

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

THE HANSARD

Wednesday, 7th July 2021

The House met at 2.30 p.m.

[The Speaker (Hon. Justin Muturi) in the Chair]

PRAYERS

PETITIONS

PROPOSED AMENDMENT TO THE SPORTS ACT

Hon. Speaker: Hon. Members, Standing Order 225(2)(b) requires the Speaker to report to the House any petition, other than those presented by a Member. Further, Article 119 of the Constitution provides for the right of any person to petition Parliament, to consider any matter within its authority, including petitioning the House to enact, amend or repeal any legislation. In this regard Hon. Members, I wish to report to the House that my office has received a petition from one Mwaura S. Mungai of P.O. Box 1391 Limuru, calling for amendment of the Sports Act, 2013 in order to streamline coordination of quality physical activities, physical education, fitness, recreation and sports.

The petitioner introduces himself as a fitness therapist and avers that Kenya's rapid socio-economic growth has led to its high prevalence of non-communicable diseases such as obesity, diabetes, cardiovascular disease, cancer and bodily injuries occasioned by poor lifestyles and aggravated by drugs and substance abuse. He states that 15 per cent of Kenyans are dangerously inactive, and quotes a Ministry of Health report which discloses that non-communicable diseases account for 37 per cent of the overall disease burden and 35 per cent of all deaths in the country. He further asserts that rising morbidity and mortality rates that are aggravated by exposure to environmental, occupational and biological risk factors require urgent intervention aimed at reducing the strain of medical expenditure on the economy.

Consequently, Hon. Members, the petitioner identifies physical activity and sport as a key solution to the prevalence of non-communicable diseases, and recommends, among others, the following amendments to the Sports Act, 2013:

- (i) Renaming the Sports Act as 'The Physical Activities and Sports Act';
- (ii) Renaming 'Sports Kenya' as 'The Kenyan Alliance for Health, Physical Activities and Sport (KAHPAS)';
- (iii) Inclusion of 'fitness, leisure, recreation and dance' as part of the mandate of the renamed Sports Kenya;

- (iv) Inclusion of ‘registration of fitness, recreation and dance professionals’ as well as ‘registration of all commercial health clubs, gyms, swimming pools and therapy centres’ as part of the mandate of the renamed Sports Kenya;
- (v) Empowering the renamed Sports Kenya to assess playgrounds in all schools countrywide to ascertain their conformity to specifications of size and other standards; and,
- (vi) Establishment of national associations specialising in health and safety education, fitness and recreation, participation of girls and women in sport, sports for persons living with disabilities, as well as establishment of the Kenya National Dance Association.

Hon. Members, pursuant to the provisions of Standing Order 227(1), this Petition stands committed to the Departmental Committee on Sports, Culture and Tourism as I have determined the issues raised herein are within the purview of the powers given to this House in the Constitution. The Committee is requested to consider the petition and report its findings to the House and to the petitioners in accordance with Standing Order 227(2).

I thank you.

Before I allow any comments on this - there is an issue of dance among other things - let me also get the other two petitions presented. The next one is from the Member for Mwingi West, Hon. Nguna.

CLASSIFICATION OF KITUI COUNTY AS A HARDSHIP AREA

Hon. Charles Nguna (Mwingi West, WDM-K): I rise to present on behalf of the people of Kitui County, Petition No.27 of 2021 regarding gazettelement of Kitui County as a hardship area.

I, the undersigned, on behalf of residents of Kitui County draw the attention of the House to the following:

THAT, Kitui County was not among designated hardship areas in Kenya vide a circular dated 7th December 2015/OP/CAB/1/31A;

THAT, persistent harsh climatic conditions such as drought and famine result in food insecurity;

THAT, in addition to existence of inadequate transport and communication network, Kitui County has limited access to basic social services and amenities such as clean and sustainable water services and connection to the national electricity grid;

THAT, the county has for long been afflicted by cases of insecurity and invasion of group ranches and grazing sites in Mutha in Kitui South, Endau and Malalani in Kitui East and Kaningo in Mwingi North leading to displacements and loss of lives and property and destruction of key community infrastructure and adversely affecting investment;

THAT, the aforementioned factors necessitate Kitui County to be classified as hardship area;

THAT, due to these challenges, public servants encounter numerous setbacks in discharge of their duties thus occasioning high turnover of officers and poor delivery of essential government services;

THAT, this has specifically affected the education sector whereby poor management of the school feeding programmes has led to early dropouts in primary schools as many parents cannot afford daily meal provisions to learners; and,

THAT, the issues in respect of which the Petition is made are not pending before any court of law or a constitutional or statutory body.

Therefore, your humble petitioner prays that the National Assembly, through the Departmental Committee on Administration and National Security:

- (i) Recommends to the relevant Government authorities a review of the existing hardship areas to reflect the true position of the reality faced by public servants in Kitui County;
- (ii) Proposes inclusion of Kitui County as a hardship area so as to give civil servants incentive to serve in the said areas despite challenges and;
- (iii) Makes any other order or direction that it deems fit in the circumstances of this Petition.

And your petitioner will ever pray. Thank you, Hon. Speaker.

Hon. Speaker: Let me hear the last Petition by the Member for Matuga, the Hon. Tandaza.

IRREGULAR ANNEXATION AND FENCING OF PRIVATE LAND BY GREATCOM LIMITED

Hon. Kassim Tandaza (Matuga, ANC): Hon. Speaker, this is Petition No.28 of 2021 regarding irregular annexation and fencing by Greatcom Limited of private land in Tiwi Shimba North Kundutsi B in Matuga Constituency.

I, the undersigned, on behalf of over 50 registered land owners of various parcels of land totalling to approximately 400 acres in Tiwi, Shimba North Kundutsi B in Matuga Constituency in Kwale County, draw the attention of the House to the following:

THAT, from the late 1960s to around 1980s, the Government of Kenya embarked on land adjudication and issuance of title deeds to land owners in various parts of the country;

THAT, the land in Tiwi, Shimba North Kunduti B in Matuga Constituency was also adjudicated and the petitioners were issued with title deeds as proof that they are the registered owners of the various parcels of land;

THAT, over the years since adjudication, the petitioners and their descendants have lived on and exploited their respective registered land economically to sustain their needs;

THAT, adjoining parcels of land owned by the petitioners are approximately 1,000 acres of land, which were registered as Kwale/Tiwi LR No. 4752/2 in favour of Maruma Holdings Ltd;

THAT, in early 2021, the petitioners learnt that M/S Greatcom Ltd. had purchased the entire LR. No. Kwale/Tiwi 4752/2 from Maruma Holdings;

THAT, the petitioners were shocked when in April 2021, the proprietors of M/S Greatcom Ltd., with protection from police officers encroached, annexed and fenced off private land registered in their names as part of Greatcom Ltd;

THAT, the petitioners aver that their parcels of land were adjudicated as private lands, and have never been part of LR. No. Kwale/Tiwi 4752/2 that M/S Greatcom Ltd. purchased from Maruma Holdings;

THAT, the action by M/S Greatcom Ltd. amounts to blatant grabbing of private land registered in favour of the over 50 helpless families who have title deeds in lieu of their respective parcels;

THAT, Greatcom Ltd. has denied the petitioners access to their land, investments thereon and various public amenities within the annexed zone in violation of the right to property;

THAT, the residents have sought assistance from various state institutions, including the Kwale County Commissioner but no satisfactory intervention has come forth;

THAT, if Greatcom's illegal encroachment of the petitioner's land is not reversed, the petitioners not only risk being rendered squatters on their own land but also losing their livelihoods; and,

THAT, the matters raised in this Petition are not pending before any court of law, constitutional or legal body.

Therefore, your humble petitioners pray for intervention of this House, through the Departmental Committee on Lands. The Committee is requested to:

- (1) Investigate the circumstances under which M/S Greatcom Ltd. illegally fenced off private land belonging to over 50 families;
- (2) Compel the M/S Greatcom Ltd. to immediately vacate the encroached land so as to enable the petitioners to revert to their settlements and access public utilities that have been fenced off by Greatcom;
- (3) Cause the concerned national government departments to re-survey the area to ascertain the boundary between the petitioners' land and LR. No. Kwale/Tiwi 4752/2;
- (4) Restrain M/S Greatcom Ltd. from any further development on the petitioners' land pending re-survey; and;
- (5) Make any other recommendations deemed fit in safeguarding the petitioners' rights.

And your petitioner will ever pray. Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members I will allow Members to make comments on any of the three Petitions. Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Speaker. I want to comment on the Petition you earlier read on sports.

In the Petition dance is mentioned as a sporting event. You know I had become very famous courtesy of Jerusalema Dance. It was the only and the first time I ever won a competition with a presidential candidate called J.N. Muturi. I am blessed with four legs but, Hon. Speaker, you only have two. So, it was like a Prado competing with a bicycle.

When it comes to sports, Kenyans are very dormant. Healthwise, Dr. Pukose and Dr. Korei my seniors will explain that Kenyans do not exercise. Exercise keeps the doctors away like the proverbial apple.

More importantly, on sports for persons with disabilities, as a country, we need to be very vigilant in making sure that persons with disabilities participate in sports. Next month we will be in Tokyo for Paralympics, but nobody will be interested in Paralympians yet they win gold and no medal is disabled. When the Olympians win gold and other medals, we celebrate them, but do we celebrate Persons with Disabilities (PWDs)? I remember when we were in Rio 2016 Olympics, Paralympians won six medals out of nine athletes. The normal Olympians won 14 medals out of 78 athletes. That means that ours was 70 per cent while theirs was 14 per cent but, the normal Olympians were celebrated more than Paralympians.

This time round, they are going to Tokyo for Paralympics led by Ms. Agnes Oluoch and Mr. Elijah Aliero. Hon. Speaker, when they come back, please, be the one to receive them as a presidential candidate.

I do support that Petition.

Thank you, Hon. Speaker.

Hon. Speaker: Am I not going to do parliamentary work?

Member for Mavoko.

Hon. Patrick Makau (Mavoko, WDM - K): Thank you, Hon. Speaker. I thank you for that Petition. I wish to confirm to this House that we will look at any Petition that enriches the sporting activities in this country with a lot of interest, particularly, like the one of Hon. Sankok. Hon. Sankok, I assure you that the Paralympics will be highlighted all over and my Committee Members will be there to receive the team and even accompany them with a team from my Committee to show how much we value and are interested in them.

We will look at that Petition accordingly and give it the attention it deserves.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Nakuru Town East.

Hon. David Gikaria (Nakuru Town East, JP): Thank you, Hon. Speaker. I rise with mixed reaction on the Petition that you earlier read regarding sports. I do agree with a few of the sentiments that the petitioner has requested particularly on registration of some of these sporting places, for instance, gyms. Sometimes, you find a gym with an incompetent instructor who ends up injuring even the people who are going there. So, that will go a long way in trying to improve the facilities and what is being taught there as well as health matters.

It is not that easy on matters to do with quality of grounds, say, in our learning institutions like primary schools. Some of these schools do not even cut grass in their fields. So, sometimes, it is not that possible because, again, all these depend on funding from the Ministry of Education.

The other bit is on changing the name of the Act. Changing of name will not cause any effect on the amendment of the Act. Most importantly, I do not know which people are talking about Kenyans. Kenyans walk, and walking is a form of exercise. Almost 80 per cent of Kenyans do exercise by going to work and going back home on foot. So, on this aspect of few rich people going to gyms and other places makes the Petition to be misplaced. It is not addressing the actual issue of sports.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Emuhaya.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Speaker. I pick the tone of Hon. Gikaria. I happen to have been a sportsperson. In 1988, I was in the Kenyan national team that went to South Korea. This Petition is good. I agree with a number of things in it including the Paralympics that deal with people who are of that kind of nature. However, when it comes to the bit of schools, it will be very difficult maybe to the Committee that will be looking at this. Sports in schools are managed by the Kenya Secondary Schools Sports Association and the Ministry of Education. So, if you go there, you must go through the Ministry. As you look at the Petition, check that you do not delink education from sports because, remember, we are trying to make Physical Education (PE) a compulsory subject.

Finally, this is a good Petition that should also be looked at as they consider many other things. What is happening is that the former sportspersons especially the former international ones are suffering. We do train with them sometimes in the morning at Nyayo Stadium and they are languishing in poverty. For instance, people like Mwai and Lichungu of this world are just in abject poverty. So, it is very good for expansion and let us even expand to consider these old guards when it comes to creating a certain fund after they retire.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Endebess.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Speaker. I stand to support the first Petition especially on the role of sports in as far as management of diseases that are as a result of our lifestyles is concerned. When the Departmental Committee on Sports, Culture and Tourism will be looking into this, they have to consult with the existing bodies like Athletics Kenya (AK) because when I do fields for athletics in Endebess, AK normally comes to ensure that it meets the required standards. The Football Kenya also makes sure that it meets the required standards. So, they have to consult those bodies so that when they come up with recommendations to this House, they have to be authoritative and do not disregard what is existing.

On the Petition by Hon. Nguna on issues of hardship allowance, this is something that has come to this House on several occasions. I would ask the Departmental Committee on Administration and National Security that when they are looking into that Petition, they need to review the initial classification of hardship areas. This is because, in my County of Trans Nzoia, when teachers or even civil servants are posted to Endebess, they normally want to get transferred to maybe Kwana, that is, Hon. Wanyonyi's constituency, Kiminini or other places, yet we also deserve those services. So, such an area like Endebess needs to be classified as a hardship area.

When you look at the Commission on Revenue Allocation's classification of constituencies that should benefit from Equalization Fund, in Trans Nzoia, Endebess is benefitting meaning that this is one of the areas that has challenges in the whole country. So, people who are working in Endebess need to be classified as people who are within hardship areas, and they deserve to be paid that. When you move to other areas, conditions are better. So, when the Committee is looking at that Petition, please try to look at various places and review the old classification because some areas have ended up being disadvantaged yet they qualify for it.

I support the Petitions.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Ganze.

Hon. Teddy Mwambire (Ganze, ODM): Thank you, Hon. Speaker. I will comment on two of the Petitions, that is, the one by Hon. Charles Nguna and the other one by Hon. Kassim Sawa Tandaza. Yesterday we were dealing with a Report from the Committee on Delegated Legislation on Equalization Fund. In the Report, they had given an elaborate information on where and how other areas within the country were marginalized and they require to be considered for Equalization Fund. In the Government reports, you find that Kitui features almost everywhere that it has been disadvantaged. It is unfortunate that when it came to looking at these issues of areas to be considered as hardship areas, Kitui was not factored in. This was unfair. Maybe it was a political game to disadvantage the people of Kitui.

I hope the Committee will get an opportunity to, at least, come up with a clear way of making sure that Kitui is captured among other areas in the country where there are issues. If you go deep to the Coast region, where there were areas that had been considered as hardship areas, they were also removed from the list yet they are still lagging behind. So, it is high time the Committee came up with parameters to gauge which areas should be captured in this one.

The other Petition is by Hon. Tandaza. I am even wondering because, in recent times, the appetite levels in this country have risen especially for land from the Coast region. We are wondering because if you go to Kwale, Kilifi, Mombasa, Lamu and Taita Taveta counties, we normally get the same information that people have encroached and grabbed bigger pieces of

land. I think it is high time that the Ministry was careful. In case some officials at the Ministry are the ones dealing with these grabbers, then we need to investigate them.

I am also wondering why the Kwale County Government allowed these people to put up such perimeter walls on that piece of land. I think the county government should also be keen on allowing people to put up perimeter walls without finding out whether the title deeds those people hold are genuine or not. Since I am a member of the Departmental Committee on Lands, I believe Hon. Tandaza is well assured that we are going to handle this matter critically and come up with something tangible.

Thank you very much, Hon. Speaker.

Hon. Speaker: Member for North Imenti.

Hon. Rahim Dawood (North Imenti, JP): Thank you, Hon. Speaker. I support the first petition by Hon. Mwaura. I associate with what Hon. Sankok said regarding the less fortunate of society. We had a sitting volleyball tournament for the disabled in Meru last week. There are some sporting disciplines in this country that are not supported by the Sports Fund. I want to agree that when the petition gets to the Committee, they should even look at funding for those other sporting activities and not just funding the big games which are played by the rich people. There are many other games. There is even a game called Kabaddi which is being played in Kenya. It is a new game. But there is no funding and no recognition for it. So, I request the Departmental Committee on Sports, Culture and Social Welfare to at least involve a few Members of this House when considering this petition so that we can suggest a few new games which can be incorporated for funding.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Kabuchai.

Hon. Majimbo Kalasinga (Kabuchai, FORD-K): Thank you, Hon. Speaker. I also want to add my input on this sporting petition. I agree with the petition because exercise for any animal or human being adds life. If you look at those who do serious exercise, they keep fit, live long and sometimes they perform their brainwork very well. That is why I rise to support the petition. When you ingest food into the body, and this has become a petition in our country that we are bringing up a lazy nation. I remember in the 1980s and 1990s, people walked for long distances to go and do some duties. Nowadays, with the introduction of motorbikes in our country, people cannot even walk for one kilometre. They jump onto a motorbike even from a shop to their house, even a distance of 500 metres. So, I would wish that this is introduced seriously.

When introducing sporting activities, we look at how to do these things. As you have said yourself, Hon. Speaker, dancing is also a sporting activity. But we must put a time limit on how long you dance. If you dance for a minute or one hour, or if you can dance with a partner, it depends on how you dance. It also burns human body which has serious adenosine triphosphate into adenosine diphosphate. It is through the action of exercise and sweating that you can release that and keep fit. You can see the people who exercise here on their face. You, Hon. Speaker, look like you do exercise. Hon. Kimunya and Hon. Dan Wanyama do very well in exercises. I suspect when you exercise, you do every work very well, not forgetting that sometimes we have nocturnal exercises which take place in darkness. It is also exercise. I may not know how to classify it. Every exercise that keeps the body sweating is good exercise.

Thank you. I support the petition.

Hon. Speaker: Member for Igembe Central.

Hon. Kubai Iringo (Igembe Central, JP): Thank you, Hon. Speaker. I want to comment on the Petition.

(Loud consultations)

Hon. Speaker: Order Members. The Member for Kabuchai merely nocturnal exercises. There is nothing unparliamentary about that. Those are plain English words. Your agitation seems to suggest that your minds are very far and not in the Chamber. Or they are not in the English language. Let the Member for Igembe Central make his comments.

Hon. Kubai Iringo (Igembe Central, JP): Thank you, Hon. Speaker. I want to comment on the petition you read, noting that it will come to the Committee where I sit. I listened carefully and the petitioner is urging change of names but not introducing anything new. Because the Petition will be submitted to the Committee and it is a property of the House, we shall look into it and respond accordingly.

I would also like to comment on the petition by CNN on hardship allowances and areas. Hardship is a problem in this country, which should be looked into keenly. It was done in a corrupt way, if I may use the word. Some schools were included in the category of hardship areas while others were not depending on how the head teachers of those schools were relating to the officers of the Ministry. It needs to be done holistically so that it is harmonised so that all schools can get teachers uniformly. As we speak, most teachers crave, even sell property to bribe their bosses, to be transferred to hardship schools, because the difference in salary is very big. Therefore, you find some schools are deficient of teachers while others are overstaffed. In some constituencies, you will find that a school is in the hardship category and less than two kilometres away another school is not in the same category. And yet those teachers sleep at the same market or they have rented houses within the same region. It becomes a problem.

I thank you, Hon. Speaker.

Hon. Speaker: Member for Mvita.

Mhe. Abdullswamad Nassir (Mvita, ODM): Mhe. Spika natoa kongole na kukubaliana na mwenzangu Mhe. Tandaza. Kama walivyozungumza Wajumbe kadhaa, masuala ya ardhi ni tetesi, hususan huko kwetu maeneo ya Pwani. Nataka kutoa mfano wa eneo lile natoka mimi la Mvita. Kihistoria, kuna baadhi ya watu waliopatiwa ardhi hizi sio kwa sababu nyingine lakini walipatiwa kwa niaba ya wakaazi wa Mvita na Mombasa kwa jumla. Na hii ilikuwa kabla Kenya kupata uhuru. Ardhi hizi walipatiwa watu waliokuwa wanaitwa sultan kwa sababu walikuwa na mamlaka ya maeneo yale. Wakati wa aliyekuwa Mbunge wa Mvita, marehemu Shariff Nassir, Mungu amuweke pema palipo na wema, alihakikisha Wizara ya Ardhi ilienda katika maeneo yale na Rais Mstaafu, ambaye pia ameenda mbele ya haki, Daniel arap Moi, alitoa amri ya kuwa ardhi za mbele za eneo hili watu walipe Sh30,000 na za nyuma Sh15,000 kwa sababu ya ile historia. Nakumbuka ya kuwa baadhi ya watu walilipa na baadhi wakapewa stakabadhi zao. Huu wakati wangu mimi, niliweza kuenda na National Land Commission, ambayo ni kamisheni inayotambulika kikatiba. Walitoa amri kwa zile ardhi, kwa saabu ya historia ya mahali pale, watu walipe Sh400,000 na Sh500,000 ili wapatiwe ardhi zao

Mpaka sasa hivi, kuna wengine wanaona kuwa watu wazima wanaweza kutishwa, yaani, bado wanataka kutisha watu eti watawabumburusha kutoka kwenye ardhi zile. Wanasahau tuko na nchi iliyo na sheria.

Ninakubaliana na ardhilhali hii. Ninaomba National Land Commission kuwa ikishatoa amri, ifuatilie. Tusiwe ni wenye kukaa tu na hali watu wetu wanateseka. Kuna wale ambao

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

wametumia viongozi wao na mambo yakatekelezwa. Nimewasiliana na mwenyekiti husika wa ardhi. Haya mambo kuhusu Mvita nitayapeleka kwake ili aweze kufuatilia.

Ahsante sana.

Hon. Speaker: Finally, Member for Kitui South.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Speaker for giving me a chance to make a comment on the petitions. I would like to start with the petition by Hon. Charles Ngusya Nguna.

This matter of Kitui being left out of the hardship counties is disturbing. Some professionals who are considered to be working within the hardship areas are receiving hardship allowances while others are not. For example, teachers and police officers in some areas are getting it while others are not. It is a matter that needs to be looked into, seriously.

For a county to be identified as a hardship county, it must lack social amenities. Clearly, they are not there in Kitui County. There is inadequate transport and schools cannot be accessed easily. The schools have to bear with harsh conditions. I am talking of schools like Malalani, Mutha, Kasala and Kanziko. They neighbour the schools in Tana River whose teachers actually get hardship allowance.

With regard to security, conditions in Tana River are more or less the same as the ones in Kitui. So, I request that this matter be looked into. As Hon. Mwambire, Member for Ganze was saying, I hope this is not political. He happens to be an in-law to the people of Kitui. I would like to thank him very much for raising this issue.

Hon. Speaker, with regard to the first Petition, it is extremely important to think along the issue that has been raised by the petitioner. We need to look at health with regard to physical activity and body movement. Most people lead sedentary lifestyles. The contemporary diseases like COVID-19 have made the situation worse because people have to work from home for months. This is a matter that needs to be looked into without losing focus on what we have achieved so far from the Ministry of Sports and Youth Affairs.

This morning we were looking at a situation in Nairobi County. Someone divides 20 acres of land... That issue was brought up by Hon. Antony Mwangi. Someone does subdivision and leaves no space where people can have social amenities or even public spaces. So, I would like to say that it is a very important Petition.

Thank you, Hon. Speaker for the opportunity.

Hon. Speaker: Very well. The three petitions are referred to the respective Committees of the House to deal with them as appropriate.

ORDINARY QUESTIONS

Hon. Speaker: Hon. Members, there are several Questions and so, we move fast. First Question is by the Member for Narok South, Hon. (Dr.) Korei ole Lemein. Kindly, have the Floor.

Question No. 200/2021

REHABILITATION OF JUNCTION – OLMEKENYU ROAD

Hon. Korei ole Lemein (Narok South, JP): Hon. Speaker, I rise to ask Question No.200/2021 directed to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works.

- (i) Could the Cabinet Secretary explain the measures, if any, instituted by the Ministry to rehabilitate the two kilometre stretch of the Junction–Olmekenyu Road, which connects Ololunga Sub-County Headquarters and the main highway and is in a deplorable state?
- (ii) What plans are there to construct the road to bitumen standards given that it is the main access road to Ololunga Sub-County headquarters?

Hon. Speaker: That Question will be replied to before the Departmental Committee on Transport, Public Works and Housing.

Next Question is by the Member of Trans Nzoia County, Hon. Janet Nangabo.

Question No. 205/2021

NON-REMITTANCE OF FUNDS FOR LINDA MAMA PROGRAMME
BY NATIONAL HOSPITAL INSURANCE FUND

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Hon. Speaker, I rise to ask Question No. 205/2021 to the Cabinet Secretary for Health:

- (i) Could the Cabinet Secretary explain why the National Hospital Insurance Fund (NHIF) is yet to remit funds to the Linda Mama Programme since November, 2020?
- (ii) (ii)What measures has the Ministry put in place to ensure the funds payable by the NHIF are remitted without further delays to ensure the programme fully benefits the intended beneficiaries?

Hon. Speaker: That Question will be replied to before the Departmental Committee on Health.

Next Question is by the Nominated Member Prof. Jacqueline Oduor. Kindly, have the Floor.

Question No. 207/2021

MEASURES TO PREVENT ONLINE SEXUAL EXPLOITATION OF MINORS

Hon. (Prof.) Jacqueline Oduor (Nominated, ODM): Hon. Speaker, I rise to ask Question No.207/2021 directed to the Cabinet Secretary for Interior and Coordination of National Government:

Considering the rapid expansion of digital technology, which has led to increased cases of online sexual exploitation of minors:

- (i) What measures has the Ministry put in place to protect minors from grooming or coercion by duty bearers, including parents, to online sexual exploitation through solicitation and inducement to pornographic content and sexual abuse, particularly in secluded dwellings and locations that are mushrooming in the country?

- (ii) What specific awareness programmes has the Ministry developed to enable children, youth, parents and the general public to access, understand and apply the existing tools such as “The Guide to Child Online Protection?”
- (iii) What steps has the Ministry taken to work with key stakeholders, especially Internet Service Providers, to ensure that law enforcement agents are informed about the numerous cases of child pornography and online sexual exploitation and related offences?
- (iv) What measures are in place to protect children from sexual predators who use tourism as a design to exploit children?
- (v) What is the Ministry doing to hold online gaming companies accountable to online games and pop-ups which lure minors to sexual content and exploitation?

Hon. Speaker: That Question will be replied to before the Departmental Committee on Administration and National Security.

Next Question is by the Member for Kisumu West, Hon. Olago Oluoch.

Question No.226/2021

COMPENSATION OF PERSONS AFFECTED BY CONSTRUCTION
OF KISUMU NORTHERN BYPASS IN KOGONY SUB-LOCATION

Hon. Olago Aluoch (Kisumu West, ODM): Hon. Speaker, I beg to ask Question No.226/2021 directed to the National Land Commission:

- (i) Could the Commission explain the progress made in disbursing money received from Kenya National Highways Authority (KeNHA) in December 2016 amounting to Ksh314,160,828 which was meant for compensation of persons whose fixed assets situated in Kogony Sub-Location of Kisumu West Constituency were compulsorily acquired by the Government for the construction of the Kisumu Northern Bypass?
- (ii) Could the Commission also provide details and list the names and ID numbers of the beneficiaries who received compensation amounting to about Ksh87million as part of the compensation money and state when the balance amounting to about Ksh227,160, 820 will be paid out to the rest of the affected persons?
- (iii) What steps is the National Land Commission taking to ensure that it pays the balance to the affected persons together with revaluation of the affected properties with a view to paying compensation at the current valuation of the properties?
- (iv) What steps is the Commission taking to secure payment of the balance of Ksh635,091,027 from The National Treasury so that the process of compensation to all affected persons from Kogony Sub-Location is completed?

Hon. Speaker: That Question is to be replied to before the Departmental Committee on Lands. Next by the Member for Subukia, Hon. Gachobe.

Question No.232/2021

DELAYED PAYMENT OF PERSONS RECRUITED UNDER THE
NATIONAL YOUTH SERVICE YOUTH EMPOWERMENT PROGRAMME

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

Hon. Kinuthia Gachobe (Subukia, JP): Thank you, Hon. Speaker. I rise to ask Question 232/2021 directed to the Cabinet Secretary for Public Service and Gender.

- (i) Could the Cabinet Secretary state why the fifty (50) persons who were recruited from the twenty-six (26) sub-locations in Subukia Sub-County under the National Youth Service Youth Empowerment Programme in the months of May to August 2016 to supervise works in their respective sub-locations, have not been paid to date?
- (ii) When will the said persons be paid their dues?

Thank you Hon. Speaker.

Hon. Speaker: Question to be replied to before the Departmental Committee on Administration and National Security. Next is by the Member for Kitui West, Hon. Edith Nyenze.

Question No. 236/2021

PROPOSED ESTABLISHMENT OF TVET INSTITUTION
IN KITUI WEST CONSTITUENCY

Hon. (Ms.) Edith Nyenze (Kitui West, WDM-K): Thank you Hon. Speaker. I stand to ask Question No. 236 of 2021 and it is directed to the Cabinet Secretary for Education.

- (i) Could the Cabinet Secretary provide details of the proposed establishment of a Technical and Vocational Education and Training (TVET) Institution in Kitui West Constituency, which was earmarked to start in 2019?
- (ii) When will the construction of the said institution commence, noting that the necessary documentation has been submitted to the relevant authorities and approved?
- (iii) What steps the Ministry is taking to ensure that a TVET Institution is constructed in Kitui West Constituency and when is the expected time of completion?

Thank you Hon. Speaker.

Hon. Speaker: To be responded before the Departmental Committee on Education and Research. Next Question by the Member for Kathiani, Hon. Mbui.

Question No.238/2021

CIRCUMSTANCES SURROUNDING ISSUANCE OF CIRCULAR
ON KCPE AND KCSE EXAMINATIONS

Hon. Robert Mbui (Kathiani, WDM-K): Hon. Speaker, I rise to ask Question Number 238 of 2021 to the Cabinet Secretary for Education and Research.

- (i) Could the Cabinet Secretary explain the circumstances which led the Kenya National Examinations Council to issue a circular dated 11th and 28th June, 2021 directing both private and public schools with less than forty (40) candidates - which they have adjusted to 30 - to be hosted by an examination centre with more than thirty (30) candidates during the 2021 Kenya Certificate of Primary

Education (KCPE) and Kenya Certificate of Secondary Education (KCSE) examinations?

- (ii) Could the Cabinet Secretary clarify whether the Ministry consulted education stakeholders, such as the Kenya Private Schools Association and the Parents Associations - and also the parents - considering that such swift change of policy directions may inconvenience thousands of learners during the examination period since subjecting them to a new environment may affect their performance?
- (iii) What measures has the Ministry put in place to ensure that increased numbers of learners in examination rooms would not compromise the quality of education and/or lead to cheating during examinations?
- (iv) What steps the Ministry is taking to ensure that increased numbers of learners in a classroom or examination room do not compromise the COVID-19 Protocols and Guidelines as set by the Ministry of Health?

Thank you Hon. Speaker.

Hon. Speaker: Question to be replied to before the Departmental Committee on Education and Research. Last Question by the Member for Kwale, Hon. Zuleikha Hassan.

Question No.240/2021

REPAIR OF MWACHANDE BRIDGE IN LUNGA LUNGA CONSTITUENCY

Hon. (Ms.) Zuleikha Hassan (Kwale CWR, ODM): Thank you Hon. Speaker. I stand to ask Question 240/2021 to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works.

Could the Cabinet Secretary explain plans in place by the Ministry, if any, to repair Mwachande Bridge in Lunga Lunga Constituency which was destroyed and washed away following heavy rains in 2014, considering that the bridge connects Lunga Lunga and Msambweni constituencies?

Thank you Hon. Speaker.

Hon. Speaker: Very well. The Question will be replied to before the Departmental Committee on Transport, Public Works and Housing.

Hon. Members we move to the next segment which is the segment on Statements. Hon. Gikaria.

Hon. David Gikaria (Nakuru Town East, JP): Thank you Hon. Speaker. I just needed your direction. There is a Question which was asked by *Mheshimiwa* Thuku Kwenya that I was supposed to have responded to last week. I was told it will again come this week and today is Wednesday.

Hon. Speaker: Question?

Hon. David Gikaria (Nakuru Town East, JP): Yes, a response we are supposed to give.

Hon. Speaker: A Chairman is not required to answer a question. That is the work for the Cabinet Secretary.

Hon. David Gikaria (Nakuru Town East, JP): Yes. I have the answer but now I have not...

Hon. Speaker: Was it a statement or?

Hon. David Gikaria (Nakuru Town East, JP): A statement by...

Hon. Speaker: We are not yet there.

Hon. David Gikaria (Nakuru Town East, JP): Okay. Thank you Hon. Speaker.

COMMUNICATION FROM THE CHAIR

FATE OF INDIVIDUAL MEMBERS' BILLS PENDING BEFORE COMMITTEES OF THE HOUSE

Hon. Speaker: Hon. Members Order! We are going to the second segment. However, before we go there Hon. Members, I wish to make a Communication because of various concerns that have been raised by several Members on the fate of the individual Members' Bills pending before Committees of the House.

Honourable Members, you will recall that in September 2020, I did update the House on the status of Bills sponsored by individual Members that were pending before various Committees of the House. At the time, forty-five (45) such Bills had been published and were at different stages of processing, with twenty-four (24) Bills having been considered by Committees and reports thereof tabled in the House.

Honourable Members, in the same breath, I wish to apprise the House that, as at today, sixty (60) individual Members' Bills are currently before the House at various stages of consideration. For clarity, the said Bills are at the following various stages:-

- (1) Five (5) are awaiting Committee of the whole House;
- (2) Four (4) are currently undergoing Second Reading;
- (3) Fifty (50) are awaiting Second Reading; and,
- (4) One (1) is awaiting First Reading.

Honourable Members, of interest are the fifty-four (54) Bills that are awaiting Second Reading.

During its regular review of business pending before the House for purposes of prioritising consideration, the House Business Committee observed that out of the fifty-four (54) Bills awaiting Second Reading, Reports on consideration of Bills by the relevant committees pursuant to the provisions of Standing Order 127, in respect of twenty eight (28) Bills were yet to be tabled in the House as here below:

- (1) Bills before the Departmental Committee on Communication, Information and Innovation –
 - (i) The Kenya Communication and Information (Amendment Bill) No. 2 (Bill No. 61 of 2019) by Hon. Malulu Injendi, MP which was read for the First Time on 2nd October 2019.
 - (ii) The Information Communication Technology Practitioners Bill (National Assembly Bill No. 38 of 2020) by Hon. Godfrey Osotsi, MP, which was read a First Time on 22nd December 2020; and,
 - (iii) The Computer Misuse and Cybercrimes (Amendment) Bill (National Assembly Bill No. 11 of 2021) by Hon. Aden Duale, EGH, MP, which was read a First Time on 9th June 2021.
- (2) Bills before the Departmental Committee on Education and Research. Hon. Members, each committee Chairperson should note the number of Bills that are pending before their Committee. Further, I will be making some several direction over this. In Education and Research the Bills are as follows;

- (i) The Higher Education Loans Board (Amendment) Bill, (National Assembly Bill No. 29 of 2020) by Hon. Gideon Keter, MP, having been read a First Time on 8th October 2020 and,
- (ii) The Higher Education Loans Board (Amendment) Bill, (National Assembly Bill No. 37 of 2020) by Hon. John Paul Mwirigi, MP, which was read a First Time on 9th June 2021.

(3) Bills before the Departmental Committee on Finance and National Planning. Can I just indicate that they are 10 in total as follows:

- (i) The Public Finance Management (Amendment) Bill, (National Assembly Bill No. 22 of 2019) by Hon. Kimani Ichung'wah, MP, which was read a First Time on 2nd May 2019;
- (ii) The County Governments' Retirement Scheme Bill (National Assembly Bill No. 29 of 2019) by Hon. Chachu Ganya, MP, having been read a First Time on 8th May 2019;
- (iii) The Parliamentary Pensions (Amendment) Bill, (National Assembly Bill No. 56 of 2019) by Hon. Wangari Mwaniki, MP, which was read a First Time on 24th July 2019;
- (iv) The Pensions (Amendment) Bill (National Assembly Bill No. 26 of 2020) by Hon. Didmus Wekesa Barasa, MP, which was read a First Time on 10th September 2020;
- (v) The Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 34 of 2020) by Hon. Richard Tongi, MP having been read a First Time on 22nd December 2020;
- (vi) The Public Debt Management Authority Bill (National Assembly Bill No. 36 of 2020) by Hon. Sakwa J. Bunyasi, MP, which was read a First Time on 22nd December 2020;
- (vii) The Kenya Deposit Insurance (Amendment) Bill, (National Assembly Bill No. 43 of 2020) by Hon. Abdul Rahim Dawood, MP, which was read a First Time on 9th June 2021;
- (viii) The Central Bank of Kenya (Amendment) Bill, (National Assembly Bill No. 47 of 2020) by Hon. Gideon Keter, MP, having been read a First Time on 25th January 2021;
- (ix) The Public Procurement and Asset Disposal (Amendment) Bill, (National Assembly Bill No. 49 of 2020) by Hon. Benjamin Gathiru Mwangi, MP which was read a First Time on 9th June 2021; and
- (x) The Poverty Eradication Authority Bill (National Assembly Bill No. 13 of 2020) by Hon. John Waluke Koyi, MP, having been read a First Time on 11th June 2021.

(4) Bills pending before the Departmental Committee on Health are a total of six in the following order:

- (i) The Kenya Food and Drugs Authority Bill (National Assembly Bill No. 31 of 2019) by Hon. (Dr.) Robert Pukose, MP, which was read a First Time on 2nd May 2019;
- (ii) The Radiographers Bill (National Assembly Bill No. 47 of 2019) by Hon. Sabina Chege, MP, which was read a First Time on 11th September 2019 and it is noted here that she is also the Chairperson of that Committee and therefore delaying her own Bill.
- (iii) The Health (Amendment) Bill (National Assembly Bill No. 28 of 2020) by Hon. Alice Wahome, MP, which was read a First Time on 8th October 2020;

- (iv) The Community Health Workers Bill (National Assembly Bill No. 30 of 2020) by Hon. Martin Peters Owino, MP, which was read a First Time on 22nd December 2020;
 - (v) The Pharmacy and Poisons (Amendment) Bill, (National Assembly Bill No. 1 of 2021) by Hon. Alfred Kiptoo Keter, MP, which was read a First Time on 9th June 2021; and,
 - (vi) The Health (Amendment) Bill, (National Assembly Bill No. 14 of 2021) by Hon. Mwambu Mabongah, MP, having been read a First Time on 9th June 2021.
- (5) Bills pending before the Departmental Committee on Justice and Legal Affairs in total are five. Hon. Kajwang' the Vice Chairman is not here.
- (i) The Constitution of Kenya (Amendment) Bill, (National Assembly Bill No. 76 of 2019) by Hon. Vincent Mogaka, MP, which was read a First Time on 4th December 2019;
 - (ii) The Sexual Offences (Amendment) Bill, (National Assembly Bill No. 24 of 2020) by Hon. Gathoni Wamuchomba, MP, having been read a First Time on 10th September 2020;
 - (iii) The Constitution of Kenya (Amendment) Bill, (National Assembly Bill No. 40 of 2020) by Hon. Jeremiah Kioni, MP, which was read a First Time on 22nd December 2020;
 - (iv) The Criminal Procedure Code (Amendment) Bill, (National Assembly Bill No. 41 of 2020) by Hon. Nelson Koech, MP, which was read a First Time on 25th February 2021; and,
 - (v) The Public Participation (No. 2) Bill, (National Assembly Bill No. 71 of 2019) by Hon. Chris Wamalwa, MP, which was read a First Time on 30th October 2019.
- (6) Bills pending before the Departmental Committee on Labour and Social Welfare are three in total as follows:
- (i) The Breastfeeding Mothers Bill (National Assembly Bill No. 74 of 2019) by Hon. Sabina W. Chege, MP, having been read a First Time on 6th November 2019;
 - (ii) The Children (Amendment) Bill, (National Assembly Bill No. 46 of 2020) by Hon. George Peter Kaluma, MP, which was read a First Time on 22nd December 2020; and,
 - (iii) The Institute of Social Work Professionals Bill (National Assembly Bill No. 31 of 2020) by Hon. Joshua Kivinda Kimilu, MP, which was read a First Time on 22nd December 2020.
- (7) With respect to the Departmental Committee on Transport, Public Works and Housing, records indicate that only one Individual Member's Bill is pending tabling of report. This is The National Construction Authority (Amendment) Bill, (National Assembly Bill No. 45 of 2020) sponsored by Hon. David Gikaria, MP, which was read a First Time on 9th June 2021.
- Hon. Members, as you may have noticed, some Bills that have been pending before the respective Committees were introduced in the House during the Third Session; that is 2019. They have been pending for that long and now stand the risk of lapsing at the end of the Fifth Session pursuant to the provisions of Standing Order 141 (Lapsing and re-introduction of Bills) as read together with the resolution of the House of 3rd December 2020. This is regrettably unfortunate and might be construed by the sponsors of the affected Bill as a calculated attempt by Committees to stifle their constitutional mandate of legislating.

Hon. Members, let it not be lost to Committees that indeed, Standing Order 127 (4) obligates a committee to which a Bill is committed to report to the House within 21 calendar days of such committal.

Whereas the said Standing Order permits the House Business Committee to schedule Second Reading of a Bill after 21 days even if the relevant committee has not tabled a report on the Bill, the importance of having Committee reports on Bills before commencement of Second Reading needs not be over-emphasised.

For the information of Members, Committee reports on Bills not only inform and enrich debate on the Bill, but also most importantly, espouse the views and recommendations of the public, which legitimises the legislative process and cushions the House from judicial review for failing to comply with provisions under Article 118 of the Constitution (Public Access and Participation).

Hon. Members, I also hasten to remind Committees of the ramifications of Standing Order 127(5) regarding failure to table reports on Bills within the stipulated timeline. For clarity, the said Standing Order provides as follows –

“If for any reason, at commencement of Second Reading the report has not been presented, the Committee concerned shall report progress to the House, and the failure to present the report shall be noted by the Liaison Committee for necessary action”.

I therefore encourage Committees to have fidelity on the dictates of Standing Order 127, which is intended to enrich the law-making process rather than mete punishment to Committees for non-compliance.

Hon. Members, the leadership of the House, through the House Business Committee, continues to play its part in ensuring that individual Members’ legislative business is considered and concluded. You may be aware of the progressive measures that the leadership has consistently instituted to accelerate processing of individual Members’ Bills and prioritise their consideration by the House. You may recall that in February 2019, upon a resolution of the House Business Committee, I ordered publication of 30 individual Members’ legislative proposals that had over-stayed in Committees during pre-publication scrutiny. In that Session, the number of individual Members’ Bills shot steeply.

On 8th June 2021, the House Business Committee moved this House to resolve to accord priority to individual Members’ business during the Sittings of the House every Thursday Afternoon. Further, the House Business Committee has proposed to the House to alter its Calendar for Fifth Session so as to extend the upcoming recess from two to three weeks.

Hon. Members, the intention of the leadership is largely to avail more time to Committees to consider Bills pending before them, and submit reports to the House, having undertaken public participation as required under Article 118 of the Constitution as read together with Standing Order 127(3). I therefore encourage Chairpersons of the concerned Committees to endeavour to prioritise the listed Bills during the recess period and table their Reports in the House as soon as possible. This will enable the House Business Committee to also prioritise the Bills for consideration at Second Reading and subsequent stages by the House in good time.

Having said that, Hon. Members, it is important to take note that, some of the individual Members’ Bills awaiting Second Reading have already been overtaken by events. They include, but may not necessarily be limited to the Independent Electoral and Boundaries Commission (Amendment) Bill, 2019 and the Excise Duty (Amendment) Bill, 2020, both sponsored by Hon. Jude Njomo, MP. Further, there may be Bills whose sponsors no longer have the interest to pursue for one reason or the other. Whereas it is the responsibility of the sponsor to cause the

withdrawal, in accordance with Standing Order 140, the relevant Committees have a duty to report to the House such developments.

Hon. Members, from a review of individual Members' Bills awaiting Second Reading, the House Business Committee observed that certain Bills, such as the one to amend the Public Procurement and Asset Disposal Act and another to amend the Public Finance Management Act, are similar in nature.

As such, the Committee will take a decision on which Bills to schedule first, the import of which is that the other Bill might fall. With regard to individual Members' Bills seeking to amend the Constitution, I urge the Departmental Committee on Justice and Legal Affairs to take a deliberate decision on the said Bills and make appropriate recommendations to the House on how to proceed with those Bills, having undertaken public participation in cases where that has not been done.

Hon. Members, allow me to also speak to the Bills referred to the Budget and Appropriations Committee for determination of 'money Bill' implication in accordance with Article 114(2) of the Constitution and Standing Order 114(3)(b), before being referred to the relevant Departmental Committees for consideration. I urge the Committee to hasten the processing of such Bills and make appropriate recommendations to the House.

Further, and so as to keep the House abreast on business before Committees, I direct the Liaison Committee, which is responsible for coordinating the operations of all Committees, to provide regular reports of pending business before all Committees on Thursdays of every sitting week by way of a Statement. The Committee is further directed to impress upon Committees of the House to prioritise consideration of Bills pending before them.

In summary, Hon. Members, I wish to guide as follows –

- (1) THAT, all Committees should prioritise consideration of individual Members' Bills and any other Bills referred to them during the recess and table reports thereof as soon as the House resumes sittings from 3rd August 2021. Further, they are directed to prioritise consideration of Bills pending before them in their work plans for the Financial Year 2021/22 as a matter of principle;
- (2) THAT, in the case of several Bills seeking to amend similar laws, the House Business Committee shall determine which of the Bills to schedule for Second Reading and subsequent stages, the import of which the other Bills might fall;
- (3) THAT, the Liaison Committee is henceforth directed to be reporting to the House on the status of business pending before all Committees by way of a Statement to be made in the House every last Thursday of each month whenever the House is in session.

The Committees and indeed the House are accordingly guided.

I thank you, Hon. Members.

(Applause)

Hon. Katoo ole Metito (Kajiado South, JP): On a point of order, Hon. Speaker.

Hon. Speaker: We go to the first segment of Statements and there is request for Statement by Hon. Oundo. Yes, Hon. Katoo.

Hon. Katoo ole Metito (Kajiado South, JP): On a point of order, Hon. Speaker. I request to comment on the Communication you have just made. In order for Committees to undertake meaningful public participation meetings, I invite you to reconsider your earlier Communication of not having physical meetings.

Hon. Speaker: Sorry, Hon. Katoo.

Hon. Katoo ole Metito (Kajiado South, JP): Thank you, Hon. Speaker. I was saying in order for Committees to do justice as required by law, you reconsider your earlier ruling of not having physical meetings with the Executive or other stakeholders who may wish to come before them to defend or clarify information during public participation. I think when we go on recess, we will have venues that will allow Committees to have physical meetings while undertaking or observing the COVID-19 health protocols. This is because the Main Chamber and Mini-Chamber in County Hall will be empty. I think you should allow Committees to have physical meetings with the relevant ministries or other stakeholders to clarify or defend their public participation memoranda. This will enable Committees to write conclusive Reports on the pending Bills and then table them according to your Communication.

Hon. Speaker: That will be done in case-by-case basis because we do not want to call people who are in isolation to mix with them. They could leave a lot of funny stuff.

Hon. Moses Cheboi (Kuresoi North, JP): I thank you, Hon. Speaker. I just wanted to report to you, Hon. Speaker, that this morning, we had a meeting as the Liaison Committee...

(Two Hon. Members consulted the Speaker)

Hon. Speaker, actually there is interference by two Members of the Liaison Committee, which is unfortunate because I am actually speaking.

Hon. Speaker: You are the Chair of the Liaison Committee.

Hon. Moses Cheboi (Kuresoi North, JP): I will know how to deal with them accordingly at a later stage.

(Laughter)

Hon. Speaker, I just wanted to report to you that we have also taken what you have just communicated now with a lot of concern. This morning, the Leader of the Majority Party and I had the opportunity to, at length, see how we can work out a way in which we can have those reports come very quickly to the House. We noted that since we are going on recess, we really need to move fast. We asked the Chairs of those specific Committees to make sure that by the time we come back, we should be having the reports ready for the House to process. The only small problem that we have is about the systems which are not open yet. The Chairs made a request that for a few of those committees like the Departmental Committee on Finance and National Planning and the Departmental Committee on Agriculture and Livestock and others that have a lot of work, we can find a way of making them go for a retreat and come back with all those reports ready.

I am sure some of the Committees like that of Finance and National Planning were bogged down by the fact that there has been very heavy workload in the last few days because of the Budget. However, they have promised that they are going to do it very quickly. We also did another thing. We tasked the clerk of the Liaison Committee to liaise with the House Business Committee and also the clerks from the Table Office. It is so that we can make sure that the Chairs with any pending matter before the House can deal with them. So, you will not have a situation where you have a matter here and the Chair and also the Vice-Chair are not there.

However, Hon. Speaker, we continue to thank you for the support that you are giving committees and we promise that when we come back, especially if we get those few committees to retreat, we will be able to come with better news.

Thank you very much, Hon. Speaker.

Hon. Speaker: If they have done public participation, then I think it makes a lot of sense to retreat to do the reports. The Clerk will be directed to facilitate. Hon. Bashir, are you also a chair of a committee?

Hon. Major (Rtd.) Bashir S. Abdullaih (Mandera North, JP): Hon. Speaker, thank you very much. I was keenly following your guidance on some of the pending Bills. What happens to the Bills by Private Members that are still stuck in the Senate? Remember, this House has finished, resolved and transmitted them to the Senate. It is of utmost importance to some of us. For example, I had the Livestock Marketing Board Bill that has been dispensed and transmitted to the Senate for almost eight months now. It is still stuck in the Senate. Could we have a communication on how to deal with that? Does the individual Member follow up or this House has recourse to attend to such matters?

Thank you, Hon. Speaker.

Hon. Speaker: Unfortunately, in the design of bicameral nature, there was never provided a mechanism of dealing with that, but we do take up the matter with the leadership of the other House just like they also take up issues of Bills that have remained pending here and which have emanated from their side. As you know, obviously, most of the Bills emanating from the other House are actually Private Members' Bills because there are not very many Government Bills that start there.

Hon. Bashir, as you know, the Senate represents counties and serves to protect the interests of county governments. So, Bills from counties do not come to the Senate. Therefore, very few Government Bills go there. So, most of their Bills are Private Members' Bills. All of you are aware that we have really tried as much as possible to accommodate many Senate Bills, including in today's Order Paper, where we have Bills from the Senate. So, we will take up the matter of those Bills from our Private Members which are pending in the Senate. Indeed, even those from Government, there are many. They have been pending there for a long time. You know they are on recess. So, right now, we may not be able to do much but we will take up the matter.

Hon. Kisang, you have the Floor.

Hon. William Kisang (Marakwet West, JP): Thank you, Hon. Speaker, for giving me this opportunity. I had a statement to request for additional time but from what you have communicated, as a Committee, during the three weeks recess, we will be able to sort out the two Bills and come up with reports. It is only that in the Report that we had, there is a Bill by Hon. Injendi, which we completed and the Report tabled in the House almost one-and-a-half years ago. In your last Communication, which was like a year ago, the same Bill appeared and I clarified that it was completed. I do not know why it keeps on coming up. I basically have two Bills before the Committee and not three.

Hon. Speaker: As recorded in my Communication, you have two Bills. So, you do not have to make this request.

Hon. William Kisang (Marakwet West, JP): No, I do not have to do it.

Hon. Speaker: There is a Member there who was raising his hand. Who is he? Maybe because of the mask, I cannot quite tell who it is. Is it Hon. Mule? With a mask you look different. I was wondering which gracious lady this one is.

Hon. Stephen Mule (Matungulu, WDM-K): Thank you very much, Hon. Speaker, for your Communication. It has guided the House well. But I have a concern where the House and the leadership need to think through matters and also think outside the box. We might not be able to complete all these Private Members' Bills. We should see how to amend the Standing Orders so that the Bills do not lapse with the House. This is because some of the Bills brought by Members here are very vital to this country and they can be transmitted to the next Parliament and be committed to be proceeded to conclusion. Why am I saying that?

Hon. Speaker: You can stop there. If you recall, last December, the House moved a Motion and resolved to extend the period. What you are saying is covered by our own Standing Orders. It is you who has not read the Standing Orders to know that actually you can resolve that way. I want to encourage you to continue reading the Standing Orders.

Hon. Stephen Mule (Matungulu, WDM-K): I agree with you, Hon. Speaker, but my concern is that the next Parliament should have a mechanism to take up those Bills. Hon. Speaker, for us who were in the last Parliament...

Hon. Speaker: Hon. Mule, we are guided by traditions not just of this House, but of several other parliaments. You may find it sometimes very difficult. I have a personal experience on Bills and reports which were championed by Members who served in the 8th Parliament. Those Members lost their elections in 2002. So, when the Bills and reports were called out here, nobody could move them. In fact, there is a classic case of a Report of the Public Accounts Committee (PAC), which Report could not get somebody to move because the person who was Leader of the Official Opposition became the President. As you know, in the former dispensation, PAC was chaired by the Leader of the Official Opposition. It became very difficult. People were just grappling around. Which Government are we referring to? Hon. Mule, those are things which we have been considering.

Hon. Stephen Mule (Matungulu, WDM-K): Okay. Thank you.

Hon. Speaker: But, I am happy the Deputy Speaker and Hon. Soipan are here. They have heard your requests. When the Procedure and House Rules Committee considers those issues about lapsing of Bills... Of course, there is that possibility, Hon. Mule. If you have a Bill and unfortunately, God forbid, you do not make it to the next Parliament, it will be so difficult for the new Member who will have become the Member for Matungulu to come and deal with it. He will just pick it and throw it away. He might not make anything out of it. I am saying this because, Hon. Mule, you know this. We have had cases here of Members having difficulties with the accounts of the NG-CDF because the Members who have taken over have come and rubbished whatever was being done in the previous committee. You can imagine with Bills. You just have to allow that a new Parliament should start from a clean slate. That is the tradition.

Hon. Stephen Mule (Matungulu, WDM-K): I stand guided, Hon. Speaker.

Hon. Speaker: So, Hon. Kisang, you do not have to make your request on this. There is a request by Hon. Oundo.

STATEMENT

LEGAL AND OPERATIONAL STATUS OF KENYA TRANSPORT AND LOGISTICS NETWORK

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Speaker, pursuant to Standing Order No. 44(2)(c), I wish to request for a Statement from the Chairperson, Departmental Committee on Finance and National Planning on the legal and operational status of an amenity

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

referred to as the Kenya Transport and Logistics Network (KTLN). Sometimes in November 2020, an entity referred to as Kenya Transport and Logistics Network was created to enhance the efficiency and coordination in the transport sector through fortifying public private dialogue and leveraging the efficiencies and synergies of the relevant state agencies. The state agencies placed under KTLN were: Kenya Railways Corporation, Kenya Pipeline Company and Kenya Ports Authority under the coordination of the Industrial and Commercial Development Corporation (ICDC) as a holding company.

This new entity was to be overseen by the National Treasury. The Report of the Budget and Appropriations Committee on the Budget Policy Statement for 2021/2022 and the Medium Term and Medium Term Debt Management Strategy, observed that the National Treasury had been allocated two more programmes which should typically be under Vote 1091, State Department for Infrastructure. This was done without the programme targets and key performance indicators which should allow efficient oversight. It is worthwhile noting that the state agencies operate under different pieces of legislation with each having different organisational structure and corporate culture. It is against this background that I seek a statement from the Chairperson, Departmental Committee on Finance and National Planning on the following.

- (i) What is the legal status of the establishment of Kenya Transport and Logistics Network (KTLN)?
- (ii) What is the organisational structure of this new entity *viz-a-vis* the existing structure for Kenya Railways Corporation, Kenya Pipeline Company, Kenya Postal Authority and Industrial and Commercial Development Corporation?
- (iii) Was public participation and comprehensive stakeholder's engagement undertaken regarding the creation of the entity, including engaging the DOCK Workers Union, as required under Articles 10, 227 and 232 of the Constitution?
- (iv) What is the progress with the Government undertaking to submit a legislative proposal for consideration by this House, regarding Government owned entities and; finally,
- (v) Could the Chairperson explain the circumstances that led to KPA to license private company firms, namely M/s Regional Logistics, Mitchel Cotts and Portside to compete with the Government with regard to port services and how does that impact on the new entity?

I thank you, Hon. Speaker.

Hon. Speaker: So, which committee?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): The Departmental Committee on Finance and National Planning.

Hon. Speaker: I know that, that Committee is currently holding a meeting with the Treasury officials, to respond to several questions that some Members had asked. So, your request will be channeled through the Office of the Leader of the Majority Party. Hon. Oundo, you can liaise with the Leader of the Majority Party to present the request to the Chair of the Departmental Committee on Finance and National Planning.

The next segment is responses to statements.

Hon. Kareke Mbiuki, there is something we had suggested with Hon. Nassir.

LEOPARD MENACE IN CHEPALUNGU CONSTITUENCY

Hon. Kareke Mbiuki (Maara, JP): Thank you, Hon. Speaker. I would request to give the following response to the two statements. One is from the Member for Chepalungu Constituency, Hon. Gideon Koske, who sought a statement on leopard menace in Chepalungu Constituency, pursuant to Standing Order, No. 44 (2) (c).

The first question he asked was on the specific timelines within which KWS shall capture and relocate the leopard and its cubs from the aforementioned residential area in order to forestall a possibility of the residents taking the matter in their own hands. The Ministry of Tourism and Wildlife through the KWS protects, conserves and manages wildlife in the country. While there are designated wildlife protected areas known as national parks, reserves, sanctuaries and conservancies, wildlife move in and out of those areas resulting to a greater percentage of wildlife residing outside of the protected areas between seasons.

The wildlife outside the designated protected areas interact with the people and sometimes result to human-wildlife conflict that may lead to injuries, predation on livestock, property, crop destruction and human deaths. Chepalungu Constituency is one of the five electoral constituencies in Bomet County. It has notably few cases of human-wildlife conflict compared to other constituencies in the region due to its location. The constituency falls in between Maasai Mara and Mau Forest. Masaai Mara Game Reserve is where the majority of wildlife is confined and surrounded by the community conservancies that accommodate a high number of wildlife, thus cushioning Chepalungu Constituency from experiencing conflict.

I have supplied the response to the statement to the Hon. Member.

In the second question, he asked what form of compensation KWS provide the residents who have lost livestock to the marauding leopard, and under what guidelines the compensation will be undertaken. As regards the compensation, a detailed Report on the status of the human-wildlife compensation in Bomet County since 2015 indicating the names of the affected persons, nature of loss and amount of compensation recommended to be paid by the community conservation committee totaling to Kshs903,500 has been provided. I have been furnished with the detailed report.

The other issue was: What short and long-term measures has the Government put in place to address the perpetual human-wildlife conflict occasioned when wild animals stray into human settlement? The KWS is committed to significantly reduce the cases of human-wildlife conflict throughout the country and works together with other stakeholders, including the county governments. So far in Chepalungu Constituency, the following measures are undertaken to manage the conflict:

- i. Proactive patrols;
- ii. Attending to conflict cases upon receipt of report;
- iii. Facilitating compensation for loss due to wildlife;
- iv. Trapping and translocation of problematic animals; and
- v. Wildlife drives.

Across the country, the following is being done to minimise the conflict: A strategic deployment of staff to deal with problematic animals is achieved through the Rapid Response Unit dubbed Problematic Animal Management Unit (PAMU) together with over 157 stations spread across the country and parks and reserves with well-staffed personnel. The staff is supposed to undertake and create public awareness about wildlife.

The Government has invested in infrastructure such as wildlife barriers and community projects to minimise the effects of conflict and encourage co-existence.

The KWS has conflict hotlines that are given to the public for swift reporting of conflict cases. There is Kenya Wildlife Service toll free number at the Headquarters, 0800587000. The people of Chepalungu can, in addition, call 0202383232 for quick assistance.

Indeed, the Service also translocates problematic animals and undertakes translocation of species of animals from an ecosystem whose current capacity is exceeded to other suitable ecosystems.

The KWS facilitates the Government approved human-wildlife compensation which is designed to prevent the affected communities from taking direct action against animals that affect them.

Hon. Speaker, I beg to submit.

Before I conclude, I would like to say the following: We have a big problem. This House has been seized with the issue of human-wildlife conflict for a long time. We have received very many petitions, request for statements and questions on issues to do with human-wildlife conflict. Currently, the approved compensation amounts to more than Kshs6 billion. But in the last financial year, what was provided for was roughly Kshs600 million. In the current financial year, what is provided for in the Budget is less than Kshs500 million. So, we can see the deficit. When we were doing the Budget and bearing in mind that we started with the budget-making process, we pleaded with the Budget and Appropriations Committee to increase the compensation by Kshs1 billion but, unfortunately, we did not manage. It is a bit frustrating bearing in mind that, as Members, we are so much affected because our constituents are affected by human-wildlife conflict. At the same time, we are not able to provide an adequate budget for compensation.

I beg to submit.

Hon. Speaker, I would like to respond to the second request for a Statement before we get reaction from the questioners. The second request for a Statement is from Hon. Bernard Shinali, MP, on miners who lost their lives in Ikolomani Constituency.

The first question he asked was: Could the Chairperson state whether the Government is aware of the high multitude of mining activities in Viwanda Corridor attracting over 55,085 people and that additional mines

Hon. Speaker: Hon. Kareke, is Hon. Shinali in the House?

Hon. Kareke Mbiuki (Maara, JP): I do not see him, Hon. Speaker.

Hon. Speaker: Just table it. He will read it. And the third one?

(Hon. Kareke Mbiuki laid the Statement on the Table)

Hon. Kareke Mbiuki (Maara, JP): For the other one, I had discussed with Hon. Nassir so that it is tabled tomorrow.

Hon. Speaker: Hon. Abdullswamad, have you agreed with the Chair it is tabled tomorrow? Very well. Let me give Hon. Koske the first chance to raise his intervention.

Hon. Gideon Koske (Chepalungu, CCM): Thank you, Hon. Speaker. There seems to be misinformation on what the Chairperson of Departmental Committee on Environment and Natural Resources is answering regarding the leopard menace in Chepalungu Constituency. They came almost after two months when we had already sorted ourselves the best way we knew. What I understand is that if we do not take care of wild animals in their protected areas, they will take care of us; they will feed on us. I do not understand why the Budget and Appropriations Committee, in its wisdom or lack of the same, decided to give Kshs500 million to the

Environment Department for compensation for victims of human-wildlife conflict across the country. Currently, it stands at Ksh6 billion for compensation of what wildlife has messed up with human beings. It is very important going forward that the Budget and Appropriations Committee looks at human-wildlife conflict as a priority. Human rights are animal rights or rather human rights are anthropocentric in nature. The KWS has a number of officers who are able to take care of all conservancies in Kenya.

Going forward, if possible, the KWS should be given enough money to employ energetic youths who are able to take care of wild animals. They should also make sure that they fence all conservancies across Kenya so that animals do not get out of their conservancy areas. As we speak, I have heard that elephants have invaded Lelaitich Location in my constituency and the same elephants are destroying maize plantations and other food crops in that region.

The Chairman of the Departmental Committee on Environment and Natural Resources should be careful so that his people do not lie to him to bring statements to this honourable House that have no facts as they are on the ground. It is very important he gets facts from the ground so that he does not bring a lot of “English” here which is merely papers to be trashed. The truth is that Kenyans are suffering over wild animals. A nation cannot prefer wildlife to human beings. Human beings are very important. Even in the Bible, we are told that human beings were given powers to rule and take care of the animals. We cannot leave animals to take care of us just because of tourists who come to see them. We understand when we welcome tourists we get foreign earnings, but we need to take care of human beings. If we cannot feed wild animals, they will feed on us.

Thank you, Hon. Speaker. I submit.

Hon. Speaker: It is good to submit. I thought Hon. Soipan had indicated she wanted to comment.

Hon. (Ms.) Soipan Tuya (Narok CWR, JP): Thank you, Hon. Speaker. When I hear the Chair of the Committee responding to Hon. Koske, it almost becomes a duplicate of what I had when I requested for a statement concerning human-wildlife conflict in Narok. This time, the Chepalungu people are a bit lucky because I heard it is one leopard. In Narok, it is an everyday occurrence. I sympathise with the Chair when he raises the issue concerning budget. But it just baffles me that what we see the KWS do, despite the budget issue, is that when it is wild animals that are in trouble, they appear in lightning speed. But when it is human life or loss of life and property, the speed within which they respond is questionable. That is one problem.

The second problem is unlocking the deadlock concerning the budget. If it becomes the discretion of the Treasury to determine how much money to give towards human-wildlife conflict cases, then Kenyans will continue to suffer. Through our Budget and Appropriations Committee, we need to put our feet down because this is a problem that is affecting Kenyans every day. Wildlife is a great resource for this country which brings huge contribution to the Gross Domestic Product (GDP). We cannot continue pressing on the custodians of this wildlife. We will want to have our cake and eat it at the same time.

The Chairperson, Hon. Kareke, needs to come out clear and tell us what the problem is. Is it the Budget and Appropriations Committee, or is it the Treasury that is sitting on money that Kenyans should benefit from as a result of human-wildlife conflict? Kenyans will be left with nothing to do but to kill those wild animals which is unfortunate because it is going to affect our country.

Thank you, Hon. Speaker.

Hon. Speaker: Let us now have the Member for Endebess.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Speaker. I was listening to the Statement that the Chairperson, Hon. Kareke Mbiuki, read. It seems like it is a duplication of a report that has been brought here before. Maybe they just changed a few sentences here and there. When Members raise very substantive issues in this House, the Ministries should treat each case as a different case not just rewriting a report and submitting to the Chairperson. If you look at the reports that have been submitted before, you will find that this issue of human-wildlife conflict has been raised on several occasions in this House.

I have been very passionate because we have Mount Elgon National Park in Endebess Constituency in which we have serious issues of human-wildlife conflict. We have issues of elephants and warthogs eating all the maize that the farmers have planted. We normally get the agricultural officers to go and do the assessment and make a report after which it is submitted and the farmers wait for compensation. The elephants also injure and kill people there.

When you talk about having Kshs500 million, it is not little money. At least, when I hear that a few people in Endebess have been compensated for their damaged crops and injuries, it will make some sense. A sum of Kshs500 million is a good amount to begin with, but I do not know where it goes. It does not reach the people of Endebess. So, it has to be chronological in terms of how compensations are done so that the first injured is the first to be compensated. Once that is done, we can appreciate.

The other issue that was raised in that Statement was the Kenya Wildlife Service rangers beating *wananchi* like *wamama* and those people who are in their daily hustles looking for their day to day living. Those people may have gone to the forest to look for firewood or even to the farms neighbouring there. When the KWS rangers come, they beat them. That has not been answered. That is why I am saying that those people just changed, maybe, the date and a few things here and there, and then gave you a report. However, every case must be treated as an individual case.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Sankok, take one minute, please.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Speaker. We are very passionate when it comes to the issue of human-wildlife conflict because we have been affected since we live with wildlife. We have donated our land so that we can have the wild animals that attract so many tourists that bring dollars all the way from the airport in Nairobi to all the other cities. However, it seems like the Government has not been taking care of us. Hearing from the Statement from the Chairperson, Hon. Kareke Mbiuki, I sympathise with him because, probably, this is just a copy-paste kind of response that he was given.

Personally, I know somebody by the name ole Mbaiya. The Hon. Member from Chepalungu is lucky that he only encountered one leopard. Somebody by the name ole Mpayia lost 68 sheep and goats out of the 71 animals that he had. Among the three that are remaining, one is limping and another one has a small disease called *shamsham*.

I also know of another fellow who lost all his cows. There is also another one who lost all his maize in a whole three-acre farm.

Hon. Speaker: There is a point of order from Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Speaker, I rise on a point of order without having any disrespect to my colleague, Hon. ole Sankok, who did Bachelor of Science in Nursing at the University of Nairobi. He is a medical graduate. So, when he talks of *shamsham* disease and he has a medical background, I think that should not go into the *Hansard*. He needs to tell us what this disease called *shamsham* is.

Hon. David ole Sankok (Nominated, JP): Hon. Speaker, I did not do veterinary medicine. So, forgive me because I only know that disease in our own mother tongue in which it is called *shamsham*. So, I will ask a veterinarian to translate.

Hon. Speaker: How is the Chairperson going to understand about that if it is only known as *shamsham* in your language?

Hon. David ole Sankok (Nominated, JP): Hon. Speaker, it is not pronounced like that. It is pronounced like the way I do. We are affected and we are very passionate. When you hear some of us even speak in Kimaasai, sometimes, it is because of how much we have been affected by those wild animals.

It is this House that is to make sure that there is a budget because when animals are in distress, I do not know where KWS officers appear from. But they just come immediately. However, when human beings are crying for help, they do not come. When they come and find women fetching firewood from game reserve, they beat them just like Hon. (Dr.) Pukose has said. They are harassed. So, we are harassed when we are in the game reserve but, when the animals which are supposed to be in the game reserve come to our homes and eat our livestock, we are not saved from them.

What Hon. Koske has raised is very important. So, Hon. Chairperson, please, even if it means that you have to go down to Maasai and Narok and know what *shamsham* is, you need to do that for you to know all the problems that we are facing so that you can assist us because we have donated land.

Thank you, Hon. Speaker.

Hon. Speaker: Even as I allow the Chairperson to respond, we are still not in business. Let me also say this: When the idea of Statements was first brought after the promulgation of the new Constitution, it was because it was known that there will be no ministers in the House. The assumption was that when a request is made for a statement and somebody from the Executive pens down some statement with his or her hand, it would be something that is truthful, factual and a document that you can present before any institution and defend. That was the assumption. Those are the traditions.

I am not too sure whether Hon. T.J. Kajwang' was with us when we were trying to make some reviews when we visited France. There, a minister would come, read their statement and table it, and there are no questions because you can vouch for what is contained in it. But the statements that are being read here - and you cannot blame the Committee Chairpersons - you just wonder about what kind of people work in the Executive. Listening to that statement, you wonder: "Does this person believe that the statement is being given to a kindergarten class or to adults who represent voters?" You can never make sense out of some of them. The unfortunate thing is that, since we do not have the Executive here, it is the chairperson who takes the flak. Yet we know very well, even as Hon. Sankok says that the Chairman must learn some Maasai and know *shamsham* - and I thought that was a mobile phone company or it is something similar to that - surely, even if the Chairman is going to learn those things, he is not the one who can authenticate that statement. The assumption was that it is supposed to be a hallowed statement. The person who can sign on it can stand even before a court of law and defend its content. But listening to some of the statements, you start wondering: Are you taking the House for what it is?

Again, Hon. T.J., since you are still on the Procedure and House Rules Committee, you can see this kind of arrangement does not help the House. Members' expectations in the requests are not being met on a daily basis. I want to give Hon. Kareke a chance to respond to *shamsham* and others.

Hon. Kareke Mbiuki (Maara, JP): Thank you, Hon. Speaker. I think you have put it well. And I really want to empathise with Members. This issue of human-wildlife conflict has been in this House for a long time. It is like we are not about to see its end. The bottom line is the failure by KWS to ensure that wildlife is kept in parks or sanctuaries and human beings stay outside the parks and sanctuaries. But we expect animals to get out. Instead of the wardens protecting human beings, they end up protecting animals more than they protect human beings. So, we have a problem.

We also need to appreciate that we have a serious budgetary problem. The last time KWS was given resources to recruit wardens was way back in 2016 or thereabouts. There is a serious shortage of personnel. The most frustrating thing is that this is the House that passes the Budget. As a Committee, we are cognizant of the fact that the approved compensation for human-wildlife conflict totals Kshs6 billion. The amount that has not been approved may be more than Kshs10 billion. When the State Department for Wildlife appeared before the Committee, they requested us to enhance the allocation. Unfortunately, the National Treasury had set a ceiling of Kshs500 million. We made a presentation to the Budget and Appropriations Committee but they declined, saying that they are not allowed to increase the ceiling. As Chairs, we were called to State House and the Leader of the Majority Party was there. Any Committee which had exceeded the ceiling given by the National Treasury was told to reduce it to the level of the ceiling because the Budget is managed by International Monetary Fund.

So, there is nothing that can be done. So, as we say we are the Government organ that prepares the Budget, our hands are tied. The only thing we are able to do as a Committee is to make re-allocations within the sector. Nothing beyond that! We have a challenge which we need to find a way of addressing. I am happy the Leader of the Majority Party is here. We were with him in that particular meeting. I do not see the Chair of the Budget Committee here. The Budget Committee basically declined to even increase the KWS allocation by Kshs1 billion. What would we do? As a Committee, we did our part. There is nothing much we can do. Our hands are tied.

Hon. Speaker, I rest my case. I thank you.

Hon. Speaker: Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Speaker. There is a gap in our interaction with the Executive. It needs to be filled. You will remember that at the beginning of the 11th Parliament, there was serious discussion and almost an agreement that even though Speakers are not Members of Parliament, we can create a corner where the Cabinet Secretary for Finance could read the Budget highlights from and make similar arrangements. If the Cabinet Secretary for Treasury can come to the House in that arrangement and read a statement, I do not see why, in such important issues where you want a Cabinet Secretary to have a feel and hear what Members are saying, they cannot come and read the statement from the same spot. We hope if we go through the referendum and change the Constitution, the arrangement will become a reality. From what I saw in the 11th Parliament, I think it is something we need to revisit.

I have been responsible for writing answers and reports for ministers. It is clear at that time that if the minister was coming to the Floor of the House, you had to imagine and think of what could be supplementary questions that would arise. What are the related issues that Members could raise? With live transmission of parliamentary proceedings, we would see and listen to what the Minister is saying and the questions by Members. At that time, we also had assistant ministers. My Minister is here: Hon. Shaban. We would actually wait and if questions arose, we would write short answers and text or call the Assistant Minister and say: “We can see

the Minister is going to face that question, but our supplementary answer did not include the question.” The process was taken very seriously.

I think what is happening now is that they say, “They are looking for a statement. Who do I give the statement? The Chair of the Committee.” I do not think the relationship between our Chairs and the Cabinet Secretaries is what it should be. I think some of our Chairs have taken subordinate positions below the Cabinet Secretaries. That is the way statements are treated. I actually feel we waste time with these statements. Either we ask Questions and the Cabinet Secretaries appear before Committees or we take a bold step – although it may be too late in the day - to make arrangements and have the Cabinet Secretaries appear in the House. They will always come with a battery of the people who sit with them to help them answer supplementary questions that arise. That is when the House will be acting seriously. As it is, I do not think anybody takes requests for statements seriously. It is something we should seriously look into it again.

Thank you, Hon. Speaker.

Hon. Speaker: I have said it in the past that it is best when you ask a Question. Even if the Cabinet Secretary will appear before a Committee, the Member asking the Question will be present and is able to press the Cabinet Secretary. The Chair will be there to moderate the question and answer session. The Chair will always ensure that the questioner has the first chance to raise a supplementary question and any further clarifications. Other Members can also chip in and we will see the Member being given the last chance to ask the last question – the old practice at its own dispensation. Otherwise, this is one of these statements I think we keep on bashing the Chairpersons of Committees and yet we know they are merely messengers.

The Chairperson of the Departmental Committee on Energy has just mentioned to me that the response he has gotten to her statement is hopeless. I have agreed with the Chairperson that he should go and call the Cabinet Secretary to appear before the Committee. Even for some of these statements, I think we need to convert them to Questions so that the Cabinet Secretaries can appear and respond to Members’ Questions.

(An Hon. Member spoke off-record)

These others are not helping. Let those Cabinet Secretaries, since they sit with the CS for the National Treasury, if they come and argue that they could not pay the compensation because they did not have the budget, then it is his responsibility to look for that budget for his ministry. So, he should sit with the Cabinet Secretary for the National Treasury and look for the budget from him.

Let us proceed to the next Order.

REPORT AND THIRD READING

THE KENYA NATIONAL BLOOD TRANSFUSION SERVICE BILL

Hon. Speaker: If I could get the Members for Ruaraka, Homa Bay and Laikipia take their seats briefly. You know, you walked in at 16.38 p.m. It is less than four minutes since you walked in here and you do not want to sit.

(Laughter)

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

Fortunately, I check the time when I see some of you walk in so that I could be able to tell you what time you arrived. I always keep my eye on and it always sticks because I knew the Member for Laikipia would within a very short time request for an intervention and insist that she wants to speak. Therefore, I have to make sure I keep my record. The ones I check for are not many but for some, I have to. This is because you always want to speak, which is okay, but it is also good to know that, as you walked in, you found others.

Hon. Members, debate on this Motion was concluded. What remained was for the Question to put.

(Question put and agreed to)

Mover, kindly, have the Floor.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Speaker. On behalf of the Chairperson of the Departmental Committee on Health, I beg to move that the Kenya National Blood Transfusion Service Bill (National Assembly Bill No. 6 of 2020), be now read the Third Time.

As I move, I also want to thank the Members for the dedication they had yesterday as we went through this Bill and the commitment to revamp this vital service that is required to save life. I also thank the Departmental Committee on Health for the input they have made into improving this Bill.

I beg to move and also ask request Hon. Nyikal to second.

Hon. Speaker: Hon. Dr. Nyikal, kindly, have the Floor.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Speaker, I second. As I do so, I would like to say that this is an extremely important Bill that we are going to pass into an Act of law. Blood transfusion is a service that saves lives. As it is being passed into an Act, it should be implemented. We made some amendments, particularly on the recruitment of technical heads that are required there. It should be done on time.

I second.

(Question proposed)

Hon. Members: Put the Question!

(Question put and agreed to)

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

APPROVAL OF THE PUBLIC FINANCE MANAGEMENT (EQUALISATION
FUND ADMINISTRATION) REGULATIONS, 2021

(Question put and agreed to)

Hon. Speaker: Hon. Members, I have received some additional proposed amendments to the business appearing as Order Nos. 10 and 12. These proposals have not been considered by the Departmental Committee on Finance and National Planning. Therefore, they cannot be considered with regard to the re-committal which was directed and must first of all be taken to

the Departmental Committee on Finance and National Planning which I have since referred. One is by Hon. Wamunyinyi which is to be considered by the Departmental Committee on Finance and National Planning.

Hon. Members, knowing the nature of this Bill, if we are not careful about what we put in, we run the risk of taking this Bill the same route that a previous one, if you remember, which was moved by Hon. John Mbadi, went. It is also for Members to appreciate that it does not matter how emotional we may feel. If you look at the provisions of Article 230 of the Constitution with regard to the powers of the SRC, if you make things that appear to fly in the face of that Article 230 with regard to its powers relating to benefits and emoluments and remuneration of State officers, it is immaterial whether we parted with the 349 of us. It will still be struck off. There are too many people out there who are waiting to play those kinds of games. So, I think it is important that, that proposal - and I think there are another two - be considered by the Departmental Committee on Finance and National Planning so that the Committee can make a report to the House and we can first of all debate what they think of those proposed amendments before we can include them in the Order Paper.

Therefore, for the convenience of the House, I have directed that the business appearing as Order Nos. 10 and 12 be deferred to another date.

Thank you, Hon. Members.

(Order Nos. 10 and 12 deferred)

Next Order! Leader of Majority

MOTION

ALTERATION OF THE CALENDAR OF THE HOUSE

Hon. Amos Kimunya (Kipipiri, JP): I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order 28(4), this House, resolves to alter its Calendar for the Fifth Session (Regular Sessions), as adopted on Wednesday, 10th February, 2021 and amended on Tuesday, 8th June, 2021 by varying the period for the short recess with respect to the Second Part of the Session, so that-

- (a) the Short Recess commences on Friday, 9th July, 2021 and ends on Monday, 2nd August, 2021; and,
- (b) the House resumes its regular Sittings on Tuesday, 3rd August, 2021 to continue with the Second Part of the Session.

Hon. Speaker, the House Business Committee - as you reported earlier in your Communication - is cognizant of the fact that there is a lot of pending business at the committee level and because of the limited sittings and the limited participation by the Members, it will not be fair to put so much pressure on the committees and only give them two weeks during which to process most of that business.

Therefore, the House Business Committee then considered giving the committees an extra one week so that during the three weeks, most of the individual Members' Bills, Government Bills and the Committee Bills can be processed so that when we come back, we will concentrate more on processing those Bills to their final conclusion. This is especially with regard to the fact that some of those Bills will need to also go to the Senate. Moreover, we are all

politicians and know that the transfer window season, the season of getting back to the electorate is coming and, hence if you are not able to process most of those here and in the Senate, most of the work we put in generating those Bills could go down to waste. Hence, that is the reason we are reorganizing this calendar to provide committees more time for this session and when we come back, we will then be able to look at how we keep tweaking the Calendar to ensure we maximize on the work of the committees and the House and process as much as possible before we all get very busy with the electorate.

Therefore, Hon. Speaker, I really do not want to belabour the point. You did indicate the 54 Bills are pending before the various committees for which we are expecting reports. That is only individual Members' Bills. I also have very many Bills that are pending before the committees for which I do not have reports and, like I said, it would be unfair for Members to start debating without the benefit of what the committees have looked at and what the committees have heard from the people who appeared through public participation. This is so that, as we end up taking the Bill all the way to the Third Reading, at least, we have had the benefits of the inputs from everyone. Therefore, that is really the main import of this alteration of the Calendar and, hence, instead of then coming back after two weeks, we will end up coming after three weeks and then we will have a three-week session and depending on what we will be able to do, the Committee will meet again to agree on whether we just move on to the long recess or tinker around with it to accommodate the wishes of Members and the timings.

Moreover, still knowing that COVID-19 is still with us and there is limited interaction out there anyway, it is best we do most of the work from here.

Therefore, Hon. Speaker, I beg to move and request Hon. Soipan to second since she will be very critical. She hardly gets the time to speak and what you are doing Speaker...

Hon. Speaker: Hon. Soipan, you have the Floor.

Hon. (Ms.) Soipan Tuya (Narok CWR, JP): Hon. Speaker, I second.

Hon. Speaker: Very well.

(Question proposed)

(Question put and agreed to)

Hon. Speaker: I think Hon. Members I may just wish to announce that this is a matter that the House Business Committee discussed and, maybe, after we finish today's night Sitting... Is it called night or evening sitting?

(Laughter)

We may have to revert to our normal sessions as per the Standing Orders when we resume on 3rd of August. The House Business Committee did discuss and agree that, indeed, the House has done commendably well. Moreover, if we went back to the normal Sittings as contained in the Standing Orders, we will still be able to deal with and finalise most of the pending business before we take the long recess. It is for that reason that... Remember earlier on, we said that now - and the Leader of Majority has added and which I did not want to touch on in my Communication earlier - we are mainly concerned with the Private Members' Bills pending before committees. In addition, as the Leader of Majority has said, of course, there are several other Government Bills pending before committees and also Bills from the Senate. As I said,

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

majority of those Bills - almost 99 per cent of them - are Private Member's Bills. Therefore, at least, the resolution is passed unless someone when we resume moves another Motion to alter the Calendar from what it is in the Standing Orders.

We move to the next Order. If you hear Hon. (Dr.) Pukose agreeing and you know he is permanently in the Chamber, it is in recognition and acknowledgment that, indeed, the House has worked quite hard.

BILL

Second Reading

THE COUNTY GOVERNMENTS (AMENDMENT) BILL

(Hon. Peter Mwathi on 29.6.2021)

(Resumption of Debate interrupted on 29.6.2021 – Afternoon Sitting)

Hon. Speaker: Who was on the Floor? Yes. Hon. Members, this is a Bill originating from the Senate regarding the County Governments Act. There is nobody on the Floor and so, it is open to any Member who has not contributed. Hon. Kimunya, you have not contributed? Very well. You can have the first chance.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Speaker. Let me start by thanking the Committee for relaying this Bill. I had a problem supporting this Bill. It became very clear that the Senate Bill is trying to amend Clause 58.

Hon. Speaker: Hon. Leader of the Majority Party, if I may just interrupt you shortly, I just want to give this information for the benefit of Members. The Members who have so far contributed to this Bill include the Mover, Hon. Peter Mwathi and the Seconder, Hon. Makali Mulu. The others are Hon. Sankok, Hon. Edith Nyenze, Hon. Wachira Kabinga, Hon. Millie Odhiambo, Hon. Emanuel Wangwe, Hon. Chris Wamalwa, Hon. Ruweida Obo, Hon. Ochieng' Awuor, Hon. Jesire Cheruiyot. Hon. Esther Passaris, Hon. Jeniffer Shamalla and Hon. Angatia Savula.

Those are the Members who have so far contributed. So, the list is not bad as it appears here.

Hon. Amos Kimunya (Kipipiri, JP): Thank you. Hon. Speaker, the drafter of this Bill and the processing in the Senate is aiming to do two things. Section 58 defines clearly the board and its composition. At Part (c), it defines one of the critical Members of that board, who is the County Secretary. That is a critical player in the county government. In the wisdom of this House, when this was done as part of actualising the Constitution, the Secretary to the Board was instituted. Indeed, in about all the Bills, we have created the position of Secretary to the Board. It is a requirement that, that person shall be a Certified Public Secretary of good professional standing nominated and appointed by the governor, with approval of the county assembly. That is the current law. There is a reason why we need a professional as the County Secretary, in fact, somebody of good standing who will be accountable to a board that can discipline him or her.

This Bill is attempting to remove that professional qualification by saying that a person does not require to be accepted to the County Service Board. The problem that county governments are having clearly shows that they require that person more than any other. The

question is: Who is going to guide them on the law of meetings? Who is going to guide them on how to sort out some of the issues that they are having in their meetings? This is basically killing devolution and yet, the Senate is mandated to protect devolution. If the governor can appoint anyone without any qualification and bring them to be Secretary to the Board, we are basically doing the reverse of what was done.

Worse still, nobody, neither the Committee nor the Mover of the Bill, has told us after nine years of implementing devolution, what it is that has informed this removal of the County Secretary except the fact that they question governors. Governors want weak people in there and so, there are some Members in the Senate... I do not want to assume this is the motive because they are also aspiring to be governors. It will be unfortunate to weaken institutions...

Hon. Speaker: Hon. Owen Baya, is it a point of information? If it is information, the person to be informed has to agree to be informed.

Hon. Owen Baya (Kilifi North, ODM): It is very important. I want to clarify something.

Hon. Speaker: You will have an opportunity.

Hon. Owen Baya (Kilifi North, ODM): He is confusing the County Secretary and the Secretary to the Public Service Board.

Hon. Speaker: Now you are arguing. That is not your issue. You have not contributed yet. You will get a chance to contradict him.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Baya, I can help you more on this matter. I was involved in the drafting of the original Act that the Senate is now attempting to mutilate by removing professionalism from the board. It gets even more comical because the same Bill that we are now discussing is attempting to say that the Chairman needs to be a member of some body they are calling "a human resource institution". I do not even know if such a body has been established.

Hon. Speaker: It is Institute of Human Resource Management (IHRM).

Hon. Amos Kimunya (Kipipiri, JP): Yes, the IHRM. The problem we are having is that the Secretary, who is the technical advisor to the board, does not require to be a professional. But the Chairman needs to be a member of the IHRM. Chairmanship and Human Resource issues are totally different. A chairman is a leader mandated to carry the vision of the board and not to manage human resources.

In my county, I could have a person I would like to be the Chairman of the board. Now, because that person should be the one kowtowing with the governor, he will be weakened or strengthened by the presence of a secretary who is not a professional, that is, one who cannot bring professionalism into the operations of the board. So, based on just those two amendments, the Committee agrees that the Chair does not need to have those qualifications. So, the Committee is proposing an amendment which will remove that second amendment.

We are only left with one amendment, which is now weakening devolution. I am looking at this Bill and do not even know why we started it in the first place. The Committee should have just recommended that we do not bother with it. I am recommending to this House that this Bill should not go beyond the Second Reading so that we do not waste time bringing in an amendment to basically delete what they have done and make it zero.

If I bring an amendment to remove this alteration on the Public Secretary and the Committee brings one to remove the qualification of the Chair, then the Bill becomes zero because those are the only two amendments. So, I urge Members to re-think. We are putting Kshs400 billion into the counties annually. Cumulatively, I think we have done over Kshs2

trillion. The reason we are not getting part of that impact is that the professionalism that is required to support devolution is not there. The little that is there is now under threat of being removed. Soon, we will be talking of not even wanting accountants with professional qualifications. We will start the removal of the secretary, accountant, medics and other professionals. The next thing is that we will be back to the old county councils where councillors would just sit around there and do things in their own way.

The amount of money we are giving and the hope our people have with the 14 devolved functions, we are relying on these people to sort out agriculture. The county public service board recruits people and places them into positions. If it is not professional, how will they advocate for a professional chief executive officer? It is so unfortunate having come from the Senate. We would have expected it to come from a county assembly that wants to appoint one of their own, but certainly not from the body that has been constitutionally mandated to protect devolution and the interest of counties.

This is weakening and unfortunate that the Senate considered this and thought it is the best thing to happen. Trying to weaken the very institution with the core mandate of providing and sorting out manpower, womanpower or human resource for the counties is unfortunate. All they can think of is getting a human resource person to chair the county public service board. What they need is professionals in that team and a chairman or chairperson who has a broader vision of looking at what the county needs and where to get the right people to put in positions. They should not make it look like a HR function of the county, hence remove professionals and bring a HR person as if it is a department. This is the CEO level and I wish they are talking about the chief officer of HR being a member of the IHRM, but not trying to bring this at the board level.

I may go on talking about this because I believe in professionalism. I was the Chair of the Institute of Certified Public Accountants of Kenya (ICPAK). When I think about it, my staff keep telling me not to talk about those years. I have been a member of the accounting board as a registered professional for the last 34 years. I was Chair of ICPAK from 1999 to 2001. I have been a member of the Certified Public Secretaries (CPS) profession. I know the Bill we passed yesterday, the Kenya National Library Service Bill, which is on its way to becoming an Act, made a requirement that the secretary to the Kenya National Library must be a member of CPS. Every Bill we pass here has a standard requirement. Why are we starting to doubt our own wisdom by creating this law and talk of ploughing back the gains we have made on professionalism of public bodies.

I want to urge Members not to spend a lot of time on this. For the record, we need to put in our comments, but I wish we showed the Senate that we are the real protectors of devolution. We are the ones who appropriate the money and want it to be taken care of on the ground by professionals at all levels in county governments.

Hon. Speaker, with those words and regrets, I beg to oppose the Bill.

Hon. Speaker: Prof. Oduol

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Speaker. I seek to contribute to the County Governments (Amendment) Bill, 2018. I would like to start by indicating that as the Chair moved the amendment Bill, I made an observation in Clause 58(3)(1)(a) on the indication that in nominating or appointing members of the board, the governor shall observe the principles of gender equity, ethnicity and other diversities.

I support the Bill, but as I do so I have reservations because I have looked at this particular amendment and want to speak to the comments by the Chair. He seemed to suggest

that we do not repeat the Articles or requirements already stated in the Constitution and to also not include them in the amendments.

My submission is that it is important to consider the Constitution as a broad framework, as we come up with a Bill and seek to determine how it is very key in interpreting what we need to do. So, we should be allowed to repeat. My submission as I sit in this august House is, I am of the view that there are times when the broad framework of gender, equity and equality as was in the mind of the framers of the Constitution, is not as clearly debated or articulated so as to do justice.

Therefore, looking at this Amendment Bill, I have confirmed that we seem not to be clearly capturing it because in Clause 58(3)(1)(b), the Bill takes into account the national values and principles. It also talks about Article 10 and 27 of the Constitution. In both Articles, we are speaking specifically about observing human dignity, equality, non-discrimination and protection of the marginalised. In the same way, looking at Article 27 of the Constitution that the Amendment Bill speaks to and away from gender equality and equity, we find this Article in the Constitution states that everyone and every person should be treated equally.

As I look at the County Governments (Amendment) Bill, it is clear that it seeks to ensure that county business will be handled effectively. As I support, I would like to have reservations that it is not clear what the Bill sees as useful in helping to uphold gender equality and equity and ensure we address marginalisation. I would like to indicate that there is a way in which we use the term 'gender' and tend to assume that once you say gender, women and mainstream, you are saying the governor shall observe these principles and it is not clear we are talking about professions.

As I come to the end of my submission, I want to state that as I support, my reservation has become stronger after listening to the Leader of the Majority Party. I want us to be aware that when looking at the Constitution and particularly when talking about gender equality and equity, we are saying that we would like to be given the same treatment. I want to agree with the Leader of the Majority Party that it is important to have professionalism and somebody who will be seeking to be engaged in the activities and credible to be the secretary of the board. In the same breath, I want us not to take the matter of gender as lightly as we have sometimes done because it is recognising that we have males and females. There will be ways in which males and females can sometimes be unfairly treated or marginalised. When we do this, it simply means there will be equal involvement, participation and engagement.

So, when governors consider to nominate persons to be in the board, they will not look for professionals whom they see as male and seek to complete the equation by looking around and picking any female who will not rise to the task or be a professional. I support this Amendment Bill, but with a lot of reservations in particular because it seems to be repetitive in ways that are not necessary. Also, to avoid a situation where we will be treating men and women in ways that do not necessarily uphold equality, give respect and allow at the county level for participation of women who are professionals or capable.

Hon. Speaker, I support, but with reservations. Thank you.

Hon. Speaker: Member for Garissa Township.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Speaker. I stand to support this Bill and disagree with the Leader of the Majority Party. We have just discussed this matter. Number one, what we are dealing with is the eight year of devolution since the Constitution 2010. In these eight years, we have seen there is complete lack of professionalism in our counties particularly in delivery of key human resource development. The county public service board,

just like the Public Service Board, is the organ that is mandated at the county level in terms of recruitment of human resource personnel. If you look at the functions of the county public service board, it is akin to the functions of the Public Service Commission at the national level. I am sure the House will agree with me that the Public Service Commission plays a very critical and important role in terms of Article 232 of the Constitution. That tells us that there is very important need for the county public service boards to practise and adhere to professionalism and, therefore, they cannot have a situation where people are employed without any qualifications. In this regard, I really want to indulge the House and maybe the Leader of the Majority Party.

From where I sit, this Senate Bill is seeking, one, to provide additional requirements and qualifications for the eligibility of the chairperson of the county public service board. Now what we have is that the governor can appoint anybody, even *mama mboga*. I am not demeaning *mama mboga*. If you go back, even the chairpersons of the Public Service Commission, we have people who served as Principal Secretaries in serious ministries. Look at the late Chairperson, Mr. Kirogo. He had served as the deputy to the head of public service. This Bill is saying that we will not allow the governor just to influence. There must be a qualification and additional requirements for a person to be the chairperson of the county public service board.

Secondly, this Bill also tries to obligate the governor to observe constitutional principles in the appointment of the secretary to the county public service board. I think where the Leader of the Majority Party is confusing is the county secretary. The county secretary is different from the secretary to the county public service board. I really want Hon. Kimunya to listen to me. You are talking to a former county secretary. You are not the former county secretary of Kilifi. You have information in as far as the county secretary is concerned. In this Bill, we are dealing with the secretary to the county public service board. Those are two different things. So, this Bill is in the right place.

Thirdly, the Leader of the Majority Party cannot tell this House that we should kill this Bill. No! If there are any constitutional issues on any Bill or Motion, any Member should rise and raise the constitutionality of that Bill or Motion. If the Speaker agrees, then it will be withdrawn. If you have issues, then you amend it at the Committee of the whole House. I hope Members will agree with me.

This Bill is dealing with two things. One, whoever will become the chairperson of the county public service board must have additional requirements and qualifications. Two, it is saying - and Prof. Oduol said it - that in the appointment of the secretary to the county public service board, the governor must put in place and observe constitutional principles. So, in my view, I think the Bill is trying to inject professionalism in the human resource functions of the county public service board. That is the gist, the alpha and omega of this Bill. Nothing else! I think we should support it.

[The Speaker (Hon. Justin Muturi) left the Chair]

*[The Temporary Deputy Speaker
(Hon. Christopher Omulele) took the Chair]*

Hon. Temporary Deputy Speaker, as I conclude, I have had a chance to look at the Report of the Committee. I have a lot of respect for the leader because he was also my leader in the 10th Parliament. He was the Deputy Leader of Government Business when the Leader of Government

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

Business used to be the leader of the Wiper Democratic Movement. He never used to be in the House. So, the work used to be done by Hon. Kimunya. I have a lot of history. Kalonzo never used to come to the House. We used to deal with Hon. Kimunya. He was my leader then and he is my leader now. He talked to me yesterday. So, last night, I went and looked for the Report because everything is online. I looked at the Report of the Departmental Committee on Administration and National Security on this Bill. I know there may be need to amend the minimum number of years of experience required for one to be appointed the chairman. We might bring an amendment on the number of years for you to be the chairman of the county public service board. I do not agree with the Committee. We might look at that so that we can give room to some young people to become chairpersons of our county public service boards and the elders to retire. They have no business.

I think I have convinced my leader that this Bill has no business with the county secretary. A county secretary is Hon. Baya. Before he came to this House, Hon. Baya was a county secretary. So, this Bill is dealing with two offices; the chairperson and the secretary to the county public service board. I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Next is Hon. Omboko Milemba. Hon. Members, we are going to follow the order here. There are 20 requests and let us just try to be patient.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to make very few comments so that other speakers may also comment on the County Governments (Amendment) Bill. I went through it yesterday and what “caught” my eye first is what I will go to. This is in Clause 3 where it is dealing with the qualifications for one to be the chairman of the county public service board. The Bill comes out very clearly to talk about the first requirement to be chairman.

Hon. (Dr.) Robert Pukose (Endebess, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Pukose, I must warn you that you are next from this side and if you insist on your point of order, you will have taken your chance.

Hon. Omboko, it is not “caught”, it is “caught”.

(Laughter)

Hon. Omboko Milemba (Emuhaya, ANC): Okay, I may have just missed something. I am a teacher and I may have missed something because of the mask. This is sometimes interfered with by the mask. If it were off, you would get it very clear. I am a teacher and I have been doing this.

Thank you, Hon. Temporary Deputy Speaker. This amendment says that qualification number one must be a degree holder. I thought this is good for a general chairman to be at a level of degree holder. The only comment I had is that these are the same teams of people who are also doubting whether a degree is important for the Members of Parliament or even members of the county assemblies. What I registered more keenly is the fact that the next requirement is that this person must have a background in human resource management and be registered in the institution of human resource managers. I thought this is very limiting. I want the House to listen to this: If we go this direction, we shall just be legislating for a particular profession, yet when you are the Chairman of Public Service Board, you need to be a leader with broad qualifications

that are not limited to human resource management. This, I thought should come out quite clearly because we have all the professionals. We have accountants, teachers, and veterinary officers who are qualified and who can be qualified to be chairmen of this board by the virtue of their experience in whatever places they have been working.

When the Constitution was being made, I happened to be the Chairman of the Kenya Union of Post Primary Education Teachers (KUPPET) union. That time, we were dealing with the young Nyachae, who was the Chairman in charge of that process. The young Nyachae asked us about something which he was so clear about; the commission and the TSC. At that particular time, we were so psyched that everybody in the commission must just be a teacher. I am telling you, Nyachae asked us three times and we insisted everybody must be a teacher. Later on, we realised that he was right and we were wrong. We need a lawyer, a human resource person, and people who qualify in other places. Today, we are doing exactly that to improve the operations of the commission. To limit the Chair to just be a person of human resource yet a chairman must be a leader who is respected within the county, is not a very good amendment.

Finally, they insist that the Chairman must have a working experience of 10 years. Then I said, “hey, with the high number of youth, people who have left university, some have worked for five years, others for three, this is not right”. Recently, in my own county, I saw a young girl who missed a position in the public service board simply because she was 35 years. I said that this is missing simply because of experience. So, I think the amendment alluded to by Hon. Duale, that we reduce this age from 10 years to five or seven years, should be welcomed, so that we allow more players to qualify for this position. What is happening in counties is that with 10 years’ experience, we are limited to only bringing people who had served in the Government, had retired and must be brought back to work as chairmen. We must give a chance to the young people who are qualified and can still do the job. This will be a good move going forward.

The other part has been talked about and is very dear to Hon. Baya. I will not be very sentimental about it, except for the issue of the secretary to the county service board, just in case everything else about him is okay in terms of considering the Constitution, gender and every marginalised group. However, the issue of professionalism will still be very important, that we have professionals within the county because the county governments are thoroughly affected by the quality of people who are working with them. This was very serious during the first level when the first governors came in, because they appointed anybody to these positions. Those who were appointed were the ones who ran down the county governments. I come from Vihiga County Government and we say it clearly. Any law coming to this House that reduces professionalism within the operations of workers in the county governments should be rejected.

With those many remarks, I do not think I will be supporting this law. I would rather reject it.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker for allowing me to contribute to this very important law, the County Governments (Amendment) Bill, Senate Bill No.13 of 2018.

At the outset, I want to support this amendment. This amendment aims to amend Clause 58 of the County Governments Act. When you look at the amendment where we are saying that the Chair of the county public service board should have human resource qualifications, the main work of the county public service board is employment. If you are going to do employment, you will need somebody who understands the various qualifications because more often, you will

find that people are told to apply. When you apply, he or she should be the person who can advise you best on the documents that you need to provide and to see that everybody or whoever is shortlisted or interviewed meets the relevant qualifications. If you just have a chairman who does not understand human resource that will be a problem.

The second amendment aims to reintroduce the issue of the secretary to the public service board whose work is to be a secretary, taking minutes of the meeting. It is different from the county public secretary who should be a certified public secretary. There is lack of a link between the secretary to the public service board and the county public secretary. The county public secretary is the one who will sign letters of employment. If that is the person who is going to sign letters of employment, we must create a link between the board and the county public secretary. That is an amendment that we need to think and introduce.

The requirement is to make it to be in line with our Constitution where we are saying that in the appointment of the secretary to the county public service board, we must consider gender, regional balance and minorities. I think this addresses major issues because when you look at a county where I come from, the county public service board has marginalised one of the second largest communities in the county, the Sabaot community. It is not represented in the county public service board. My friend Ferdinard Wanyonyi can attest to that. So, this addresses the issue that when you are appointing, consider all the communities. If you are in Trans-Nzoia, consider Turkanas, Kisiis, Sabaots, Luhyias and everybody else, so that everybody has a share in the public service board. When you put only one community, then the rest of the communities, the Kikuyus and Kisiis are left out of that public service board. It is unfair. So, I think, this amendment is timely. Although things have moved on, moving forward, it will address the inefficiencies or areas we have left.

With those few remarks, Hon. Temporary Deputy Speaker, I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Atandi Onunga.

Hon. Samuel Atandi (Alego-Usonga, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to make a contribution on this Bill.

In principle, I do not find anything wrong with the amendment. But the county public service board, ideally, is the engine of county governments. It is the body that hires and fires the resources that serve in the counties. The law governing how the county service board operates needs to be enhanced. I have heard people complaining that counties employ people from the same ethnic community. In my County of Siaya, you find that, maybe, 100 per cent of county staff are from that place. If you go to a county in North Eastern like Garissa or Mandera, probably, you find that staff working there are people from the same community. Even though the law says that appointments should meet ethnic diversity that is not met in appointments.

Therefore, according to me, we need to make further adjustments in the law, so that governors are forced by law to comply with some of the constitutional requirements. For instance, this law allows governors to appoint members of the board and once they are appointed, the names are forwarded to the county assembly for approval. However, it does not tell the governors how to appoint or who to appoint. If we look at the Public Service Commission, the President is told to constitute a panel. Members of the panel are given to him. The panellists nominate people to be appointed as commissioners. Even for this one, we need to tamper with this law to force governors to meet ethnic diversity and minority considerations. If we do not do that, there are counties where the governor employs all of his relatives. You will find that the chairman of the county public service board is the governor's relative and members are the governor's relatives. Therefore, the governor will hire people who come from his clan.

When a governor employs people from his clan, corruption will begin because they agree and conspire and run down counties. In the Senate, there was a petition to remove a governor and the MCAs were claiming that the county was being run by the governor's wife. How is that possible? It was possible because the team working with the governor are people from the governor's clan. Therefore, the wife could order them around and tell them what to do.

I will consider to propose an amendment to improve the structure of the composition of the members of the county public service board, so that we can give governors guidelines on who to appoint. If we do that, we will solve the challenges facing the counties. A law like this is what is supposed to help county governments to entrench integrity and strengthen devolution. Devolution will not be strengthened by resources only, but if we have a law which is very clear on the appointment of staff of county governments, it will be possible for county governments to give us services.

I want to propose that just like in the Public Service Commission, the President is advised to pick a panel to nominate commissioners. In the panel, the President is told the people to constitute the panel will come from say, the Attorney-General's office, the Institute of Human Resource Management, the Federation of Kenya Employers, the National Council of Persons with Disabilities and the Ministry of Public Service. If we borrow that system and put it in law for counties, the governor will be compelled to have experts to help him identify commissioners. If we have somebody from the AG's Office sitting in that panel to identify board members, probably we will have experts, namely, people who will say that when they want to hire, for instance, a county executive officer, the person needs to meet particular criteria. They will also ensure that issues of diversity are addressed.

Thank you, Hon. Temporary Deputy Speaker. I support the amendment Bill. I will propose further amendments to the law and ask Members to support, so that we can strengthen this law; Section 58 of the County Governments Act. That way, we will ensure that all the things we say are in the law.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Murugara.

Hon. George Gitonga (Tharaka, DP): Thank you very much, Hon. Temporary Deputy Speaker. Allow me to add my voice to the proposed amendment. From the outset, I totally disagree with the Leader of the Majority Party as regards what is proposed to be done here.

We are amending Section 58 of the County Governments Act, so that we can deal with two positions, which in my view, are professional positions as far as the county governments are concerned. The Leader of the Majority Party, being a very experienced accountant, knows very well that if we are to get a body to deal with accounts, we will insist that the body must comprise of qualified accountants. Matters of the county public service board are purely human resource, employment and dismissal of employees. I know of a county where the governor came into office and directed that certain people should be sacked and others be employed. What he has had for the last four years are court cases because he was oblivious of all employment laws in the country, including labour relations.

The first proposed amendment is the position of the secretary to the board. The secretary to the board is not the same as the county secretary. The county secretary is the chief public officer in the county equivalent to our Head of the Civil Service. The county secretary to the board deals with board matters. This is where we make a provision that he cannot be nominated and appointed arbitrarily, but we must have the county public service board approving the

person. So the governor cannot act whimsically to appoint this person with a view to controlling the person in the discharge of his duties. This is why the county assembly must approve.

We are saying that he has to be *ex-officio*. Otherwise, the Act does not provide for him sitting in the board. Therefore, we have to make a provision that he sits in the board to take minutes and keep records. He is accountable to the board. This is what we are trying to do. In so doing, we are telling the governor that he must comply with the law. The Constitution must be followed to the letter and you must observe the principles of gender equity, ethnic diversities and others. This includes marginalised communities and persons with disabilities. I always argue for this because I know that my constituents are a marginalised lot.

Having said so, I will go to the second proposal which is to introduce the qualifications of the chairperson. This is very important because we passed the County Attorney Bill in this House which became an Act of Parliament. We had to set up the County Attorney equivalent to the country's Attorney-General. The first qualification is that you have to be an advocate with outstanding years of experience.

When you come to human resource matters, the best persons who can handle this profession are the human resource management professionals. Happily, we have an Act of Parliament equivalent to the Law Society of Kenya (LSK) Act, the Medical Practitioners and Dentists Act and other professional Acts. This will enable the counties to run smoothly and observe professionalism which has been lacking. I am not ashamed to say so because we know that some governors have done atrocities against the citizens in the name of employment and dismissal. They just want to get their own cronies, relatives and greatest supporters into the county government at the expense of meritocracy.

Therefore, it is important that the chairperson comes from the human resource management profession. Let him be a qualified member of that body so that we are all happy. When we take him to court when he contravenes the labour laws, we will ask him: "As a professional, why did you do this? Did you give thought to this? Did you consider this?" Otherwise, if you employ a person who is not qualified, his answer will be: "I do not know." You cannot punish him on a mere technicality that lack of knowledge of law is no defence. Unfortunately, sometimes you may not have the opportunity to know.

In view of this, we are suggesting that he or she should have 10 years' experience. Ten years is relatively not much, but we can consider it, as Parliament, if we feel that we are trying to disfranchise some of our youths from getting such jobs. For the county attorney, we went down to five years. We may think of any other number, but let us have a qualified person at the helm of the county public service board. The chairperson is one of them as well as the secretary. Let us have counties beginning to gain a resemblance of professionalism when they discharge their duties.

With those many remarks, I support this Bill.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Odhiambo Akoth, the Member for Suba North, you have the Floor.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Speaker, I am waiting for the next one.

The Temporary Deputy Speaker (Hon. Christopher Omulele): You are waiting for the next one?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The next one is Hon. Oundo Ojiambo, the Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker, for this opportunity to contribute to the County Governments (Amendment) Bill (Senate Bill No.13 of 2018).

The Bill intends to amend Section 58 of the County Governments Act specifically to redefine the qualifications of the secretary and the chairperson to the board. There are obvious salient issues. Section 58(1)(c) of the County Government Act states:

“The County Public Service Board shall comprise a certified public secretary of good professional standing nominated and appointed by the governor, with the approval of the county assembly, who shall be the secretary to the board.”

The amendment proposed by this Bill is to remove that particular qualification.

In my understanding, the county public service board undertakes recruitment, promotion, disciplinary and related issues. Again, in my understanding, the secretary to the board is more or less like the Chief Executive Officer of the board. Removing the prerequisite qualification of being a certified public secretary is essentially to weaken the county public service board. Any position, be it executive or otherwise, requires somebody who has the relevant qualifications.

The Senate is trying to literally open it up to all Tom, Dick and Harry to go and occupy a position that is purely technical and professional. On that score, I will personally move an amendment to literally delete that particular amendment and retain Section 58(1)(c) as it is in the parent Act.

Secondly, the Bill inserts a new section, namely, New Section 1D that tells the governor to comply with the principles of gender equity and ethnic diversity of all the people of Kenya, and shall provide an equal opportunity for PWDs. My considered and honest view is that this particular clause is simply a cut and paste from the Constitution. These principles are already enshrined in the Constitution. Where governors do not practise or comply, then it is a matter that is subject, probably, to impeachment or other administrative actions. We are simply overloading our Acts of Parliament with things that are already provided for. These are guiding principles. We are just being superfluous by stating what is already required everywhere.

Thirdly, I will talk about Clause 3(b) that talks about the qualifications of the chairperson and the vice-chairperson. This raises some questions, and I agree with the Leader of the Majority Party. We have two options here, namely, one, if we remove the qualifications of the secretary to the county public service board, we can then consider introducing these requirements that one must be a human resource management professional of good standing under the Human Resource Management Professionals Act. However, the chairperson of the board ought not to be an executive chairperson. Indeed, the Act under Section 58 contemplates a part-time chairperson and not a full-time one. He ought not to be a professional, but must be somebody with vast knowledge in general human resource management and adequate exposure to human resource management skills. Purporting that he or she has to be a human resource management professional, we are implying that this particular chairperson is going to become an executive chairperson in one way or another. The chairperson of the board chairs the board, offers strategic directions and oversees the work of the secretariat. It will be unnecessary to have such kind of a person having the same qualifications because, in any case, his job is basically to oversee and offer strategic policy direction.

Tellingly, there seems to be an attempt to separate the qualifications of the chairperson and the vice-chairperson. It is, indeed, expected that, in the absence of the chairperson, the vice-chairperson shall chair or preside over the meetings of the board.

It is imperative that both the chair and the vice-chair have the same qualifications so that the vice-chair is able to undertake the functions of the chair. For example, the President and the Deputy President have the same minimum academic qualifications, so that in the event the President is not available, we do not have a constitutional crisis because the Deputy President cannot occupy the position for lack of academic qualifications. Obviously, then, we might end up literally deleting many provisions, which will have rendered this work a nullity. Nevertheless, most of what is proposed here does not add any value to devolution.

When we were writing the Constitution, we believed that devolution was going to be the engine to drive this country. But we have heard harrowing tales of how county governments are being managed. They are being managed with low human resource capacity. Many inherited county council staff and many have been staffed with political cronies and less qualified people. Weakening the boards will render devolution a wasted opportunity. We should look at strengthening the boards by populating it with people with qualifications and integrity, people who can look at issues in a sober manner and not in a politically-inclined manner.

In essence, the amendments I will bring will render the Bill literally unenforceable or no Bill at all. So, on that score alone, I oppose the Bill in its entirety. There is nothing of value it offers. It only seeks to weaken the county public service boards.

With those few remarks, I oppose.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Member for Funyula, the word you are looking for is redundant. The Bill will be rendered redundant. Hon. Nanok Epuyo, the Member for Turkana West, you have the Floor.

Hon. Daniel Nanok (Turkana West, JP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to speak to this amendment Bill proposed by the Senate. It is like I was thinking in the same breath with my brother from Funyula. The proposals being made do not seem to improve the Act that is already there. The two amendments basically remove the qualification requirements for the secretary to the county public service board and introduce qualifications on the part of the chairperson of the board to be a professional in human resource. Already as the Act is, the chairperson does not have those professional qualification requirements. I agree with the Member for Funyula. You do not need to be a human resource professional to chair the public service board at the county. I do not think it is meant to be. The role is just to chair the board and ensure that policies of the county public service are adhered to. It requires experience and managerial capabilities, more than the actual professional aspect. When you amend Section 58(1) of the Act that is how you affect professionalism of the board because it is the secretary of the board that is supposed to play the executive role.

I agree with my brother, Hon. Oundo, that these amendments do not seem to improve the Act that is already there. Therefore, I do not think this Bill should be supported because it is not improving anything. If the whole idea of us legislating is to better the laws and the legislative framework that runs the country, whether at the county level or at the national level, then we should strive to bring amendments that are going to make the laws and practices better.

What is the objective of this amendment? On that account, I can only make a guess, that the amendments are allowing governors to appoint people of questionable qualifications, who are amenable to arm twisting and being given directions which will not be the way to go in order for us to improve the county public service board.

We have seen this in practice in our counties where employment does not consider professionalism and the type of workers county governments require to make the impact that the law or the Constitution of the republic envisaged. For instance, some of the employees, and I do

not begrudge the young adults in our country, are inexperienced. You find that someone is employed in a senior position at the age of 30 years. This person is going to work for the next 30 years. At job Group Q, where is the ladder of this person going to end? It is going to hit the topmost job bracket after only five or eight years and yet he is there for 30 years. He is going to stagnate for half of his working life. That is demotivating and those are the kind of mistakes that have occurred in our county employment, thus affecting productivity of our county employees.

I do not want to oppose, but because the Bill is already here, with all the amendments that need to be brought, as you said, the Bill is going to be rendered redundant after those amendments are done.

I oppose.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. David Ouma, the Member for Ugenya, kindly have the Floor.

Hon. David Ochieng' (Ugenya, MDG): Thank you very much, Hon. Temporary Deputy Speaker.

I have struggled very much to understand how the Senate spends its time. The Bill is dated 2018, meaning it has been pending for quite a while - for four years - and it lands on the Floor of the National Assembly.

I cannot see flesh. I cannot see reason. I cannot see mischief. I cannot see what is being remedied by this Bill. I thought that what is required of the Senate is to come up with structures and systems that work, and that do not replicate the national Government structures. If you visit county governments today, you will find that they have county executives, who are called *Waziri*. That is what they like to be referred to. Therefore, they are cabinet secretaries. Then we have people called officers, who prefer to be permanent secretaries. Then we have directors, deputy directors going down and replicating the bureaucracy of the national Government, which they did not need. I would imagine the Senate would use its time better to help county governments to put up systems and structures that would make the systems work. However, in my opinion, the Senate should not be very partisan because I am almost certain this Bill must have come from an experience of a particular governor. I just do not know. The chairperson of a board should be recruited competitively as provided under Section 158(2). That means that of the five members of the board, or three members of the board, there is an opportunity to have all of them, if you wanted, to be professionals that have some experience in human resource management. It does not have to be the chairperson only. If you check the counterpart law at the national level, it provides, as far as the chairperson of the Public Service Commission is concerned that, that person shall be a citizen of Kenya, must hold a degree from a university recognised in Kenya, and must have, at least, 15 years' experience in their respective profession.

This means that this is a leadership role that a lawyer, an engineer, or anyone would be able to carry out. Where are these human resource management professionals in the first place? If you advertise them today, where are county governments getting them from?

Hon. Temporary Deputy Speaker, the job of the county service board chairperson, like Hon. Oundo said, is not the day to day management. If I was the one recommending on this Floor, I would have then required to remove the current requirement of the secretary. I would have required the secretary to have these qualifications because this is the person who sits in that board on a daily basis. He is the CEO of that board. I would have required the person to have better qualifications in that area than the chairperson. However, what are they doing? They are even removing the basic qualifications that existed before of the secretary of the board. The person who sits there every day does not require a degree. They have removed it. How will you

function? You are going to pick anyone from the village to be secretary of the board. Is that what we are talking about? Is that what the Senate wants? Like it has been said, this Bill should not go beyond here until the Senate, in my opinion, comes up with a proper Bill that streamlines the workings of the county public service boards holistically.

I have a problem with the statement that you when appoint a professional, there is no interference. Who says so? That if you appoint a human resource professional as the chair of this board, the governor will not interfere. Where is the barrier? What must the governor do to interfere even if he is a professional? I have a problem with that kind of thinking because I believe that the governor has a role. This idea that the governor should not have a role in who becomes what in the county's public service for me is wrong. We should drop this pretence. If you are the head of the county and people are being employed in your county, you must have interest. This idea that, oh, the governor should not interfere, the governor should not say this and that, I think is a lot of pretence for nothing. If I am a governor, I would want to know who is going to become the minister and who is going to become the chief officer. I must be involved. I hear Members say that they should be independent. We cannot have a county public service board independent from the office of the governor. I will support that in my opinion. Let us agree and accept the fact that as a county executive, the head of the county has a role to play in this. This idea that he is independent and cannot interfere is not the way it works.

So, I would propose that if the Senate will come up with the law, I would sit down with Hon. (Dr.) Oundo because he has very good ideas in this area to come up with a Bill that would streamline how the county public service board works holistically in terms of who is required there, the qualifications for the members of the board, so that by the time we end up with the amendment, we also see a leaner staff. This is what we mean by systems; a leaner county service. We do not need all this bureaucracy that has all these people from the village to the wards, to the constituencies through the county, so that every governor says that 70 per cent of their money goes to personal emoluments and salaries. This is what we should be doing to streamline the working of the county government.

With those few remarks, I oppose.

Thank you

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very compelling contribution, Hon. Ochieng.' We shall now have Hon. Lekumontare Jackson, the Member for Samburu East.

Hon. Jackson Lekumontare (Samburu East, KANU): Thank you Hon. Temporary Deputy Speaker. I rise to oppose this amendment. As others have said, there is nothing the amendment remedies in the CPSB.

The drafters of this amendment seem to be confused between the board members and the employees of county governments. In the county government, we have the human resource department headed by a human resource manager dealing with employees. There is no need to have the qualification of the chair of the board in the area of human resource because we already have a human resource manager at the county. Any degree holder can chair the board. Equally, there is no staff to be managed at that corporate level. However, this type of amendment seems to be sourcing for a specific person. We will reject this, so that we do not lock out other Kenyans from this competitive opportunity in the county.

The secretary to the board needs to have certain skills and qualifications. However, it has just been left open and yet the chairman can only be there during employment sessions. If you look at other boards, the best practice is that we have the board at governance level and the

employees at administrative level, and we should not mix those two. Therefore, it is wrong to assume that the chairman will manage the employees of the county. So, I oppose the Bill.

Anybody with skills can do what the chairperson of the board is purported to do. As the Leader of the Majority Party said, although it was not clear to some of us then, this is the chair of the county public service board. They need to go back and bring an amendment to help the counties. This will create remedies if there are problems instead of bringing amendments that will create more problems. I think the 10 years' experience for the chairman is a lot of time. We need to relook into this because it will lock out many Kenyans.

Hon. Temporary Deputy Speaker, with those few remarks, I oppose.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Oduor Ombaka, Member for Siaya.

Hon. (Dr.) Christine Ombaka (Siaya CWR, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I have been reading this Bill, and as many of us have observed, it is very scanty, but still there is something to say about it. The chairman who will be the chair of the county public service board must have qualifications and this is a degree, which to me is okay and very good. Many boards have chairmen who are degree holders. So, this is obvious and acceptable.

It is also important to notice the challenge I have observed, which is having 10 years' experience. I am looking at young people today, they get jobs but only for three years renewable sometimes. How will they have 10 years so as to occupy positions such as this one when they are only employed for three years? It becomes a challenge and we need to think about reducing it to perhaps five years, so that we can have young people occupying some of these positions.

I am very impressed with the fact that the Bill also addresses the issue of gender equity and equality, but it must add many more like ethnicity. We are an ethnic society and many jobs today do not take care of this bit. If it is not within the law, nobody will follow. They will just employ people based on gender and will not care about regional balance, ethnicity or minority. This must be identified and indicated in the Bill, so that it becomes a law that will be observed by governors who will be appointing the boards.

I also think some things are missing out like people living with disabilities, minority groups and regional balancing, so that nobody feels left out in the appointments. I looked at the secretary, and although this is not part of the main issue, we still need that qualification of a degree holder. We need the secretary of the board to be a degree holder because this is the CEO of the board. He will be employing graduates, so what about him? This is not indicated in the Bill. This is missing and it should be an area of focus.

I do not have much contribution in this area, but I want to highlight the fact that it is a good Bill in the sense that it is streamlining how the board will function and who will be employed.

There is a lot of favouritism in appointments and they tend to have their own people most of the times. It has been a very disappointing experience. All the nine years, almost going to 10 years, counties still have challenges with employment. Once this is done, we are sure that the governor will not appoint his people, some of whom have no qualifications. The qualification is just simply based on their family relationship with one another. I think qualifications such as education and experience of several years are going to be very important.

Otherwise, I support it, but with reservations. I would like the secretary also to be highlighted because he or she is the CEO and a very important person. He needs to be a member of the human resource institution simply because he is one of those that are employed almost on

a permanent basis or longer than the chairperson. The chairperson is somebody who is employed for three years or in some cases, maybe, five years renewable once. They can still be employed elsewhere. So, in my view, they are temporary. We do not demand too much of experience from them, but we demand education from the chairman. Otherwise, I think this Bill should streamline county governments to be more professional than ever before.

I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Nangabo, you have the Floor.

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Asante sana, Mhe. Naibu Spika wa Muda, kwa kunipatia nafasi hii nichangie Mswada huu ambao umetoka Bunge la Seneti. Nataka niseme vile wenzangu wamechangia. Kuna baadhi ya vipengele katika Mswada huu na haswa kile kimegusiwa sana ni kwamba yule anatakikana kuwa mwenyekiti wa bodi hii lazima awe na shahada ya digrii. Nataka niunge mkono na kusema kwamba iwapo mwenyekiti atakuwa na shahada ya digrii, ni lazima tuhakikishe naibu wake pia ana shahada ya digrii.

Ni kweli kwamba katika kaunti zetu - na mwenzangu Mhe. David Ochieng' alikuwa ameongea - kulikuwa na baadhi ya magavana waliopendekeza kwamba tuwe na Mswada kama huu. Huenda ikawa walikuwa na malengo ya kuhakikisha kwamba kaunti zetu ziwe nzuri. Unaweza kuona kwamba katibu katika bodi hajaangaziwa na hawajasema kama atakuwa na shahada ya digrii au itakuwa namna gani kwa sababu yeye akiwa hapo kama mwandishi, lazima awe na shahada. Ni kweli mwandishi katika Bunge ambaye anasimamia masuala katika Bunge ni tofauti na mwandishi katika bodi kwa sababu mwandishi katika bodi anapambana na malengo katika bodi hiyo. Hata hivyo, mwandishi katika serikali ya kaunti ni yule anapambana na mikakati ya kaunti. Wakija kupiga kura katika kamati hiyo, unaona kwamba huyu katibu hawezi kupiga kura. Anaonekana kwamba ana mamlaka na iwapo anaenda kupewa mamlaka hayo, anatakikana awe ni mtu mwenye shahada ya digrii.

Natofautiana na wengine ambao wamesema lazima iwe shahada katika taaluma ya ufanyikazi. Yeyote atakayekuwa na masomo ya digrii atahitimu kufanya kazi hiyo kwa sababu itakuwa ni kazi ya bodi. Naona mtu aliye na shahada katika kitengo kingine anaweza kushikilia hii kazi na kuifanya.

Kusema ukweli, tumekuwa na changamoto katika kaunti zetu. Wale waliochaguliwa kama mawaziri hawaelewi kazi yao ni ipi.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Nangabo, I will have to interrupt you. We have been caught up with time. You still have about seven minutes. When this business is next set down on the Order Paper, you will have priority and you can take up your seven minutes.

Hon. Members, 27 of you have already spoken to this Bill. When Hon. Nangabo takes up her seven minutes, those who have deep interest will have opportunity. I see there is still a lot of interest. I have 18 Members who are still interested in speaking to it right now. I hope when it is next set for consideration, those Members will find it fit to come and speak to it.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, the time being 6.30 p.m., this House stands adjourned until this evening at 7.00 p.m.

The House rose at 7.00 p.m.

