

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 4th December, 2013

The House met at 9.00 a.m.

[The Temporary Deputy Speaker (Mr. Kajwang') in the Chair]

PRAYERS

QUORUM

The Temporary Deputy Speaker (Hon. Kajwang'): Good morning, hon. Members. The House being low in the morning, I, therefore, order that the Quorum Bell be rung.

(The Quorum Bell was rung)

I now Order that the Quorum Bell stops ringing. We have a quorum ready to transact the business of the day. Next Order!

Hon. Kang'ata, are you in the Chamber? Does anyone have instruction from hon. Kang'ata to hold his brief this morning? Okay, the hon. Member is not in the Chamber, we will defer it to the next session, maybe in the afternoon. Next Order!

Is the Chairperson of the Departmental Committee on Lands in the Chamber?

STATEMENTS

Hon. Mwiru: Very much in the Chamber.

The Temporary Deputy Speaker (Hon. Kajwang'): Is hon. Alice Ng'ang'a in the Chamber?

Hon. Mwiru: I am trying to look around to see if *Mhe.* Ng'ang'a is around but I cannot see her.

The Temporary Deputy Speaker (Hon. Kajwang'): Would it not be prudent to have her in the Chamber?

Hon. Mwiru: Indeed, it would be prudent that I undertake to issue the Statement when she is in the House.

The Temporary Deputy Speaker (Hon. Kajwang'): Suggest that perhaps we see if we can get time in the afternoon to get it done or another day that the Member may suggest.

Hon. Mwiru: Yes, hon. Temporary Deputy Speaker, I will be ready as well in the afternoon.

The Temporary Deputy Speaker (Hon. Kajwang'): But are you ready with the Statement anyway?

Hon. Mwiru: In the afternoon.

The Temporary Deputy Speaker (Hon. Kajwang’): Are you ready right now?

Hon. Mwiru: I will be comfortable with the afternoon, hon. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Hon. Kajwang’): Would you have been ready if the Member was here?

Hon. Mwiru: I am ready, I have the Statement.

The Temporary Deputy Speaker (Hon. Kajwang’): Alright, you will read the Statement tomorrow morning, be prepared and perhaps let the Member know that we will have that Statement read in the morning.

Hon. Mwiru: As directed, hon. Temporary Deputy Speaker, Sir.

DELAYED TARMACKING OF ROADS IN THARAKA NITHI COUNTY

The Temporary Deputy Speaker (Hon. Kajwang’): Alright, Chairperson of the Committee on Transport, Public Works and Housing, regarding delayed tarmacking of roads by the Kenya Urban Roads Authority (KURA) and the Kenya Rural Roads Authority (KeRRA) as requested by hon. Muthomi Njuki.

Hon. Kamanda: Thank you, hon. Temporary Deputy Speaker, Sir. I rise to respond.

The Temporary Deputy Speaker (Hon. Kajwang’): Chair, is the Member hon. Muthomi Njuki, in the Chamber?

Hon. Kamanda: Yes, he is behind me.

The Temporary Deputy Speaker (Hon. Kajwang’): You may proceed.

Hon. Kamanda: I rise to respond to a Statement sought by hon. Muthomi Njuki. The Member had requested for a Statement regarding upgrading of major roads in Chuka Town. He wanted to know the following:-

- (i) the cause of delays in releasing funds and commencement of the work;
- (ii) reasons for the Government spending money on road design and budgeting for roads and not implementing the activity; and
- (iii) the time period in which this road can be completed.

I now beg to respond to the Statement.

(a) The Kenya Urban Roads Authority (KURA) has been desirous of improving the roads in Chuka Municipality, however, it proposed a budget of Kshs.6 billion but it was allocated Kshs.2.5 billion. This amount is only able to sustain the commitment of ongoing project and is therefore not able to start any new development projects. The Ministry has in this financial year committed to provide Kshs.150 million from the emergency fund to the authority to enable them to carry out the improvement works in Chuka Town roads, which are in bad state.

It is important to carry out road design early in order to ensure that the viability of the project is assessed, tender documents are prepared and overall project cost is determined for the purposes of sourcing finances for the project. The time for the project implementation is reduced when road designs are available. No delays are encountered in the commencement since the project documents are available to go for tendering. The Authority does not spend design fund in vain but ensures that implementation of the designed roads is done without delay, where implementation funds are available.

The amount of Kshs.150 million the Ministry committed to give to KURA will enable it to commence work to bitumen standard within the central business district in Chuka Town. However, for the remaining part, the Ministry will budget for the design and construction work in the subsequent financial year. It may be difficult to assess the amount of time it will take to complete the remaining part due to financial constraints.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you so much Chair, Committee on Transport, Public Works and Housing. Hon. Onesmus Muthomi Njuki, do you find that answer comprehensive enough?

Hon. Njuki: Hon. Temporary Deputy Speaker, Sir, this morning, I am happy and smiling man. First and foremost, I want to very sincerely thank the Chair of the Committee and commend him even for higher positions. I requested for this Statement on 17th October, 2013, about one-and-a-half months ago and the Chairman tells me that it has taken that long because he had got a very unsatisfactory answer from the Ministry, which he found to be noncommittal and did not make any sense. Using his experience as a former Minister for Roads, he pushed the officers and today, we can smile that Chuka Town is getting Kshs150 million. However, if you look at the cost of doing one kilometre of road today, it is around Kshs60 million. That means that this money will only do two and a quarter kilometres of road. Considering that the road is around eight kilometres, then a big chunk will be left undone.

I want to be thankful and say that half bread is better than no bread at all. This Kshs150 million coincides with the President’s visit this Friday. The President will be visiting Chuka Town and I hope that the Ministry will consider giving us the balance of the money so that we can have a tarmacked road in the next few months.

With those few words, I thank the Chairman once more and hope that the rest of the money will be on the way.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you, hon. Njuki. We are happy when you are happy. Half a loaf of bread is better than no loaf at all. Hon. Karani, are you on a point of order on this?

Hon. Karani: Hon. Temporary Deputy Speaker, Sir, last week---

The Temporary Deputy Speaker (Hon. Kajwang’): No, do you have anything, which is arising from the responses that we have just got?

Hon. Karani: No.

The Temporary Deputy Speaker (Hon. Kajwang’): Okay, then hold your horse. I mind when people raise their hands in the august House because I am able to see all of you from where I am. Hon. Serut, you want to speak to this issue?

Hon. Serut: Hon. Temporary Deputy Speaker, Sir, as much as I appreciate the response from the Chair as far as Chuka Town is concerned, I want to request him to tell the House what is happening to the Government of Kenya funded projects which are ongoing in terms of tarmacking. I have roads in my constituency which were started way back in 2007, which have stalled and there is no word from the Ministry as to what is happening.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you, hon. Serut. I gave you the chance because you are an independent Member. Therefore, when you put your request, I will recognise you. However, do you not think that the question you are asking is either supplementary or not within the question that the Chair was asked? You

may want to raise your own Statement, so that the Chair may investigate and respond to it appropriately.

Hon. Serut: Hon. Temporary Deputy Speaker, Sir, the Chair of the Committee on Transport, Public Works and Housing should all the time be prepared to answer at least, supplementary questions.

The Temporary Deputy Chairman (Hon. Kajwang’): I know that he should be able to answer all questions, but related to what he was asked. The Chair is just a conveyor belt that brings information that has been investigated around the subject that he was tasked to respond to. Hon. Member, draft your Statement and prosecute it alone. Do not hang on the tails of another Member’s Statement.

Hon. Mulu: Hon. Temporary Deputy Speaker, Sir, I wish to thank the Chair for that Statement and for informing us that at least Kshs150 million has been set aside for Chuka as an emergency fund. During the April rains this year, a number of drifts were washed away in my area. I requested for emergency funds and up to now, the Regional Engineer has not received a single cent. I am wondering whether this is a case of discrimination. I do not know whether this issue of Chuka Town is more urgent than the drifts which were washed away and people cannot reach their homes as I speak.

The Temporary Deputy Chairman (Hon. Kajwang’): Again, hon. Member, you are in my words, hanging on the coattails of another Member’s Statement. You may want to do your own request and it will be responded to. Remember the Member asked a very specific question related to Chuka.

Hon. Wekesa: Hon. Temporary Deputy Chairman, Sir, I believe that when we request for Statements, they should cut across the country. When you say that it should be specific for Chuka, I do not agree with you. When a Member requests a Statement, we believe that the issues contained there cut across the country for it to be approved. The issue of upgrading roads is all over the country including Kitale Town. What measures is the Government putting in place to take care of other towns?

The Temporary Deputy Chairman (Hon. Kajwang’): I appreciate your comment, but two things: One, from the Speaker’s Chair, even though you may disagree with the Speaker, you will still follow the decision he makes. But more importantly, it depends on the nature of the Statement that has been requested. When a Statement is very specific to an issue, the Chair puts that Statement to his Members in the Committee and it is investigated within the context of that Statement. So, the answers that he brings are related within the facts that he gathered around that Statement. You must know that he is not a Minister. He is only the Chair of a Committee who is bringing responses from the Committee. I am sure you are a Member of one of those Committees. The same way they go in those Committees is the same way we expect them here. So, I appreciate that but you will have to make either a specific request or a general one which deals with the whole nation. Then all of us can now rise and investigate because we would have that allowance.

Hon. Washiali: Thank you, hon. Temporary Deputy Speaker, Sir. The issue of roads is very emotive and every region would want their roads to be upgraded just like Chuka. I would like to find out from the Chairman the policy in the Ministry. As a Chairman, I am sure he must have found out from his Minister what the policy is in terms of balancing these projects. Just like the people of Chuka want their roads to be upgraded, the people of Mumias also, especially Mumias East where I represent, would like to see

our roads also upgraded. What is the policy? How would the Ministry ensure that roads in all the regions are upgraded?

The Temporary Deputy Chairman (Hon. Kajwang’): Thank you so much. Members, I want to steer you away from that direction. We need a change of mindset. Chairs are not Ministers, hon. Washiali. When we used to ask Ministers what the policies are, the Ministers would come, in a parliamentary democracy, rise and state the policy of the Ministry. Chairs are simple people that sit in a Committee and send information around the areas they have been asked. They bring here what the Government has given them. So, what you do, if you are looking for a policy, request for the policy by way of Motion or some other way, and then the Chair will have the time to bring that information from the Executive. I need us to have a shift of mind.

Hon. Shill: On a point of order, hon. Temporary Deputy Speaker, Sir.

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Shill, I do not want to engage in discussions on this. Hon. Murungi, is it on the same subject?

Hon. Murungi: Yes, hon, Temporary Deputy Speaker, Sir, it is on the same subject, but very specific to Chuka. On record, Chuka has been promised so many goodies by the previous Governments. Is this Kshs150 million available immediately or in the Supplementary Budget that will be coming to the Floor of the House soon or it is just a promise like it has been happening for many years? This road is in Chuka and other regions of Meru, including where I come from. Just like the other Members, in my constituency, there are many projects which were approved by the previous Government, which are stalled at the moment. The roads within Kanyeki-ini Market and Igoji Market--

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you, so much. That is a very relevant discussion but only to the extent that the Chair needs to explain whether these goodies are just but a promise or that this time it will be delivered.

Hon. Kamanda: Thank you, hon. Temporary Deputy Speaker. I want to say that KURA deals with municipalities. This money was supposed to be there in the last financial year. There was some work that was done and it was not completed and that is why the Ministry has decided to apportion part of the emergency fund to see whether they release some little money to sugar producing areas.

I also want to respond to the Members who have risen about their roads in their constituencies. I want to say that it is true that there is emergency money that is supposed to go to the constituencies. Within the course of this week or next week, the money will go to the constituencies. So, I would urge hon. Members to hold their horses and consult their local engineers. In another one week, that money will be there. But the one for Kshs150 million is available.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. Thank you very much. The money is available for Chuka, it is not goodies that have been promised since you were born. Let us have Hon. Shill on an intervention.

Hon. Shill: Hon. Temporary Deputy Speaker, Sir, I just wanted to raise an issue on the same direction.

The Temporary Deputy Speaker (Hon. Kajwang’): Okay. Come to your own intervention.

Hon. Shill: Hon. Temporary Deputy Speaker, hon. Abongotum is not in, but I just wanted to put an ---

The Temporary Deputy Speaker (Hon. Kajwang’): Would you now speak to your own intervention?

Hon. Shill: On this one?

The Temporary Deputy Speaker (Hon. Kajwang’): No, you are on an intervention and the Chair has recognized you. Would you now speak to the National Assembly?

Hon. Shill: Hon. Temporary Deputy Speaker, I really wanted a direction on the way we request for Statements. This is because when you are requesting for statements---

The Temporary Deputy Speaker (Hon. Kajwang’): I am afraid hon. Shill--

Hon. Shill: It needs some bit of direction, please.

The Temporary Deputy Speaker (Hon. Kajwang’): Okay, let me hear you.

Hon. Shill: When we are requesting for Statements, we are always advised that we cannot be specific. We are told to frame it in such a way that it has a national outlook. So, we expect when the Statement is responded to, it will touch on policies affecting the whole country. We are very much aware that Chairpersons of Committees are only serving as conveyor belts. When we are getting these answers, we have citizens and civil servants watching and sometimes they are not pleased with the way things are going.

For instance, when roads are shared, this should not be a country where we have some people having it and others not having it. In my constituency or North Eastern Province, we have been marginalized for 50 years and now we are going to celebrate 50 years of independence. Some people have a balance of Kshs150 million, which is just for emergency while others have none. Therefore, what we are saying, this is a House where we represent the people of Kenya. We want people to understand that, some people are being favoured. We know very well that a certain powerful Minister in the last regime has done very well by getting more roads for his constituency in Meru done. But some of us---

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Shill, it is very clear, do not be jealous about---

Hon. Shill: I am not jealous but what we are saying is that we must have equitable distribution of resources and people must have equal shares. That is a fact. Why should some people in this country have more while others have nothing? We must change, we have a new Constitution. That is the truth. Nyanza, Western and North Eastern provinces are marginalized. Some people get more things than other places, which is very wrong.

Hon. Member: On a point of order, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. Thank you. There is nothing which the hon. Member has said which is out of order. Everything he has said, he is entitled to say it as an hon. Member. Except that, let me advise you, hon. Shill, from the Chair and I hope you are listening, you are multi-tasking

Hon. Shill: I am just getting water. I am very thirsty and annoyed.

(Laughter)

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. I need you to understand this as a matter of principle: The speaker has made a direction which is now part of our Speaker’s manual on Statements. I need you to go and extract and read it

carefully. You will be guided very well on how Statements are done. But two, our role here is legislative. If you want the Government to do something or refrain from doing something, the best way is not to ask for a Statement. This is because you will simply get the facts the way they are.

But bring a Motion urging this National Assembly to resolve that certain things must be done. If you do that, then the civil servants you are talking about would have to do them, the way the National Assembly has done. Therefore, let us not use time for Statements the way it was before, let us use the time for Statements to ask for facts which are urgent in nature and which cannot wait for Motions or which cannot wait for legislation. I think that is the direction we will go. Please, stand advised. You can bring a Motion on roads, water or whatever else in the whole country and then the House will resolve that certain things must be done within the terms of the National Assembly. Thank you very much.

Actually, you were on an intervention on something else and you ended up forgetting and saying other things. Can you be relevant?

Hon. Shill: I am sorry, hon. Temporary Deputy Speaker, Sir. It was about my question on police issues, which hon. Abongotum was supposed to answer. Last Thursday, he pushed it to this week. So, I would request that this afternoon or tomorrow, he answers my question.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. Thank you very much. You can see that the Chairperson of the Committee is not here. Therefore, that question will be carried to tomorrow morning.

Thank you.

Hon. Karani: Thank you, hon. Speaker, Sir. Last week, the Speaker gave instructions that a question which had been raised over the appointment of Director of Veterinary Services be answered specifically this morning.

The Temporary Deputy Speaker (Hon. Kajwang’): Which Committee was this?

Hon. Karani: The Departmental Committee on Agriculture, Livestock and Cooperatives.

The Temporary Deputy Speaker (Hon. Kajwang’): You had asked a question?

Hon. Karani: I had asked on behalf of Kanini Kega.

The Temporary Deputy Speaker (Hon. Kajwang’): You had asked on behalf of another Member. Is hon. Kanini here?

Hon. Karani: No, he is not.

The Temporary Deputy Speaker (Hon. Kajwang’): Do you have his instructions to keep on prosecuting that on his behalf?

Hon. Karani: Yes, I do hon. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Hon. Kajwang’): Written instructions?

Hon. Karani: No, hon. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Hon. Kajwang’): Do you know what the Standing Orders say on when a Member allows you to do something on his behalf?

Hon. Karani: He had given instructions over the phone because he was away.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. Is the Chairperson of the Departmental Committee on Agriculture, Livestock and Cooperatives here?

Hon. Member: He is not there!

The Temporary Deputy Speaker (Hon. Kajwang’): All right. We will have to consult the Chair of the Departmental Committee on Agriculture, Livestock and Cooperatives and find out. But I would request you to look for that hon. Member and tell him to do his things by himself, not through proxies.
Next Order.

BILL

First Reading

THE PHYSIOTHERAPISTS BILL

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

PROCEDURAL MOTION

EXEMPTION OF BUSINESS FROM PROVISIONS OF S.O.40

Hon. Katoo: Hon. Temporary Deputy Speaker, I beg to move the following Procedural Motion:-

THAT, pursuant to the provisions of Standing Order 256(1), this House resolves to exempt the business appearing in today’s Order Paper from the provisions of Standing Order 40(3), being a Wednesday Morning, a day allocated for business not sponsored by the Majority or Minority Party or a Member belonging to the Majority or Minority Party or business sponsored by a Committee.

According to the calendar of this House, we have only today and tomorrow to transact business this session. So, it is the agreement of the House that today morning, we try to finalise the Bills that are at the Committee stage level as well as those in the Second Reading before we break for recess tomorrow. Since this has been very procedural, I would like to take the opportunity to thank the Members of this House, who have been very steadfast in their performance of their duties. In the last two days, they sat up to 10.00 p.m. That is very encouraging. I would like to urge them to continue doing so, starting with the approval of this Procedural Motion, so that we can transact business, starting with Order No.10.

Hon. Temporary Deputy Speaker, I beg to move and kindly request my colleague, hon. Chris Wamalwa, to second the Motion.

The Temporary Deputy Speaker (Hon. Kajwang’): Before hon. Chris Wamalwa seconds the Motion, hon. Members, you were not listening to the Leader of the Majority Party when he said that you sat in this Chamber up to 10.00 p.m. Therefore, you did not applaud to yourself. Can you applaud to yourself for staying in the Chamber up to 10.00 p.m. to transact urgent business?

(Applause)

Proceed, hon. Wamalwa.

Hon. Wakhungu: Hon. Temporary Deputy Speaker, I rise to second the Motion because it is quite in order. We have been doing this the entire of this week, including last week.

Therefore, I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Kajwang’): Yes, hon. Clement Muchiri Wambugu.

Hon. Wambugu: Hon. Temporary Deputy Speaker, I rise to support this Procedural Motion and congratulate the hon. Members who stayed here until very late. This is something very commendable, especially because this House has been seen by people from outside like we do not do anything. They are not aware that we have been transacting business here for the last two weeks, until very late. If we can continue with this spirit, we will be able to cover many Bills. By the time we break for Christmas recess tomorrow, we will have covered quite a lot.

With those remarks, I beg to support.

(Question put and agreed to)

COMMUNICATION FROM THE CHAIR

DEFERMENT OF NATIONAL POLICE SERVICE
(AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members, I want to give direction on the business appearing as Order No.1, under which we have sections “(i)” and “(ii)”. I direct that the Order appearing under “(i)” be deferred to tomorrow morning. That leaves us with the business appearing as Order No.10 (ii).
Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

*[The Temporary Deputy Speaker
(Hon. Kajwang’) left the Chair]*

IN THE COMMITTEE

*[The Temporary Deputy Chairlady
(Hon. (Ms.) Shebesh) took the Chair]*

THE NATIONAL SOCIAL SECURITY FUND BILL, 2013

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, we are now in the Committee of the whole House to consider the National Social Security Fund Bill (National Assembly Bill No.27 of 2013).

Clause 3

Hon. Abdinoor: Hon. Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 3 be amended in sub-clause (3) by deleting the figure “73” and substituting therefor the figure “72”.

This is because there is no provision of 73 in the Bill.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, hon. Were.

Hon. Were: Hon. Temporary Deputy Chairlady, I support the amendment because we do not have 73 in the Bill. So, it is supposed to be 72.

*(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 3 as amended agreed to)

Clause 4

Hon. Were: Hon. Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 4 be amended by inserting the following new paragraph immediately after paragraph (f)-

“(fa) ensuring that the liabilities of the old Provident Fund are settled within five years from the commencement of the new Provident Fund and the close of the old Provident Fund.

If you look at Clause 4 (f)(2), it proposes that the old Provident Fund be kept running but we felt that it cannot be kept running indefinitely. So, we thought that we put a definite time for it to be closed. So, we are proposing as indicated in the Order that it only stays alive for five years.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Abdinoor Mohammed, do you have a further amendment to what has been proposed by the Chair of the Committee?

Hon. Abdinoor: I do not have a further amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): It is on the Order Paper on Clause 4.

Hon. Abdinoor: It is almost the same because I was also catering for those five years.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, would you want to withdraw your amendment?

Hon. Abdinoor: Yes, and I support the Chair on that.

(Proposed amendment by hon. Abdinoor withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Okay. Therefore, I put the Question.

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

(Clause 4 as amended agreed to)

(Clause 5 agreed to)

Clause 6

Hon. Were: Hon. Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 6 be amended in paragraph (d) —

(a) by deleting subparagraph (i) and substituting thereof the following new subparagraph-

“(i) two persons, one of whom shall be of opposite gender, nominated by the most representative employers’ organisation with knowledge and experience in matters relating to employers to represent employers in Kenya”;

(b) by deleting subparagraph (ii) and substituting thereof the following new subparagraph-

“(ii) two persons, one of whom shall be of opposite gender, nominated by the most representative workers organisation by virtue of their knowledge and experience in matters relating to employees to represent employees in Kenya”;

The reason for this being that we wanted to be specific because the way (d)(i) and (ii) are specified in the Bill would be ambiguous and noting that the contributions are coming from employees and employers, we felt that we should actually specify the organisations that represent employees and employers but with the majority or the highest number of contributors.

(Question of the amendment proposed)

Hon. (Ms.) Nyasuna: Hon. Temporary Deputy Chairlady, I support the amendment as proposed by the Chair of the Committee. This specific part as put in the Bill just really gives it a general feel but we know that National Social Security Fund (NSSF) is a tripartite Fund. It is a Fund that has the Government, workers and employers.

So, this amendment is driven at having workers and employers participate in the Fund and to be more specific about it and not point out organisations. We have said that the nominating body will be the most representative employers' organisation and the most representative workers' organisation. This means that this is the body that represents the largest number of workers and the largest number of employers. So, I support and say that we really need to bring in the workers and the employers because they are the ones who contribute to this Fund and the Government manages it. So, the Government also has its appointees. The Government is represented by the Principal Secretary for Finance, the Principal Secretary for Labour and Social Security and the Chair who is appointed by the Cabinet Secretary and other three persons appointed by the Cabinet Secretary.

With those remarks, I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Limo, do the amendments as proposed by the Chair cover your proposed amendments or you feel like yours is different? Hon. Limo is not here? Hon. Serem, do you want to speak to this particular amendment?

Hon. Serem: Yes.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Are you in agreement?

Hon. Serem: No.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Okay. Let us hear your views.

Hon. Serem: Thank you, hon. Temporary Deputy Chairlady. I have so much concern in a situation where we have two Members from one institution being directors of an institution. If we are saying we are putting two out of the seven, it is very difficult to have a board where two members who have the same opinion would have a consensus. It would be difficult to accommodate different views. So, if you have two bodies sending two members, we will have four members there from two institutions out of seven. If the two can gang up, it will be very difficult to run an institution where we have four members coming from only two institutions. In my view, we should see how best we can have at least one member coming from an organisation instead of having two coming from an organisation. This is because it is about the interest. What interest do we have in two members coming on board?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, therefore, you are opposing?

Hon. Serem: Yes.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Nyikal.

Hon. (Dr.) Nyikal: Thank you, hon. Temporary Deputy Chairlady. Mine is a clarification. Whereas I agree that it is fair to say you will have the largest body representing workers but in practical terms, it is not clear to me how that will be determined and this is likely later on to create a crisis for whoever the appointing body is. I support but I would like a clarification on that issue.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Were, you will clarify as we take your last remarks on this before we put the Question for the Floor to decide.

Hon. Were: Hon. Temporary Deputy Chairlady, first, I am surprised because the Member who has spoken is a member of my Committee.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chair, are you saying that the Committee unanimously accepted the amendments that you are bringing?

Hon. Were: Yes because if he disagreed then it would have been recorded in the report that we tabled here.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): But being an old Member, hon. Were, you know that Members can still bring variations from their Committee.

Hon. Were: I was only bringing it for your attention.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We do not encourage that committees split on the Floor of the House. Could you please clarify what hon. Nyikal has asked for clarification? Did you understand what he asked?

Hon. Were: I understood because he first said that he supports. Two, he wanted to know how this organisation with the highest number of representation can be known. These organisations are registered and members who are contributing to NSSF indicate which organisations they belong to. So, as they contribute it is possible to know which umbrella body they belong to and that is how you can determine which umbrella body has the highest number of contributors.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, I think it is fair that we therefore put the Question. Please, be cognizant of the fact that what we are proposing is the amendment brought by the Chair of the Committee, hon. Were on clause 6 that talks about membership from two organizations.

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

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

(Clause 6 as amended agreed to)

Hon. Ms. Odhiambo-Mabona, therefore we would have to skip that amendment and go to the next clause.

(Clause 7 agreed to)

Clause 8

Hon. Were: I beg to move:-

THAT, clause 8 be amended in sub-clause (2)-

(a) by deleting the word “six” and substituting therefor the word “two”;

We felt that the board should be staggered so that the term does not expire at the same time. In the Bill, it was proposed that the staggering be six months, but we thought six months will be too long, so we proposed that the staggering be two months.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Were, could you just repeat that for clarity?

Hon. Were: In the appointment of the new board, it is proposed that there should be staggering so that the whole board is not appointed at the same time, so that one part is appointed and then the other part is appointed later. In the Bill, it was proposed that the staggering takes six months, but we are proposing that we reduce the six months to two months.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): That is very clear. Hon. Gichigi, do you want to speak to that particular amendment?

Hon. Gichigi: Yes. I support that particular amendment, the reasoning is that, if we are creating a new fund, we do not want a situation where there is a problem with quorum for a long time. We provided that the Minister is going to stagger this in six months. It is going to take about two years for the board to be appointed. Two months means that about a year, the board is going to be in sitting.

*(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 8 as amended agreed to)

(Clauses 9 and 10 agreed to)

Clause 11

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I want to say hon. Members that hon. Serem had brought an amendment that was approved but it does not appear to be on the Order Paper. He can therefore read the amendment for the benefit of the Members. Do you have a copy that contains the amendment? Please come for it so that you are able to articulate your amendment.

Hon. Serem: Hon. Temporary Deputy Chairlady, I beg to move:-
THAT, clause 11 be amended in sub-clause (2) by deleting the words
“of whom one shall be a representative of employers”

If you have a situation where we say we cannot have a quorum unless certain institutions are present, it can be very difficult to transact business. Just like in this House, we cannot say that we cannot conduct business unless we have Members from Nairobi to make quorum. Imagine a situation where members of the trustees are present but two members from different organizations are absent. So, we are saying there cannot be quorum unless they are present. Quorum should always be presence of three-quarters of the members. We should not give a condition.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I have understood that. I give the first opportunity to the Chair of the Committee.

Hon. Were: I oppose that amendment, as much as I respect hon. Serem. He is a Member of our Committee.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): He has got the point; he just does not agree too much with some of your amendments, so go ahead.

Hon. Were: What I want to state is this, this is a fund where employees and employers are contributing. So, it is a fund actually covering two very key groups, and that is why we are saying that the quorum must have at least a member of any of the two bodies so that the interest of either side is taken care of at any time of a meeting. So I oppose the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, for the very reason that hon. Serem is suggesting that it is not necessary to have any of the two, the Chair feels that one of those two must be present because they represent the workers, employees and employers. Am I clear on that?

Hon. Were: I have said that contributions are coming from each side and each has got its own interest. The employer cannot be a representative of the employees, he cannot be sitting there to safeguard the interest of the employees, they need to safeguard the interest of their side and the representative of the employees will safeguard the interest of their side. That is why we are saying it is necessary for both to be there to form a quorum.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, hon. Were is opposing your amendment. Let me take one or two more Members, hon. Ngeno. Yes hon. Cheboi on a point of order

Hon. Cheboi: I just want to be clear because hon. Serem is a Member of the Committee and hon. Were is also a member of the Committee.

Are we, therefore, saying that hon. Were is speaking on behalf of the Committee because there is a Member here who is giving a different opinion? We want to be very clear on this so that we make a good decision. Probably, he could be speaking on his own behalf and not on behalf of the Committee as the Chair.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let me make it very clear hon. Cheboi; the amendment that has been brought by hon. Serem was not brought by the Committee. If the Committee had issues with that clause, it could have brought an amendment when it was going through this Bill. I take hon. Were not agreeing with the proposal of hon. Serem as the position of the Committee. That is why I am saying that as hon. Were speaks in this House today, he does not speak as an individual but he represents the Committee that is responsible for this sector. I want to make that very clear.

However, we have already had a discussion that hon. Serem is a Member of that Committee, he is obviously disagreeing and he has a right to do that. Let me hear hon. Ngeno Kipyegon's opinion on this matter.

Hon. Kipyegon: Hon. Temporary Deputy Chairlady, my opinion is that we should not define who is supposed to be there if quorum is to be met.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, you are agreeing with the hon. Chair of the Committee?

Hon. Kipyegon: Yes, I am agreeing, Hon. Temporary Deputy Chairlady. A quorum is a quorum regardless of who is present.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let us hear one last opinion from hon. Opiyo Wandayi.

Hon. Wandayi: Hon. Temporary Deputy Chairlady, I must support hon. Serem's amendment. Once you have appointed a board of trustees, the membership of that board is the same. So, the idea of giving some trustees importance over the others should not

arise. This is what usually creates room for some members of the board to start thinking that they are more important than the others. Therefore, I support that amendment should hold.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, I can see very many requests coming in and I believe that this is an issue that is – I do not want to use the word “controversial” – but needs to be ventilated a bit more. This is because what we do and pass in this House will have an impact on the new structure that is being formed in the National Social Security Fund. So, I will give a chance to a few more Members. I can see hon. Members trying to come to a consensus and that will even be better. However, let me give hon. Abdinoor Ali a chance.

Hon. Abdinoor: Thank you, Hon. Temporary Deputy Chairlady. I want to support hon. Serem’s amendment. This is because there is no way the institution can be taken to ransom by organizations. This board has seven members and the way we appoint members of the board is clear in the Bill. Since the issue of quorum came up, there have been no meetings in the NSSF because two organizations boycotted to go for a meeting. So, the entire organization is being held to ransom by two organizations. We cannot allow this and we all support hon. Serem’s amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Serem and the hon. Chair of the Committee, it will be good for you to tell us if you can reach a consensus before I put the Question.

Hon. Wangamati: Thank you, hon. Temporary Deputy Chairlady. I rise to oppose hon. Serem’s amendment. The question is that the two organizations are the bigger stakeholders in this Fund and you cannot leave them out when you are making important decisions in that committee. So, I support the Chairman and the Committee for arriving at that decision.

Hon. Cheptumo: Thank you, hon. Temporary Deputy Chairlady. I wish to support hon. Serem’s amendment. The reason is that it is not fair to give special treatment to some of the members of the board. We are creating an impression where we are saying that it is mandatory for others to be available for a quorum to be met. In so doing, we are setting a very serious precedent. It is important that all members of the board are given equal treatment so that if they are available in terms of quorum then they should proceed. Otherwise, those two institutions will hold the board to ransom and it cannot proceed.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chair of the Committee, are you convinced on the amendment or are you still adamant that it should stay?

Hon. Were: Hon. Temporary Deputy Chairlady, I am still not convinced.

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

(Clause 11 as amended agreed to)

(Clauses 12, 13 and 14 agreed to)

Clause 15

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We have two amendments on Clause 15. One is by the hon. Chair of the Committee and the other one is by hon. (Ms.) Millie Odhiambo who is still missing in action. Yes, the hon. Chair of the Committee.

Hon. Were: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 15 be amended –

(a) by deleting sub-clause (5) and substituting therefor the following subsection-

“(5) The managing trustee shall, unless prematurely terminated, serve for a term of three years and shall be eligible for reappointment for one further term of three years.”

(b) in paragraph (b) of sub-clause (7) by deleting the words “pension funds, accounting or auditing, insurance, investment, law, banking, economics, labour or social security” and substituting therefor the words “in a relevant field specified by the Board and must be registered with a recognised professional body”.

The intention of the amendment is to ensure that the Managing Trustee serves for a three-year term which is renewable and not a complete six-year term.

(Question of the amendment proposed)

Hon. (Dr.) Nyikal: Hon. Temporary Deputy Chairlady, I do not agree with this amendment because the three-year term for the Managing Director is a relatively short period. I get the impression that what the Committee thought was that six years is a very long time for somebody to serve and they will not have time to probably terminate his or her services. If there is need then we should have this person serving for more than one term. I would have preferred, and I do not know whether the Chair agrees, that we give the person a five-year renewable term and but he cannot serve for more than two terms. Three years in this organisation is not enough for the Managing Director or the Managing Trustee to make a big difference.

If on the other hand there is a feeling you may be giving somebody five years and you do not know what to do in case of a problem, there are other provisions that will enable the organization to get rid of that person. I think a three-year renewable term is too short. In that case, I would prefer to have just six years. However, my proposal, if the Chair agrees, is that the Managing Trustee should serve for a five-year renewable term and cannot serve for more than two terms.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member, as much as you have given a very good explanation as to why you want it that way, you know that if you have any amendment to change what is currently in the Bill, you would have had to bring an amendment or you would have to convince the Chair to move that amendment---

Hon. (Dr.) Nyikal: Hon. Temporary Deputy Chairlady that has been my endeavor and I was looking at his face---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You know the procedure. Your amendment does not speak of five years; it speaks of three. The Member

is suggesting five years, but what is currently in the Bill is actually three years. Are you convinced about that?

Hon. Were: Hon. Temporary Deputy Chairlady, we reached this figure of three years after a lot of deliberations. I do not think it will be fair---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Member's best option would have been to approach the Committee when they were deliberating. Is there any contrary view?

Hon. Aden: Hon. Temporary Deputy Chairlady, I just want to support the Chairman of the Departmental Committee. I think three years is a good time for a Managing Director. Any time longer than that is going to cause---

The Temporary Deputy Chairlady (Hon. Shebesh): I want to put the Question.

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

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

(Clause 15 as amended agreed to)

(Clauses 16, 17, and 18 agreed to)

Clause 19

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): There is an amendment by hon. Ms. Odhiambo-Mabona, but she is not here. It is unfortunate when a Member proposes an amendment which is put on the Order Paper and then they are absent. Since there is no other amendment I will put the Question.

(Clause 19 agreed to)

(Clauses 20, 21, 22, 23, 24, and 25 agreed to)

Clause 26

Hon. Were: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, clause 26 be amended by inserting the words "in consultation with the Board" immediately after the words "Cabinet Secretary"

This one is with regard to regulations by the Cabinet Secretary. The feeling of the Committee was that the Cabinet Secretary shall not make regulations on his own, but subject to consultations with the Board. That is the only thing that we have added.

(Question the amendment proposed)

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

(Clause 26 as amended agreed to)

Clause 27

Hon. Were: Hon. Temporary Deputy Chairlady, I beg to move:-
THAT, clause 27 be amended in paragraph (3) by inserting the word “that” immediately after the word “employee” appearing at the beginning of the third line.

This is just to tidy up the statement. This is because without the word “that” after “employee” the statement does not make sense.

(Question of the amendment proposed)

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

(Clause 27 as amended agreed to)

(Clauses 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 39 agreed to)

Clause 40

Hon. Were: Hon. Temporary Deputy Chairlady, I beg to move:-
THAT, clause 40 be amended in sub-clause (1) by deleting the word “ten” appearing immediately after the words “lump sum ” and substituting therefor the word “forty”.

We discussed this matter with actuarial scientists. They advised us that changing the funeral grant from Kshs10,000 to Kshs40,000 might not be sustainable. So, I wanted to withdraw that amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You are therefore, withdrawing the amendment.

Hon. Were: Yes.

(Proposed amendment by hon. Were withdrawn)

(Clause 40 agreed to)

(Clauses 41, 42, 43, 44, 45, and 46 agreed to)

Clause 47

Hon. Were: Hon. Temporary Deputy Chairlady I beg to move:-
THAT, clause 47 be amended in sub-clause (1) by inserting the words “in consultation with the Board” immediately after the word “Cabinet Secretary”

This concerns regulations by the Cabinet Secretary on benefits under the Act. The Cabinet Secretary can come up with regulations in consultation with the Board.

(Question of the amendment proposed)

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

(Clause 47 as amended agreed to)

Clause 48

Hon. Were: Hon. Temporary Deputy Chairlady, I beg to move:-
THAT, clause 48 be amended in sub-clause (2) by deleting the word “fifty” and substituting therefor the words “three hundred”.

This one regards punishment for those employers who do not conform to this. The fine that is indicated here for non-compliance is Kshs50,000. We felt that this amount of money is so low. We are proposing to increase the amount from Kshs50,000 to Kshs300,000.

(Question of the amendment proposed)

Hon. Gichigi: Hon. Temporary Deputy Chairlady I want to clarify further. It is not really the employer who is supposed to be charged this. It is a person who fraudulently goes and receives money pretending to be the beneficiary. We felt that Kshs50,000 is not enough and Kshs300,000 would be a better fine.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, this is about individuals not corporate bodies. Is hon. Gichigi right, Chairman of the Departmental Committee? This is because your explanation is at variance

Hon. Were: He is right; I want to thank the Member for assisting me in this.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): That is why you have Members who are very alert in your Committee.

(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 48 as amended agreed to)

(Clauses 49, 50 and 51 agreed to)

Clause 52

Hon. Abdinoor: Hon. Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 52 be amended by deleting the words “as and when necessary” and substituting therefor the words “at once every three years.”

The National Social Security Fund shall then be valued as and when necessary; it is open now as is written in the Bill. So I am proposing once every three years.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): What is being evaluated once every three years?

Hon. Abdinoor: That is Clause 52 be amended by deleting the words “as and when necessary” and substituting therefor the words “at least once every three years”. It is now open but it will be coming after three years and then the State can value the Fund.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): It is okay for the valuation of the Fund by the State.

Hon. Abdinoor: Exactly; the way it is written now, it is open.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, you are now saying once every three years? Hon. Were, are you in agreement with that proposal?

(Question of the amendment proposed)

Hon. Were: Hon. Temporary Deputy Chairlady, I am in agreement with that amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gichigi are you in agreement with it?

Hon. Gichigi: I am in agreement.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Then, I will now put the Question.

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

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

(Clause 52 as amended agreed to)

*(Clauses 53, 54, 55, 56, 57, 58, 59, 60, 61,
62, 63, 64, 65, 66, 67, 68, 69, 70, 71 and 72 agreed to)*

(First Schedule agreed to)

(Second Schedule agreed to)

Third Schedule

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We have three amendments hon. Members, on the Third Schedule. One is by the Chair of the

Committee on Labour and Social Welfare; another is by hon. Abdinoor Mohammed. Another one does not appear on the Order Paper but was approved; it is by hon. Serem. We will start with the one by hon. Abdinoor Mohammed.

Hon. Abdinoor: Hon. Temporary Deputy Chairlady I beg to move:-

THAT the Third Schedule is amended-

(a) by deleting the words "Tier 1" appearing at the heading to the Schedule

(b) in paragraph (1) by deleting the word "contributions" appearing immediately after the words "Upper Earning Limit"

(c) in paragraph (2) –

(i) by deleting the words "in the case of" appearing at the beginning of sub-paragraph(a);

(ii) by deleting the word "contributions" appearing immediately after the words " Lower Earning Limit" in sub-paragraph(a);

(iii) by deleting the words "in the case of" appearing at the beginning of sub-paragraph(b) ;

(iv) by deleting the word " contributions" appearing immediately after the words "Upper Earning Limit" in sub-paragraph(b)

It is just improving on the words to this amendment.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Were, your amendments are covered by those of hon. Abdinoor Mohammed, as his amendments are more. So, if we pass his amendments, we will assume that you will be comfortable that yours will have been taken care of.

Hon. Were: Hon. Temporary Deputy Chairlady, I agree with that.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I will now put the Question.

(Question of the amendment proposed)

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

(Third Schedule as amended agreed to)

Hon. Serem, your amendment now.

Hon. Serem: Thank you, hon. Temporary Deputy Chairlady. I have chosen to withdraw my amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Serem, you have chosen to withdraw your amendment, and that is your right.

(Proposed amendment by hon. Serem withdrawn)

Fourth Schedule

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): There is an amendment to the Fourth Schedule by hon. Were. Chair of the Committee on Labour and Social Welfare, look at the Fourth Schedule and your amendment to it.

Hon. Were: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Fourth Schedule be amended in paragraph 1-

- (a) By deleting the figure (3) and figure (4) appearing in subparagraph (c), and substituting therefor figure (2) and figure (3);
- (b) By inserting the words “by the Authority” at the end of subparagraph (f).

This is just to ensure that the correct references are made. Rather than figure 3 and 4, reference should be on figures 2 and 3, so that we do not refer to the wrong subparagraph.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You also have another amendment (b), can you explain it?

Hon. Were: Sub-paragraph (f) states: “Complies with any prescribed requirements”. It is a bit general. We are inserting “by the Authority” so that we are specific about whose prescription should be complied with.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, I do not see any interventions on this matter. I, therefore, assume that the House is ready to adopt this amendment.

(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)*

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

(Fourth Schedule as amended agreed to)

(Title agreed to)

Clause 2

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We have three amendments by hon. Were, hon. Abdinoor Mohammed and hon. Millie Odhiambo, who is missing in action. Hon. Were, take the Floor.

Hon. Were: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 2 be amended in the definition of “funeral grant” by deleting the figure “39” and substituting therefor the figure “40”.

This one is just to ensure that we are referring to the right clauses because the “funeral grant” appears under Clause 40 and not Clause 39. It is just a change from 39 to 40, so that we make the correct reference.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gladys Wanga, do you want to speak to this particular amendment?

(Question of the amendment proposed)

Hon. (Ms.) Nyasuna: Hon. Temporary Deputy Chairlady, not on this particular one, but I have an amendment, if it is admissible, to Section 2 on the definition of “social security”.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): To Clause 2?

Hon. (Ms.) Nyasuna: Yes

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gladys Wanga, you are a senior Member of this Committee; you know the procedure is to approach your Chair. He is the only one who is allowed to bring amendments. I would suggest you quickly move over and ask him if that amendment is possible. Maybe, we can listen to the amendment by hon. Abdinoor Mohamed.

*(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)*

Hon. Abdinoor: Hon. Temporary Deputy Chairlady, I beg to move:-
THAT clause 2 be amended in sub-clause (1)-

(a) by deleting the definition of “Actuary” and substituting therefor the following definition-

“means a fellow of the institute of Actuaries in England or to the Faculty of Actuaries in Scotland or of the Canadian Institute of Actuaries, or a person holding such equivalent qualifications as the Board may, by notice in the Gazette, prescribe”.

(b) in the definition of “TIER 1 PENSION FUND CREDIT” by inserting the words “provided that the maximum deduction for the funeral grant and minimum benefits on death and disability shall not exceed two per cent of the Lower Earning Limit per Pension Fund member” immediately after the word “thereon”.

The first one is the definition of the word “Actuary”. It is not provided for in the Bill and it is good to clear the definition of the word in the Bill. Two, in the definition of “Tier 1 Pension Fund Credit”, there is two per cent. The contribution is 12 per cent as proposed in the Bill. Ten per cent will be going to Provident and Pension Fund. We have agreed that two per cent should go to the grant and disabled Fund. They were saying they would create an account for that. It is not anywhere in the Bill. The two per cent should be taken care of by inserting the words “provided that the maximum deduction for the funeral grant and minimum benefits on death and disability shall not exceed two per cent

of the Lower Earning Limit per Pension Fund member” immediately after the word “thereon”.

The upper limit is transferrable and somebody can opt out and go to other pension schemes. That is my amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Abdinoor, I wish you could just slow down. You have important amendments and I would like the Members to understand what you are speaking about. Hon. Members listen to this amendment because it is a bit wordy. Hon. Member, please, slow down.

Hon. Abdinoor: Hon. Temporary Deputy Chairlady, the first one is in the definition of the word “Actuary, which is not provided for in the Bill. I have defined “Actuary” according to the RBA Act. That is how it is defined in the RBA Act.

In (b), in the definition of “TIER 1 PENSION FUND CREDIT,” I have inserted “provided that the maximum deduction for the funeral grant and minimum benefits on death and disability shall not exceed two per cent of the Lower Earning Limit per Pension Fund member” immediately after the word “thereon”.

I am saying that the contribution is 12 per cent of the lower and upper earnings. Ten per cent will go to the Pension and Provident Fund. Two per cent of that amount, we have agreed should go to the grants for death and disability. It is not provided for in the Bill. I am proposing that, at least, this provision should take care as stated.

(Question of the amendment proposed)

Hon. Were: Hon. Temporary Deputy Chairlady, I have discussed this with the Member and the definition of the word “Actuary” is lifted from the RBA Act. So, it is not controversial. When you come to the second part where he is limiting the amount that is to be paid for the extra benefits to two per cent, this is something that we also discussed and we said that if we leave it open, the additional benefits could easily eat into the Fund, and we end up having no money to pay the pensioners when they retire. So, we are capping that spending to two per cent. That is why I even withdrew the earlier requirement of increasing the funeral grant from Kshs10,000 to Kshs40,000. We were told it is not sustainable. We are just trying to cap it at a certain percentage.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, especially those from this Committee, I would be interested to hear your opinion on this. I do not have interventions; yes, hon. Gichigi.

Hon. Gichigi: Hon. Temporary Deputy Chairlady, as the two speakers have indicated, when we engaged the actuary, he came up with figures indicating that unless we cap the expenses, we might find that when people retire, they do not have any money as all the money will have been spent on medical expenses for the people suffering disability or on funeral expenses. We can even have ghost deaths. There is a capping on this, so that when people retire, they will have a pension from the Fund.

Hon. Moindi: Hon. Temporary Deputy Chairlady, I support my colleagues. That is what we agreed in the Committee.

*(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)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We are waiting for the amendments by the Chair and any other amendments you might have been convinced by hon. Wanga.

Hon. Were: Hon. Temporary Deputy Chairlady, we have agreed to have only these amendments. So, there is no other amendment coming.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Has your original amendment been taken care of by hon. Abdinoor's amendment? You had an amendment to Clause 2.

Hon. Were: Hon. Temporary Deputy Chairlady, my amendment on Clause 2 is on the funeral grant; I said we are replacing 39 with 40. That is the only amendment I had.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): That does not contradict what hon. Abdinoor has moved?

Hon. Were: No, it does not.

(Clause 2 as amended agreed to)

(Clause 1 agreed to)

Hon. Were: Hon. Temporary Deputy Chairlady, I beg to move that the Committee do report to the House its consideration of the National Social Security Fund Bill, (National Assembly Bill No.27 of 2013) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Hon. Cheboi) in the Chair]*

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE NATIONAL SOCIAL SECURITY FUND BILL

Hon. (Ms.) Shebesh: Hon. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the National Social Security Fund Bill, (National Assembly Bill No.27 of 2013) and approved the same with amendments.

Hon. Were: Hon. Temporary Deputy Speaker, Sir, I beg to move that the House do agree with the Committee in the said report.

Hon. Gichigi seconded.

(Question proposed)

The Temporary Deputy Speaker (Hon. Cheboi): One or two Members who have something burning. I can see Gladys Wanga.

Hon. (Ms.) Nyasuna: Thank you, hon. Temporary Deputy Chairman. Is this the time when we should speak about the Bill, generally?

The Temporary Deputy Chairman (Hon. Cheboi): You are right; proceed.

Hon. (Ms.) Nyasuna: Hon. Temporary Deputy Chairman, what this House will do by passing the National Social Security Fund Bill with the amendments will radically improve social security in this country. We are going to see people making enhanced contribution to the NSSF, and the enhanced benefits coming back to them. When people retire, they will retire to much better lives. We are going to see an NSSF that is far much strengthened. We look forward to seeing much more accountability at the NSSF in terms of investments of members' funds and this is the form that we have now given NSSF. We really look forward to a thriving NSSF. With this kind of NSSF now, we should not be borrowing externally or even from members of the public for major infrastructural projects. The NSSF should now be able to fund a lot of infrastructural programmes for Government so that we have our money well invested, so that when members retire, they have a much better retirement. Thank you.

(Question put and agreed to)

Hon. Were: Hon. Temporary Deputy Chairman, Sir, I beg to move that the National Social Security Fund Bill be now read a Third Time.

Hon. (Ms.) Nyasuna seconded.

(Question proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will probably give two hon. Members an opportunity to speak briefly to this Bill. Hon. Kipchumba Korir.

Hon. Korir: Thank you, hon. Temporary Deputy Chairman, for giving me an opportunity to speak on this Bill. As a Member of the Committee on Labour and Social Welfare, I am so excited to know that the Bill has gone through all the stages of a Bill and is about to be approved. This marks the beginning of a journey for this country that is going to transform NSSF. There is a saying that a journey of a thousand miles starts with one step. This is the first step that this House has approved for this nation to take the journey. We are very committed to move this nation forward.

This Bill will transform our minds about the NSSF; it is also going to transform the lives of Kenyans who have suffered after retirement. Now Kenyans will live happily after they retire. They will be able to celebrate in their old age after they have spent the first part of their lives working for this country.

This Bill will give an opportunity---

The Temporary Deputy Chairman (Hon. Cheboi): It should not be a debate, hon. Korir, but just a word. You are taking too long.

Hon. Korir: Thank you, hon. Temporary Deputy Chairman. I am so excited.

The Temporary Deputy Chairman (Hon. Cheboi): Save that excitement for the afternoon.

Hon. Njagagua: Thank you, hon. Temporary Deputy Chairman. I am not a member of that Committee but I must laud the Committee Members led by the Chairman, hon. Were, for the good work they have done for this country. Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): Very well. Instead of giving the chance to the Chairman of the Committee, and because he has contributed a lot, let us hear from the Vice-Chair.

Hon. (Ms.) T.G. Ali: Thank you, hon. Temporary Deputy Chairman, for giving me this opportunity. Mine is in support of the Bill. My fellow hon. Members have already talked about the importance of this Bill, which will transform this country. It will give us the motivation to save for our working and non-working members out there. The Bill, if passed, will give this country a lot of resources. As I have already said, the Government will not borrow money from other countries.

I think we have looked at all the dimensions of this Bill; we have looked at the issue of the Board of Trustees and membership and have ensured that we have put enough measures in place to ensure that we do not give all the powers to particular individuals. At least, we will have checks and balances. Therefore, I urge hon. Members to support this Bill because it will transform the whole country. I am sure quite a number of us are dealing with issues of social security in our respective counties. We are taking care of old people who have been working. For example, if this Bill is passed, we will have no problem in terms of hon. Members chasing terminal benefits for their constituents. I support the Bill and I thank hon. Members who have really put in their time on our behalf.

The Temporary Deputy Chairman (Hon. Cheboi): That is fine. I did not hear anybody congratulating the Chair for having steered the process very smoothly. So, I take this opportunity to congratulate him.

(Question put and agreed to)

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

Second Reading

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

(Hon. A.B. Duale on 27.11.2013)

(Resumption of Debate interrupted on 27.11.2013)

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, we were at the Second Reading and we are resuming debate which was interrupted on Wednesday 27th November, 2013. At that time, hon. Omulele from Luanda Constituency had eight

minutes to go. Therefore, he can make use of those minutes. Hon. Omulele, the Floor is yours.

Hon. Omulele: Thank you, hon. Deputy Speaker, Sir. I think debate on this Bill was interrupted when I was on my feet. I had stood and indicated that I was opposed to this Bill. I had also indicated that although I was opposed to it, I had seen some good provisions in it. But the vast majority of the proposed amendments to the various laws that are set out in this Bill have actually forced me to oppose the passing of this Bill.

Hon. Temporary Deputy Speaker, speaking on the bad side of the Bill, I have looked at the proposed amendments to the Public Benefits Organizations Act and, honestly, I did not see why we want to control the budgets of NGOs. We know we have had our problems with NGOs in this country, but I do not think that denying them funds from donors outside this country will be the best way to deal with them. I think the work they do is good, and the people they employ are Kenyans. If the funds are used by Kenyans, the only thing we should do is to make the NGOs more accountable, but we should not starve them of funds. For that reason, I will oppose the passing of this Bill.

I also want to speak to the proposed amendments to the Anti-Corruption and Economic Crimes Act, Act No. 3 of 2003. I do not understand why we are proposing to amend Section 26 which empowers the Secretary and the Director to force a Kenyan to provide a statement on their worth. We are all aware of the ruling of a constitutional court in this country in the famous case involving hon. Murungaru. The Director of the EACC had purported to require him to provide a statement on his worth. The court found that this was actually an infringement of his constitutional safeguards. I want to agree with the court in this respect.

We have known criminal practice in this country. He who accuses should always be the one to prove his allegations. We are having a situation here where Kenyans can be required to provide information that might implicate them in crimes. I do not think that this would be a proper way of observing constitutional safeguards.

I will also speak to the good parts that I have seen in this Bill. I have seen the proposed amendment to the Counterfeits Act. This is a good one, because it is very important for Kenyans to clearly and actively protect intellectual property in this country. This is because intellectual property is a novel thing; protecting it is protecting the foundations of wealth. We should encourage people to be innovative by making sure that other people do not reap from where they have not sown. In this way, we will be doing this country a great service. That is a good proposed amendment in the Bill.

It is also good for the agency to compound offences where offenders have admitted their wrongdoing. This is a good one because we know that court processes sometimes take a long time. Where a party has clearly admitted that he has done wrong and is willing to make amends, it is good that the agency should have power to deal with a matter in-house rather than going to court to seek redress. That is a good provision.

Another good one, in my opinion, is the proposed amendment to the Kenya Ports Authority (KPA) Act, where we are seeking to align all matters involving inland waterways to be under the power of the KPA. I think previously we have had waterways under the Kenya Railways Corporation. I think this was the colonial way of dealing with things when the East African Protectorate was under the general authority and governance of the railways corporation. I think with the policy shift that we have had in this country, the inauguration of the standard gauge railway, which is going to run all the

way from Mombasa, and part of it end up at the shores of Lake Victoria, it is important that goods that will be destined for countries like Burundi and Rwanda are cleared at the shores of Lake Victoria. In this way, we will create possibilities for economic enhancement at Kisumu and other lakeside bays. It is a good proposed amendment to that Act which will consolidate marine management under the KPA.

On the proposed amendment to the Kenya Airports Authority (KAA) Act, it is proposed to amend this Act to bring in five directors to be picked by the Cabinet Secretary. I do not know whether this is proper. I think the general direction we have chosen is to reduce---

The Temporary Deputy Speaker (Hon. Cheboi): Your time is over.

Hon. Omulele: Thank you; I generally oppose.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have hon. Shebesh.

Hon. (Ms.) Shebesh: Thank you, hon. Temporary Deputy Speaker, Sir. I was consulting one of the Members of the Justice and Legal Affairs Committee. You will remember that when we started this debate we were cognizant of the fact that the Committee had not looked at these particular amendments. I am now told that they have done so, and the Vice-Chair will be coming with the report of the Committee.

My contribution is that before the Committee's report, what has come out is clearly controversial. There are proposed amendments to the Non-Governmental Organisation sector, gender balance in the appointment of the Inspector-General of Police and his deputies. Another controversy is about the Salaries and Remuneration Commission. I will be interested to see the proposals of the Committee. It was good to hear the hon. Member who has spoken before me speak about the good things in this miscellaneous amendments Bill. There are controversial proposals, but we must always be able to recognize those that are not, and those that are helpful.

I want to be one of those who want to go on record---- I have already given my opinion to the Leader of the Majority Party, who moved these amendments. For as long as you keep on clawing back at the gains that women in this country have fought for, for years, we will not be party to supporting anything that is brought here in the name of doing away with the gender balance in the appointment of the IG and his deputies. As we speak now, the deputy of the IG is Lady Grace Kaindi. It is obvious that by bringing this amendment you are saying that either you have no confidence in the leadership of Lady Kaindi, or that there are no other women who can do the kind of work she has done.

It is good to note that during the interviews for the IG, gender balance was observed. The person who became second in position at the interviews was a woman. Women are always discriminated against either because of their gender, where they got married or how they dress. The lady who was in second position hails from the Kalenjin Community; she could not be given the position because Mr. Kimaiyo, the IG, is also from the same community. We need to be fair on the basis of merit.

If there is a female police officer who can rise to the position of the IG or deputy IG, then she should not be dropped in favour of a man, if everything is about community balancing. Once in a while, community balance can also involve women.

Today, you suggest that you want to take away that particular provision because we have no women police officers qualified, this would be a shame in this country. I have mentioned a few proposed amendments and there are many more. I just want to put it on record that unless that amendment is withdrawn by the Leader of Majority Party, we

will be saying that we have no confidence in these amendments and their sincerity. We cannot claw back at gains that have been made over the years by women in this country. I will support this Bill only if the Leader of Majority Party withdraws this draconian amendment.

Thank you, Sir.

The Temporary Deputy Speaker (Hon. Cheboi): Hon, Shebesh, did you say that there were issues about how people dress? Let us all dress properly, whether we are ladies or men. That is with a light touch.

Let us now have hon. Oyoo; since he is not here, I will give the chance to Dr. Nyikal.

Hon. (Dr.) Nyikal: Hon. Temporary Deputy Speaker, Sir, I rise to oppose this Bill for very basic reasons. One of the reasons is that miscellaneous amendment Bills are meant to deal with minor amendments and correcting typing errors, ambiguities in the law and so on. That is the explanation we have had. This particular miscellaneous amendments Bill contains numerous substantive changes in several Acts.

Again, the process of bringing this Bill to the House bypassed a stage which, in my mind, is extremely important. This is the stage when we have a report of the committee of this House. We hear that the report of the committee is going to be available. It is not with us yet this Bill has so many Acts that it will really be difficult for hon. Members to go through it. I have seen the memorandum and the explanation for the Acts that are being amended. Even with that, it is still difficult to understand the amendments. One has to go and read through every Act. We have 49 of them, yet we missed out on the committee report that would have been of tremendous help to us. The other reason for my opposing this Bill is that some of the proposed amendments raise questions as to whether we are going against the Constitution. The gender issue has come out very clearly in this regard.

We also know from the history of miscellaneous amendments, even in the last Constitution we had, it was rendered almost unworkable or unrecognisable because many amendments were put in through miscellaneous amendments. So, in my mind---

The Temporary Deputy Speaker (Hon. Cheboi): I want to be clear about that. You say there is a situation where miscellaneous amendments amended the Constitution?

Hon. (Dr.) Nyikal: In the previous Constitution--- We know that very many major changes were made in the last regime through miscellaneous amendments Bills, and so I would suggest that in future we should even get a way of really getting rid of miscellaneous amendments. If it must be there then it really must be confined to what is explained as minor amendments that do not effect basic changes in Acts.

We have the issue of gender in the police force, the granting of bail and parole to people in prisons; all these are in these amendments. The issue of SRC, the issue of the role of the Deputy Public Prosecutor (DPP) and NGO funding are all in these amendments, yet they are major changes. The role of the National Youth Council is also here. Again, it is being changed and there is a big public outcry. We have something like the funding of NGOs. We know a lot of funding comes, and a lot of our services, particularly in the health sector, are actually funded through NGOs, yet we are limiting it. Again, we are bringing this change not through a substantive Bill but in an amendment hidden among 49 amendments. We even do not have the committee report to help us in this.

Hon. Temporary Deputy Speaker, in my mind I think we need to look again into the issue of miscellaneous amendments being used to bring in so many changes in the law.

With that, I oppose this Amendment Bill.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us have hon. Opondo Kaluma.

Hon. Kaluma: Thank you, hon. Temporary Deputy Speaker for the opportunity to address the matter of this Bill. It has been said by so many Members that a miscellaneous amendments Bill deals with small clean up issues relating to legislation. Looking at the Bill before us as a Statute Law (Miscellaneous Amendments) Bill, first you reckon that we are seeking to have amended a whole 49 Acts of Parliament or statutes. The number, for one, is too big. Again, if you look at it, we are dealing with very substantive issues even in respect of those statutes in which we are amending single provisions. You will discover when you look at those singular provisions very keenly that we are seeking to amend the very policy or foundation of that Act. I would want to agree with hon. Members that we do not use a miscellaneous amendments Bill to do such a thing.

Hon. Temporary Deputy Speaker, we were reminded yesterday that laws on detention without trial in this country were brought to Parliament through a miscellaneous amendments Bill. Indeed, the Mover did not know that within that Statute Law (Miscellaneous Amendments) Bill were the laws on detention without trial. As history will confirm, that Mover was the first one to be detained under those laws and history will also confirm how his family would later suffer under that law. So, I want to urge hon. Members that we separate issues that we need to bring under the parent laws and legislate on them as stand-alone Bills as against putting everything together.

Having said that, I want to focus on laws on justice, governance and order. There is a proposed amendment to the Interpretation and General Provisions Act, as the very first provision. What is proposed is that the President and the Deputy President should be considered as Cabinet Secretaries. You want to question why the President and the Deputy President of a country would be put at one level with the people they appoint. I think it is demeaning to their offices. Let us agree we are in a presidential system. Let us give the offices of the President and Deputy President, whoever the holders are, the honour and distinction those offices deserve. We cannot have our President being the equivalent of the people he appointed following our approval here, unless there is deeper explanation which we do not have at this stage. There is need for a serious thinking and, maybe, sitting with the person who made that proposal, so that we understand the serious change to the structure of governance. Under the Constitution and the relevant provisions – and I may not be able to quote them now - amendments affecting the structure of Governments are amendments that essentially would require a national referendum. I would urge the House that we shelve the proposed amendment in relation to making the President and the Deputy President Cabinet Secretaries and get better thoughts from the originator of that proposal.

Second in line, is a proposed amendment to the Criminal Procedure Code to give the police and the magistrates discretion to decline bail. You know I am the force of it. That is unconstitutional. Article 49 (1) (h), in fact, entitles everybody who is arrested or accused before any court of law and gives every person who is arrested or accused by

court of law a right to bail. Therefore, legislating and saying that the court may decline bail on these grounds is unconstitutional. You are not only violating the Constitution by taking away what the Constitution has already given us of right, but you are plunging yourself into the days of darkness. The reason as to why, as a country really, we need to make bail in all cases and instances are right save for those compelling reasons, which is a matter of discretion that should be left to judicial officers.

What these amendments - if allowed – will achieve is not only opening an Act of Parliament to challenges before the courts, but we will have a situation where we are going to open up very high levels of corruption, particularly in the criminal courts. A magistrate merely needs to indicate to you that on this one, I am going to decline. Then the level of bribery will go up and all those other problems of governance will crop up. I would urge hon. Members that we do not take away this liberty already given and we shelve the amendment to criminal procedure court which, in any event, is too substantive to be brought as a miscellaneous amendment without considering the entire statute.

The Public Benefit Organizations Act and the capping of foreign funding to NGOs at 15 per cent, we need to sit properly with whoever is making this proposal, so that we can understand the wisdom of where this is coming from. Most parts of the country have been developed on donor funding. My constituency – Homa Bay Town Constituency - possibly has the highest HIV prevalence rate in the country. You cannot imagine the amount of donation we are getting in terms of ARVs and other drugs. The schools we have in Homa Bay are largely planned by international organizations. We want to be informed better on why this restriction should come.

Worse still, it is being proposed that all the money that is to be given to NGOs ought to pass, first, through the federation. You know in law, the donors engage with the NGOs. If you are going to pass money through another third party who is not a party to the negotiations, that is the easiest way to say the NGOs will never be given money by donors. Most importantly, I was going to suggest again to my colleagues and hon. Members that the amendments to the Public Benefit Organizations Act are so substantive. Let us shelve them for now, we give them a deeper look as we consider issues of accountability.

There is a proposed amendment to the Anti-Corruption and Economic Crimes Act. Looking at it, the word “director” is being replaced with the word “secretary”. Somebody may think that is very simple but remember, when the Act was amended to remove my former partner, Prof. P.L.O. Lumumba, note other provisions which gave him all the powers he had as the Director of Anti-corruption Commission and as the head of that commission were removed. Essentially, those powers which the Director of the Anti-Corruption Commission had when Prof. PLO Lumumba headed that Commission are being transferred to a secretary. The secretary is going to be more powerful than the Commission and I urge hon. Members to look at that very keenly. Let us shelve that amendment. It will make the Commission unmanageable. It will make the Commission not to be able to account for matters. In fact, the secretary is going to be the chief in terms of all investigations by the Commission. I think it is a substantive amendment. Let us shelve it. Let us look at it later.

There is a proposed amendment to Kenya School of Law (KSL) Act, and the Act governing the Council for Legal Education. In terms of Kenya School of Law, it is proposed that KSL will now administer all examinations, excluding only those

examinations being administered by the Council for Legal Education. Can KSL administer Kenya Certificate of Secondary Education or Kenya Certificate of Primary Education? I would again urge that in terms of the amendments to the KSL legislation and the Council for Legal Education Act, we need a proper sitting with those sectors training lawyers, so that we can know how to divide roles and what exams they can deal with. Most importantly, in the KSL legislation, we are proposing that the grade required for you to do law, particularly in the English language, be removed. Then we will have lawyers who cannot express themselves and that are a problem. I know it. I taught at KSL. We have lawyers before this particular provision sought to be removed, who could not express themselves even on an examination and, of course, they are expected to represent people in courts; to represent people in documentation. It is a substantive amendment hon. Members and I would request that we leave it.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Kaluma your time is up.

Hon. Kaluma: May I mention just---

The Temporary Deputy Speaker (Hon. Cheboi): Just mention as you finish.

Hon. Kaluma: Thank you. There is a proposed amendment to the Office of the Director of Public Prosecutions Act. The extradition regime is being removed from the Office of Director of Public Prosecutions and is not being given anywhere. Now, you extradite people because they have committed a criminal offence. Issues of criminal law are under the docket of the Office of the Director of Public Prosecutions. Whether you want to give them to the Attorney General or any other person, it is an amendment which goes against the Constitution and I would ask that we leave it.

The Temporary Deputy Speaker (Hon. Cheboi): Your time is up. I am, therefore, going to give the opportunity to hon. Okoth. Hon. Kaluma, always make use of--- I am sure you have very good eyesight and brains too. So, look at these gadgets here.

Hon. Okoth: I am happy to rise up to contribute to the Statue Law (Miscellaneous Amendments) Bill and say that in its current format, it is not acceptable and I oppose it fully. I would like us to make some amendments before this is worth passing. Some of the key concerns we have here is about the public benefits organizations. I come from a constituency where NGOs and other public benefit organizations including faith based organizations have been doing a lot of good work, happily helping our children and our mothers on issues such as education, health care and any attempt to muzzle the NGOs and public benefit organizations will really take us a step back. For many years now, our people have been benefiting from ARV treatments and other forms of support which come from public benefit organizations and our people would lose a lot if we pass the Bill in its current form, limiting their funding to 15 per cent from foreign sources. So, this is something that is a national issue, not just a constituency issue for me in Kibra. We know even schools like Alliance High School are run by missionary churches which are public benefit organizations. So, we would lose a lot. Many of our tertiary institutions and colleges such as the Catholic University of Eastern Africa, Daystar University--- If you limited those institutions to only 15 per cent of foreign funding, again, we will be doing a lot of disadvantage---

The Temporary Deputy Speaker (Hon. Cheboi): I am perfect with your contribution but I am just trying to say: Let us look out for areas that other Members have

not mentioned because we have listened to these things and, therefore, we will not end the debate. Really, we need to move forward. Let us get the new areas.

Hon. Okoth: I am glad that this section that I was touching on might be amended and changed quickly. My next issue that I want to bring up on page 993 of this Bill concerns the Kenya Airports Authority Act. The proposal is to amend the Kenya Airports Authority Act to increase the number of independent board members from two to five. Why? I do not think there is any good reason when we are talking about capping the wage bill. To expand that board is unnecessary and I think the board composition should stay as it is without adding three more independent members. There is no benefit to be gained. That will cause additional expenses. This is a window for bringing in political interference through cronies who will do the bidding of the appointing officers.

When we go to page 995, this is very important to the youth of this country. It deals with the National Youth Council Act 10 of 2009. The Bill proposes to amend the National Youth Council to streamline the membership of the Youth Advisory Board and further clarifies its functions. There is nothing wrong with National Youth Council Act as it is. Trying to amend it to take away the powers of the Youth Council that has been established and voted by the Kenyan youth to serve and advocate for their interests and abrogating its powers and prerogatives to give to a Cabinet Secretary to appoint an advisory board is a very significant issue. That will control the youth council. It will not manage its own matters. It will only get advice from the Cabinet Secretary. I think it is a betrayal by the Jubilee Government to attempt to take away the rights of the National Youth Council and we have seen this systematic approach to cripple the National Youth Council through denial of funding for the last two years. This year, we as Parliament allocated funding to it. But the funding has not fully reached the Council. So, it seems sinister to me, and I fully oppose it. I hope this will be dropped and let the National Youth Council be fully implemented as it has been set up.

On page 996, we are talking about the Political Parties Act of 2011. Again, the Bill proposes to amend the Political Parties Act provisions relating to the appointment of the Registrar and the Assistant Registrar of Political Parties. This is only acceptable if we make sure that the Registrar and the Assistant Registrar of Political Parties - which are sensitive positions - are also subject to the approval by Parliament rather than appointment without the approval of Parliament. This is very important to us.

The final point that I want to raise is on the National Police Service Act. I have said this before and I am glad to say it again. Anyone who knows me knows that I am a feminist and I have always said that you do not have to wear a skirt to be a feminist in this country.

(Laughter)

This Bill is trying to tell us that we should not take account of gender parity in the leadership of the National Police. This is taking us 10 steps backwards because our Constitution speaks about gender parity and has put this requirement in the National Police Service Act. So, unless there is a man somewhere waiting for this job, I request all the men of this country not to accept to be part of impunity and the denial of women access to leadership in this country. We have qualified women in our police force and they should have a right to lead that force.

I often think many times that the mess that has been created in this country has been created by ineffective male leadership. Until we allow many more women to hold leadership positions in all our organizations, we will not see better quality and reasoned leadership. So, I oppose this and hope that we will not be sending a message that this amendment is saying that our women, our sisters and mothers are not up to the task, they are not fit and they are Kenyans of second class. That is a wrong message.

The next issue that I want to talk about is on page 999. I am a member of the Departmental Committee on Education, Research and Technology and the Kenya National Examinations Council (KNEC) Bill of 2013 proposes to amend the KNEC Act to include the Principal Secretary to the Treasury as a Member of KNEC. It is not clear to me why somebody from the Treasury has to go to the highest level in the Education Department and the argument for a financial leadership there has not been made clear to us. I am very concerned why education matters should be linked to another Ministry.

On page 99, we are also talking about the Office of the Director of Public Prosecutions and the Bill proposes to amend the Office of the DPP by removing the management of extradition proceedings from the purview of the functions of that office. Why do we want to take away those powers and the management of extradition provisions from the Office of DPP and place them under somebody else who will be in charge of extradition hearings?

I talk about this in light of the fact that there have been illegal and unconstitutional rendition of Kenyans suspected of terrorism to a country like Uganda, where the rule of law is not as established as in our country. Kenyans languish and get tortured abroad and their right to proper and fair trial is violated. I think we will protect all Kenyans if we make sure that we keep extradition matters under the Office of DPP. Before any Kenyan is sent abroad to face justice, there has to be a procedure locally to agree why he or she should go. This is to give that Kenyan a fair trial and make sure that all Kenyans are protected.

My final point is on the Civil Aviation Act on page 1,000. This says that a final report by---

The Temporary Deputy Speaker (Hon. Cheboi): By the way, your time is over. You may now summarize.

Hon. Okoth: Hon. Temporary Deputy Speaker, Sir, it says that a final report by an aircraft accident investigator should not be used in court, in suits or actions for damages. Philosophically, why do we want to make sure that reports that are valid are not used for purposes of supporting the families of victims? Families of victims cannot commission their own independent aircraft investigation report. I think we should drop this amendment and allow the report to be valid and usable by the families in seeking damages.

Hon. Temporary Deputy Speaker, Sir, thank you for your indulgence and God bless Kenya.

Hon. (Ms.) Wahome: Thank you, hon. Temporary Deputy Speaker, Sir. I rise to raise a few issues that I have seen in this Statute Law (Miscellaneous Amendment) Bill. I will start with the one on the national honours. I have seen the National Honours Act has proposed amendments but even before then, may I say that it is very disappointing how some men find themselves on the national honours for commendation by this country or the Head of State. This is because we still continue to see people topping that list but they

do not find themselves on the final list. Even as we seek to make amendments on this, we should really think, as a country, who should find themselves on that list.

(Hon. Kabando wa Kabando looked at Hon. (Ms.) Wahome)

I can see hon. Kabando wa Kabando looking at me. He thinks that, that is a very good point.

Hon. Temporary Deputy Speaker, Sir, Section 6 of that Act should be amended. This is because we have Section 6(2) which establishes the Parliamentary Honours Advisory Committee which is to be chaired by the National Assembly Speaker and the Speaker of the Senate. This is how we come up with legislation that continues to perpetuate the fights and conflicts that we have between the Senate and the National Assembly. This is because if that Committee will be chaired by the National Assembly Speaker and the Speaker of the Senate, who is actually chairing that Advisory Committee---We should either say that one of them is assisting the other. Of course, I believe that the National Assembly Speaker should chair that advisory committee, assisted or deputized by the Speaker of the Senate.

I want to add my voice to those who have raised issues on the amendment to the National Police Service Act of 2011, No. 11(A). The proposal to amend Section 14(b) of that Act is extremely annoying and unacceptable. This is because the proposed Section 14(b) says that in the entire recruitment and appointment process of the Inspector-General and the Deputy Inspector-General, the Commission, Parliament and the President as the case may be shall ensure that, at all times, one of the three positions of the Inspector-General and the Deputy Inspector-General is of the opposite gender. Then what are we doing to Article 27(7)(8) of the Constitution? We must refuse this.

The Temporary Deputy Speaker (Hon. Cheboi): I am trying to avoid this statement that we use, that you want to add your voice. That becomes a leeway to repeat probably what other Members have said before. You will speak to it but we are trying to wind up this debate because it has been going on for long. Really, when we start repeating what others have said, it is time that we end it. However, proceed.

Hon. (Ms.) Wahome: I hear you, hon. Temporary Deputy Speaker, Sir. But, sometimes, contributions are individual. While I take your advice, I still must say that I abhor this. I have discussed a lot with the women movement and they are asking Parliament to reject this proposal.

*[The Temporary Deputy Speaker
(Hon. Cheboi) left the Chair]*

*[The Temporary Deputy Speaker
(Hon. (Ms.) Shebesh took the Chair]*

Hon. Temporary Deputy Speaker, Section 14 on the Prisons Act is proposed to be deleted completely. This section allows the Commissioner-General of Prisons to evaluate prisoners who have been held and allow remission to the extent of one-third of their serving term or the term they are supposed to serve.

Hon. Temporary Deputy Chairlady, I think this is not rehabilitative. If we remove this provision, then we are saying that if I am put in for 20 years and I have shown signs of rectification, rehabilitation and improvement, then I am not of any value and I must continue to remain in jail for the entire time. For me, this is a retrogressive proposal and so we must reject it. We must allow the rehabilitation centres; that is, the prisons to be able to evaluate and allow remission of the sentences that have been given by the courts. We must reject the entire proposal because we are saying that remission is not necessary.

There was a provision that proposed to make amendments to the Advocates Act requiring that any person sitting in the Judicial Service Commission (JSC) should not be allowed to practice. The Commissioners of JSC are not full time commissioners and they do not earn a full time salary. Therefore, to penalize any lawyer that he or she will not be able to have their practising certificate renewed or not allowed to practise, that goes against the economic and human rights of an individual. It also goes counter the Bill of Rights and that must be rejected. In any case, to sit in the JSC, the lawyers are elected. The process of election does not disqualify you from being a practising lawyer and the need to continue earning.

With those remarks, I think that the Statute Law (Miscellaneous Amendments) Bill is not well thought out and it needs to be re-evaluated. This is how we sneak in very dangerous provisions, particularly the one that proposes to have the Inspector-General and the Deputy Inspector-General--- A risk of having the Inspector-General and Deputy Inspector-General as men. That is abominable; it is not acceptable in this time, hon. Temporary Deputy Speaker. Thank you.

Hon. Oyugi: Hon. Temporary Deputy Speaker, I stand to oppose this Bill in its current form. I am happy with the former speaker because she rightly put in the words for these miscellaneous amendments – it is an abomination. That is because you do not make laws like this.

The reasons for opposing this Bill are four. I will go to the specifics. The first one is that there are several proposals that are in contravention of the Constitution. If at all we let the Statute Law (Miscellaneous Amendments) Bill pass in this form, then we will be contravening the Constitution in the various amendments that we make.

The second reason I am opposed to this Bill is that public participation is a cardinal role of law-making in this country and it is enshrined in Article 10 of the Constitution. You appreciate very well that there has not been sufficient public participation in the various legislation that we seek to amend.

The third reason I am opposing this Bill is that miscellaneous amendments are making fundamental changes to the various statutes, in fact, 49 of them and so, it does not really fit the bill of being called a Statute Law (Miscellaneous Amendments) Bill.

The fourth reason I am opposing this Bill is the un-procedural nature in which we are discussing and debating this Bill. I have already raised an issue on this matter for a couple of days. We are actually proceeding to debate this Bill without a committee report. You appreciate very well that debate should proceed only when we are comparing or juxtaposing the committee report versus the Bill that we are debating. That is the only way of sufficiently informing the debate on the Floor.

Hon. Temporary Deputy Speaker, those are the four reasons I am opposing this Bill, but now allow me to go to the specifics.

The first amendment I will start with is the one that hon. Alice Wahome has spoken to. The National Police Service Commission Act that is sought to be amended. It takes away the gains made by women in this country. This is also carried in the National Police Service (Amendment) Act which this House is presently considering. The women of this country as per Article 27(8) of the Constitution need to have their rights realized by having them represented, one-third of either gender each time an appointment is done or each time considerations are made. The National Police Service Commission (Amendment) Act seeks to make sure that it is not an obligation on the part of the appointing authority. I think actually the one-third policy should be the main agenda so that girls and ladies of this country are given a chance. That is a constitutional right which they should be given.

I oppose this Bill because it seeks to amend the Criminal Procedure Code in a manner that is going to deny people the right to bail. The right to bail is a fundamental constitutional principle in Article 49. To leave this to the discretion of a magistrate is to take away the fundamental gains made in terms of civil liberties. This particular amendment is prone to abuse and misuse and we do not know how far it will take us.

The third specific reason I am opposing this thing is with regard to the National Youth Council. The NYC was created to give a chance to young people to engage, develop themselves and turn into responsible citizens. The board that is supposed to be created under the NYC Act is supposed to be one that is advisory in nature. The amendments seek to make sure that it engages in approving, directing and doing all manner of things to the youth budget which is not going to make them autonomous. It actually goes against the cardinal purpose for which the NYC was formed. It is supposed to be helping the young people of this country to move forward and become responsible citizens. The board needs to stick to its role which is advisory and not do anything more than that.

The fourth specific reason - and which is what has gained currency in this House is with regard to the Public Benefits Organization Act. Just this morning, we had an interesting engagement with various partners across this country and several things came up. But there are two specific ones that I would like to speak to.

One, some countries or development partners are actually considering the engagement with Kenya in terms of how we will relate in terms of development should we move ahead and consider the 15 per cent capping to NGO or public benefits organization funding. The reason is that, that kind of capping is seen and read as a means of taking away civil liberties. So, if at all various partners will see that Kenya is taking away civil liberties, then they will be actually considering how they will engage in partnerships in terms of developing the country.

The second specific reason that the Public Benefits Organization Act becomes very interesting is that right now, we know for a fact that the NGO Council has been bombarded for the past three or so years with criminal allegations and people have been taken to court. If we are going to allow one body to regulate all the works of public benefits organizations in this country--- Should you, for example, have whatever body it is going to be called taken to court for three years that, again, is going to take away all the funding and development works. So, we are going to grind to a halt.

It is important to appreciate that development in any country and the world over is not achieved by governments only. Development is achieved by the government plus

development partners. As a country, however, as much as we want to have our considerations and also have other interests at heart, whatever foreign policy we take, I really think that public benefits organizations need to be given sufficient liberties. Regulation and accountability is important but let us do it in a way that does not take away the freedom and space within which the Public Benefits Organizations act and operate.

The fifth specific reason I am opposing this Bill is with regard to the Director of Public Prosecutions Act. This is sought to be amended to take away extradition proceedings from that Act to the Attorney-General's Office. You know that the very nature of extradition is that it is criminal. The office that is mandated under the Constitution to deal with criminal acts is the DPP's office. The Attorney-General's Office is supposed to engage in acts of civil litigation and advise the Government. Whatever the interest would be to transfer extradition proceedings from the Office of the DPP is one that raises several eyebrows. That kind of amendment should not and cannot be allowed.

The sixth specific reason I am opposing this Bill is because it seeks to remove and replace the Council that is supposed to be a group of many people with one person called the Director-General. That is concentrating power in the hands of one person, which is pretty dangerous. However much it is nice, it can have the backing from a particular coalition right now. We do not know who is going to be the next Director-General. So, in terms of making laws, let us make laws that look forward into the future.

One other specific reason is that with regard to the Salaries and Remuneration Act, the Constitution is very clear and the terms of the Commissioners are also set out. It is also said that the Commissioners shall act on part time basis. For some strange reasons, someone wants to put the Chair of this Commission as a full time Commissioner. The Constitution is very clear in terms of what they are supposed to do.

Lastly, it is with regard to the Kenya Defence Forces Act. It takes away the oversight role of Parliament, which is supposed to be the only way civil people engage with various forces. To take away the oversight role of Parliament from these substantive Acts and laws in terms of how the KDF then reports to Parliament and how it engages when it takes part in emergency proceedings; that sort of amendment is not of any interest to Kenyans.

With those many reasons that I have cited, I am opposing the Bill in this current form, but I am hoping that when the Committee on Justice and Legal Affairs substantively moves the various amendments, it will make them palatable and only leave the ones that are really miscellaneous. Then, perhaps, I will change my mind. But as it is, I oppose the Bill.

Hon. Muchai: Thank you, hon. Temporary Deputy Speaker. I rise to oppose this Bill in its current form. Without repeating what has been said by others---

Hon. Mwaura: On a point of order, hon. Temporary Deputy Speaker. With all due respect to my good friend, hon. Muchai, I think he had spoken on this Bill earlier on. This can be confirmed in the HANSARD.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Mwaura, you have given yourself a role that is not yours. However, I can confirm that hon. Muchai has not spoken on this particular Bill. Hold on, hon. Muchai. Hon. Mwaura could be right. Have you spoken to this Statute Law (Miscellaneous Amendments) Bill? You know that you are not supposed to speak to a Bill twice.

Hon. Muchai: Hon. Temporary Deputy Speaker, when I got the opportunity to speak to this Bill---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): So, you have spoken?

Hon. Muchai: Yes, but---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Then you are out of order and I want to thank hon. Mwaura for doing work that is not his. He has done it well. I cannot allow you to continue speaking, hon. Muchai.

Hon. Muchai: If you give me a hearing, hon. Temporary Deputy Speaker. There was very little time left when I was given an opportunity to speak. If I recall---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Muchai, whatever you are saying maybe valid but, according to the Standing Orders, you have spoken to this and so, I will give a chance to the next speaker.

Hon. Muchai: I thought I had some time left to speak to this Bill. Can that be confirmed?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): It is confirmed. Please resume your seat. Let us not even go into debate on that. Hon. John Mbadi.

Hon. Ng'ongo: Hon. Temporary Deputy Speaker, I stand to oppose the Bill in its current form. I am disturbed and shocked that this kind of legislation could come from the Attorney-General's office. I want to speak to the Attorney-General and ask him to be serious whenever he is giving us the Statute Law (Miscellaneous Amendments) Bill.

You will remember that in the last Parliament, the Speaker was very categorical and made a Communication that, that was the last time we were going to accept the Statute Law (Miscellaneous Amendments) Bill to be discussed with substantive amendments to statute laws. I expected that this time round, the Attorney-General would only have used this Bill to make small amendments or corrections to various statutes. But what he has done, and which has been introduced in this House, are serious amendments to various statute laws. The worst part of it is that this Bill is even attempting to amend the Constitution. I want to demonstrate how.

Looking at Clause 3 of the Schedule, it says that Cabinet Secretary means a person appointed as a Cabinet Secretary of the Government of Kenya under the Constitution or the President, Deputy President or the Attorney-General. If you go to Article 131(3) of the Constitution, it reads that:-

“The President shall not hold any other State or public office”.

Our Constitution does not allow the President to hold any other office. The same applies to Article 147(4) about the Deputy President. It does not allow the Deputy President to hold any other State office. If you include the President and the Deputy President under the definition of the “Cabinet Secretary”, as this Statute Law attempts to do, you are making the President and the Deputy President also Cabinet Secretaries. In that case, the President and the Deputy President will be holding other offices.

If you go to Article 152 of the Constitution, allow me to quickly read it, it defines the Cabinet to consist of the President, the Deputy President, the Attorney-General and not fewer than 14 and not more than 22 Cabinet Secretaries. Therefore, the Cabinet comprises of the President, the Deputy President, the Attorney-General and Cabinet Secretaries. You cannot include those offices again under Cabinet Secretaries because then that Article would not make sense. So, I do not understand why the Attorney-

General, who is very schooled in law, would bring such serious amendments to our laws, which would end up even amending our Constitution through the back door.

I am equally disturbed that we passed the Public Officer Ethics Act, the Leadership and Integrity Act and the Anti-Corruption and Economic Crimes Act and there were issues which were so contentious. You bring them through statute law pretending that you are just making some small amendments and yet, you are making significant and substantive amendments to the statute law. That is unacceptable. It amounts to fraud. You are misleading Parliament. These are cases that require this Parliament even to hold the Attorney-General to account. Actually, somehow, we will need to censure the Attorney-General because he is misleading Parliament. You cannot make proposals that you know you should bring through substantive legislation through statute law, knowing very well that Members will not take their time to read the statute law. It is unacceptable and criminal.

If you look at this Bill, you realize that from page 977 all the way, the statute law that has been amended significantly more than any other is the Public Benefits Organisations Act. What was so different with this Act that now almost over 10 pages are devoted just to it? I want to speak to the Jubilee Government - and the Leader of the Majority is here - and tell them that they should try as much as possible to know that we have reached a different era in this country. You cannot take us back. This country has moved forward.

You cannot take us back to 1982. If you are not happy with AFRICOG, there are better ways of dealing with AFRICOG. You cannot deal with all civil societies and NGOs. In my constituency, as we speak, there is an NGO called World Vision. World Vision is carrying out a massive project in my constituency, distributing water to almost a whole sub-location. All that money has come from outside the country. You are now telling me that I should sit in this House and legislate to restrict funding to certain organizations to just a mere 15 per cent of the budget. You are telling me that my people in Suba, who have not been drinking clean water that I should stop them from getting clean water because someone wants to deal with AFRICOG. It is immoral and it is unacceptable. I think my colleagues from the Jubilee side, you need to realize that this country is complaining about some of the legislations that your tyranny of numbers has helped to pass in this House. We have the case of the Media Bill. We have cases where I can see the Leader of the Majority Party carrying the VAT (Amendment Bill). We will not be there today if the tyranny of numbers is applied differently. So, I would urge my colleagues that today is the day to rise to the occasion and object to this Bill. If you cannot have amendments that are going to remove these offensive clauses, then this Bill should be rejected in its entirety.

A lot has been said about the issue of the Inspector-General of Police and the two deputies. It is a constitutional requirement that not more than two-thirds of either elective or appointed positions should be of one gender. Even though in other areas we have failed to realize that, but in areas where we have been able to realize it, we cannot legislate against that. It is completely unconstitutional. The Attorney-General, while drafting this statute law, should have realized that. I know my colleagues have talked about the powers of the DPP and the Attorney-General. It is not the duty of the Attorney-General to assign himself duties. It is us to give him. He should not take away the duties that are assigned to DPP and assign to his office.

Thank you. I can see my time is up.

I beg to oppose.

The Temporary Deputy Speaker (Hon. (Ms) Shebesh): Thank you, hon. Ng'ongo for your discipline. I can see the Deputy Leader of the Minority Party wants to speak. But because of your status and because you have been away, I will give you a chance. You know, when you are away, we lose institutional memory. So, do not be keeping off the House for too long, especially when we are at the state where we are passing very important laws. Go ahead hon. Midiwo.

Hon. Midiwo: Thank you, hon. Temporary Deputy Speaker. Thank you for welcoming me back. I was on duty. But I am back and I want to stand to oppose this draconian law. I was in the House Business Committee two weeks ago. I said it on the Floor that we are bringing down the "Berlin Wall" which divides us unnecessarily. I had the word of the House Business Committee and the Chair of the House Business Committee, who is the Speaker of this National Assembly. I had the word of the Majority Leader that this law is so big that we need time to look at it. To amend 49 statutes is not a small issue in our country. We said we want to do it together. We agreed we do it properly for the sake of our country. We brought that issue here on the Floor of the House on Thursday, after that Tuesday. Members from my side of the divide had said that they were coming here to oppose the legislation that would take away Members' time on Wednesday morning and even to sit on that Thursday, they were opposed. I told them: "No! We have agreed. Let us pass all these other laws and leave the controversial ones." But what do you get? On the Order Paper, there is the Police Service Bill. We said that it is controversial and it is bad. It is a bad law. It is unconstitutional. Even the other side, the leadership on the other side accepts it. Whatever they want to achieve, only God knows! But we agreed that we should put them aside. Even on this police thing, we urged the Chairman of HBC to put us together, talk and iron out the differences. It is important for our country. When will our country move forward if small agreements are not adhered to? So, now that we must do this – and I have been talking to the Leader of Majority Party this morning – there are issues about this Bill that we cannot accept. There are some issues which, if they are passed, this House shall live to regret.

Hon. Temporary Deputy Speaker, let me tell you, particularly the part that is unconstitutional; that seeks to take away the right of women in the police service. That is draconian. It is silly. It is something we cannot accept as a country. What is somebody trying to achieve? Is it because Madam Kaindi was the PPO of Nyanza and did not kill enough people for somebody during the post-election violence? Why do they not want Madam Kaindi? What is somebody trying to do? Is it because somebody does not like women in the police? I thought we need to bring more women to fill up the one-third. We do not have enough women in the police. Is it not criminal that somebody sat and drafted that kind of amendment? Is it not draconian that a Kenyan of any standing would do something like that?

Let me plead with hon. A.B. Duale that this law is so big that we need time for it. I want to tell you, like my friend hon. Ng'ongo has said, this issue of NGOs--- The Government has never worked for our people, particularly where you come from and where I come from. That you should sit and need us to kill the NGOs, your people will never forgive you. Even God will never forgive you. There are parts of this country where nobody knows the Government. They think the NGOs are the Government. They

know God and CORD. It is known that this country, unless we sort ourselves out, our development partners are trying every way to help us. You may hate AFRICOG and Kethi Kilonzo, their lawyer, but the poor girl was just doing her work. But what about the ones treating people in Siaya? What about the ones giving water to people in Garissa, Turkana and Moyale? What about those? We cannot, as a legislative Chamber, sit here---

Hon. Kariuki Ndegwa: On a point of order, hon. Temporary Deputy Speaker. I do not think it is in order for the Minority Leader to say that Madam Kaindi did not kill enough people in Nyanza. That is incitement and we cannot continue with business in this respectable House when such a reputable person holding the highest office in this House--- I would like him either to withdraw or apologize. That is because we do not have the business of killing people here in Kenya. We do not have that business.

The Temporary Deputy Speaker (Hon. (Ms) Shebesh): Hon. Kariuki Ndegwa, I think I could have seen you at the right time. But I think you are behind hon. Midiwo and I could not see your point of order. But I do know that I cringed when hon. Midiwo made that statement. Hon. Midiwo, you insinuated--- It is, of course, your right because what you are doing is debating. But I think for the sake of decorum and because of the position that you hold, could you just give comfort to the Member seated next to you that those words are not incitement?

Hon. Midiwo: Hon. Temporary Deputy Speaker, he is my neighbour and so, I will be cordial if I offended him. But I will only ask: What is wrong with Madam Kaindi? She is a perfect officer, a woman who has risen from the bottom to the top echelons of the police force. She is a perfect officer, in my view. So, I withdraw whatever may have offended my friend. Of course, he comes from Lamu where nobody lost any blood, leg or limb during the post-election violence. So, he does not know. He is there dealing with *mashamba huko Lamu*. But let me say that the issue we are talking about is serious. Look at it this way, somebody now purports to take away the power of extradition from the Office of DPP to the Attorney-General. When we changed the Constitution, the role of the Attorney-General was to advise the Government---

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms) Shebesh): The hon. Deputy Minority Leader is speaking. Please, give him time to be heard. It might be important to hear what he is saying.

Hon. Midiwo: Hon. Temporary Deputy Speaker, thank you for protecting me. Let me say this: When we passed the Constitution, what became of the role of the Attorney-General? The Attorney-General is now simply the adviser to the Executive. The DPP is now a constitutional office which is supposed to handle things like extradition. They are court matters. What is the interest of the Attorney-General, who is my friend, hon. Githu Muigai, that he wants powers to extradite? Who does he want to extradite? What does he want to do with it? It is mischievous. Those things are wrong in this law. Let me tell you that if we continue with this mischief, we will be doing more harm than good. Let me say this: If I was my friend hon. A.B. Duale, who is lucky to have super majority in this House – the rest of us may be irrelevant – I would carry everybody along and whatever I do, I would use the numbers correctly, and not to hurt or harm Kenyans. We are in too many controversies. Let me say this lastly: The President and the Deputy need more

peace today than they needed it two years ago. We do not need to create chaos for them as a House. Those are our brothers. Whatever we are doing that is dividing us, we cannot do without unnecessary controversy. I want to beg you: Pull this thing out. We will deal with it when we come back. Kenya is not going anywhere. Please! Why the controversy? Let us go for Christmas as a united House and come back and help our people.

With those remarks, I beg to oppose.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you hon. Midiwo. Hon. Kabando wa Kabando. He is another Member who has institutional memory.

Hon. Kabando wa Kabando: Thank you, hon. Temporary Deputy Speaker. Could I request to sit because this thing is too short?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): No, you could, maybe, go to another microphone or come to the Dispatch Box.

Hon. Kabando wa Kabando: Why is it short? Thank you for giving me the permission. I will address three issues which I think constitute significant contention in this Bill.

Number one is on the NGOs. It is a two-pronged perspective.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I can see a point of order from the Leader of Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I do not want to interrupt my good friend but, because this Bill has been debated for long, maybe, you can reduce the time for Members who are yet to speak, so that--- You know we have only tomorrow for a number of other Bills. That way, everybody can speak.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, is that the feeling of the House that we could reduce the time-frame?

Hon. Members: Yes.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Your suggestion of reducing time, hon. Duale, is how many minutes?

Hon. A.B. Duale: Maybe, three minutes.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, we are going to be reducing the time to three minutes, so that we get all Members who have shown interest to be able to speak. Is that agreeable with the House? Is that the mood of the House?

Hon. Members: Yes.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): So, hon. Kabando wa Kabando, we are giving you three minutes.

Hon. Kabando wa Kabando: Hon. Temporary Deputy Speaker, I thought it would be effective after me, since I came prepared for the full time?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, just bear with the House.

Hon. Kabando wa Kabando: Okay. I will comply with your instructions. On the NGO aspect, capping at 15 per cent, alongside many of my colleagues here who were the alumni of the civil society at one time, I can tell you that there are civil society organizations and public benefit organizations that derive their total funding externally and expend that total funding on humanitarian activities. It will be very limiting to limit them at 15 per cent. So, I think a review of this section is required, either to remove it

totally and seek to track the financing of NGOs. That is the issue. We should know their funding sources. That is because we also know there may be “briefcase NGOs” that are misappropriating monies and they are operating secret accounts. But as we are trying to streamline those that are very wayward, we may end up suffocating the NGOs that deal with public health, reproductive health, child welfare and even education through financing orphans through bursaries and education in high schools and universities. So, on that particular aspect, I have difficulties approving the amendment.

Secondly, I was an Assistant Minister for Youth Affairs and Sports for five years. When we constituted the National Youth Council, it was a very rickety and contestable process and its completion was a sigh of relief. I am uncomfortable with a supervisory board that will end up being appointed wholly by a Cabinet Secretary controlling the National Youth Council. The Youth Council matter is not a time-bomb. It is blasting every day. That is why we are seeking the extension of the *Uwezo* Fund, Youth Enterprise Development Fund and so on. Having a supervisory board; that advisory and supervisory and seeking issues of the budget, I think you are telling those democratically elected people that they will be controlled.

Finally, on the question of the Kenya Defence Forces, I think this Parliament needs to sharpen its teeth. I am speaking with full understanding of my colleagues across the House. This business of talking about CORD and Jubilee every time and issues coming here, even seeking hypocrisy to hold Press conferences to blame one section of the House just because an issue has passed, is really immaturity and I think it is something that should come to an end. It is hypocrisy of the highest order. I seek to oppose so that we can seek redemption because that is the mood that is there. I seek to tell my counterparts on the CORD side to stop this hypocrisy and immaturity.

Hon. F.K. Wanyonyi: On a point of order, hon. Temporary Deputy Speaker. Is the speaker on the Floor in order to say that calling a Press conference is hypocrisy? I think there must be a purpose for calling a Press conference. You cannot call a Press conference for the sake of it. Could he withdraw?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, shorten the time because this is important discussion. Hon. Isaak Mwaura.

Hon. Mwaura: Ahsante sana, Bi Naibu Spika wa Muda, kwa kunipa wakati huu. Kwa sababu muda umeyoyoma sana, hatutazungumza sana kama chiriku. Ningelipenda kusema yafuatayo.

Kwanza, nasimama kupinga Mswada huu ambao umependekezwa na upande wa Serikali kwa hoja zifuatazo: Kwanza, itakuwaje Waziri-Katibu kupewa nguvu za kuwateua manaibu *Chancellor* wa vyuo vikuu baada ya bodi ya seneti na *Council* kuwachagua katika nyadhifa hizo? Nafikiri hilo ni jambo ambalo silo la muhimu.

Jambo la pili ambalo linanifanya nipinge ni kwa sababu ukiangalia ile bodi ya vijana ambayo inafaa kuwa imeteuliwa na Waziri-Katibu, inapatiwa jukumu la kuweza kufanya makadirio ya bajeti na pia kupitisha mipango ya vijana ilhali vijana wale wamechaguliwa na vijana wenzao kote nchini.

Napinga huu Mswada kwa sababu utapata Msajiri Mkuu wa Vyama vya Kisiasa, Rais anapatiwa mamlaka ya kuteu mtu aweze kufanya ile kazi kabla ya Bunge kupitisha. Hilo silo jambo nzuri kwa sababu linaweza kutumiwa kuchelewesha kuchaguliwa Msajiri Mkuu wa Vyama vya Kisiasa. Jambo hilo litaadhiri sana mambo ya vyama vya kisiasa.

Jambo lingine ambalo linafanya nipinga Mswada huu ni kuhusu ile Tume ya Mishahara na Marupurupu. Utakuta Makamishina wengine pamoja na Mwenyekiti wanatakikana kufanya kazi mfululizo na wengine waje kwa muda. Hilo si jambo nzuri. Ikiwa tutapitisha Mswada huu, basi watapatiwa muhula mwingine wa miaka sita. Hivyo ni kinyuma na Katiba yetu.

Ningependa kuangazia Mswada huu kwa sababu kuna mbinu za kichini chini za kuhakikisha kwamba wale Mawaziri-Katibu wanajilimbikizia mamlaka ambayo hata Rais mwenyewe hana. Utakuta vipengele vingi ambavyo vinapendekezwa hapa vikisema kwamba Waziri-Katibu aweze kuwa na nafasi ya kuteua bila idhini ya Bunge hili la Kitaifa. Hilo si jambo la busara.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Wesley Korir.

Hon. Korir: Thank you so much hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Bill. I stand to really oppose this Bill the way it is and as amended. The way the Attorney-General is trying to sneak in things in this Parliament is not good. I think they know that most of us are new in this House and it will take us a lot of time to read this thing and understand at this short period.

But I want to contribute and add my voice on this issue of Public Benefits Organization Act – the NGOs issue. Many people in this House are here or have gone through life because of NGOs in one way or the other. You know that having 75 per cent of funds coming from this country is impossible. When you have many people suffering because of lack of money, it is important to support them. Even if you do *harambee* in this country, you will not even raise what an NGO can bring in one second. So, I oppose that. There are many places where they are deleting the words “with prior approval of the National Assembly”. I wonder why. Are they trying to get rid of what we are doing as an oversight body of this country? We cannot allow that. If the Cabinet Secretaries are trying to give themselves so much power and take away the powers of this House, it will not be possible. That is why I completely oppose this thing.

Thank you.

Hon. Washiali: On a point of order, hon. Temporary Deputy Speaker. We are discussing the Statute Law (Miscellaneous Amendments) Bill. We are actually dealing with 49 Acts. Even if we are given three weeks, I do not think this House will come to any consensus. That is because in this Bill, we have some Acts which are---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): So, what is out of order, hon. Washiali?

Hon. Washiali: What I wanted to ask is this: Would I be in order to call the Mover to reply so that we can move to the Third Reading, where we will be able to clean up this Bill and move forward?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Washiali, in many words, what you are asking is whether we can ask the Mover to reply. What is the mood of the House?

Hon. Members: No!

Hon. Members: Yes!

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, I must go with the mood of the House. But it must be clear to me whether you want me to ask the Mover to reply, so that we can go to the Third Reading and amendments or not.

(Question, that the Mover be now called upon to reply, put and agreed to)

We will now call upon the Mover to reply. Hon. Members, before the Mover replies, I would like you to allow me to give hon. Zuleikha Juma one minute because she has really been lobbying for this. Then I will ask the Mover to reply.

Hon. (Ms.) Juma: Thank you. Just quickly before I contribute, I just wanted to react to something that one of the Members said earlier on this Bill. That is at the time I was sitting here. That was hon. Sakaja. He said that he was the Chair of the Kenya Young Parliamentarians Association. I just wanted to say that I am the duly elected Chair.

I stand to oppose this Bill because of essentially what it says about the National Youth Council. One of the things that it has done is that it has removed--- There were eight nominated young members from the Council who had to be in the board. It has removed all the eight and so, there is no youth representation in the board. Also, as alluded to by hon. Kabando wa Kabando, it says that the functions of the board should be changed from advisory to supervisory and approval of plans, financial statements and so on must be ensured.

The Temporary Deputy Speaker, the NYC as it is, is stifled by the Ministry through the Directorate of the Youth. For instance---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Zuleikha, I gave you one minute because of the passion on this issue. Please, wind up.

Hon. (Ms.) Juma: Okay. I just want to say that I oppose that and we will be bringing amendments to this House. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Leader of Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I want to confirm that I have talked to the Deputy Leader of Minority Party. We make laws for posterity. That is why we are different from the Executive. We are different from the Attorney-General. We are different from anybody who wants to bring mischief to this House. I want to confirm that I am good recipient of donor money. I want to confirm that I will withdraw the amendment on the Public Benefits Organisations Act. I will withdraw the one on the Salaries and Remuneration Commission. The one on gender is unconstitutional. We want our women to rise up in the police force. I will withdraw that.

So, out of the 49 statutes, I will withdraw those ones and any other issue which is contentious. We will have a consensus. We will perform. I want to say that let us have that spirit that we have consensus.

Hon. Member: On a point of order.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I wish you would wait for the Mover to complete because the point of order would interrupt--- Anyway, because of time, let the Majority Leader conclude his remarks.

Hon. A.B. Duale: At the end of the day, we should make laws that are for generations. I happened to be in the last Parliament. I participated in the Public Benefits Organisations Act enactment. The way hon. Zuleikha said, even the one on the youth, please, improve on the one you brought. Improve the one on NHIF. That is the essence of Third Reading. There are a number of laws that are also beneficial to the Executive. The one of the Vetting of Judges and Magistrates is very crucial. We are here to make sure

that, at the end of the day, what comes out of the House will benefit the Republic of Kenya. I want to confirm that, that will happen and I beg to move.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, we have come to the end of session for today morning. The House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.