(1B) The rules made under subsection (1A) shall provide for mechanisms to ensure that not more than two thirds of the members so elected are of the same gender.

(Question of the further amendment proposed)

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

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

(Clause 5 as amended agreed to)

The Minister for Agriculture (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, I had something to say on Clause 5 but if you tell me you have gone past it, I will just say it anyway and it has to do with if you insist that there are so many people elected, you actually water down the work of the experts because we have this crisis in the sugar industry. Furthermore, he would actually be invalidating what operates as the state but we have gone past it. Although I had my microphone on the whole time you just did not give me space but I concede.

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

Clause 10

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

THAT, Clause 10 of the Bill be amended-

(a) by inserting the following new sub-clause immediately after sub-clause (1)-

(1A) The appointment of the Director General of the Authority under subsection (1) shall be done in consultation with the Cabinet Secretary and with the approval of the National Assembly.

(b) by inserting the words “for one further term” at the end of sub-clause (2).

(Question of the amendment proposed)

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, I would like to urge the Chairman of the Departmental Committee on Agriculture, Livestock and Co-operatives to explain to the House the import of this clause.

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

(Clause 10 as amended agreed to)

Clause 11

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

THAT, Clause 11 of the Bill be amended-

(a) in sub-clause (3) by deleting the words “crop or”;

(b) by inserting the following new sub-clause immediately after sub-clause

(3)-

(4) The appointments of any director or head of directorate under this section shall only be done with the prior approval of the National Assembly.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, could he, please, expound.

The Temporary Deputy Chairman (Prof. Kaloki): Please, clarify the import of this amendment. Just clarify why the amendment is necessary.

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, the essence of this particular amendment is to try and make sure that there is no nepotism in such serious appointment and ultimately, the National Assembly will have to approve the appointees. That is what it is.

(Question of the amendment proposed)

The Minister for Agriculture (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, I accept, but I have a further amendment which is different from that one.

The Temporary Deputy Chairman (Prof. Kaloki): Let me put the Question on this and then we will go to the Minister’s amendment.

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

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

The Temporary Deputy Chairman (Prof. Kaloki): Madam Minister, we also want to see a copy to make sure that we have captured your amendments the way you want it.

The Minister for Agriculture (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, I was in the process of signing the previous one. I will write this one if you accept it.

I would like to add in the Clause 11 the words “and including a directorate of fisheries and food production” after the words “any other Act of Parliament”. It is right there at the beginning. It is innocent.

(Question of the further amendment proposed)

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

(Clause 11 as amended agreed to)

(Clauses 12, 13, 14 and 15 agreed to)

Clause 16

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

THAT Clause 16 of the Bill be amended -

(a) by deleting sub-clause (2);

(b) by deleting sub-clause (3);

(Question of the amendment proposed)

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir, I am still disturbed because I was not given any satisfactory answer to the constitutional question.

The Temporary Deputy Chairman (Prof. Kaloki): Which one is that, Mr. Ruto?

Mr. Ruto: It is the fact that this Bill infringes on the functions of the counties and there is no adequate explanation. I expected the Minister to at least respond and give me an assurance.

The Temporary Deputy Chairman (Prof. Kaloki): Which clause is that?

Mr. Ruto: For example, I have seen the whole Bill cuts across and allocates duties that do not belong to a government agency. As a Member of Parliament I represent a constituency; I may not have understood as much as the Minister has, but I should be given an answer which is satisfactory. Even Mr. M. Kilonzo should tell us; he is a senior counsel. Just give me an explanation why the functions that belong to county governments are being taken over by an authority without the consent of those governments.

The Temporary Deputy Chairman (Prof. Kaloki): Madam Minister, is that what this Bill is trying to do?

The Minister for Agriculture (Dr. Kosgei): No. That is not what this Bill is trying to do. This Bill is trying to set the policy. We should not start the debate which we had during the Second Reading; we could if we want but it will take us another time. Nevertheless, let me assure the hon. Member for Chepalungu that this was not written by some civil servant somewhere as he told me last time. It has not come from the book of some civil servant to this paper without going through the hands of the Minister or someone else. Let me assure him that this was drawn up--- The Constitution Implementation Committee (CIC) was involved through the person of the Director himself; the Attorney-General was involved, the Kenya Law Commission were involved; all the relevant Ministries and all the lawyers that we could summon were there. These issues have been raised and we spent the recess explaining to everybody who wanted to know and they were satisfied. I am personally satisfied that we are not encroaching on the powers of any county.

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Ruto, I think what you are saying is valid, but you can see that the Bill has gone through so many stages, and consultations have taken place. That has been demonstrated for the Bill to get here. You must also appreciate that the central Government has the duty of coming up with policies. The role of the central government is there. This Bill does not take away the powers of the county governments.

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir. The Minister gets angry unnecessarily. She wants to brush us aside and belittle us, including our rights to contribute. Even here, at this stage, I have a right as a representative of the people to question what all the other lawyers have done. I have to be satisfied because I must account to the public. My third responsibility is to

provide oversight over the Government. What was the need for Parliament to provide oversight over Government if we can be rubbished by Ministers?

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Ruto, we are in the Committee of the Whole House. Is there a specific area that you want to bring up? Be specific. We are on Clause No.16.

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir, let me look at the clauses and bring them to your attention.

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Ruto, you are on your feet. Is there anything wrong with Clause No.16 because we want to make a ruling on it?

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir, I had raised questions as to the functions of the Authority on Clause 4 and I did not get the answer.

The Temporary Deputy Chairman (Prof. Kaloki): Is this on Clause No.16? I cannot go back to Clause No.4.

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

(Clause 16 as amended agreed to)

QUORUM

Mr. Ruto: On a point of Order, Mr. Temporary Deputy Chairman, Sir. I want to bring it to your attention that we there is no quorum.

The Temporary Deputy Chairman (Prof. Kaloki): We have to determine that before we get the Sergeant-at-Arms to ring the Division Bell. The Clerks-at-the-Table, can you determine whether we have quorum in the House?

Hon. Members, we do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Chairman (Prof. Kaloki): Order, hon. Members! Hon. Members, since there is no quorum we cannot continue with the Committee of the Whole House.

(The House resumed)

*[The Temporary Deputy Speaker
(Mrs. Odhiambo-Mabona) in the Chair]*

REPORT

LACK OF QUORUM

Prof. Kaloki: Madam Temporary Deputy Speaker, I beg to report that there is no quorum in the House.

ADJOURNMENT

The Temporary Deputy Speaker (Mrs. Odhiambo-Mabona): Order, hon. Members. We are unable to raise the requisite quorum. Therefore, the House stands adjourned until Tuesday, 11th December, 2012, at 2.30 p.m.

The House rose at 10.35 p.m.